

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Corporate Director for Place  
to  
Licensing Sub-Committee  
on  
**1<sup>st</sup> September 2014**

Report prepared by: Lee Colby

---

**Café Ciao, 132 The Broadway, Thorpe Bay, Southend-on-Sea, Essex, SS1 3ES**  
**Application for Variation of the Premises Licence**

**LICENSING ACT 2003**

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

---

**1. Purpose of Report**

- 1.1 This report considers an application by Mr Sukhdev Singh Bhasin and Mrs Amartpal Bhasin for variation of the Premises Licence at 132 The Broadway, Thorpe Bay, Southend-on-Sea, Essex, SS1 3ES.

**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 premises located within the parade of shops on The Broadway, Thorpe Bay, Southend-on-Sea.

**4 Proposals**

- 4.1 The application was given to the Licensing Authority on 22<sup>nd</sup> May 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 extend the sale of alcohol on Mondays to Saturdays 11:00 hours to 00:00 (midnight) hours.
  - b) To add the sale of alcohol on Sundays from 11:00 hours to 23:00 hours to the licence.

- c) To extend the provision of regulated entertainment, consisting of recorded music Mondays to Saturdays 09:00 hours to 00:00 (midnight) hours.
- d) To add the provision of regulated entertainment, consisting of recorded music, on Sundays from 10:00 hours to 22:00 hours.
- e) To add the provision of regulated entertainment, consisting of live music, on Mondays to Saturdays from 09:00 hours to 00:00 (midnight) hours, and Sundays from 12:00 (midday) hours to 22:00 hours.
- f) To amend Annex 2 condition 1) from:

“The premises shall remain predominantly used as café/art exhibition and tuition centre are used

to:

“Premises are used as café/restaurant”

- g) To amend Annex 3 condition 2) from:

“Regulated entertainment shall be limited to background music only and shall only be provided indoors.”

to:

“Regulated music to be recorded and live music for private functions and public use indoors only.”

- h) To remove Annex 3 condition 3) from the licence as there is no gallery, the condition this relates to is:

“The gallery area shall be screened from the café area when in use for a children’s function”

4.2 The hearing was originally scheduled for the 14<sup>th</sup> July 2014 but was delayed at the request of the applicant following a family illness.

4.3 The applicants have since contacted the Licensing Authority stating that the application is to be amended. The application to vary the licensed hours on Mondays to Saturdays is withdrawn thus reverting to the hours detailed at 7.1a) of this report. The application for Sundays remains but with the amended times of 10:30 hours to 18:00 hours.

4.4 There is no amendment to sections 4.1 f), g) and h) above.

- 4.5 The proposals are more fully documented in the application form which has been copied to Sub-Committee Members with an attached email communicating the changes.

## **5 Application Procedures**

- 5.1 Applicants for variation of a 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 Representations have been received from three interested parties, although two have now withdrawn their representation due to the amendment of the applications licensed hours.
- 5.3 Representations were made by one of the Responsible Authorities, namely the Environmental Protection Team.
- 5.4 Additional measures have been agreed by the applicant following consultation with Essex Police in their capacity as a Responsible Authority. These are outlined at **Appendix 3**.
- 5.5 A copy of the representations has 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 objections 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 The venue has the benefit of a Premises Licence which was issued in January 2010 which permits the following licensable activities:

- a) The sale by retail of alcohol for consumption on the premises Mondays to Saturdays from 11:00 hours to 23:00 hours.
- b) The provision of regulated entertainment comprising of recorded music Mondays to Saturdays from 19:00 hours to 23:00 hours.
- c) The opening hours of the premises are Mondays to Saturdays from 09:00 hours to 23:30 hours.
- d) The licence authorises the supply of alcohol for on the premises only.

7.2 The Premises Licence was transferred to the current holders, Mr Sukhdev Singh Bhasin and Mrs Amartpal Bhasin, in July 2012.

7.4 A full copy of the existing Premises Licence has been supplied to Sub-Committee Members.

## **8 Background Papers**

8.1 Council's Statement of Licensing Policy.

## **9. Appendices**

9.1 Appendix 1 - Mandatory Conditions.

9.2 Appendix 2 - Amended Conditions and opening times as offered by the applicant.

9.3 Appendix 3 - Agreed Conditions, drawn from measures agreed between the applicant and 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. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(1);
  - (b) “permitted price” is the price found by applying the formula—  $P = D + (D \times V)$ , where—
    - (i) P is the permitted price,
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(2).
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph

shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.  
  
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
5. 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.
6. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
7. Any individual who carries out security activities at the premises must be licensed by the Security Industry Authority.
8. 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.
9. 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).
10. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
11. The premises licence holder or club premises certificate 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.
12. 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.

### **Amended Conditions and opening times as offered by the applicant**

1. The hours agreed for Sunday trading are "between 10.30 am and 6.00 pm", with no alterations to trading hours Monday to Saturday.

Note: This agreement has come about by way of a planning application but will be reflected in the Premises Licence Application.

## Conditions drawn from measures agreed between the applicant and Essex Police

### Conditions on the current licence (Appendix 2) to be amended to:

- 1) The premises shall be run predominately as a café/restaurant and the Licensee shall ensure that a minimum of 35 covers are maintained at all times, with the exception of Live Music events, when 24 covers shall remain.
- 2) The Licensee shall install and maintain a closed circuit television surveillance (CCTV) system to the reasonable satisfaction of Essex Police. Images shall be retained for a minimum of 31 days and made available to Essex Police on request. A member of staff shall always be on call during opening times that is able to download and burn off images from the CCTV system.

The Licensee shall ensure that a suitably worded sign of sufficient size and clarity is displayed at the entrance to the premises and in the area of the alcohol display advising customers that CCTV is operating at the premises.

- 3) 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.
- 5) The Licensee shall ensure that a refusal book is maintained at the premises to record any refusals of alcohol. The refusals book shall be made available to the Police/Local Authority upon request.

### New Conditions to be added to the licence:

- 11) The Licensee shall operate a zero tolerance policy with regard to the use/possession of drugs in the venue and shall advertise the same within the premises on posters and similar means.
- 12) The Licensee shall ensure that all staff engaged in the sale of alcohol receives sufficient training. Written training records shall be kept on the premises and made available to any officer authorised under the Licensing Act 2003 upon request.
- 13) Persons under the age of 18 years shall not be allowed in the premises after 19:30 hours with the exception of Pre booked Private functions.
- 14) Live Music events are restricted to once a month with a maximum of three performers.