

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Deputy Chief Executive (Place)  
To

Licensing Sub-Committee

On  
13<sup>th</sup> April 2018

Report prepared by: Mark Newton

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Oktoberfest, Priory Park, Victoria Avenue, Southend-on-Sea, SS2 6ND  
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 Mutiny in the Park 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 Proposed Amended and Additional Conditions - (following consultation with the Environmental Protection Team and the Licensing Authority as a Responsible Authority during the consultation period).

### 3. Background

- 3.1 The application relates to a Priory Park on Victoria Avenue and Priory Crescent. The park is located in a residential area.

### 4. Proposals

- 4.1 The application was submitted to the Licensing Authority on the 8<sup>th</sup> February 2018 and is for the grant of a Premises Licence.
- 4.2 Details of the application which are to be determined by the Sub-Committee can be briefly summarised as follows:
- a) To provide the sale of Alcohol on the premises and the provision of regulated entertainment comprising live music, recorded music, the performances of dance on Fridays from 18:00 to 23:00 and Saturdays from 12:00 to 17:00 and 18:00 to 23:00

- b) The Provision of Late Night refreshment on Fridays and Saturdays from 23:00 to 23:30.
- c) To be open to the public on Fridays from 18:00 to 23:30 and Saturdays from 12:00 to 17:30 and 18:00 to 23:30
- d) The application is for an annual premises licence limited to two days a year in October.

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 one local resident and one Responsible Authority, namely Environmental Protection Team, this representation was later withdrawn.

5.3 A copy of the remaining representation has 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.

## **8. Background Papers**

8.1 Council's Statement of Licensing Policy.

## **9. Appendices**

9.1 Appendix 1 - Mandatory conditions.

9.2 Appendix 2 - Amended/additional conditions agreed the Environmental Protection Team and the Licensing 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 free tap water is provided on request to customers where it is reasonably available.
6. a) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- b) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- c) 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 either—
  - (i) a holographic mark, or
  - (ii) an ultraviolet feature.
7. 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.
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

8. 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.
9. 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)
10. 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.
11. The admission of children to the exhibition of any film shall be restricted in accordance with the recommendations of the British Board of Film Classification.



### **AMENDED/ADDITIONAL CONDITIONS AGREED THE ENVIRONMENTAL PROTECTION TEAM AND THE LICENSING AUTHORITY**

1. Admission to the Event shall be limited to persons over 18s only.
2. The licence may only be used for two days in October each year. The date for the proposed event shall be notified to the Police and Licensing Authority no later than 3 months before the proposed date. Either Authority may refuse permission for the proposed date. Notice of refusal and the reason why shall be given to the event organiser within 7 days of the event organiser advising of the proposed date.
3. The Event Management Plan, Risk Assessments, Crowd Management Plan and other supporting documents shall contain full details of how the event shall be managed, operated controlled and delivered. The documents shall cover the following subjects:
  - Event planning & Management
  - The Control of the Sale of Alcohol
  - General Site Safety
  - Pedestrian Safety & Traffic Management
  - The Noise Management Plan & PA Systems
  - SIA Led Crowd Management
  - Security & Stewarding
4. All policies, procedures, management plans and risk assessments required by licence conditions shall be reviewed annually and copies provided to the Police, Environmental Health Team and Licensing Authority no later than 3 months before the proposed date.
5. The Licensee shall liaise with Southend Council Environmental Health Team to agree a Noise Management Plan. The Noise Management Plan shall include all noise related details, information and management controls including but not limited to the details of a letter drop, contact details for the event, noise monitoring locations, frequency and duration. The final Noise Management Plan shall be made available to Environmental Health six weeks prior to the event.
6. The Licensee shall ensure that an Event Management Plan is prepared for each year's event, setting out how all aspects of the event will be managed.
7. The Licensee shall work in conjunction with Southend Borough Council ('The Council') and other relevant authorities and complete The Council's Event Application Form.
8. The Licensee shall ensure that an Event Management Team is appointed to manage and coordinate the event.

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 engaged in the sale of alcohol receive training each year no more than 2 weeks prior to the event, on preventing sales of alcohol to underage and drunken persons and on the operating schedule / policies adopted at the event. Training records shall be maintained on the premises during the event by the Licensee and shall be available for inspection by the Police or Licensing Authority upon request during licensed hours.
11. The Licensee shall ensure that a 'Challenge 25' scheme is operated for entry to the event and bar services. Valid ID is required for entry if requested for any person who appears to be under 25 years of age. The only authorised means of identification shall be a current passport or a current UK photo driving licence. Photocopied documents shall not be accepted.
12. 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.
13. With the exception of empty plastic souvenir steins, no bottles, glasses or drinking vessels to be taken beyond the boundary of the licensed area as marked on the deposited plans.
14. No alcohol shall be permitted to be brought into the festival site by patrons.
15. Signs shall be displayed at the exit of the licensed area requesting that customers leave the premises quietly and consideration so as not to disturb nearby residents.
16. 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.