

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director Enterprise, Tourism and the
Environment

to

Licensing Sub-Committee (A)

on

11th July 2012

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Hush Bar, 19/21 Clarence Road, Southend-on-Sea, Essex, SS1 1AN
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 Sungrasp 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 premises located on the corner of Clarence Road and Weston Road in Southend-on-Sea.

4 Proposals

- 4.1 The application was given to the Licensing Authority on 20th April 2012 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 hours for all licensed activities except live music as follows:
- Monday to Wednesday 09:00 to 01:00 the following day (to close at 01:30 the following day)

- Thursday to Saturday 09:00 to 04:00 the following day (to close at 04:30 the following day)
 - Sunday 09:00 to 01:00 the following day (to close at 01:30 the following day)
 - For Late Night refreshment to be provided during permitted hours plus an additional 30 minutes at the of those permitted hours.
- b) To add 'facilities for making music' and 'facilities for dancing' to the regulated entertainment permissions.
- c) To remove conditions currently imposed on the current licence which are now covered by the Regulatory Reform (Fire Safety) Order 2005, namely:
- Condition 5: Fire Fighting equipment provided in the bar area and kitchen and checked regularly
 - Condition 7: Smoke extractors shall be provided in the premises.
- d) To remove further conditions currently imposed on the current licence, namely:
- Condition 18: A proof of age scheme shall be enforced.
 - Condition 24: The licensee shall ensure that employees use the Challenge 21 scheme whereby any persons who appear to be under 21 years of age shall be asked to produce means of identification proving that they are over 18 years of age. The only authorised identification shall be full passport, photo card driving licence or PASS accredited card.

To be replaced by:

- The Licensee shall operate a "Challenge 25" scheme on the premises whereby those persons attempting to buy alcohol who appear to be under 25 years of age will be required to prove they are 18 years of age or older. Acceptable proof of age shall consist of a passport, UK photographic driving licence or proof of age cards with the "PASS" logo.

4.3 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 7 representations have been received from local residents.

5.3 No representations have been made by the responsible authorities.

5.4 Additional measures have also been agreed with Essex Police. These are outlined at Appendix 2.

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 necessary 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 premises has the benefit of a Premises Licence, which was first applied for in May 2006 and issued in July 2006.

7.2 The premises has submitted variation application in November 2007, to change the layout, extend the provision of late refreshment and to extend the sale of alcohol along regulated entertainment, and the again in May 2008 to add the outside area to te licensable activities.

7.2 The existing Premises Licence permits.

- a) The sale of alcohol (for consumption on and off the premises) on
 - i. Mondays to Wednesdays from 10.00 to 23.00.

- ii. Thursdays to Saturdays from 10.00 to 01.00 the following day.
- iii. On Sundays from 10.00 to midnight.
- 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 recorded music to be provided during the permitted hours specified 7.2 a) above.
- d) Regulated entertainment comprising live music to be provided Wednesdays from 20.00 to 23.00 and on Thursdays, Fridays and Saturdays from 20.00 to Midnight.

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 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. 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.

MEASURES AGREED BETWEEN BY THE APPLICANT AND ESSEX POLICE.

1. The permitted closing hours for the days of Thursdays, Fridays and Saturdays to be amended from 04:00 to 03:00 the following day (to close at 03:30 the following day).