

MID SUFFOLK DISTRICT COUNCIL

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| To: Licensing Sub-Committee | Report Number: LA/07/14 |
| From: Head of Environment | Date of meeting: 8 September 2014 |

LICENSING ACT 2003 – HEARING TO DETERMINE AN APPLICATION MADE TO VARY A PREMISES LICENCE – THE DOLPHIN, BURY ROAD, WORTHAM, DISS, IP22 1PX

1. Purpose of Report

- 1.1 To report information to the Licensing Sub-Committee to enable the determination of an application made to vary a premises licence for Mark Squibb in relation to the above premises.

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 REJECT the whole or part of 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 (Diss Express - 18 July 2014 edition).

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 to vary an existing premises licence made under section 34 of the Licensing Act 2003. A copy of the application including plans of the premises was received on 11 July 2014. These are attached as Appendix B.

- 7.2 The application has been submitted by:

Mark Squibb

For the proposed licensed premises:

The Dolphin, Bury Road, Wortham, DISS IP22 1PX

The designated premises supervisor DPS is:

Mark Squibb (a personal licence holder with Great Yarmouth Borough Council)

- 7.3 The information provided with the variation application outlines that the premises licence holder seeks to extend the timings for the sale of alcohol (for consumption both on and off the premises only), regulated entertainment (live and recorded music) and add the licensable activity of late night refreshment is been proposed.
- 7.4 Generally, the application seeks to extend authorise sales of alcohol between the hours of 10:30hrs and 01:00hrs Monday to Sunday; regulated entertainment (Live and recorded music 10:30hrs to 01:00hrs Thursday to Saturday; and to add the activity of late night refreshment 23:00hrs to 01:00hrs Monday to Sunday. Non standard timings for all activities proposed on the application from New Year's Eve: from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day. The full activities and proposed timings are contained within the application form attached as Appendix B.
- 7.5 Existing conditions of licence, detailed at Appendix A, would remain unless where consequentially or materially modified or updated by the variation application. The operating schedule sets out steps proposed by the applicant to promote the licensing objectives for the variation are listed at Part M of the application form attached as Appendix B.
- 7.6 The Dolphin has benefitted from a premises licence issued by Mid Suffolk District Council since April 2008. Prior to that the premises was licensed again by Mid Suffolk District Council from December 2005 until January 2008 when the premises licence lapsed due to insolvency.

- 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 when discharging its licensing functions under the Licensing Act 2003 (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 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.
- 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 a representation from Suffolk Constabulary as a Responsible Authority under the Licensing Act 2003. This is attached as Appendix C to this report.
- 8.2 There have been no other representations received from the other Responsible Authorities under the Licensing Act 2003.
- 8.3 There have been **4** representations received made by 'other persons' (which includes local residents and businesses). These are attached as Appendix D to this report.

9. Appendices

| Title | Location |
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| A. Summary of the current premises licence | Attached |
| B. Application to VARY a premises licence and accompanying documents/premises plans | Attached |
| C. Representation received from Suffolk Constabulary as a Responsible Authority | Attached |
| D. Representations received from 'Other Persons' | Attached |
| E. 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

10.3 Mid Suffolk District Council's Statement of Licensing Policy

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ENVIRONMENT