

## MID SUFFOLK DISTRICT COUNCIL

From: Head of Environment	Report Number: <b>LA/05/15</b>
To: Licensing Sub-Committee	Date of meeting: 21 July 2015

### LICENSING ACT 2003: REVIEW OF PREMISES LICENCE LICPR/14/00097 FOLLOWING CLOSURE ORDER IN RESPECT OF MALTINGS ENTERTAINMENT COMPLEX, STATION ROAD EAST, STOWMARKET IP14 1RQ

#### 1. Purpose of Report

- 1.1 To report information to the Licensing Sub-Committee to enable the determination of the REVIEW of a premises licence following a closure order. In accordance with section 167 of the Licensing Act 2003, as amended by the Anti-social Behaviour, Crime and Policing Act 2014, the Licensing Authority must review the premises licence following the grant and issue of a closure order under section 80 of the 2014 Act.
- 1.2 The Closure Order necessitating the review of premises licence was granted on 03 July 2015 by Ipswich Magistrates' Court upon the application of a constable, PC 331 Amanda Garnham of Suffolk Constabulary, and further to a closure notice given by Suffolk Constabulary.

The closure order is in respect of *part* of the Maltings Entertainment Complex, Station Road, STOWMARKET, Suffolk IP14 1RQ only – namely Carbon and T-Bar areas only, with the Mill Bar and Grill area *excluded* by the order obtained 03 July 2015.

The existing premises licence is number LICPR/14/00097 on issue since 29 January 2015, and recently reviewed by the Licensing Authority on 09 July 2015 upon application of the Chief Officer of Police under section 51 of the Licensing Act 2003.

#### 2. Recommendations

- 2.1 The Licensing Authority **MUST** proceed to review a premises licence where subject to a closure order.
- 2.2 The Sub-Committee must, having regard to the application and any relevant representations, take such of the steps below (if any) as it considers appropriate for the promotion of the licensing objectives. The steps are –
  - (a) to modify the conditions of the licence;
  - (b) to exclude a licensable activity from the scope of the licence;
  - (c) to remove the designated premises supervisor;
  - (d) to suspend the licence for a period not exceeding three months;
  - (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added. Where the authority takes a step mentioned in 2.2(a) or 2.2(b) above, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 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 an expedited review procedure under section 167 of the Licensing Act 2003. 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 (7 days in this instance). The application has been served on other responsible authorities as required, in addition to a copy of the closure order.
- 5.2 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 court notified the Licensing Authority of the closure order under section 80(9) of the Anti-social Behaviour, Crime and Policing Act 2014 on 07 July 2015, thus activating a Licensing Authority review of the premises licence under section 167 of the Licensing Act 2003. A copy of the closure order is attached as Appendix A.
- 7.2 This matter closely follows the Licensing Authority's determination of a section 51 (standard) review instigated by the Chief Officer of Police, via a hearing held on 09 July 2015. The Notification of Determination of that review is attached as Appendix B.

- 7.3 The Police sought and obtained a closure order on 03 July 2015 from Ipswich Magistrates' Court, activating a second mandatory review before the first had been determined. The review provisions following a closure order are identical to those for a review of a premises licence under Part 3 of the 2003 Act, albeit there is no formal review 'application' necessary to start the process following a closure order and the relevant timeframe is expedited – the Licensing Authority must determine the review following a closure order within 28 days of being notified by the court of the order.
- 7.4 Section 168 of the Licensing Act 2003, as amended by the 2014 Act, makes provision about when the review determination takes effect, and where a Licensing Authority following a closure order decides to take a step short of revocation, the determination takes effect as soon as the premises licence holder is notified. However, the Licensing Authority has power to suspend the effect of its decision, on such terms as it sees fit until the end of the 'relevant time'. The 'relevant time' in this context will be when the period for appealing against the decision has expired (or when the appeal has been finally determined).
- 7.5 However, where the Licensing Authority decide to revoke the premises licence upon review following closure order, the basic position is that in such circumstances the premises must remain closed until the end of the 'relevant time'. For clarity section 168 of the 2003 Act and amendment made to it by the Anti-social Behaviour, Crime and Policing Act 2014 is reproduced as Appendix C.
- 7.6 A premises licence has been held by Maltings Entertainment Ltd (limited company number 08868106) for the Maltings Entertainment Complex since 27 March 2014. The Designated Premises Supervisor (DPS) is currently Mr Peter Evans (a personal licence holder with Suffolk Coastal District Council) and he has held that position since 21 April 2015, prior to which the DPS was Mr Robert Perry (a personal licence holder with Mid Suffolk District Council). The last Companies House check (March 2014) identified four directors of the company – being Mr Donald Perry, Mr Stephen Perry, Mrs Tracey Smith and Mr Robert Perry.
- 7.7 The Court accepted that the test at s.80(5)(a) and (c) of the 2014 Act had been made out, upon application of the Police when granting the order, and determined "that a person has engaged in anti-social behaviour on the premises and the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public".
- 7.8 The closure order took effect from 03 July 2015 and expires on midnight on 14 July 2015. Orders may be extended upon further application to the Court or else be discharged. If the magistrates' court is satisfied it may make an order extending (or further extending) the period of the closure order by a period not exceeding 3 months. The period of a closure order may not be extended so that the order lasts for more than 6 months.
- 7.9 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 (March 2015 version). Section 22 of the Council's Statement of Licensing Policy refers to review applications.

- 7.10 In respect of decision-making paragraph 11.20 of the Secretary of State's Guidance issued under section 182 of the Licensing Act 2003 states that "in deciding which of these powers to invoke [see 2.2 of this report], it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review."
- 7.11 The Sub-Committee will further 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) The determination of the Sub-Committee in the context of this matter, following a magistrates' closure order, will need to consider the provisions of section 168 of the 2003 Act relating to when its determination will take effect.
  - (d) 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 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. Without prejudice to any other obligation imposed on it, 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.
- 7.13 A full copy of the premises licence LICPR/14/00097 as modified via the last hearing on 09 July 2015, and still within appeal period, is attached as Appendix D,

## **8. Representations**

### **8.1 Responsible Authorities:**

- (a) In this instance no responsible authority had commented at the point this report was produced.

### **8.2 Other persons:**

- (a) In this instance no responsible authority had commented at the point this report was produced.

## 9. Appendices

Title	Location
A. Closure Order issued by Ipswich Magistrates' Court on 03 July 2015 under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014	Attached
B. Decision notice from Section 51 review hearing 09 July 2015	Attached
C. Section 168 of the Licensing Act 2003 (as amended by the Anti-social Behaviour, Crime and Policing Act 2014)	Attached
D. Premises licence LICPR/14/00097 as modified 09 July 2015	Attached

## 10. Background Documents

10.1 The Licensing Act 2003

10.2 Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 (March 2015 version)

10.3 Mid Suffolk District Council Statement of Licensing Policy

### Authorship:

Lee Carvell  
Corporate Manager – Licensing

01449 724685  
[licensing@midsuffolk.gov.uk](mailto:licensing@midsuffolk.gov.uk)