

# Southend on Sea Borough Council

**Agenda  
Item**

**Report of Director of Technical & Environmental Services  
to  
Licensing Committee  
On  
19<sup>th</sup> July 2002**

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**Storm Discotheque, Elmer Approach, Southend on Sea  
Application for Variation of Conditions to Public Entertainment Licence**

Part 1 - Public Agenda Item

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**1. Purpose of Report**

- 1.1 This report considers an application by the proprietors of Storm Discotheque for an extension of the terminal hour for Public Entertainments on Sundays until 00.30 the following morning.

**2. Recommendations**

- 2.1 **On balance, and subject to the Committee being satisfied that effective measures will be taken to minimize the potential for disturbance to nearby residents, there is no Environmental Health objection to the application.**

**3. Details of the application**

- 3.1 At present, the licensees have the benefit of a Public Entertainment licence which operates with a terminal hour extended to 2.00am on the mornings following Mondays to Saturdays. On Sundays, the terminal hour is 10.30pm, extended to 2.00am on the Sundays preceding Bank Holidays.
- 3.2 The present application seeks the extension of the licence on non-Bank Holiday Sundays until 0030 the following morning.

**4. Background**

- 4.1 Storm is one of the longest-established discotheques in the town, and is situated in a predominately commercial area just off the High Street. It is located opposite the former Odeon cinema and close to the Farrington multi-storey and surface-level car parks. It has a maximum permitted capacity of 715 persons. Residential accommodation overlooks the car park entrances.
- 4.2 In June 2001 approval was given to the licensees, under delegated authority, for an extension of operating hours until 2.00am on Bank Holiday Sundays only. A later request to extend this to cover the remaining Sundays of the year was resisted, pending the present public consultation exercise and referral to Committee. (Had the Bank Holiday extension not been approved, this would not have prevented the licensees from making their subsequent application to the Licensing Justices for a Special Order of Exemption. Such Orders are routinely granted for Bank Holiday periods. Where granted, these automatically extend the Public Entertainment terminal hour).

**5. The Legal Position**

- 5.1 In April 2001, a report was presented to the Licensing Committee on changes to licensing law. The report drew attention to the fact that in December 2000 the De-Regulation (Sunday

Dancing) Order came into force. The effect of this was to remove the prohibition on charging for admission to entertainment venues on Sundays. Up until that time, although approximately half of the local licensed entertainment venues were permitted under their licence to provide entertainment on Sundays, they could not charge for admission, and thus the approvals were of limited practical value. The standard terminal hour in the Council's General Regulations for Public Entertainment was (and remains at) 10.30pm, which coincides with the standard terminal hour for the sale of intoxicating liquor.

- 5.2 A further and more significant change in the law came about with the introduction of the De-Regulation (Sunday Licensing) Order 2001. This came into force on 19<sup>th</sup> March 2001. This order applies to liquor licensing, and opened the way for 'Special Hours Certificates' to apply to Sundays, as well as to weekdays, thus enabling discotheques and similar premises to operate 7 days a week. A Special Hours Certificate is an approval given by the Licensing Justices for additional licensing hours. Typically, such certificates are granted extending hours until 12 midnight, 1.00am or (at the latest) 2.00am, on Mondays to Saturdays.
- 5.3 The new Order allows for a Special Hours Certificate to cover Sundays, but with a terminal hour restricted to 12.30. A further extension until 2.00am is allowed for most Bank Holiday Sundays, except Easter Sunday.
- 5.4 Before a licensee may apply to the Justices for a revised Special Hours Certificate (to take advantage of the new Sunday hours), they must first of all have obtained a corresponding extension from the Local Authority to the Public Entertainment licence.
- 5.5 The latest De-Regulation Order contains a number of safeguards, designed to minimise adverse effects to surrounding residents from extended liquor sales. Formal Home Office guidance has been prepared for the Licensing Justices, and this is reproduced in **Appendix 1**, for Members information.
- 5.6 At the time of preparing the April 2001 report, some 25 requests for extension of Sunday hours had been received from Public Entertainment licensees, following a circular letter sent by the Department's Safety and Licensing Section, advising them of the change to the law. The report at that time put forward two lists of premises, the first of which set out venues which were reasonably well situated, and where it was felt that approval could be granted under delegated authority. It also listed a further group of venues where there was some residential accommodation close to the premises, or close to associated car parking areas. In those cases, it was felt appropriate that an element of public consultation in the immediate vicinity (not normally exceeding 50 properties) should be undertaken, and any significant objection reported back to the Licensing Committee for decision. The premises to which the current application applies was in this second group.
- 5.7 The report also mentioned two premises, (namely TOTS (now known as Talk) and Ad-Lib (now known as Chameleon)) in Lucy Road, where extensions on Sundays had already been granted. This followed public consultation exercises and referral to the Committee, in advance of the then envisaged legislative changes.
- 5.8 The recommendations in the report were endorsed by Members, and subsequently a number of extensions to licences for Sunday were granted. The subsequent applications to the Licensing Justices for extension of Special Hours Certificates were also granted.

## **6. Consultation with the Police**

- 6.1 The Police Licensing Unit has been consulted, and raises no objection, on the basis that the hours proposed are in line with those set out in the De-Regulation Orders.

## **7. Consultation with Surrounding Occupiers**

- 7.1 In accordance with the previously approved procedure, consultation letters were delivered by hand to properties in the immediate vicinity, numbering approximately 49, (as shown on the drawing which will be presented to the Committee), seeking comments on the application.
- 7.2 Two written responses were received from surrounding occupiers, together with responses from two Ward Councillors.
- 7.3 The response from one resident states that Sunday is presently the only night upon which he can get to sleep before 12 midnight, due to existing noise levels arising from the use of Storm,

the Town House Public House, and the cinema in the High Street, all of whose customers (it is stated) use the nearby car park. Concerns were also expressed about disturbance from persons on foot, as well as from car doors slamming and unruly behaviour.

- 7.4 The other residential objector expresses concern about existing levels of disturbance due to customers of Storm leaving the club on Thursday through to Saturday night. This is said to be considerable, with shouting, screaming and playing of loud music in vehicles, as patrons leave. This is said to be worse for the hour after the premises close. It is stated that there are sufficient premises of this type, and that commercial considerations should not overrule those of residents. The respondent states that his young children have been woken up regularly at weekends when the nightclub closes. It is also stated that there have been problems with fights, anti-social and unruly behaviour, and with litter. Sunday is said to be the only day at the weekend when the family can get some sleep after 11.30pm.
- 7.5 An e-mail message was received from Councillor Mrs Robertson, who expressed concern on behalf of the residents of Elmer Avenue. It was indicated that Sunday evening at Storm is utilised for the under 18 age group. The need for the extension was also questioned.
- 7.6 A letter from Councillor J Garston raises objections. He states that residents in the nearby streets are faced with many aspects of anti-social behaviour late at night for up to 6 nights per week from the many pubs and clubs in the area. It is felt that Sunday should be kept different from other days, in order to allow residents some respite. It is stated that problems of limited street parking in the area would be exacerbated.

## **8. Control of Noise and Disturbance**

- 8.1 The present application is made as a legal pre-requisite to the consideration by the Licensing Justices of an application for an amended Special Hours Certificate. If granted, this would allow for the sale of intoxicating liquor to continue on Sundays until 00.30 the following morning, together with a drinking up time of a further 30 minutes.
- 8.2 Concerns in relation to late night venues often centre upon the activities of patrons once they have left the premises, particularly after closing time. Even with the best regulated premises, some degree of disturbance can arise, particularly where there is an element of anti-social behaviour.
- 8.3 Such disturbance can be more intrusive on nights when the ambient, background sound levels are reduced. The objectors' concern in relation to the extension of activities to Sundays is, therefore, understood. Nevertheless, the nature of Sundays has been changing over the years, with progressively more and more activities taking place. The new legislation provides some balance in these matters, in that the maximum terminal hour for the sale of intoxicating liquor on Sundays is restricted to half past midnight (other than Bank Holidays), as against 2.00am for Mondays to Saturdays. This is in recognition of the need for some restriction on the evening prior to the commencement of the traditional working week.
- 8.4 Should the present application be granted, a subsequent application would need to be made to the Licensing Justices for the extended sale of liquor. Formal Home Office guidance to the Justices is that they are advised to bear in mind:
- "a) The nature of the area, including in particular the relative proportions of residential and commercial property and the extent of other leisure activities there at the times concerned;
  - b) The position of those living in the area who prefer a relatively quiet Sunday evening as part of their preparations for work or study the following day, and who would not want to visit those premises or to be disturbed by those who do;
  - c) The position of those living in the area for whom dancing on Sundays would provide a valuable enlargement of leisure opportunities which might not in practice be readily available to them at other times."
- 8.5 It is suggested that these guidelines may also be of assistance to the Licensing Committee in determining this application. The applicant will, in addition, no doubt point to approvals already granted to other competing late night venues, including, in particular Chameleon, Churchills, Talk, Zinc, Yates Wine Lodge, etc.

8.6 In considering the present matter, it is felt that the Committee would wish to hear from the applicants about the nature of entertainments proposed for Sundays, together with managerial measures designed to reduce so far as possible the potential for disturbance to surrounding residential occupiers.

## **9. Background Papers**

9.1 Consultation letter to surrounding occupiers.

9.2 Letters from surrounding occupiers.

9.3 Correspondence with Ward Councillors.

## **10. Appendices**

10.1 **Appendix 1** – Annex to Home Office Circular 2/2001.