

## BABERGH DISTRICT COUNCIL

<b>From: CORPORATE MANAGER – OPEN FOR BUSINESS TEAM</b>	<b>Report Number: B/LASub/17/3</b>
<b>To: LICENSING ACT 2003 SUB-COMMITTEE</b>	<b>Date of meeting: 8 FEBRUARY 2018</b>

### LICENSING ACT 2003 SUMMARY (EXPEDITED) REVIEW OF PREMISES LICENCE BPL0008 - ANGEL HOTEL, MARKET PLACE, LAVENHAM CO10 9QZ

#### 1. Purpose of Report

- 1.1 This report outlines the matter before the Sub-Committee today.
- 1.2 This matter relates to an application made by the Chief Officer of Police under section 53A of the Licensing Act 2003 for a summary (expedited) review of premises licence BPL0008 held in respect of the Angel Hotel, Market Place, Lavenham, Suffolk CO10 9QZ. A copy of the review application and accompanying certificate is attached at **Appendix A**.

#### 2. Recommendations

- 2.1 That the Sub-Committee consider the application for review and any relevant representations and take such of the following steps, if any, as it considers appropriate for the promotion of the licensing objectives:

- to modify the conditions of the licence;
- to exclude a licensable activity from the scope of the licence;
- to remove the designated premises supervisor from the licence;
- to suspend the licence for a period not exceeding three months; or
- to revoke the licence.

For this purpose the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added.

- 2.2 The Sub-Committee will be required to decide if the interim step imposed (on 16 January 2018) ceases to have effect altogether or becomes the subject of any steps which it considers are appropriate when making its determination on the review. Any applications to amend premises licence BPL0008 made since the interim steps decision will be of relevance to this consideration.

#### 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 in respect of the review. There is no right of appeal to the magistrates' court in relation to the initial interim steps decision.

#### 4. Risk Management

- 4.1 Those which 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. This expedited review has been certificated by the Superintendent as both serious crime and serious disorder.

#### 5. Consultations

- 5.1 The application made has been subject to the expedited procedure. A notice of the application has been displayed/published allowing a period of ten working days from the application date for relevant representations to be made. These may be from responsible authorities or other persons, and may be 'positive' (i.e. supportive of the premises licence holder) as well as those which raise concerns in relating to promotion of licensing objectives.

#### 6. Equality Analysis

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

#### 7. Shared Service / Partnership Implications

- 7.1 Not applicable.

#### 8. Key Information

##### A. The Application

- 8.1 On 12 January 2018, the Licensing Authority of Babergh District Council was served by the Chief Officer of Police with an application for a summary (expedited) review given under section 53A of the Licensing Act 2003. This was accompanied by a certificate signed by Superintendent Kim Warner stating that in his opinion, and in accordance with section 53A(1)(b) of the Licensing Act 2003, the premises are associated with **both serious crime and serious disorder**. This certificate, combined with the premises being licensed for the sale of alcohol, activates the provisions which enable a fast-track review process.
- 8.2 A summary review under section 53A requires a Licensing Authority to consider within 48 hours of the application whether any interim steps are *necessary*, pending the full expedited review hearing taking place (which must be held and determined within 28 days of the application). Interim steps that a Licensing Authority must consider taking are to (a) modify the conditions of licence, (b) exclude the sale of alcohol from the licence, (c) remove the designated premises supervisor from the licence, and (d) suspend the licence.
- 8.3 At the interim steps meeting held at Babergh District Council on 16 January 2018 the Licensing Sub-Committee determined to remove the DPS (Mr John Michael Raines) with immediate effect as a necessary and appropriate interim step pending the full review hearing that must follow the application. This preliminary decision and reasons for it were duly notified to the premises licence holder and Chief Officer of Police on 16 January 2018. Since then, on 18 January 2018, an application was made to vary premises licence BPL0008 to specify James Rawlinson as DPS.

This took immediate effect and the Chief Officer of Police has confirmed no objection to that application. Mr Rawlinson is a personal alcohol licence holder with St.Edmundsbury Borough Council, licence number PA05384.

8.4 An expedited review under section 53A reduces the period within which a full review hearing must take place, and also the period during which other responsible authorities and other persons (including residents) may make relevant representations to the Licensing Authority in respect of promotion of one or more of the licensing objectives. The review hearing under this provision mirrors that of a 'standard' (e.g. section 51) review with the Licensing Authority to determine what steps, if any, are *appropriate* for the promotion of the licensing objectives. However, a review under the expedited process must be *determined* within the 28 day period.

8.5 The licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

In carrying out its licensing functions, a licensing authority must also have regard to its Statement of Licensing Policy published under section 5 of the 2003 Act and the Guidance issued by the Secretary of State under section 182 of the 2003 Act.

#### **B. Premises Licence number BPL0008**

8.6 A premises licence (number BPL0008) under the Licensing Act 2003 is held for the Angel Hotel, Market Place, Lavenham CO10 9QZ by Mr John Michael Raines and he was also the DPS until removed through the interim steps process on 16 January 2018. The licence was issued in 2005 under grandfather rights provisions and has not been altered since in terms of varying the activities or conditions. This includes the authority to supply alcohol for consumption both on and off the premises. A summary of the current permissions, now the subject of the application for review, is attached as **Appendix B**.

8.7 For the benefit of the Sub-Committee the premises has not been subject to any previous licence review proceedings. There has been no closure order implemented by the Police pursuant to section 161/160, nor any closure order actioned by the Police or Trading Standards for persistent underage sales under section 169A.

#### **C. Policy / Guidance Considerations**

8.8 The Licensing Sub-Committee shall have regard to all relevant sections of the Council's published Statement of Licensing Policy. In particular section 22 of the Statement of Licensing Policy refers to reviews.

8.9 The Licensing Sub-Committee shall have regard to all relevant parts of the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 (April 2017 revision).

8.10 Sections 9.42 to 9.44 of the Guidance advise on determining actions that are appropriate to promotion of the licensing objectives.

8.11 Section 10.10 guides on proportionality in respect of conditions attached to licences.

- 8.12 Sections 11.1 to 11.30 guide on reviews and sections 11.16 to 11.23 specifically relate to powers of a licensing authority when determining a review and 11.24 to 11.28 in respect of reviews arising in connection with crime.
- 8.13 Regulation 14 of The Licensing Act 2003 (Hearings) Regulations 2005 specifies that “the licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public”. Given the individual circumstances of this review application and context of an ongoing Police investigation, the Sub-Committee may wish to seek advice from its Legal Advisor in this regard.
- 8.14 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 such circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, guidance and its own Statement of Licensing Policy.
- 8.15 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. 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.

#### **D. Representations**

##### **8.16 Responsible Authorities**

The summary review has been submitted by the Chief Officer of Police for Suffolk Constabulary, and certificated by the Superintendent. Responsible Authorities have been notified of the application and have advised there are no comments in respect of the application made.

##### **8.17 Other persons**

‘Other persons’, as defined by the Act, are also entitled to submit relevant representations and in effect ‘join’ a review once instigated. Any submissions in this regard are attached to this report as **Appendix C**.

#### **9. Appendices**

Title	Location
A. Application for Review (section 53A) including certificate signed by Superintendent Warner	Attached
B. Summary of premises licence BPL0008	Attached
C. Representations received from Other Persons	Attached
D. Interim steps decision notification dated 16 Jan 2018	Attached

## **10. Background Documents**

10.1 The Licensing Act 2003

10.2 Guidance issued under Section 182 of the Licensing Act 2003 (April 2017 revision)

10.3 Babergh District Council's Statement of Licensing Policy (2016-2021)

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