

BABERGH DISTRICT COUNCIL

TO: Licensing Sub-Committee	REPORT NUMBER: BLSC/23/2
FROM: Kate Pearsall – Licensing Team Leader	DATE OF MEETING 26 April 2024
OFFICER: Kay Sanders and Kerry Chandler – Licensing Officers	KEY DECISION REF NO. N/A

LICENSING ACT 2003 – HEARING TO DETERMINE AN APPLICATION MADE FOR THE GRANT OF A NEW PREMISES LICENCE – MARQUIS SUFFOLK, UPPER STREET, LAYHAM, IPSWICH IP7 5JZ

1. Purpose of Report

- 1.1 To report information to the Sub-Committee to enable the determination of an application made for the GRANT of a NEW premises licence by The Marquis of Cornwallis Ltd 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 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.

That the Sub-Committee determines this application at the hearing

3. Key Information

- 3.1 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 was received on 4th March 2024 and amended by mediation. This amended application is attached as **Appendix A** to this report.

- 3.2 The application has been submitted by:

The Marquis of Cornwallis Ltd.

For the proposed licensed premises:

Marquis Suffolk, Upper Street, Layham, Ipswich IP7 5JZ

The designated premises supervisor DPS is:

David Mee (a personal licence holder with East Suffolk District Council)

- 3.3 Full details of the proposed activity and timings are contained within the application form attached as **Appendix A** alongside the steps proposed by the applicant in the operating schedule (part M) and additional conditions agreed through mediation between the applicant, Police and Babergh District Council Environmental Protection Team to promote the licensing objectives are attached as **Appendix B**.
- 3.4 A plan detailing the areas to be licensed are attached to this report as **Appendix C**.
- 3.5 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 14.19 of the Guidance issued under section 182 of the Licensing Act 2003).
- 3.6 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
- 3.7 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 of the Act.
- 3.8 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.
- 3.9 The Sub-Committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 and Articles 8 and 1 of Protocol 1 when determining applications for the grant of a new licence.
- 3.10 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 (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).

- 3.11 Members of the Sub-Committee will be aware of Statutory the Secretary of State's guidance at paragraph's 14.64 and 14.65, 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.
- 3.12 The Licensing Authority's general approach to considering licensing hours is contained within section 6 of the local Statement of Licensing Policy, and section 7 guides on relevant representations.

4. Representations

- 4.1 The Licensing Authority has received no representation from a Responsible Authority under the Licensing Act 2003.
- 4.2 There have been 13 representations received made by 'other persons' (which includes local residents, businesses and residence association). These are attached as **Appendix D** to this report.

5. Financial/Legal Implications

- 5.1 There is a statutory right of appeal to the magistrates' court for any party aggrieved by the decision taken by the Licensing Authority.

6. Risk Management

- 6.1 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.

7. Consultations

- 7.1 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 in the Suffolk Free Press – 26 October 2023 edition.

8. Equality Analysis

- 8.1 There are no equality impacts arising directly from the matters contained within this report.

9. Appendices

Title	Location
(a) Application for GRANT of NEW premises licence	Attached
(b) Steps to promote licensing objectives (part M)	Attached
(c) Plan showing the areas to be licensed	Attached
(d) Representations received from 'Other Persons'	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