

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Place
to
Licensing Sub-Committee (A)
on
10th April 2014

Report prepared by: Deborah Bentham

Boatyard, 8-13 High Street, Leigh-on-Sea, Essex, SS9 2EN
Application for the Variation of Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report

- 1.1 This report considers an application by Mirenclyff Limited for the variation 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).

3 Background

- 3.1 The application relates to an existing licensed restaurant located in High Street, Leigh - on-Sea.

4 Proposals

- 4.1 The application was given to the Licensing Authority on 19th February 2014 and is for the variation of the Premises Licence.
- 4.2 Details of the variation which are to be determined by the Sub-Committee can be briefly summarised as follows:
- a) To increase the capacity of the premises from 200 to 350.
 - b) To add plays, films, boxing and wrestling to the licence;
 - c) To remove the following conditions:-

Condition 4: Drunkenness shall not be permitted on the premises. This requirement is already set down in the Licensing Act 2003.

Condition 9: Fire fighting equipment shall be provided in the bar area and kitchen and be regularly maintained and certificated.

Condition 10: All escape routes shall be clearly marked with signage and emergency lighting and shall be checked regularly.

Condition 15: The fire alarm shall be linked to the doors with magnetic catches and checked weekly to ensure they function correctly

Note: - Conditions 9, 10 and 15 have been made redundant under the Regulatory Reform (Fire Safety) Order 2005, which states that conditions which are covered under the order cannot be duplicated on Premises Licences.

d) To amend the following conditions:-

Condition 20: A proof of age scheme shall be enforced - This condition now forms part of the mandatory conditions. The applicant has offered to **replace** this with a 'Challenge 25 ' scheme. (see condition 1 in **Appendix 2**)

Condition 26 - A minimum of 70 covers shall remain laid out at all times on the ground floor **to read** "A minimum of 70 covers shall remain laid out between 10.00 to 20.00" (**please refer to amended conditions in Appendix 3**)

Condition 27- A minimum of 100 covers shall remain laid out at all times on the mezzanine floor **to read** "A minimum of 100 covers shall remain laid out on the ground floor. (**Please refer to amended conditions in Appendix 3**)

- 4.3 The variation application **does not** seek to alter the existing hours in any way.
- 4.4 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 variation 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 Forty four representations have been received from local residents and a one from Leigh-on-Sea Town Council.
- 5.3 No representations have been made by the Responsible Authorities.
- 5.4 Additional measures have been agreed by the applicant following consultation with The Licensing Authority in their capacity as a Responsible Authority and with Essex Police. These are outlined at **Appendix 3**.
- 5.5 Copies of the representations have 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 representations 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) Approve the application as made, or
- b) Modify the conditions put forward, or
- c) Reject the whole or part of 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.

7 Existing Licensing Controls

7.1 In July 2005 an application was made to convert the Justices licence to a Premises Licence following the introduction of the Licensing Act 2003. Application was also made simultaneously to vary the premises licence to increase the bar area, extend the terminal hours for alcohol and late night refreshment and add regulated entertainment in the form of live music. The variation application was granted in September 2005.

7.2 The existing Premises Licence permits.

- a) The sale of alcohol (for consumption on and off the premises) as follows:-
 - i. Mondays to Thursdays from 10.00 to 00.30.
 - ii. Fridays and Saturdays from 10.00 to 01.30 the following day.
 - iii. On Sundays from 12.00 to 11.30.
- b) Late Night Refreshment to be provided during the permitted hours specified at 7.2 a) above plus an additional 30 minutes at the end of those permitted hours.

- c) Regulated entertainment comprising live music and the provision of facilities for dancing to be provided during the permitted hours specified 7.2 a) above.
- d) The opening hours of the premises are as specified in 7.2 (b)

7.3 A copy of the premises licence has been supplied to the sub-committee

8 Background Papers

8.1 Council's Statement of Licensing Policy.

9. Appendices

9.1 Appendix 1 - Mandatory conditions.

9.2 Appendix 2 - Conditions added by applicant.

9.3 Appendix 3- Additional measures agreed by the applicant following consultation with The Licensing Authority in their capacity as a Responsible Authority and with Essex Police.

MANDATORY CONDITIONS

The Licensing Act 2003 lays down certain mandatory conditions which must be applied to Premises Licences. These are summarised below:-

1. Where a Premises Licence authorises the supply of alcohol, the licence must include the following conditions:-
 - a) The first condition is that no supply of alcohol may be made under the Premises Licence;
 - i) At a time when there is no designated premises supervisor in respect of the Premises Licence, or
 - ii) At a time when the designated premises supervisor does not hold a Personal Licence or his Personal Licence is suspended.
 - b) The second condition is that every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a personal licence.
2. 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.
3. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. Any individual who carries out security activities at the premises must be licensed by the Security Industry Authority.
5. 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.
6. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
7. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
8. The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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 a holographic mark.

9. 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.

CONDITIONS ADDED BY THE APPLICANT

1. The Licensee shall ensure that a 'Challenge 25' scheme is operated, whereby any person who appears to be under 25 years of age is required to produce means of identification proving they are over 18 years of age. The only authorised means of identification shall be passport, UK photo driving licence or 'PASS' accredited card.

ADDITIONAL MEASURES AGREED BY THE APPLICANT FOLLOWING CONSULTATION WITH THE LICENSING AUTHORITY IN THEIR CAPACITY AS A RESPONSIBLE AUTHORITY AND WITH ESSEX POLICE

1. A minimum of 70 covers shall remain laid out at all times on the ground floor, with the exception of pre booked private events whereby the covers can be removed between 20:00 and the start of trading hours the following day
2. A minimum of 100 covers shall remain laid out at all times on the mezzanine floor, with the exception of pre booked private events whereby the all the covers bar 50 can be removed between 20:00 and the start of trading hours the following day.
3. All covers shall be replaced prior to the start of daily trading.