

## BABERGH DISTRICT COUNCIL

<b>To: Licensing Act 2003 Sub-Committee</b>	<b>Report Number: B/LASub/18/3</b>
<b>Officer: Lee Carvell, Corporate Manager – Open for Business</b>	<b>Date of meeting: 1 May 2019</b>

### LICENSING ACT 2003 – HEARING TO DETERMINE AN APPLICATION MADE FOR THE GRANT OF A NEW PREMISES LICENCE – BRANTHAM LEISURE CENTRE, NEW VILLAGE, BRANTHAM, MANNINGTREE CO11 1RZ

#### 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 Brantham Leisure Centre in relation to the above premises.

#### 2. Recommendation

- 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/Legal 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 (Harwich & Manningtree Standard – 15 March 2019 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 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 5 March 2019. These are attached as Appendix A.

- 7.2 The application has been submitted by:

**Brantham Leisure Centre** (registered number 5922569)

For the proposed licensed premises:

**Brantham Leisure Centre**, New Village, Brantham, Manningtree CO11 1RZ

The designated premises supervisor DPS is:

**Anthony Edward Hall** (a personal licence holder with Babergh District Council)

- 7.3 The information provided with the application outlines that the activities applied for are proposed as part of a change from strictly a member's club to a mix of private members, public use & events, private hire and sporting use.
- 7.4 The full activities and proposed timings are contained within the application form attached as Appendix A.
- 7.5 The operating schedule steps proposed by the applicant to promote the licensing objectives are listed at Part M of the application form attached as **Appendix A**.
- 7.6 A hearing is necessary to determine the application following receipt of a representation which has 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 14.19 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 14.13 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 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.

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 The Licensing Authority has received no representations from any Responsible Authority under the Licensing Act 2003; however, the Environmental Health team as a Responsible Authority under the Act have mediated with the applicants to put in place further operating conditions.

8.2 There has been **1** representation received made by 'other persons' (which includes local residents and businesses). These are attached as **Appendix B** to this report.

## 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

10.3 Babergh District Council's Statement of Licensing Policy

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