

BRECKLAND COUNCIL

Report of the Strategic Director - Services to the LICENSING SUB-COMMITTEE – 18th March 2009

Application for the review of a premises licence under the Licensing Act 2003

1. Purpose of Report

- 1.1 To consider an application for the review of a premises under Section 51 of the Licensing Act 2003. The application has been made by a Responsible Authority and is in relation to the premises licence at the White Hart Inn, 2 London Street, Swaffham, Norfolk, PE37 7DG.

2. Recommendations

It is recommended that the Sub-Committee:

- 2.1 determine the application for the review of the above premises licence in accordance with the Licensing Act 2003, the Guidance issued under Section 182 of the Licensing Act 2003 and Breckland Council's Statement of Licensing Policy.

Note: In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

3. Information, Issues and Options

3.1 Background

- 3.1.1 The Licensing Act 2003 provides a mechanism for reviewing premises where problems associated with any of the licensing objectives are occurring after the grant of a premises licence. The four licensing objectives are the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. An application for the review of a premises licence may be requested by a Responsible Authority or an Interested Party.

- 3.1.2 The premises licence for the White Hart Inn is attached as Appendix A. No previous application for review has been received in respect of these premises.

3.2 Issues

- 3.2.1 On 29 January 2009 the Licensing Authority accepted an application for the review of the premises at the White Hart Inn. The application was received from Alison Ings, Head of Legal Services for and on behalf of the Chief Constable of Norfolk Constabulary. The grounds for review fall under the licensing objective of the prevention of crime and disorder. A copy of the form and supporting documentation are attached as Appendix B.

- 3.2.2 Copies of the application for the review of the premises licence were served on Responsible Authorities. No Representations have been received from The Fire Service, Trading Standards, Local Safeguarding Children Board, Health and Safety or Planning.

- 3.2.3 A representation has been received from Environmental Health at Breckland Council and is attached at Appendix C

3.2.4 Following the advertising of the application for the review of the premises licence 11 representations from Interested Parties have been received by the Licensing Authority. These representations are mainly, but not exclusively, concerned with the licensing objective of Prevention of Public Nuisance. These are attached as Appendix D.

3.3 Options

3.3.1 If after considering the application and any relevant evidence, members consider action is necessary, the Sub-Committee must take such steps listed below as it considers necessary for the promotion of the licensing objectives. Section 52(4) states:

'The steps are –

- a) to modify the conditions of the licence;
- b) to exclude the 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 added'.

The Sub-Committee is asked to note that it may not take action merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives. Any action should be proportionate to the size, style and characteristics of the premises and the activities taking place.

3.3.2 The Sub-Committee are advised that findings on any issue of fact should be on the balance of probability.

3.3.4 The Sub-Committee are advised that in arriving at any decision it must have regard to relevant provisions of national guidance and Breckland Council's Statement of Licensing Policy. Reasons must be given for any departure.

3.3.5 The Sub-Committee are advised that the final decisions should be based on the individual merits of the application and the factual findings made at the hearing.

3.3.6 The Secretary of State has issued Guidance under Section 182 of the Licensing Act 2003. The Guidance is provided for licensing authorities carrying out their functions. It is a mechanism for promoting best practice, ensuring consistent application of licensing powers across the country and for promoting fairness, equal treatment and proportionality. The extracts of the Guidance that are considered relevant to this review application are attached as Appendix E. The Guidance pools of conditions for the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance are attached as Appendix F.

3.3.7 The Sub-Committee's attention is brought to the fact that the Section 52(11) of the Licensing Act 2003 states:

'A determination under this section does not have effect – a) until the end of the period given for appealing against the decision, or b) if the decision is appealed against, until the appeal is disposed of'.

3.4 Reasons for Recommendation(s)

3.4.1 It is recommended that the Sub-Committee determine the application for the review of the above premises licence in accordance with the Licensing Act 2003, the Guidance issued under Section 182 of the Licensing Act 2003 and Breckland

Council's Statement of Licensing Policy.

4. Risk and Financial Implications

4.1 Risk

4.1.1 I have completed the Risk Management questionnaire and can confirm that risk has been given careful consideration, and that there are no significant risks identified associated with the information in this report.

4.2 Financial

4.2.1 None

5. Legal Implications

5.1 The decision of the Sub-Committee is subject to appeal to the Magistrates Court.

6. Other Implications

- a) Equalities: There are no Equalities implications.
- b) Section 17, Crime & Disorder Act 1998: None
- c) Section 40, Natural Environment & Rural Communities Act 2006: None
- d) Human Resources: None
- e) Human Rights:

Article 1, First Protocol

A licence is property and every person is entitled to the peaceful enjoyment of his/her possessions. (This is equally applicable to applicant and those making representations.) Any terms or conditions applied need to be proportionate and necessary to protect the interests of a democratic society.

Article 6

The Sub-Committee must ensure a fair hearing

Article 8

Everyone has the right to respect his/her private life and family home.

e) Other: [e.g. Children's Act 2004]: None

7. Alignment to Council Priorities

7.1 Building Safer and Stronger Communities
Prosperous Communities

8. Ward/Community Affected

8.1 Swaffham wards

Background Papers

None

Lead Contact Officer:

Name/Post: Patrick O'Brien

Telephone: 01362 656352

Email: patrick.obrien@breckland.gov.uk

Key Decision Status (Executive Decisions only): N/A

Appendices attached to this report:

- Appendix A – Premises Licence -White Hart Inn
- Appendix B Application for Review of Premises Licence
- Appendix B – 1 Statement of Tony Grover
- Appendix B – 2 Schedule of Police Involvement re White Hart (Exhibit TG1)
- Appendix B – 3 Letter to P. Wing & B. Blunden dated 3/12/07 (Exhibit TG2)
- Appendix B – 4 Letter to P. Wing & B. Blunden dated 28/4/07 (Exhibit TG3)
- Appendix B – 5 Police Memo re E. Godden dated 28/12/08 Exhibit TG4)
- Appendix B – 6 Statement of Insp Adrian Porter / Letter to P. Wing & B. Blunden dated 11/9/08
- Appendix B – 7 Statement of A/Sgt Mark Shepherd / Closure Notice
- Appendix B – 8 Statement of Robert Blunden / Companies House Form288b
- Appendix B – 9 Statement of P.C. Mathew Boggust
- Appendix B- 10 Statement of Witness (Anon)
- Appendix C – Representation received from Environmental Health
- Appendix D – Representations received from Interested Parties
- Appendix E – Extracts from Guidance issued under Section 182 of the Licensing Act 2003
- Appendix F – Pools of conditions from Guidance issued under Section 182 of Licensing Act 2003