

## BABERGH DISTRICT COUNCIL

<b>From: Head of Environment</b>	<b>Report Number: R37</b>
<b>To: Licensing Sub-Committee</b>	<b>Date of meeting: 28 August 2015</b>

### LICENSING ACT 2003 – HEARING TO DETERMINE AN APPLICATION MADE FOR THE GRANT OF A NEW PREMISES LICENCE – MARTINS CONVENIENCE STORE, THE BEVERLY, HALL STREET, LONG MELFORD CO10 9JL

#### 1. Purpose of Report

- 1.1 To report information to the Licensing Sub-Committee to enable the determination of an application made for the GRANT of a NEW premises licence under section 17 of the Licensing Act 2003 for the Martins Convenience Store and Newsagent situated at The Beverly, Hall Street, Long Melford, SUDBURY, Suffolk CO10 9JL. This unit is already established as a convenience store (trading as 'Martins') and seeks to diversify its offer to now include an alcohol (off sales only) permission.

#### 2. Recommendations

- 2.1 The Sub-Committee must, having regard to the representations made, take such of the steps below (if any) as it considers appropriate for the promotion of the licensing objectives:-

- to GRANT the licence subject to conditions which are consistent with the operating schedule accompanying the application - modified to such extent as the authority considers appropriate for promotion of the licensing objectives - and subject to any mandatory condition(s) which must be included in the licence;
- to EXCLUDE from the scope of the licence any of the licensable activities to which the application relates;
- to REFUSE to specify a person in the licence as premises supervisor; or
- to REJECT the application.

For these purposes conditions of the licence are *modified* if any of them are altered or omitted or any new condition is added.

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 statutory consultation period as prescribed by regulation. The notices advertising the application have been on display at the premises and published.

## 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 hearing is to determine an application (number 013715) for the GRANT of a NEW premises licence made under section 17 of the Licensing Act 2003. A copy of the application including plans of the premises was received on 08 July 2015. These are attached as Appendix A.

- 7.2 The application has been submitted by:-

**Martin McColl Limited (Registered Company number 0298945)**

For the proposed licensed premises:-

**Martins, The Beverly, Hall Street, Long Melford, SUDBURY CO10 9JL**

The proposed designated premises supervisor DPS within the application is:-

**Mr David Davenport** (a personal licence holder with Braintree District Council) although the agent for the applicant has confirmed that this may change prior to the commencement of any trading reliant on the premises licence (if granted).

- 7.3 The information provided with the application indicates that the store has a retail area of approximately 510 square feet, and offers fresh foods, groceries and other products. The application outlines that the supply of alcohol (for consumption off the premises only) is an expected part of their offer to the local community and customers from further afield.
- 7.4 The application proposes that the sale of alcohol would take place between 6am and 11pm Monday to Sunday during its general trading hours. Various steps to promote the four licensing objectives have been proposed by the applicant within their application. Please refer to Appendix A to this report to view the full application and operating schedule (including a plan of the premises and any supplementary information provided by the applicant's agent).
- 7.5 A hearing is necessary to determine the application following receipt of representations which has not been withdrawn. The Sub-Committee will be aware that its consideration is confined to promotion of the four licensing objectives and the 'need', or commercial demand, for licensed premises are not considerations for the Licensing Authority when discharging its licensing functions (as outlined by the Secretary of State at paragraph 13.19 of the Guidance issued under section 182 of the Licensing Act 2003).

- 7.6 Members of the Sub-Committee will be aware that the Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certification or authorisation concerned. Nonetheless, the Licensing Act 2003 contributes towards a holistic approach to management of the evening and night-time economy in town and city centres (as outlined by the Secretary of State at paragraph 13.13 of the Guidance issued under section 182 of the Licensing Act 2003 and Babergh District Council's Statement of Licensing Policy at 1.9).
- 7.7 Members of the Sub-Committee will be aware of Statutory the Secretary of State's guidance at paragraph's 13.57 and 13.58, which guides on the relationship and separation between the licensing and planning regimes.
- 7.8 The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives, which are:-
- (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm
- 7.9 In carrying out its licensing functions, the Licensing Authority must have regard to its 'Statement of Licensing Policy' published under section 5 of the Act, and any guidance issued by the Secretary of State under section 182 (last revised March 2015).
- 7.10 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.
- 7.11 The Sub-Committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 for the applicant and Articles 8 and 1 of Protocol 1 for those raising representations - when determining applications for the grant of a new licence.

## **8. Representations**

- 8.1 The Licensing Authority has received no representations from Responsible Authorities under the Licensing Act 2003. The Police have not submitted any comments. The Senior Environmental Protection Officer has confirmed no representation or recorded complaint history in relation to the existing (unlicensed) operation of the store. The Planning Authority has confirmed that it has no comments and has identified no conflict between the licence proposals and current planning position.
- 8.2 There have been 2 (two) representations received from 'other persons' (which may include local residents, elected members as representatives of the local community, businesses and parish councils). These comments are attached as Appendix B.

## 9. Appendices

	Title	Location
A.	Application for GRANT of NEW premises licence and accompanying documents/premises plans	Attached
B.	Representations received from 'Other Persons'	Attached
C.	Site plan of the location of the premises	Attached

## 10. Background Documents

10.1 The Licensing Act 2003

10.2 Guidance issued under Section 182 of the Licensing Act 2003 (March 2015)

10.3 Babergh District Council's Statement of Licensing Policy

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