

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Corporate Director for Place

To

Licensing Sub-Committee

On

13<sup>th</sup> January 2015

Report prepared by: Lee Colby

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153 North Road, Westcliff-on-Sea, Essex, SS0 7AF  
Application for the Grant of Premises Licence

LICENSING ACT 2003

*A Part I Public Agenda Item*

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## 1. Purpose of Report

- 1.1 This report considers an application by Mr Thambo Yoganathan and Mrs Suthagini Yoganathan for the grant 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).
- 2.3 Appendix 2 sets out possible conditions, drawn from the application, for the Sub-Committee's consideration.

## 3 Background

- 3.1 The application relates to an already established newsagent and general store located in a small parade of four retail units on the junction of North Road and Albany Road, Westcliff-on-Sea, which is seeking to add the sale of alcohol to the business.

## 4 Proposals

- 4.1 The application was given to the Licensing Authority on 11<sup>th</sup> November 2014 and is for the grant of a Premises Licence.
- 4.2 Details of the application which are to be determined by the Sub-Committee can be briefly summarised as follows:
- a) To permit the sale of alcohol (for consumption off the premises) on Mondays to Sundays from 08:00 hours to 00:00 midnight.
- 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 grant 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 Four representations have been received from interested parties. One of which also has an additional five interested parties named but three have no contacted details were provided.
- 5.3 A petition was received on the last day of the consultation period, however in the view of Licensing Officers it failed to address any of the Licensing Objectives. A copy has been provided to the committee for their consideration.
- 5.4 No Representations were made by any of the Responsible Authorities.
- 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) Grant the licence, subject to conditions consistent with the operating schedule (modified as considered appropriate for the promotion of the Licensing Objectives) and subject to relevant mandatory conditions;
  - b) Exclude from the scope of the licence any of the licensable activities to which the application relates;
  - c) Refuse to specify a person in the licence as the premises supervisor;
  - d) Refuse 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 Background Papers**

7.1 Council's Statement of Licensing Policy.

## **8. Appendices**

8.1 Appendix 1 - Mandatory conditions.

8.2 Appendix 2 - Conditions, drawn from the application, for the Sub-Committee's consideration.

## 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)
  - a) 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.
  - b) 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.
  - c) 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—
    - (i) a holographic mark, or
    - (ii) an ultraviolet feature.
- 5) 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.
- 6) For the purposes of the condition 5—
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; .
  - (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.

7) Where the permitted price given by sub-section (b) of condition 6 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.

8) (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 OPERATING SCHEDULE**

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.
2. Clear and legible signs shall be displayed advising patrons who appear to be under 25 years of age that they shall be required to prove they are at least 18 years of age.
3. 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. Those holding an appropriate licensing qualification and/or a Personal Licence shall be exempt from this requirement.
4. 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.
5. The Licensee shall ensure that an incident log is maintained on the premises to record any incidents or occurrences relating to crime or disorder issues. The incident book shall be made available for inspection to Police / Local Authority Officers upon request.
6. 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 who is trained to view/download images from the CCTV shall be on duty at all times when the premises are open.
7. 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.