

# Southend-on-Sea Borough Council

Report of Director of Technical & Environmental Services  
to

## Licensing Committee

on

15<sup>th</sup> and 16<sup>th</sup> January 2004

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Agenda  
Item No.

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### Dreams Nightclub and Smithy's Public House, 33-35 Eastern Esplanade, Southend-on-Sea Application for the Variation of Public Entertainment Licences

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

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#### 1. Purpose of Report

- 1.1 This report considers an application by the licensees of Dreams and Smithy's for the Variation of the Public Entertainment licences held for these premises.

#### 2. Recommendation

- 2.1 **The Committee will wish to be satisfied (having regard to the proximity of residential accommodation) that the proposed additional usage of the premises can be so conducted as to minimise the potential for disturbance in the area**
- 2.2 Should Members be minded to approve the application in principle, it is requested that the variations be subject to:
- a) The satisfactory provision of all items as detailed in paragraph 10.2 of this report and
  - b) The submission to and approval by the Technical and Environmental Services department of a scheme of acoustic insulation and sound control measures to Dreams nightclub and Smithy's Public House and the satisfactory completion of these works and
  - c) The condition that the only musical entertainment to be provided under the terms of the Public Entertainment licence in Smithy's Public House shall be limited to Karaoke.
  - d) The condition that the main activity of Smithy's Public House to remain as a public house.
- 2.4 The variations not to take effect until the above measures have been completed to the satisfaction of the Group Manager – Environmental Health.

#### 3 Background

- 3.1 The application premises are located on the main seafront road leading between Southend and Shoeburyness. The premises are situated towards the end of the main seafront entertainment area. The properties to the rear are predominantly residential and approximately 50 yards to the east is a run of terraced residential premises.
- 3.2 The application premises comprise two separate licensed areas linked by a single door opening between the public house and the nightclub. The premises also share kitchen facilities. The nightclub comprises the south-west corner of the property. This area has been licensed for Public Entertainment since at least 1982, initially until 1.00 am on Thursdays to Saturdays and then in 1990 this was extended to 2.00 am Mondays to Saturdays and 10.30 pm on Sundays. The capacity of the nightclub is 300 persons
- 3.3 The adjacent section is used as a public house and been operating as such for many years. In August 2002 representation was made by the current owners of Smithy's Public House that

Karaoke activities had been taking place for several years prior to when the current owner/occupier took possession of the premises.

- 3.4 On 29<sup>th</sup> October 2002 temporary approval was given under delegated authority for limited public entertainment comprising Karaoke only to take place on the premises. This was subject to the completion of a schedule of works required to be completed prior to any permanent licence being granted. These works were completed in December 2003 and the licence was granted. The approval given at that stage was on the basis of formalising a situation which had apparently arisen under a previous ownership, and was strictly limited as to operating hours to 11pm Mondays to Saturdays and 10.30 pm on Sundays and customer capacity (100 persons). The Police raised no objection at that stage.

#### **4 Proposals**

- 4.1 The application is to vary the Public Entertainment licences for the two areas as follows:

- a) For Dreams Nightclub - to extend the terminal hour on Sundays from 10.30 pm to 12.30 am (increasing to 2.00 am on Sundays preceding Bank Holiday Mondays (except Easter Sunday)).
- b) For Smithy's Public House - to extend the terminal hour of the Public Entertainment licence from 11.00 pm to 1.00 am on Thursdays, Fridays and Saturdays and from 10.30 pm to 12.30 am on Sundays.

The applicants do not seek to vary the capacity in either premises.

#### **5 The Liquor Licensing Position**

- 5.1 Dreams Nightclub has a On Licence with Special Hours Certificate allowing the sale and consumption of intoxicating liquor up to 2.00 am Mondays to Saturdays.
- 5.2 Smithy's Public House has an On Licence allowing the sale of intoxicating liquor up to normal licensing hours ie 11.00 pm Mondays to Saturdays with 20 minutes drinking up time and 10.30 pm on Sundays with 20 minutes drinking up time. The Public Entertainment licence now sought is a legal pre-requisite to the grant by the Licensing Justices of a Special Hours Certificate. Such a certificate allows for the extension of permitted hours for the sale and consumption of alcohol. If this were subsequently to be granted, it would be subject to the same terminal hour as specified in the Public Entertainment licence, together with a 30 minute drinking up time at the end of the trading period.

#### **6 Consultation with Surrounding Occupiers**

- 6.1 A consultation letter was hand delivered to 55 properties within the surrounding area seeking comments on the application. In addition, the applicants were required to display a public notice on the premises.
- 6.2 Six letters of objection have been received as a result of the consultation exercise, all from local residents.
- 6.3 Two objectors on Eastern Esplanade and the objector on Burnaby Road have all made reference to being disturbed by noise from Karaoke at Smithy's and bass beat from Dreams Nightclub at different times of the day and night such that sleep is disturbed. Reference has been made specifically to the worsening of the problem in summer months when allegedly windows and doors were left open.
- 6.4 One objector from Eastern Esplanade has made reference to damage to fences and smashing of flower pots from late night revellers and being obstructed by the benches outside Smithy's and intimidated by drinkers using them.
- 6.5 One objector from Eastern Esplanade has stated that the Police were almost always being called out at weekends to attend to trouble going on.

- 6.6 The objector in Burnaby Road has also made reference to drunken fights and arguments in the rear car park adjacent to their property being a disturbance.
- 6.7 The two objectors in Beresford Road have made reference to increase in drunken fights and shouting and screaming.

## **7. Consultation with Elected Members**

- 7.1 In accordance with current procedures, all elected Members were notified by letter of the present application and comments sought.
- 7.2 An email has been received from one Councillor concerned that the application would lead to saturation of the area and an excess in competition leading to trade incentives and more alcohol abuse and criminal activity. Reference was made to the stretching of Police resources.

## **8. Consultation with Police**

- 8.1 The Police have been consulted and the hearing of the application delayed pending their submission of extensive material. This has only recently been received.
- 8.2 Southend Police hold the opinion that the requested additional trading hours are likely to lead to;

An increase in Crime & Disorder at the premises or in the vicinity  
An adverse impact on the social and environmental wellbeing of the local community

This view is based upon the absence of infrastructure in place at this time to support further expansion of late night entertainment venues as well as evidence of the nature/standard of operation of the premises in question.

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

- 9.1 Since the beginning of 2003, 3 complaints of noise disturbance have been received in relation to Smithy's Public House and 6 complaints in relation to activities carried on at Dreams nightclub. On these occasions visits have been made by the Department's Out of Hours officers to investigate the complaints.

### **SMITHY'S**

- a) In relation to Smithy's Public House on occasions it has been noted that the front doors have been left open leading to music being heard outside the premises. The front doors lead directly into the bar area. The licensees were informed of the need to ensure the doors were not to be left open in this way.
- b) Specifically, this Department's records do not show a complaint being received from Burnaby Road in relation to Karaoke from Smithy's although the letter of objection received as a result of the consultation exercise indicated that there was a problem with sound transmission of Karaoke to the rear. Works have recently been carried out to the premises which have resulted in the rear door being protected by a large lobby which will act as a sound insulator with the doors closed.
- c) Should the application be granted, consideration will need to be given to additional sound insulation measures to the frontage of Smithy's having regard to the proposed late hour and the opening and closing of the front doors as part of the normal coming and going of patrons.

### **DREAMS**

- d) In relation to Dreams nightclub, this premises holds events which are characterised by loud music with a heavy bass beat. Visits by Out of Hours Officers have confirmed high levels of music outside the building, which on some occasions may have given rise to statutory nuisance. This was resolved at the time of visiting by requests to moderate

sound levels. Reliance upon such managerial control is inadequate and consideration will need to be given to additional physical sound insulation measures to reduce sound transmission from the premises.

## **10. Fire Safety and Related Technical Requirements**

- 10.1 A detailed specification of technical fire safety and related works was sent to the owner on 29<sup>th</sup> October 2002 in relation to bringing the premises up to the necessary standard for Public Entertainment up to normal licensing hours. These works were completed on 22<sup>nd</sup> December 2003, following receipt of Planning Permission for the rear extension (for additional toilet facilities) .
- 10.2 A letter was sent to the licensees on 7<sup>th</sup> August 2003 detailing additional matters which would need to be complied with should the application for variation be granted for Smithy's Public House. These were:
- a) The provision of registered door supervisors
  - b) The provision of efficient video surveillance equipment to provide full face and full height pictures of patrons as they enter and leave the premises.
  - c) The provision of the most suitable toughened glass drinking vessels.
  - d) The licensees to take all reasonably practicable steps to ensure bottles and drinking vessels are not taken from the premises.
  - e) Full details of events put on by independent promoters to be sent by the licensees to the Local Authority on request or where there is increased risk of disorder or nuisance.
  - f) The provision of a written agreement with the licensing authority to cover i) arrangements for door supervisor coverage and ii) procedures to detect and prevent the entry of unlawful items to the premises together with arrangements for the search and seizure of such items.
  - g) The provision of a lockable cabinet for the temporary storage of such items seized in accordance with the above.
- 10.3 The above additional requirements were based upon measures recently developed by this department in consultation with the Police, as being relevant to late night venues. (Similar requirements have already been imposed on Dreams as part of the current licence renewal).

## **11. Background Papers**

- 11.1 Consultation letter to surrounding occupiers.
- 11.2 Letters from surrounding occupiers.