

Southend-on-Sea Borough Council

Report of Director of Technical & Environmental Services

to

Licensing Committee

on

13th December 2004

Report prepared by D R Krieger

Agenda
Item No.

Units 1 & 2 (Ground Floor), Maitland House, Chichester Road, Southend-on-Sea
Application for Grant of New Provisional Public Entertainment Licences
Part 1 – Public Agenda Item

1. Purpose of Report

- 1.1 This report considers two applications by Messrs. I & D Samuels for the grant of new Provisional Public Entertainment Licences.

2. Recommendation

- 2.1 That the Committee decide the applications.

- 2.2 Should the Committee be minded to approve the applications, it is requested these be limited to provisional approval only, and subject to the following conditions:-

- a) The Licensees shall submit for approval of the Director of Technical and Environmental Services an acoustic assessment including a scheme of acoustic insulation and sound control measures, together with a scheme of managerial measures designed to minimise disturbance to surrounding occupiers.
- b) Conditions relevant to the proposed Public Entertainment Licences, to be drawn up by the Director of Technical and Environmental Services in consultation with the Police, based upon those set out in Appendix 2. (The final wording to ensure consistency with those imposed for the Basement, and the conditions of the Justices Licences).
- c) That the licences shall not be declared final until the premises have been completed in accordance with the structural requirements of the Director of Technical and Environmental Services.

3. Background

- 3.1 In April 2002, the Licensing Committee approved an application for the grant of a new Provisional Public Entertainment Licence for the ground floor for a venue to be known as the Piazza. That approval specified a maximum permitted capacity of 895 persons, and a terminal hour of 2.00 a.m. on Mondays to Saturdays and 12.30 on Sundays (extending to 2.00 a.m. on Bank Holiday Sundays).

- 3.2 The above approval was not acted upon, and revised proposals were submitted. In April 2003, the Licensing Committee was asked to approve in principle an application effectively to transfer the Provisional Licence from the ground floor to the basement. Approval was given, subject to conditions.

- 3.3 The applicants, as landlords of the whole complex, have carried out a number of works to sub-divide the premises, and the Travel Lodge Hotel element has recently commenced operations.
- 3.4 Separate trading units are being created on the ground floor, and are the subject of the present application.
- 3.5 Full details of the recent licensing history are set out in **Appendix 1** to this report.

4.0 Proposals

- 4.1 The applications are for the grant of two new Provisional Public Entertainment Licences, as follows.
- i) Unit 1 - a 660 person unit with a terminal hour on Mondays to Saturdays of 1.00 a.m. and on Sundays 12.30 a.m. (extending to 1.00 a.m. on Bank Holiday Sundays).
 - ii) Unit 2 – a 300 person capacity unit, with terminal hour on Mondays to Sundays of 12.30 a.m.

5.0 The Liquor Licensing Position

- 5.1 The Justices have previously considered and approved On-Licences for the ground floor. On 1st November 2004, applications were made to the Justices, based upon the latest layout proposals, for a new Provisional On-Licences. These were granted unopposed, subject to a range of conditions which had been put forward by the Police.
- 5.2 At the Court Hearing, it was stated that Unit 1 was envisaged as a bar, with a Special Hours Certificate extending to 1.00 a.m., and Unit 2 was envisaged as a bar or restaurant. (It was noted that proposed Unit 3 was envisaged as a casino, and would be the subject of a separate application to the Justices at the appropriate time.)

6.0 The Town Planning Position

- 6.1 The most relevant planning consent was granted on 24th May 1996, and this related to the use of the four-storey former department store building (of which the present application site is a part) for leisure and restaurant purposes. This permission was renewed on 10th May 2001. The approvals contained a number of conditions, and those most relevant are as follows:-
- i. The use shall not commence until the building has been insulated in accordance with a scheme which shall have been submitted to and approved by the local Planning Authority. The noise prevention measures as installed shall be retained at all times thereafter.
 - ii. The use shall not commence until extract ventilation, filtration and deodorisation equipment have been installed in accordance with the scheme including details of the predicted acoustic performance of the system, and of discharge points, which shall have been submitted to and approved by the local Planning Authority. The equipment as installed shall be retained in good working order at all times thereafter.
 - iii. No air conditioning, ventilation or refrigeration equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance had been submitted to and approved by the local Planning Authority.

7. Consultation with Surrounding Occupiers

- 7.1 A consultation letter was delivered by hand to 180 properties in the surrounding area, seeking comments on the application. In addition, the applicants were required to display a public notice at the premises.

- 7.2 At the time of preparing this report, four letters had been received, one from a resident in Tolhurst House, and three from residents in Warrior Square.
- 7.3 The resident from Tolhurst House expressed concern at the need for adequate control of noise and disturbance (both within and beyond the operating hours) to ensure that this was within acceptable levels, having regard to the existence of private residences in the area.
- 7.4 One resident from Warrior Square felt that the current proposal should be examined in the context of all of the proposals for the Maitland House complex. She expressed concern about the number of persons likely to be discharged into Warrior Square, and of the importance of staggering closing times.
- 7.5 Another resident of Warrior Square related existing problems of anti-social behaviour within Warrior Square and surrounding areas, as well as existing problems of noise and disturbance arising from patrons of other establishments. Concern was expressed that current problems would be made worse if the present application were to proceed. It was pointed out that this was a residential area, and that residents, including the elderly, would be subject to further disturbance from such a development in close proximity.
- 7.6 A further resident in Warrior Square questioned the need for expansion of licensed premises. He also drew attention to existing problems of noise and anti-social behaviour in the area, including serious incidents, and an apparent lack of Police control. (The Committee is asked to note that this particular respondent has been in touch with some of his neighbours and has sought support for his concerns. As a result, seven signed reply slips have been received expressing objections to this application. Two of the signatories sent individual letters, which are summarised above).
- 7.7 It should also be noted that the public consultation exercise on these applications over-lapped with a similar consultation concerning the proposed variation of licence for the basement premises. Two of the above respondents have made similar objections in relation to that application. In relation to the circular letter distributed by the above Warrior Square resident, it is understood that he attached copies of both of this Department's consultation letters: Although not specifically stated, it may have been the intention of the signatories to object to all of the applications. In the somewhat unusual circumstances of the cases, all residential objectors have been invited specifically to attend the hearing on 13th December, and it has been agreed with the applicant's Solicitor that they will be given the opportunity to express any objections to the basement premises application at the same time.

8. Consultation with the Police

- 8.1 The Police Licensing Unit has been involved with the applicants in proposals for this site from the outset. Although the Police have previously expressed concerns about the development of late night venues in the Town Centre, in relation to crime and disorder, in this particular application no objection is raised, subject to compliance with a range of conditions. These are set out in Appendix 2 to this report.

9. Control of Noise and Disturbance

- 9.1 The premises are located on the busy Chichester Road, where traffic noise is significant. There was originally no residential accommodation within the former Department store building, although the hotel element has just been completed and residential units are proposed within a new multi-storey development on the site. Residential accommodation is provided within Tolhurst House, above the premises known as Seymour's (formerly Chicago Rock Cafe). In addition, Warrior Square and Whitegate Road are predominantly in residential use.
- 9.2 The applicants have previously employed an acoustic consultant to undertake an assessment of proposals for this part of the building complex. They were previously advised that their scheme of acoustic measures should be designed to ensure that sound from within the units is not audible

at the facade of any surrounding residential property, and does not give rise to nuisance within any other part of the building complex in separate occupation. Should the present applications be approved, it is felt necessary that the applicants should arrange for a further acoustic assessment, to take into account both the layout currently proposed, and the additional uses for the building complex which are now proceeding.

- 9.3 The question of disturbance to surrounding residents from patrons departing from the premises, particularly at closing time, is another important consideration. Although this is a Town Centre location, residential properties overlook several of the areas where patrons may park, i.e. Warrior Square and the adjoining car park. The minimisation of disturbance and other adverse effects once patrons have left the licensed establishment are difficult matters for licensees to control. For this reason, it is felt that the Committee would wish to hear from the applicants about the managerial measures proposed to be put in place in an effort to minimise such adverse effects. Relevant factors will include the nature of the proposed entertainments, the style and standard of the proposed premises as well as levels of overall control, supervision and building management.
- 9.4 The applicants have already indicated their willingness to work with the Council on crime and disorder reduction issues, and indeed some of these aspects are reflected in the conditions sought by the Police.

10. Fire Safety and Related Technical Requirements

- 10.1 The plans showing the proposed layout have been examined by this Department's Fire and Public Safety Surveyor and advice has been given concerning technical requirements. The layouts are considered to be generally satisfactory, and are the subject of on-going discussions with the applicants.

11. Background Papers

- 11.1 Consultation letter to surrounding residents;
- 11.2 Letters and response slips from surrounding occupiers.

12. Appendices

- 12.1 Appendix 1. Recent Licensing Background.
- 12.2 Appendix 2. Schedule of Conditions requested by the Police for imposition on the current Justices Provisional On-Licences.

Recent Licensing Background

Public Entertainment Licence Applications

1. In 1997, an application was made by First Leisure PLC, for the development of a "Brannigans" Public Entertainment Licensed venue with a capacity of 1000 persons. That application was subsequently withdrawn.
2. In 2000, an application was made by Kingfisher Leisure PLC., to develop a "McCluskey's" brand premises at the site with a capacity of approximately 1000 persons. That application did not proceed.
3. On 24th April 2002, the Licensing Committee approved an application for the ground floor part of the former Department Store. This related to a unit to be known as the Piazza, having a main frontage onto Chichester Road, and incorporating a mezzanine floor. The applicant, Mr. I. Samuels, formerly co-proprietor of Churchills Public House, Tylers Avenue, sought a capacity of 895 persons. The terminal hours sought were:

Mondays to Saturdays	02.00 a.m. the following morning;
Sundays	00.30 a.m. the following morning (and 02.00 a.m. the following morning on Sundays preceeding Bank Holidays).

Approval was given, subject to conditions, relating particularly to the submission of schemes for acoustic insulation and control of noise and disturbance.

4. The above application did not proceed, and on 14th April 2003, the Licensing Committee considered an application from Mr. Samuels for the variation of the previous approval. The effect of this was to move the Public Entertainment Licensing approval from the ground floor to the basement. No detailed drawings were submitted at that time. The application was approved.

The Liquor Licensing Position

1. In March 2002, a Provisional Justices On-Licence was granted for the ground floor premises (The Piazza) subject to conditions. This was followed in June 2002 by the approval of a Provisional Special Hours Certificate.
2. In October 2002, Provisional Justices On-Licences were granted in respect of three units, covering the ground floor and first floor.
3. In March 2003, a new Provisional On-Licence was granted for the Basement premises.
4. In October 2003, the Justices granted a new Provisional Special Hours Certificate for the Basement.
5. In November 2004, new Provisional On-Licences were granted in respect of Units 1 and 2 on the ground floor of the premises, subject to conditions. These approvals were based upon detailed drawings. The approvals replaced those granted in October 2002.
6. On 4th October 2004, the Justices approved a modification of the deposited plan for the Basement (based upon the layout now proposed). The Justices also granted an extension to the existing Provisional On-Licence.

**Schedule of Conditions Requested by the Police for Imposition on the Current Justices
Provisional
On-Licences**