

# WEST LINDSEY DISTRICT COUNCIL

## LICENSING ACT 2003

<b>Reference Number:</b>	TBC
<b>Application type:</b>	Application for the Grant of Premises Licence
<b>Premise:</b>	Intake Craft Beer (rear of White Hart), Church Street, Gainsborough, Lincolnshire.
<b>Applicant:</b>	Mr Adrian Brown
<b>Date of Hearing</b>	09 November 2017

### **1 The Application**

- 1.1 The application made is for the grant of a new premises licence under section 17 of the Licensing Act 2003.
- 1.2 The application submitted is requesting authorisation for live music, recorded music, performance of dance, late night refreshment and the supply of alcohol for both on and off the premises. The full application with all the relevant details is attached as Appendix 1.

### **2 Background**

- 2.1 The proposed area to be licensed is currently part of the White Hart building of 49 Lord Street which remains licensed, the proposal is to have two licensed areas within one building, which legislation allows for.

### **3 Promotion of the Licensing Objectives**

- 3.1 In submitting the application the applicant is required to describe any steps intended to be taken in order to promote the following 4 licensing objectives, which are:
  - The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
- 3.2 The steps the applicant intends to take are detailed in section M (a-e), of the application form (Appendix 1).

### **4 Representations – Responsible Authorities**

- 4.1 One representation has been submitted by Lincolnshire Police which can be found at Appendix 2.

## 5 Representations – Other Persons (previously known as Interested Parties)

5.1 None

## 6 Considerations

6.1 Each application must be considered on its own merits, **standardised conditions cannot be applied across the board** to all licences of a similar type.

6.2 Each representation must be considered and in each case the committee must satisfy themselves whether or not the licensing objectives are being met by the applicant with respect to each matter.

6.3.1 Therefore, before any conditions can be imposed on a licence, they have to be *appropriate for the promotion of the licensing objectives and where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives. Conditions must be proportionate, reasonable, and capable of being directly complied with by the licensee. Furthermore, conditions should be clear and understandable, not be imposed to achieve an ulterior motive outside the scope of the legislation, not over generalised and cannot override primary legislation. If the Sub-Committee are minded that a condition is not appropriate for the promotion of the licensing objectives, then it should not be imposed.*

6.3.2 Clearly, the Sub-Committee have to *consider extremely carefully* whether or not additional conditions need to be attached in order for the promotion of the licensing objectives?

6.4 In making its decision the committee must consider the application in line with the following:

- The Licensing Act 2003
- The Section 182 Guidance made under the Act
- The Licensing Authority's Licensing Policy Statement
- Decisions handed down from any relevant case law by the Courts where relevant

6.5 Policy Considerations

6.5.1 When considering the application and representations received, attention is drawn to the Licensing Authority's Policy which can be found at the link below by clicking on the Download Tab, then downloading the Policy:

<http://www.west-lindsey.gov.uk/businesses/licensing/licensing-and-gambling-policies/licensing-policy/104810.article>

6.6 Statutory Guidance

6.6.1 Attention is also drawn to the contents of the section 182 statutory guidance which can be found at the link below:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

## 7 Options

- 7.1 Licensing Act 18(2) Subject to subsection (3) below, the authority must grant the licence in accordance with the application subject only to-
- (a) such conditions as are consistent with the operating schedule accompanying the application, and
  - (b) any conditions which must under section 19, 20 or 21 be included in the licence.

(3) Where relevant representations are made, the licensing authority must –

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

(4) The steps are –

- (a) to grant the licence subject to-
  - (i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and
  - (ii) any condition which must under section 19, 20 or 21 be included in the licence;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application;

(5) For the purposes of subsection (4)(a)(i) the conditions mentioned in subsection (2)(a) are modified if any of them is altered or omitted or any new condition is added.

### **Conditions cannot be attached with respect to any part of the application on which no representation(s) have been received.**

This is a matter for the committee to determine in light of the above matters and any others it considers relevant.

**N.B.** Whatever decision the Members of the Licensing Sub-Committee arrive at, they are reminded about the comments made in a recent court case, known as Hope and Glory, in relation to reasons for their decision making. The comments noted from this case stated: *“The fuller and clearer the reasons, the more force they are likely to carry”*. Therefore taking these comments into account, Members are strongly advised to give good, clear, justifiable reasons in relation to their decision, which will have more chance of being upheld, should the decision be appealed against.

## 8 List of Appendices

Appendix 1	Application Form
Appendix 2	Representation from Lincolnshire Police

## **9 Background Papers**

Licensing Act 2003

WLDC Statement of Licensing Policy

Guidance made under section 182 of the Licensing Act 2003