

BABERGH DISTRICT COUNCIL

From: Head of Environment	Report Number: P1
To: Licensing Sub-Committee	Date of meeting: 28 April 2014

LICENSING ACT 2003: REVIEW OF PREMISES LICENCE BPL0281 RED LION, BILDESTON, IPSWICH IP7 7EX

1. Purpose of Report

- 1.1 To report information to the Licensing Sub-Committee to enable the determination of a REVIEW application made under section 51 of the Licensing Act 2003, by the following responsible authority:

The Chief Officer of Police (Suffolk Constabulary)

In respect of the following premises:

Red Lion PH, High Street, Bildeston, IPSWICH, Suffolk IP7 7EX

The existing premises licence is number BPL0281 on issue since 24 November 2005.

- 1.2 The complete application, containing the grounds for the review, is attached as Appendix A.

2. Recommendations

- 2.1 The Licensing Authority **MUST** reject an application for a review unless it is relevant to at least one of the following licensing objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

- 2.2 Where the Sub-Committee consider that action under its statutory powers is appropriate, it may take any of the following steps:

- a) Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition);
- b) Exclude a licensable activity from the scope of the premises licence;
- c) Remove the designated premises supervisor (if the Sub-Committee consider that the problems are the result of poor management);
- d) Suspend the premises licence for a period not exceeding 3 months; or
- e) Revoke the premises licence.

- 2.3 The Sub-Committee may determine to take no action, or to issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.

The Sub-Committee is able to determine this application.

3. Financial Implications

- 3.1 There is a statutory right of appeal to the magistrates' court for any party aggrieved by the decision taken by the Licensing Authority.

4. Risk Management

- 4.1 None, other than those that inherently apply to the Licensing Authority when carrying out its licensing functions. The four licensing objectives are prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

5. Consultations

- 5.1 The application made has been subject to the standard (section 51) review procedure. The application has been advertised, as required by regulation, on the premises, on the Council website and on the main council offices notice board for not less than the relevant statutory period (28 days in this instance). The application has been served on other responsible authorities as required.
- 5.2 Other responsible authorities and 'other persons' as defined by the 2003 Act may join a review once instigated and submit their own comments in relation to promotion of the licensing objectives.

6. Equality Analysis

- 6.1 There are no equality impacts arising directly from the matters contained within this report.

7. Key Information

- 7.1 The review application has been submitted to the Licensing Authority by the Chief Officer of Police, acting as a responsible authority, on 13 March 2014.
- 7.2 Premises licence BPL0281 is held by Miss Rachel Louise Davis who is also the Designated Premises Supervisor (DPS). Miss Davis has held the premises licence and performed the DPS role since 07 November 2013.
- 7.3 The grounds for review are briefly summarised as being concerns arising from a number of incidents at the premises which indicate a significant weakness in promotion of the prevention of crime and disorder licensing objective. A full copy of the application for review is attached as Appendix A.
- 7.4 In accordance with good practice specified at paragraph 11.10 of the statutory guidance issued under section 182 of the Licensing Act 2003, representatives of the Police, Licensing Authority and Environmental Protection have given the licence holder early warning of the concerns and of the need for improvement. This included clear, appropriate and proportionate advice to the licence holder of the steps needed to address those concerns. A failure by the holder to respond to or act upon such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives is key, and reviews which may undermine such working are not instigated lightly. For the benefit of the Sub-Committee in determining the review, the improvement notice outcome of that joined-up early intervention work is reproduced at Appendix B. At no stage since has the licence-holder formally committed to any update of premises licence BPL0281.

- 7.5 Paragraph 11.18 of the Guidance states that where responsible authorities have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 7.6 In respect of reviews, the Sub-Committee is particularly referred to section 11 of the Secretary of State’s Guidance issued under section 182 of the Licensing Act 2003. Section 22 of the Council’s Statement of Licensing Policy refers to review applications.
- 7.7 The Sub-Committee will be aware that:
- (a) Licensing objectives and aims are specified within the statutory guidance at paragraphs 1.2 to 1.5.
 - (b) Each case must be considered on its own merits. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.
 - (c) Any remedial action deemed appropriate by the Sub-Committee should generally be directed at the cause(s) of the concerns and should be no more than an appropriate and proportionate response.
 - (d) A review decision does not take effect until the time for bringing an appeal has expired, and if an appeal is lodged until the determination or withdrawal of the appeal.
 - (e) Where revisions are made to the legislation or guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, guidance and its own Statement of Licensing Policy.
- 7.8 The Sub-Committee will be alert to considerations in relation to European Convention rights as given further effect by the Human Rights Act 1998 - specifically Article 6(1) and Articles 8 and 1 of Protocol 1 when dealing with applications for the review of an existing licence. The Local Authority will also be aware of its duty under section 17 of the Crime and Disorder Act 1998 when exercising its various functions.

8. Representations

- 8.1 Responsible Authorities:
- (a) The review has been submitted by the Chief Officer of Police for Suffolk Constabulary.
 - (b) In this instance other responsible authorities have not submitted any representations to formally join the review.
- 8.2 Other persons:
- (a) There have been no representations received from other persons (which would include local residents or businesses).

9. Appendices

Title	Location
A. Application for the review of premises licence BPL0281 (under section 51 of the Licensing Act 2003)	Attached
B. Previous intervention joint advisory notice dated 23.01.2014 with discussed conditions document	Attached
C. Summary of existing premises licence BPL0281	Attached

10. Background Documents

10.1 None

Authorship:

Lee Carvell
Corporate Manager – Licensing

01473 825719
licensing@babergh.gov.uk

K:\DOCS\Committee\REPORTS\Licensing Act 2003 Committee\Licensing Sub-Committee\2014\280414-RED LION (s51).doc