

Determination of a Premises Licence Application

CROSS CUTTING ISSUES

1. Legal

The Licensing Act 2003 at section 4(1) requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives which Section 4(2) sets out as:-

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

The Sub-committee is permitted under Section 18(4) of the Licensing Act 2003, having had regard to relevant representations, to take such steps, as it considers necessary, for the promotion of the licensing objectives.

Section 35(3) of the Licensing Act 2003 states 'where relevant representations are made, the authority must:-

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of the Licensing Policy and any guidance issued by the Secretary of State under section 182

Each application that comes before the Sub-Committee must be treated on its own merits, and the Sub-Committee must take its decision based upon:

- a) The merits of the application
- b) The promotion of the four licensing objectives
- c) The policy of the Licensing Authority
- d) The Guidance issued under Section 182 of the Licensing Act 2003
- e) All valid representations made

Whilst the applicant, responsible authorities or persons making representations all have a right of appeal to the Magistrates Court dependant on the decision of the Sub Committee, the decision made takes immediate effect.

2. Human Rights Act

Article 1 of the First Protocol is concerned with the protection of property and provides that every person is entitled to peaceful enjoyment of his possessions. The

term 'possessions' is given a broad definition and includes a licence.

Article 8 is concerned with the right to respect for private and family life. It states that Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. The Council has had the proper regard for Article 8.

Article 6 relates to the right to a fair hearing. The applicant has seen this report prior to this hearing and is aware of the reason why the Sub-Committee is considering this review.

VALUE FOR MONEY AND USE OF RESOURCES

3. Finance and other resources, including ICT

There are no financial or other resource issues relating to this hearing.

4. Staffing

There are no staffing issues relating to this hearing.

5. Value for Money

Not applicable

6. Risk Management

Environmental Health has objected to the application as it is considered that the potential for noise and other nuisance emanating from these premises could be a concern to the extent that it may affect Health. (see 11 below). (see 11 below). The potential for crime is dealt with below under the Crime and Disorder heading.

COMMUNITY

7. Safer & Stronger Communities

If the application is granted, the extra services offered are not unique to Tunbridge Wells. The potential for problems arising from this application are dealt with in the Crime and Disorder section below at 8.

8. Section 17, Crime and Disorder Act 1998

No Representation has been raised by Kent Police.

9. Environment / Sustainability

If the Licensing Sub-Committee grants this application, it could impose conditions that might lessen the environmental impact of the premises.

10. Equalities

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	NO	All groups can still apply for a licence and all applications made are decided on their own merits and on a case by case basis.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	NO	None
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		None are recognised.

11. Health and Wellbeing

Environmental Health has objected to the application as it is considered that the potential for noise and other nuisance emanating from these premises could be a concern to the extent that it may affect Health.