

## BABERGH DISTRICT COUNCIL

<b>From: Head of Environment</b>	<b>Report Number: R39</b>
<b>To: Licensing Sub-Committee</b>	<b>Date of meeting: 14 September 2015</b>

### LICENSING ACT 2003 – HEARING TO DETERMINE AN APPLICATION MADE FOR THE GRANT OF A NEW PREMISES LICENCE – WHITE HART INN, BROAD STREET, BOXFORD CO10 5DX

#### 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 for the White Hart Inn, Broad Street, Boxford CO10 5DX. The premises previously benefitted from a premises licence (BPL0081) but this lapsed following the liquidation of the previous holder, a limited company.

#### 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 determines this application at the hearing.

#### 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 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 20 July 2015. These are attached as Appendix A.

- 7.2 The application has been submitted by:

**Mr Miguel Lopes**

For the proposed licensed premises:

**White Hart Inn, Broad Street, Boxford, CO10 5DX**

The designated premises supervisor DPS is:

**Mr Miguel Lopes** (a personal licence holder with Ipswich Borough Council)

- 7.3 The application was made due to the lapse of the previous licence following the liquidation of the former holder, a limited company, which came to light after the 28 day period permitted by regulation for the process *{an interim authority notice}* to protect the licence (pursuant to section 47 of the Licensing Act 2003) had passed. The premises has used Temporary Event Notices to trade on a couple of occasions but has largely remained closed for the intervening period.
- 7.4 The information provided with the application outlines that the supply of alcohol (for consumption on and off the premises) would take place between 10:00hrs and 01:00hrs Monday to Sunday. Live Music (both indoors and outdoors) had been proposed between 10:00hrs to 22:30hrs Monday to Thursday and Sunday and 10:00hrs to 23:30hrs Friday and Saturday. Recorded music (indoors) has been proposed for the same timings as the above alcohol hours with Late Night Refreshment (indoors and outdoors) proposed from 23:00hrs to the same terminal hour for alcohol of 01:00hrs. In addition the applicant also proposed an hour's extension to the above timings for Christmas Eve, Boxing Day and New Year Eve and from Maundy Thursday to Easter Sunday inclusive. These proposed timings generally mirror the timings of the previous licence BPL0081.

- 7.5 The Applicant has proposed the steps he intends to take to promote the licensing objectives in section M of the application form attached as Appendix A. In addition further conditions, limited by the provisions of the Live Music Act 2012 and recorded music deregulation, have been agreed between the Applicant and the Environmental Protection Officer on the basis of which the Environmental Protection Team have not raised any representation/objections. This agreement is attached as Appendix B.
- 7.6 A hearing is necessary to determine the application following receipt of two representations which have 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).
- 7.7 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).
- 7.8 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.
- 7.9 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
- 7.10 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).
- 7.11 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.
- 7.12 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, although as stated in this report additional conditions have been agreed between the Applicant and Environmental Protection Officer. The Police have not submitted any representation.
- 8.2 There have been 2 (two) representations submitted by 'other persons' (which may include local residents, elected members as representatives of the local community, businesses and parish councils). These have been from local residents living in close proximity to the premises. 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' and mediated agreement with Environmental Protection	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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