

## BABERGH DISTRICT COUNCIL

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| <b>From: Head of Environment</b>   | <b>Report Number: R40</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 – KENTWELL HALL, LONG MELFORD CO10 9BA

#### 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 Kentwell Hall, Long Melford, SUDBURY, Suffolk CO10 9BA.
- 1.2 This site already benefits from a premises licence number BPL0255 held since November 2005 (with no alcohol permission) for part of the licensable activities held at the premises. To date Temporary Event Notices (including for alcohol) are used by the venue management to supplement that permanent permission. This new application seeks to consolidate regular events and activities, and alter existing permissions to include alcohol sales and late night refreshment, and to expand regulated entertainment aspects.

#### 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 013784) 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 24 July 2015. These are attached as Appendix A.

- 7.2 The application has been submitted by:

**Mrs Judith Gaskell Phillips**

For the proposed licensed premises:

**Kentwell Hall, Long Melford, SUDBURY, Suffolk CO10 9BA**

The proposed designated premises supervisor DPS within the application is:

**Mrs Judith Gaskell Phillips** (personal licence holder BPA0484 with Babergh District Council)

- 7.3 Kentwell Hall includes the hall, outbuildings, rare breeds farm and gardens. Most of the current building facade dates from the mid-16th century, but the origins of Kentwell Hall date much earlier. Historical re-creations, wedding functions, the annual 'Scaresville' halloween-themed event and theatre/opera are all popular and well-established attractions at the Hall. The venue offers a variety of activities and events for all age groups throughout the year, many of which may include a licensable element.

- 7.4 Information submitted within the application describes the main elements of the licensed premises as comprising a restaurant and tea room in a converted outbuilding in the grounds and an adjoining courtyard and garden, and the 'Overcroft' function room and balcony. The licence application also contains scope for covering wedding functions and occasional outdoor events (note: outdoor concerts originally proposed in the application have now removed by agreement between Applicant and Environmental Protection Officer), theatre/plays, re-creations and Scaresville attraction. Due to the nature of the Scaresville activity a licence is sought for some activities up until 2am latest (although outdoor live and recorded music shall cease by 23:00hrs in accordance with the revisions to the application agreed between the Applicant and Environmental Protection Officer).

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 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).
- 7.6 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 paragraphs 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 There are no outstanding representations from Responsible Authorities. The Senior Environmental Protection Officer as a Responsible Authority under the Licensing Act 2003 has confirmed with the applicant a mediated agreement (reductions/conditions). Details of this are attached at Appendix B. The Police have not submitted any comments.
- 8.2 The Fire Service has confirmed that it has no objections to the licence, and any issues will be addressed if required under its own separate fire safety legislation. The Planning Authority has confirmed that it has no comments and has identified no conflict between the licence proposals and current planning position.
- 8.3 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. The Licensing Officer has gone back to both objectors in the light of the Environmental Protection instigated revisions, but those resident representations have not been withdrawn.

## 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 Senior Environmental Protection officer agreement | Attached |
| C. Site plan showing 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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ENVIRONMENT