

6. Application for a New Premises Licence

REPORT OF: Tom Clark, Head of Regulatory Services
Contact Officer: Paul Thornton, Senior Licensing Officer
Email: paul.thornton@midsussex.gov.uk Tel: 01444 4774278
Wards Affected: Haywards Heath
Key Decision No

Purpose of Report

- 1 To provide information for the Licensing Committee concerning the process for determining Premises Licence Applications.

Summary

- 2 This report gives an overview of the process to apply for and determine a new premises licence and a variation to an existing licence. It gives information regarding the responsibilities of the Licensing Committee in determining such applications.

Recommendations

- 3 The Committee is asked to note the contents of the report.
-

Background

- 4 The Council is required to have a Statement of Licensing Policy under the Licensing Act 2013. The Policy, published on the Council's website, sets out how we apply the act and promote the four Licensing Objectives:
 - a) The prevention of Crime and Disorder
 - b) Public Safety
 - c) Prevention of a Public Nuisance
 - d) Prevention of harm to children and young persons.
- 5 The policy also details the type of applications the Council regulates such as Premises Licences and Club Premises Certificates. These licences contain 'licensable activities' and stipulate what times they can take place. Licensable activities cover:
 - sale of alcohol
 - entertainment
 - sale of hot food and drink between 2300hours and 0500 hours known as late night refreshment
- 6 A Club Premises Certificate is held by a private members club and is administered by the Club Committee. All profits go back into the club.
- 7 A Premises Licence (typically held by pubs, restaurants, off licences) must have a Designated Premises Supervisor (DPS) in order for alcohol to be sold. This person must have a Personal Licence issued by the local authority. The DPS is responsible for the good management of the premises. The DPS is the equivalent of the 'licensee' in previous legislation.
- 8 Licence holders for both types of licence are obligated by law to promote the four licensing objectives stated in the Licensing Act:

- a) The prevention of Crime and Disorder
 - b) Public Safety
 - c) Prevention of a Public Nuisance
 - d) Prevention of harm to children and young persons.
- 9 The administration process and procedure for new applications and variation of existing licences are the same and is prescribed within the Licensing Act:
- a) An application made is made to the Licensing Team (either on line, post or by hand) together with a plan and a statutory fee.
 - b) A consultation period of 28 days then takes place.
 - c) Consultees include ten bodies defined in the Act. These are known as Responsible Authorities (RA's) and include – Police, Fire Service, Planning, Environmental Health, and HM Immigration. The public are also consultees in this process.
 - d) The application must be advertised at the site throughout the consultation period and once in a local newspaper.
 - e) The Act refers to 'representations' about the application. These can be made by the public or RA's within the 28 day consultation period.
 - f) Representations can only address issues under the licensing objectives set out in paragraphs 4 and 8 to enable their submission to be classified as 'valid'.
 - g) During the consultation period applications may become the subject of discussion between the RAs and the applicants. Compromise is generally reached for conditions to be attached to the licence.
 - h) In these cases and providing there are no outstanding representations, the application can be granted under delegated authority by the Licensing Officer.
- 10 In the event of objections to the licence by the RAs and or the public that cannot be resolved, a Licensing Committee is asked to determine the matter at a Licensing Hearing i.e. Liquor Licensing Panel.
- 11 This panel, a minimum of three members from the Licensing Committee, must hear the application within twenty working days from the end of the consultation period.
- 12 Determination of the application must be made by reference to;
- a) The application
 - b) Any representations
 - c) Submissions by parties at the hearing
 - d) The Licensing Act 2003 and Guidance
 - e) Mid Sussex District Council's Licensing Policy
 - f) Licensing objectives.
- 13 Factors such as the need for another premises, too many such premises, type of premises or whether it's location is in keeping with the town, city or village are not considered relevant under the Act. The hearing is in public but the panel Members can deliberate about their decision in private with assistance from the Legal Officer in attendance.
- 14 The council's decision must be published. It is subject to an appeals process to the Magistrates Court, where the hearing will take place again. Costs can be awarded against the Council if the appeal is allowed.

Current Trends

- 15 At present there are 431 premises licences and 45 Club Premises Certificates operating in the District.
- 16 In 2017 there were 15 successful applications for new premises licences and 19 to vary current ones. These figures are in addition to the 109 DPS changes and 563 Temporary Event notices administered.
- 17 Last year 4 applications were determined by the Liquor Licensing panel, all of which were granted subject to additional specific conditions.
- 18 The Licensing team receive general enquiries on a daily basis from prospective and existing businesses. It would be fair to say that the trend for longer hours has subsided. The established premises appear to be content with the existing hours.
- 19 Similar to other areas we have seen an increase in the number of enquiries from businesses such as cafes and bars taking over empty retail units in our high streets. The Licensing Act 2003 allows such premises to completely change in character from their former use.
- 20 We also have pubs that are closed awaiting decisions on their future.
- 21 We currently have one 'Community owned Pub' – the Half Moon in Balcombe Village, bought by a group of villagers. This came about after the owners decided to sell it and ultimately to close it.
- 22 We are seeing an increase in enquires about 'mini music festivals' and outdoor pop concerts. We advise early engagement with the Mid Sussex Safety Advisory Group and Sussex Police in these cases.
- 23 Temporary Event Notices (TENs) are referred to in paragraph 16 above. They are classed as notifications rather than an application. These 'temporary licences' allow community premises, organisations and individuals to hold licensed one off events. Licensed Premises are also able to submit TENs to temporarily change their hours. The Police and Environmental Health are the only two bodies with a right of objection to TENs. TENs are subject to strict time limits which are set out in law. They must be submitted with a minimum of 10 working days (not including the day of submission or the event day). However TENs can be submitted 'late' on two occasions a year with a minimum of 5 working days. There is no discretion in either of these time scales.

Background Papers

- 24 Mid Sussex District Council - Statement of Licensing Policy
<http://www.midsussex.gov.uk/media/79002/licensing-policy-may-2015.pdf>