

Southend-on-Sea Borough Council

Report of Director of Technical & Environmental Services

to

Licensing Committee

on

14th December 2004

Report prepared by D R Krieger

Agenda
Item No.

The Basement, Maitland House, Chichester Road, Southend-on-Sea
Application for Variation of Existing Provisional Public Entertainment Licence
Part 1 – Public Agenda Item

1. Purpose of Report

- 1.1 This report considers an application by Mr P Busby of Shea Properties Limited, for the variation of existing Provisional Public Entertainment Licence, formerly held by Mr I Samuels.

2. Recommendation

- 2.1 **That the Committee decide the application.**

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

- a) **The relevant Conditions contained in the existing Provisional Licence.**
- b) **Appropriate conditions to be tabled drawn from the applicant's submission dated 24th November 2004. (It is requested that the final wording be delegated to the Director of Technical and Environmental Services in consultation with the Police in order to ensure consistency with those imposed for the ground floor units, and the conditions of the Justices Licences).**

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 subdivide 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 the basement which is the subject of the present application is to be occupied by Shea Properties Ltd.

4.0 Proposals

- 4.1 The application is for the variation of the existing Provisional licence, so as to increase the currently approved capacity from 895 persons to 1,095 persons. (There is no proposal to change the currently approved terminal hours of 2.00 a.m. on Mondays to Saturdays and 12.30 a.m. on Sundays (extending to 2.00 a.m. on Bank Holiday Sundays.))

5.0 The Liquor Licensing Position

- 5.1 The Basement premises have the benefit of a Provisional Justices On-Licence and Provisional Special Hours Certificate, extending to the hours quoted above.
- 5.2 On 4th October 2004 the Justices approved modified plans (upon which the present application is based), and also extended the Provisional On-Licence previously approved.

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, two letters had been received, one from a resident in Tolhurst House, and one from a resident 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 The 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, in relation to problems of noise, disturbance and parking. She felt that the existing situation was barely acceptable, and objected to the current application.
- 7.5 Another resident in Warrior Square 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 about the applications for the ground floor premises. Two of the signatories sent individual letters, which are summarised above.

- 7.6 It should also be noted that the public consultation exercise on this application over-lapped with a similar consultation concerning the proposed new licences for the ground floor. The above respondents have made similar objections in relation to those applications. 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 building developers for this site from the outset, and latterly with the present applicants.
- 8.2 The Police originally lodged formal objection. The grounds of objection were that the increase could cause the level of crime and disorder at or in the vicinity of the premises to increase, thereby further stretching Police resources to an unacceptable level, and cause greater disturbance to residents.
- 8.3 Following this formal objection, which was lodged on 9th August 2004, discussions have continued with the applicant, and this has resulted in the submission of a written scheme of measures designed to alleviate some of the crime, disorder and environmental concerns which had been identified. These details were submitted just before this report was finalised. As a result of considering this submission, the Police have withdrawn their objection, subject to a request for the imposition of conditions based upon that document.

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 previous Public Entertainment licensing approval in principle required the submission of an acoustic assessment and sound control measures, together with a scheme of managerial measures, designed to minimise disturbance to surrounding occupiers. As a basement premises, sound from within the building is likely to be more easily controlled, but in submitting his proposals the applicant would need to take into account the additional residential uses now proposed for the building complex.
- 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 applicant 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.

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 layout is considered to be generally satisfactory, and is the subject of on-going discussions with the applicant.

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. The Conditions contained in the existing Provisional Public Entertainment Licence.

The Conditions contained in the existing Provisional Public Entertainment Licence

THE BASEMENT, MAITLAND HOUSE, CHICHESTER ROAD, SOUTHEND-ON-SEA SCHEDULE

Provisional Public Entertainment Licence No: 05/04

- 1) **This provisional licence shall be of no effect until declared in writing to be final, after the satisfactory completion of all relevant building works.**
- 2) Before the licence is declared final, the licensee shall provide all necessary acoustic insulation and sound control measures, in accordance with a scheme to be submitted to and approved by the Group Manager – Environmental Health.
- 3) Before the licence is declared final, the licensee shall put in place appropriate managerial measures designed to minimise disturbance to residential occupiers (including a requirement that the licence shall appoint a named representative to be available to deal with residents' concerns) in accordance with a scheme to be submitted to and approved by the Group Manager – Environmental Health.
- 4) The licensed areas shall be the public bar areas of the basement level, shown on drawing SH/03/01, dated September 2003, prepared by Ashley Rowland & Company Ltd.
- 5) The maximum number of persons using the premises shall be limited to 895 at any one time.
- 6) Subject to Regulations 3(a) and 3(b) of the Council's General Regulations for Public Entertainment, the entertainment for which this licence is required is authorised to be provided during the following periods:-

Mondays	10.00 a.m.	to	2.00 a.m	the following morning
Tuesdays	10.00 a.m.	to	2.00 a.m	the following morning
Wednesdays	10.00 a.m.	to	2.00 a.m	the following morning
Thursdays	10.00 a.m.	to	2.00 a.m	the following morning
Fridays	10.00 a.m.	to	2.00 a.m	the following morning
Saturdays	10.00 a.m.	to	2.00 a.m	the following morning
Sundays	10am to 00.30am the following morning. In relation to any Sunday which falls immediately before a day which is a Bank Holiday in England and Wales under the Banking and Financial Dealings Act 1971, other than Easter Sunday, public entertainment may take place between the hours of 10am and 02.00am the following morning.			
- 7) The prohibition of public entertainments taking place on Good Fridays, contained within the Council's General Regulations for Public Entertainment, shall not be applicable in respect of these premises.
- 8) The De-regulation (Special Hours Certificate) Order 1996, in relation to the morning on which Summer Time begins, shall be deemed to have the effect of similarly extending the terminal hour for public entertainment.
- 9) The Licensees shall ensure that a constant and accurate record shall be maintained of the number of patrons within the premises at any time whilst they are in use for Public Entertainment. This record shall be made available for inspection immediately upon request by any authorised Officer of the Licensing Authority, Fire Authority or the Police Authority. The approved method is for persons entering and leaving the premises to be recorded by means of hand held sequential counting devices (commonly known as "clickers").
- 10) The licensees shall provide and maintain efficient video surveillance equipment which shall be used to record the arrival and departure of patrons at the entrance/exit to the premises specified below. Such recordings shall take place whilst the premises are in use for public entertainment, commencing on each day of operation not later than the time when the

premises are opened to allow the admittance of patrons and continuing at least until the last patron has departed from the premises.

11) The entrance/exit specified for the purpose of the above requirement shall be the entrance in Warrior Square. No other entrance shall be used for the admittance of patrons. No other exit shall be used for the departure of patrons, except under emergency evacuation conditions.

12) All video surveillance equipment required for the purpose of this licence, and all associated operational procedures, shall be in accordance with the requirements set out in the Special Conditions attached hereto, except that Regulation 5(b) of the Special Conditions shall be amended to read:-

"Positioned to provide a clear field of view of patrons as they enter and leave, with the object of achieving a full face and full height picture of patrons as they enter and leave the premises."

In addition, the provision of a digital recording system providing high quality resolution images of at least equivalent standard to that achieved by systems complying with the Council's Special Conditions in respect of video surveillance equipment shall be acceptable.

13) The siting of camera equipment shall be subject to the approval of the Group Manager - Environmental Health, and no alteration to the agreed siting shall be made without consent. The agreed positions of the camera equipment shall be recorded on a plan to be submitted in the licence.

14) The Licensee shall ensure that only the most suitable toughened glass or non-glass drinking vessels (subject to commercial availability) are used in the premises. In assessing suitability of such vessels the principal consideration will be public safety.

15) The Licensee shall comply with the terms of a written procedure from time to time agreed with the Group Manager – Environmental Health in respect of door supervision policy, searching of patrons and procedures associated with the seizure of unlawful items. The primary purpose of the agreement shall be to secure the aims of the Public Entertainments Licences (Drugs Misuse) Act 1997.

16) The Licensee shall provide a lockable cabinet for the temporary storage of items seized in accordance with paragraph 15 above. The construction and siting of this cabinet will be agreed by the Group Manager - Environmental Health. The cabinet shall allow the secure storage of items without the need of a key. Items must be accessible for removal by Police at all reasonable times and the Licensee shall provide a key to be retained by the Police Licensing Unit for this purpose. All items seized shall be recorded in an incident log provided by the Licensee for that purpose.

17) The Licensee shall provide the details of entertainment promoters and the content of promotions involving the licensed premises in the following circumstances:

- a) At the request of the Group Manager - Environmental Health
- b) If the Licensee(s) or their representatives become aware of information to indicate a potential risk of disorder or nuisance.

When required to do so, the Licensee shall provide the foregoing information at least 14 days before the proposed promotion.

18) The Licensee shall take all reasonable steps to ensure that no bottles or drinking vessels are taken from the premises. Patrons attempting to leave with such items shall be asked to surrender them. Patrons refusing to surrender these items shall be refused future entry to the premises and shall be told this fact at the time. To facilitate this process, the Licensee shall provide conspicuous signage, visible to patrons on entry explaining this policy. The Licensee shall provide a suitable bin at the exit(s) for the safe temporary storage of glassware/bottles surrendered. The type of bin and siting to be agreed by the Group Manager - Environmental Health.