

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Corporate Director for Place  
to  
Licensing Sub-Committee (A)  
on  
25 June 2015

Report prepared by: Deborah Bentham

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**Greenhouse Restaurant , Eastwood Road North, Leigh-on-Sea, Essex Application for the  
Grant of Premises Licence**

**LICENSING ACT 2003**

***A Part I Public Agenda Item***

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**1. Purpose of Report**

- 1.1 This report considers an application by Colin Joseph Parker for the grant of a Premises Licence at Greenhouse Restaurant , Eastwood Road North, Leigh-on-Sea, SS9 4LR

**2. Recommendation**

- 2.1 **That the Sub-Committee determines the application.**
- 2.2 **Should the Sub-Committee decide to approve the application Appendix 1 sets out the mandatory conditions that must be added to the licence.**
- 2.3 **Appendix 2 to this report sets out the possible conditions to be added to the Licence which have been drawn from the application, for the Sub-Committee's consideration.**
- 2.4 **Appendix 3 sets out the conditions agreed between the applicant and the Licensing Authority acting as a Responsible Authority.**

**3 Background**

- 3.1 The application relates to an existing café and restaurant, located within Belfairs Park, adjacent to Eastwood Road North. (Note : The premises holds a current Premises Licence)
- 3.2 These premises formerly had the benefit of a Justices On-Licence and applied to Southend on Sea Borough Council for conversion to that licence following introduction of the Licensing Act 2003. The Premises Licence was transferred to the current licensee, Mr Parker, on 22 June 2007. In 2007, as a result of changes to the premises layout, application was made to vary the licence. Application for a variation was considered by the Licensing Sub Committee in September 2007, and the licence was subsequently varied. The licensed hours/ activities and conditions have remained unchanged since September 2007.

3.3 Details of the current licence are provided for information in paragraph 6.5. The applicant has advised that if this application is granted the existing Premises Licence will be surrendered to the Licensing Authority.

#### 4. Proposals

4.1 The application for the grant of a Premises Licence was given to the Licensing Authority on 13 March 2015.

4.2 Details of the application can be briefly summarised as follows:-

- a) The supply of alcohol for consumption on and off the premises as follows:-  
Monday to Saturdays 10.00 to 01.00 the following morning  
Sunday 10.00 to 00.00  
On New Years Eve from 10.00 until the start of the permitted hours on the following day
- b) Provision of regulated entertainment comprising live, recorded music and performance of dance indoors and outdoors as follows:-  
Sunday to Thursday from 10.00 to 00.00.  
Friday and Saturday from 10.00 to 01.00 the following mornings.  
On New Years Eve from 10.00 until the start of the permitted hours on the following day
- c) Provision of regulated entertainment comprising performance of dance (including anything of a similar description) both indoors and outdoors  
Sunday to Thursday from 10.00 to 00.00  
Friday and Saturday from 10.00 to 01.00 the following mornings.  
New Years Eve from 10.00 until the start of the permitted hours on the following day.

**NOTE: Music and regulated entertainment shall cease externally at 20.00. All use of the outdoor area shall cease at 22.30 save for the provision of smoking in the raised decking area adjoining the main building.**

- d) To provide late night refreshment indoors as follows:-  
Sunday to Thursday from 23.00 to 00.30  
Friday & Saturdays from 23.00 to 01.30  
New Years Eve from 23.00 until the start of the permitted hours the following day
- e) The premises to remain open during the following hours  
Sunday to Thursday from 08.00 to 00.30  
Friday and Saturdays from 08.00 to 01.30  
New Years Eve from 08.00 until the start of the permitted hours the following day

4.3 The proposals are more fully documented in the application form and plan which has been copied to Sub-Committee Members

## **5 Application Procedures**

- 5.1 Applicants for grant of licence are required by law to send copies of their applications to all of the "Responsible Authorities". They are also required to display a notice giving brief details of the application in a prescribed form at the application site, and to publish the same information in a newspaper circulating in the area. These requirements were met in respect of this application.
- 5.2 The Licensing Authority acting as Responsible Authority requested that changes to the application in respect of the conditions offered in the 'operating schedule' that forms part of the application. The amended conditions are set out in Appendix 3 of this report.
- 5.3 One hundred and fifty five letters lodging representations have been received from interested parties
- 5.4 Copies of the representations have been provided to the Sub-Committee Members. In accordance with the legislation, all parties have been invited to attend the hearing.

## **6 Matters for Consideration**

- 6.1 Formal objections having been made and not withdrawn or resolved, the Licensing Authority is obliged to hold a hearing to consider them. Further, having regard to such representations, the Authority is required to take steps (if any) as it considers appropriate for the promotion of the Licensing Objectives.

Thus, the Authority may:

- a) Grant the licence, subject to conditions consistent with the operating schedule (modified as considered appropriate for the promotion of the Licensing Objectives) and subject to relevant mandatory conditions;
  - b) Exclude from the scope of the licence any of the licensable activities to which the application relates;
  - c) Refuse to specify a person in the licence as the premises supervisor;
  - d) Refuse the application.
- 6.2 The Licensing Act 2003 requires that the Licensing Authority must carry out its functions under the Act with a view to promoting the Licensing Objectives. These 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.
- 6.3 In carrying out its licensing functions, the Licensing Authority must also have regard to:
1. Its Licensing Statement, and
  2. The guidance issued by the Secretary of State.

6.4 The Licensing Authority has, in accordance with the requirements of the Act, prepared and published a Statement of Licensing Policy, following formal consultation. Copies of this document, together with the statutory guidance, have been made available to all Licensing Committee Members.

## 6.5 Existing Licence

This application is not for a variation of an existing licence and is for a new Premises Licence. However, details of the existing licence held at these premises are provided for information and details are as follows:-

a) The supply of alcohol for consumption on and off the premises as follows:-  
Monday to Sundays 10.00 to 00.00  
New Years Eve from 10.00 to the start of the permitted hours on the following day.

b) Provision of regulated entertainment comprising live, recorded and performance of dance music as follows:-  
Mondays to Sundays from 10.00 to 22.30  
New Years Eve from 10.00 to the start of the permitted hours on the following day.

**Note: Live music outside must be incidental and not amplified, and terminate at 21.30 and no use of the outside area after 22.30**

c) To provide late night refreshment indoors as follows:-  
Mondays to Sunday from 23.00 to 01.00  
New Years Eve from 23.00 to the start of the permitted hours on the following day.

d) The premises to remain open during the following hours  
Mondays to Sundays from 08.00 to 01.00  
New Years Eve from 08.00 to the start of the permitted hours on the following day.

6.6 A copy of the current licence including all licence conditions has been provided to members of the Licensing Sub Committee and will be available at the hearing if required

## 7 Background Papers

7.1 Council's Statement of Licensing Policy.

## 8. Appendices

8.1 Appendix 1 - Mandatory conditions

8.3 Appendix 2 - Conditions drawn from the application, for the Sub-Committee's consideration.

8.3 Appendix 3 - Conditions agreed between the applicant and Licensing Authority acting as Responsible Authority.

## MANDATORY CONDITIONS

The Licensing Act 2003 lays down certain mandatory conditions which must be applied to Premises Licences. These are summarised below:-

1. No supply of alcohol may be made under the premises licence a) at a time when there is no designated premises supervisor in respect of the premises licence or b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. Any individual who carries out security activities at the premises must be licensed by the Security Industry Authority.
4. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:-

- (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to:-
  - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

- (d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:-
    - (i) The outcome of a race, competition or other event or process, or
    - (ii) The likelihood of anything occurring or not occurring;
  - (e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
7. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

8. The responsible person shall ensure that:-
- (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-
    - (i) beer or cider: ½ pint
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) Customers are made aware of the availability of these measures.

- 9) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 10) For the purposes of the condition 10 above —
- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(1);
  - b) “permitted price” is the price found by applying the formula—  **$P = D + (D \times V)$** , where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - c. “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
    - i. the holder of the premises licence,
    - ii. the designated premises supervisor (if any) in respect of such a licence, or
    - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - d. “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - e. “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(2)

Where the permitted price given by sub-section (b) of Condition 11 would (apart from this condition) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny

## APPENDIX 2

### CONDITIONS DRAWN FROM THE APPLICATION/ OPERATING SCHEDULE

1. The licensee shall ensure that all employees receive training on preventing sales of alcohol to underage and drunken persons and on the operating schedule/policies adopted by the premises. Training records shall be maintained by the licensee and shall be available for inspection by Police upon request.
2. The licensee shall ensure that an adequate number of staff are on duty during trading hours to ensure safety of the patrons and the premises.
3. The licensee shall co-operate with all reasonable projects of the Licensing Authority or Police in relation to Public Safety and Crime and Disorder.
4. The licensee shall ensure that adequate arrangements are in place for the evacuation of disabled persons in the event of an emergency
5. Emergency exits and escape routes shall be kept free of obstruction, and shall be appropriately signed.
6. Commercial rubbish bins shall not be used or emptied between 20.00 hours and 09.00 hours the following day.
7. The licensee shall ensure that notices are placed on the premises exits requesting that patrons leave the premises and the area quietly
8. Double glazing shall be fitted to all windows located within the area shaded pink on the approved plan.
9. The Licensee shall ensure that only toughened glass drinking vessels shall be used in the external areas of the premises .
10. The "Challenge 25" scheme shall be adopted on the premises whereby those persons attempting to buy alcohol who appear to be under 25 years of age will be required to prove they are 18 years of age or older, appropriate signage shall be displayed to that effect. The only authorised identification shall be a passport, photo-driving licence or "Pass" accredited card. Staff shall be trained in the use of this policy and staff training records be retained on the premises and reviewed by management quarterly & made available to Licensing Authority and Police officers upon request.
11. The licensee shall ensure that a refusal book is maintained at the premises to record any refusals of alcohol. The refusals book shall be made available to the Police/Local Authority upon request.
12. The licensee shall install and maintain a closed circuit television surveillance (CCTV) system to the reasonable satisfaction of Essex Police. Images shall be retained for a minimum of 31 days and made available to Essex Police on request. A member of staff who is trained to view/download images from the CCTV shall be on duty at all times when the premises are open.



13. The licensee shall ensure that an incident log is maintained on the premises to record any incidents or occurrences relating to crime or disorder issues. The incident book shall be made available for inspection to Police / Local Authority Officers upon request
14. The premises shall remain predominately as a restaurant with a minimum of 55 covers in the restaurant area. Minimum of 10 tables in the lounge area/ dance floor except on the occasions of a pre-booked event. A minimum of 40 seats on the terrace area. A minimum of 24 benches in the garden area.
15. All windows and doors shall remain closed each day between 21:30 hours and the commencement of permitted hours on the following day when live or recorded music is being played, except for access and egress.
16. All use of the outdoor area shall cease at 22:30 except for the provision for smoking in the raised decking terraced area adjoining the main building. Live music will cease at 20.00.  
**Now amended as detailed in condition 1 of Appendix 3.**
17. The Licensee shall operate a zero tolerance policy with regard to the use/possession of drugs in the venue and shall advertise the same within the premises on posters similar means.
18. Drinking vessels/bottles in the external area of the premises shall be collected on a regular basis so as to minimise the chance of them being used as weapons / causing accidents.
19. No drinking vessel of any kind save for and only bona fide off-sales of factory sealed goods or wines and spirits purchased with a main meal are taken beyond the licensed area marked on the approved plans
20. The Licensee or a representative will actively participate in any locally run licensing scheme (i.e. Pubwatch/BOBB)

## **APPENDIX 3**

### **CONDITIONS AGREED BETWEEN THE LICENSING AUTHORITY ( ACTING AS RESPONSIBLE AUTHORITY) AND THE APPLICANT**

- 1 There shall be no music or regulated entertainment externally after 20.00 and there shall be no use of the external area after 22.30 except for the provision for smoking in the raised decking terraced area adjoining the main building (see condition 16 of Appendix 2)
- 2 The Licensee shall ensure that no drinking vessel of any kind save for and only bona fide off sales of factory sealed goods, or wines and spirits purchased with a main meal and then resealed, are taken beyond the licensed area marked on the approved plan.