

MID SUFFOLK DISTRICT COUNCIL

From: Head of Environment	Report Number:	LA/01/15
To: Licensing Act 2003 Sub-Committee	Date of meeting:	26 January 2015

LICENSING ACT 2003 – HEARING TO DETERMINE AN APPLICATION MADE FOR THE GRANT OF A NEW PREMISES LICENCE – MALTINGS ENTERTAINMENT COMPLEX, STATION ROAD EAST, STOWMARKET IP14 1RQ

1. Purpose of Report

- 1.1 To report information to the Licensing Act 2003 Sub-Committee to enable the determination of an application made for the GRANT of a NEW premises licence for the Maltings Entertainment Complex (Restaurant, Bar and Nightclub) situated at Station Road East, STOWMARKET, Suffolk IP14 1RQ.

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 04 December 2014. These are attached as Appendix A.

- 7.2 The application has been submitted by:

Maltings Entertainment Ltd (registered company number 08868106)

For the proposed licensed premises:

Maltings Entertainment Complex (comprising Restaurant, Bar and Nightclub) situated at Station Road East, STOWMARKET, Suffolk IP14 1RQ.

The designated premises supervisor DPS is:

Robert Perry (a personal licence holder with Mid Suffolk District Council)

- 7.3 The premises are currently subject of a premises licence which was originally granted in 2005 as a conversion with simultaneous variation. The new application subject of this hearing (ref: 14/00097) is separate from the existing premises licence.

- 7.4 The information provided with the application outlines that the sale of alcohol (for consumption both on and off the premises only), late night refreshment and regulated entertainment is proposed as part of the business operation and that the venue has been used as a nightclub for more than 40 years. It is proposed that the areas of the complex known as the Mill Bar and Grill shall be used as a restaurant and Bar with the area known as Carbon being used as a nightclub. Activities involving pole-dancing, striptease, lap dancing, burlesque nights etc. are proposed as infrequent and in accordance with separate regulation (or specific 'infrequent exemption' from separate sexual entertainment venue licensing provisions). There is also a late night refreshment unit (burger van) potentially incorporate within the scope of this application and as identified on the licence plan in the parking area of the site.

- 7.5 Generally, the application seeks to open to the public between from 09:30hrs until 02:30hrs latest Monday to Wednesday, until 03:00hrs Thursday, until 04:00hrs Friday and Saturday and until 01:00hrs Sunday. Specified non-standard timings (bank holidays etc.) are also proposed to extend opening until 04:00hrs. Licensable activities are proposed to terminate earlier than the closing times and these are variable at different areas of the premises – as identified within the application operating schedule separate document (see Appendix A).

- 7.6 The Applicant has engaged in significant pre-application discussions with responsible authorities and this has influenced the operating schedule steps proposed within the application to promote the licensing objectives. These are contained within the separate document as part of the operating schedule. On this basis no representations have been received from the Chief Officer of Police or Environmental Health.
- 7.7 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 13.18 of the Guidance issued under section 182 of the Licensing Act 2003).
- 7.8 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 Mid Suffolk District Council's Statement of Licensing Policy at 1.9).
- 7.9 Members of the Sub-Committee will be aware of Statutory the Secretary of State's guidance at paragraph's 13.56 and 13.57, which states that planning and licensing are different regimes and neither is bound by the others decisions. There are circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 7.10 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
- 7.11 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.
- 7.12 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.

- 7.13 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 pre-application discussions had taken place.
 - 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 are attached as Appendix B to this report. It should be noted that at the time this report was compiled the Licensing Team had not been able to confirm with the sender of the representation dated 31 December 2014 purporting to be from 'aggrieved residents' (sender 'quietstowmarket') how many residents are represented by that representation, or their identities to be invited as parties to the hearing or confirmation of their residential proximity to the licensed premises. The sender had stated a fear of 'retribution' from the owners or patrons of the establishment. Members of the Sub-Committee will therefore weight the comments made accordingly. Cllr Barry Humphreys has issued a representation as representative of residents of the Pickerel Court complex.

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 (October 2014)
 - 10.3 Mid Suffolk District Council's Statement of Licensing Policy

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