

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Deputy Chief Executive (Place)  
To  
Licensing Sub-Committee  
On  
16<sup>th</sup> August 2017

Report prepared by: Mark Newton

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136 Broadway, Leigh-on-Sea, SS9 1AA  
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 Navana Limited for the grant of a Premises Licence.

## 2. Recommendation

- 2.1 That the Sub-Committee determines the application.
- 2.2 Should the Sub-Committee decide to approve the application, the relevant mandatory licence conditions must be applied. (These are set out in Appendix 1).
- 2.3 Appendix 2 sets out possible conditions, drawn from the application, for the Sub-Committee's consideration.
- 2.4 Appendix 3 sets out additional conditions agreed during the consultation period between the applicant and The Licensing Authority, Essex Police and the Council's Environmental Protection Team.

## 3. Background

- 3.1 The application relates to a premises located on The Broadway, Leigh-on-Sea opposite the Grand Hotel on the corner of Maple Avenue.
- 3.2 The premises comprise a commercial unit on the ground floor and residential flats above.

## 4. Proposals

- 4.1 The application was given to the Licensing Authority on the 12<sup>th</sup> June 2017 and is for the grant of a Premises Licence. The consultation period was extended following advertising irregularities.

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

- a) To permit the sale of Alcohol on and off the premises on Sundays from 09.00 to 21.00, on Mondays to Thursdays from 08:00 to 22:00 and on Fridays & Saturdays and various notable days from 08:00 to 02:00. (since reduced to 01.00 upon agreement with The Licensing Authority and Police)
- b) The Provision of Late Night refreshment on Fridays & Saturdays and various notable days from 23:00 to 02:00. (since reduced to 01.00 upon agreement with The Licensing Authority and Police).
- c) The provision of Regulated Entertainment, comprising recorded music on Sundays from 09.00 to 21.00, on Mondays to Thursdays from 08:00 to 22:00 and on Fridays & Saturdays and various notable days from 08:00 to 02:00. (since reduced to 01.00 upon agreement with The Licensing Authority and Police)
- d) Opening hours for the premises are Sundays from 09.00 to 21.00, on Mondays to Thursdays from 08:00 to 22:00 and on Fridays & Saturdays and various notable days from 08:00 to 02:00. (since reduced to 01.30 upon agreement with The Licensing Authority and Police)

4.3 The proposals are more fully documented in the application form 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.
- 5.2 Representations were received from fifty (50) local residents, and Leigh Town Council. One local resident representation and the one from the town council were later withdrawn.
- 5.3 Additional conditions were agreed with The Licensing Authority in their role as a Responsible Authority under the Act, Essex Police and the Council's Environmental Protection Team during the consultation period. **These can be found at Appendix 3**
- 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 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.

## **7. Existing Licensing Controls**

- 7.1 There is no existing licence on this premises.

## **8. Background Papers**

- 8.1 Council's Statement of Licensing Policy.

## **9. Appendices**

- 9.1 Appendix 1 - Mandatory conditions.
- 9.2 Appendix 2 - Possible conditions drawn from the application, for the Sub-Committee's consideration.
- 9.3 Appendix 3 - Additional conditions agreed with The Licensing Authority, Essex Police and the Council's Environmental protection team



## 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)
11. Where the permitted price given by sub-section (b) of Condition 10 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
- (i) Sub-section (ii) applies where the permitted price given by sub-section (b) of sub-section (ii) on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
  - (ii) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.





## **APPENDIX 2**

### **CONDITIONS DRAWN FROM THE OPERATING SCHEDULE**

1. No adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children may be provided
2. No children shall be permitted on the premises unless accompanied by an adult.
3. The Licensee shall have in place a security policy which includes the following:-
  - Zero tolerance on drugs
  - Emergency evacuation
  - Dealing with suspect packages (including pre and post opening premises searches)
  - Emergency management
  - Quarterly security review
  - Monitoring of external areas

The policy shall form part of the staff training programme.

4. The Licensee shall provide a cloak room facility for the use of patrons.
5. No use shall be made of bottle bins or bottle banks between 22.00 and 08.00.
6. No commercial deliveries shall be permitted between 18.00 and 08.00.
7. The Licensee shall ensure the litter is removed from the external parts of the premises.
8. There shall be a qualified first aider on site during opening times.



## ADDITIONAL CONDITION AGREED WITH THE LICENSING AUTHORITY, ESSEX POLICE AND THE COUNCIL'S ENVIRONMENTAL PROTECTION TEAM

### Licensing Authority and Police conditions

1. On days where a 2.00 am licence was applied for, this will be amended to 01.00 for licensable activities with a 01.30 closure to the public.
2. Alcohol shall be served by waiter or waitress only.
3. There shall be a minimum of 98 covers laid out at all times as follows: Internally 70, externally (where the external area is trading) 20 to the side aspect and 8 to the front.
4. The external area to the side aspect shall be closed and unused between 21.00 and 08.00 (09.00 on a Sunday).
5. The external area to the front aspect shall be closed between 21.00 and 08.00 (09.00 on a Sunday) save that a maximum of six people may be permitted to use that area only for smoking. (No drinks shall be taken or consumed within the external area during this period). This shall be strictly monitored by staff to ensure no excess noise or nuisance is caused by such persons.
6. All outside furniture shall be removed and suitable stored internally from daily between 21:00 and 08.00. The only exception is furniture that is permanently fixed which must still be covered or roped off to prevent use.
7. The maximum capacity shall not exceed 100 patrons.
8. The licensee shall ensure that on Fridays, Saturdays, bank holidays & the day immediately preceding them at least two SIA door supervisors are on duty from 21.00 until the closure of the premises. The licensee shall carry out a risk assessment in regard to the need for door supervisors at all other times.
9. The licensee shall ensure that a written record is kept of any person authorised to sell alcohol on behalf of the Designated Premises Supervisor or a personal licence holder. Such records shall include the name of the authoriser, the name of the person who has been authorised, the date of the authorisation and the signature of both parties. The record shall be stored on the premises and be made available to an authorised officer upon demand.
10. 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 shall occur at least every six months. Training records shall be stored on the premises and shall be available to an authorised officer upon demand.
11. All staff shall be trained to at least IOSH level one.

12. Between 21.00 and the end of the day's trading entry to the premises shall be limited to persons over 25 only.
13. The Licensee shall ensure that a 'Challenge 25' scheme is operated, whereby any person who appears to be under 25 years of age is required to produce means of identification proving they are over 18 years of age. The only authorised means of identification shall be passport, UK photo driving licence or 'PASS' accredited card.
14. Clear and legible signs shall be displayed advising patrons who appear to be under 25 years of age that they shall be required to prove they are at least 18 years of age.
15. 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.
16. 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.
17. CCTV shall be installed that covers all internal licensed areas along with the frontage and the side area. The CCTV shall be of high quality and record in real time and predominately in colour, (Subject to lighting conditions where black and white may be more suitable). Recordings shall be stored for at least 31 days and be made available for downloading/burning/transferring upon any reasonable request from the Police or Licensing Authority. There shall be someone readily available who is able to operate the system at any times the premises are operating.
18. On any days notified by the Police or Licensing Authority or any local events outside of normal trading days such as the Leigh festival, Leigh lights etc, only the most suitable plastic drinking vessels will be used for the outside areas. This will be strictly monitored by the DPS or manager on duty.
19. No customers shall be permitted to take open drinking vessels outside of the licensed areas.

### **Environmental Protection Conditions**

20. A sound level limiting device(s) (the specification and design to be agreed with Southend Borough Council's Environmental Health Service) shall be fitted so that all entertainment is channelled through the device(s). The limiting device(s) shall be set by an appropriately qualified acoustician, registered with the Institute of Acoustics or Association of Noise Consultants, at such a level as to prevent statutory noise nuisance affecting the occupants of any noise sensitive premises and having regard to minimum background and ambient levels throughout the licensed periods. The device(s) shall thereafter be maintained at the levels set and shall be accessible only to the Licensee or his/her representative for maintenance purposes. Original records of all data obtained, certified by the acoustician/sound engineer, together with the settings of the devices determined as being appropriate, shall be retained and available for inspection by any Officer authorised pursuant to the provisions of the Licensing Act 2003.

21. All doors and windows shall remain closed except for access and egress to minimise noise breakout.
22. Signs shall be provided requesting departing patrons to leave quietly.
23. Regulated entertainment shall only take place inside the building save that computer controlled recorded music set to ambient level may be played on the external seating area from 10:00hrs until 21:00hrs.
24. Recorded music played within the premises shall be limited to ambient noise levels.