

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Place
to
Licensing Sub-Committee
on
27th March 2015

Report prepared by: Lee Colby

Blue Boar, 177 Victoria Avenue, Southend-on-Sea, Essex, SS2 6EL
Application for the Variation of a Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report

- 1.1 This report considers an application by Premier Properties (Essex) Ltd, 18 Hand Court, Holborn, London, WC1V 6JF 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 premises located on the corner of Victoria Avenue and West Street Southend-on-Sea.
- 3.2 The licence was originally converted from a Justices licence to a Premises Licence following the introduction of the Licensing Act 2003. It was transferred from W. Licensing to Premier Properties (Essex) Ltd in February 2014.

4 Proposals

- 4.1 The application was given to the Licensing Authority on the 15th January 2015 and is for the variation of a Premises Licence. Due to advertising irregularities the consultation period commencement was postponed until the 2nd February 2015.
- 4.2 Details of the variation which are to be determined by the Sub-Committee can be briefly summarised as follows:
- a) To permit the sale of alcohol (for consumption on and off the premises) on Mondays to Thursdays from 10:00 hours to 01:00 hours the following day and Fridays to Saturdays from 10:00 hours to 02:00 hours the following day.

- b) To provide regulated entertainment comprising of recorded music (indoors) live music (indoors) on Mondays to Thursdays from 10:00 hours to 01:00 hours the following day and Fridays to Saturdays from 10:00 hours to 02:00 hours the following day.
- c) To allow the premises to remain open to the public from 10:00 hours to 01:30 hours the following day on Sundays to Thursdays and from 10:00 hours to 02:30 hours the following day on Fridays to Saturdays.

4.3 The application also offers a variation of a current condition, found in Annex 2, from:

“Doors and windows shall be kept shut during performances involving amplified music to prevent noise breakout”

to the amended version of:

“Doors and windows shall be kept shut during performances involving amplified music and the provision of Regulated Entertainment to prevent noise breakout”

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 Conditions were agreed during the consultation with Essex Police Licensing unit that the current conditions imposed on the current licence will be transposed onto the new licence if the variation is granted. These are detailed in Appendix 2 as current conditions.

5.3 Representations have been received from four local residents, two of which are living above the premises.

5.4 Representations have been received from two Responsible Authorities, namely the Licensing Authority and the Environmental Protection team.

5.5 A copy 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 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 existing Premises Licence permits the following activities and timings.
- a) The sale of alcohol (for consumption on and off the premises) Mondays to Thursdays from 10:00 hours to 00:00 (midnight) hours and Fridays to Saturdays from 10:00 hours to 01:00 hours the following day. With additional extensions to 02:00 hours the following day on Maundy Thursday, Good Friday and Boxing Day and extended to the start of the permissible hours the following day on New Years Eve.
 - b) To provide regulated entertainment comprising of films, recorded music, live music or any similar activity and the provision of entertainment facilities for dancing.

Films: Sundays to Thursdays 10:00 hours to 00:30 hours the following day and Fridays and Saturdays 10:00 hours to 01:30 hours the following day.

Live Music: Tuesdays, Thursdays, Fridays and Saturdays from 20:00 hours to 00:00 (midnight) hours.

Recorded Music: provided during the permitted times as specified for alcohol plus an additional 30 minutes at the end of the permitted hours.
 - c) The provision of Late Night Refreshment provided during the permitted times as specified for alcohol plus an additional 30 minutes at the end of the permitted hours.
- 7.2 The opening times of the premises are as specified for alcohol plus an additional 30 minutes at the end of the permitted hours.
- 7.3 A copy of the existing 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, drawn from the existing Premises Licence.

APPENDIX 1

MANDATORY CONDITIONS

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

- 1) 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.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3) Any individual who carries out security activities at the premises must be licensed by the Security Industry Authority.
- 4) 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—

(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 in a manner which carries a significant risk of undermining a licensing objective;

(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 in a manner which carries a significant risk of undermining a licensing objective;

(d) 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;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

- 5) 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).
- 6) The responsible person shall ensure that free potable water is provided on request to customers where it is reasonably available.
- 7) 1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) 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 either—
- (a) a holographic mark, or
- (b) an ultraviolet feature.
- 8) 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;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
- 9) 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.
- 10) For the purposes of the condition 9 —
- 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)
- 11) Where the permitted price given by sub-section (b) of Condition 10 would (apart from this condition) not be a whole number of pennies, the price given by that sub-section shall be taken to be the price actually given by that sub-section rounded up to the nearest penny.
- (i) Sub-section (ii) applies where the permitted price given by sub-section (b) of sub-section (ii) 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.
- (ii) 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.

APPENDIX 2

CONDITIONS DRAWN FROM THE EXISTING PREMISES LICENCE

- 1) A full complement of staff shall be maintained on the premises until closing time.
- 2) All staff shall be trained to be aware of misuse of drink and drugs.
- 3) All staff shall be adequately trained on under age identification, and on the requirement not to permit drunkenness on the premises.
- 4) Violent, quarrelsome or anti-social behaviour shall not be tolerated on the premises.
- 5) Toilet areas shall be checked at 30 minute intervals, for the purpose of preventing crime and disorder.
- 6) All entrances and exits from the premises to be kept clear at all times that the premises are in use.
- 7) Escape routes shall be clearly marked with signs.
- 8) Maintained emergency lighting shall be provided.
- 9) The capacity of the premises shall not exceed 100 persons.
- 10) All glasses used shall be certificated toughened safety glasses.
- 11) The Designated Premises Supervisor shall conduct risk assessments as appropriate, in relation to public safety.
- 12) A first aid box shall be made available.
- 13) Doors and windows shall be kept shut during performances involving amplified music to prevent noise breakout.
- 14) Bottle bins shall not be emptied between 8 pm and 9 am the following day.
- 15) A Personal Licence Holder shall be on the premises at all times, in particular to request patrons to leave quietly.
- 16) Signs and announcements shall be provided requesting departing patrons to leave quietly.

- 17) Persons under 16 years of age shall not be allowed in the premises unless accompanied by a responsible adult.
- 18) The gaming machines shall be adequately monitored by staff to prevent access by children and shall carry appropriate age restriction warning notices.
- 19) No adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children shall be provided.
- 20) On Fridays, persons under 18 years of age shall not be permitted in the premises after 18:00hrs.
- 21) Any drinks promotions that are believed to contribute to crime & disorder shall be withdrawn on written request of the Police and/or the Licensing Authority.
- 22) The Licensee and/or Designated Premises Supervisor shall ensure there are sufficient competent staff on duty at the premises for the purpose of fulfilling the conditions of the licence and in order to prevent any of the four licensing objectives being undermined.
- 23) The provision of live music shall be limited to a maximum of three performers at any one time.
- 24) Live music (other than karaoke) may be provided for a maximum of two occasions per week. Live music comprising karaoke may be provided for a maximum of two occasions per week.
- 25) The Licensee shall install and maintain a comprehensive Closed Circuit Television (CCTV) system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of the Police or an authorised officer throughout the 31 day period.
- 26) A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorised Council Officer recent data or footage with the absolute minimum of delay when requested.
- 27) The licensee shall adopt a "Challenge 25" Policy whereby any person who appears to look under 25 years old will be asked to produce identification to prove that they are over 18 years old. Acceptable forms of identification shall be Passport, Driving Licence or "PASS" accredited age verification. All staff are to be trained in the concept of Challenge 25.

- 28) The Designated Premises Supervisor (DPS) shall ensure that a refusal register is kept behind the bar to record all refusals of alcohol. This record shall be made available for inspection by Police or Local Authority upon request.
- 29) The DPS shall ensure that an incident book is kept on the premises to record any occurrences or incidents at the premises in relation to crime and disorder. The incident book shall be made available for inspection by police or Local Authority upon request.
- 30) Records of Staff training for all staff engaged in the sale of alcohol are to be maintained on the premises by the DPS and updated every 6 months. The staff training records shall be made available for inspection by Police or Local Authority upon request.
- 31) No alcohol, drinking vessels or bottles are to be taken outside the premises save for bona-fide off sales.
- 32) On days when Southend United first team are playing football at Roots Hall stadium a FOOTBALL POLICY will activate. This football policy will be written in agreement with Essex Police and kept by the DPS on the premises and made available for inspection by police or Local Authority officers.