

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director of Enterprise, Tourism and
the Environment
to

Licensing Sub-Committee (A)

on

1st February 2013

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492 Sutton Road, Southend-on-Sea, Essex, SS2 5PN
Application for the Grant of Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report

- 1.1 This report considers an application by Mr Nigindan Badmanadan, 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 operating schedule.

3 Background

- 3.1 The application relates to an existing unlicensed empty retail premises on Sutton Road, Southend-on-Sea.

4 Proposals

- 4.1 The application was given to the Licensing Authority on 12th December 2012 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 10.00 hours to 23.00 hours.

b) To allow the premises to remain open during the hours of 06:00 hours to 23:00 hours.

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 Representations have been received from four interested parties, including from a Councillor along with 335 letters from residents accompanying his representation.

5.3 The 335 letters from residents are in the style of three formats consisting of:

- Type A: 51
- Type B: 115
- Type C: 169

5.4 It should be noted that of the 335 letters, if the letters under the template of type C were submitted as individual applications that they would not have been considered as a relevant representation. Section 9.4 of the Amended Guidance Issued Under Section 182 of The Licensing Act 2003 (October 2012) states:

"A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises."

5.5 Additionally almost all of the representations and supporting letters make reference to the need for another premise which sells alcohol. The committee should be aware of Section 13.18 of the Amended Guidance Issued Under Section 182 of The Licensing Act 2003 (October 2012):

"There can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy"

5.6 No representations have been made by the responsible authorities.

5.7 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 necessary 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 necessary 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 Operating Schedule.

MANDATORY CONDITIONS

- 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 shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - b) 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.

CONDITIONS DRAWN FROM THE OPERATING SCHEDULE

- 1) The Licensee shall operate a 'Challenge 25' scheme on the premises whereby those persons who appear to be under 25 years of age and are attempting to buy age restricted products shall be required to prove they are 18 years of age or older before they are permitted to purchase the item(s). Acceptable proof of age shall be limited to a passport, photographic driving licence or proof of age card with the 'PASS' logo.
- 2) The Licensee shall ensure that all staff are suitably trained in promoting all four Licensing Objectives and Licensing Act 2003 awareness, responsible retailing of alcohol and Challenge 25.
- 3) The Licensee shall ensure that signs are located at the point of sale and in the area where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.
- 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 effective Closed Circuit Television (CCTV) surveillance system that records in real time covering licensable areas the entrance/exit, point of sale and front forecourt shall be maintained. Recording shall be retained for Thirty Days. A suitably qualified person shall be available to download/transfer images from the CCTV recording when requested to do so by the Police or Local Authority.
- 6) 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.
- 7) The Licensee shall ensure that the premises is maintained with adequate levels of staff and if requested will provide the Police or the Licensing Authority with details of the staffing levels.
- 8) The licensee shall ensure that staff will be trained to deal with drunkenness and the prevention of youths gathering outside the premises.
- 9) The Licensee shall ensure that all staff will be trained on identification of third party sales and a suitably worded sign of sufficient size and clarity is displayed to notify patrons.
- 10) The Licensee shall provide external and internal rubbish bins for the use of patrons.