

**Public Document Pack
SOUTHEND-ON-SEA CITY COUNCIL**

Licensing Sub-Committee A

Date: Friday, 28th July, 2023

Time: 10.00 am

Place: Committee Room 4a - Civic Suite

Contact: Tim Row - Principal Democratic Services Officer

Email: committeesection@southend.gov.uk

A G E N D A

- 1 Apologies for Absence**
- 2 Declarations of Interest**
- 3 Station Pizza and Wine Store, 226A Station Road, Westcliff-on-Sea, SS0 7SD - Application for Grant of Premises Licence (Pages 3 - 44)**

TO: The Chair & Members of the Licensing Sub-Committee A:
Councillor J Warren (Chair)
Councillors M Borton and C Walker

PLEASE NOTE: Members of the Sub Committee should assemble in the Councillors' Area at least 15 minutes before the hearing commences. The Clerk to the Sub Committee will inform you when all the parties to the hearing are ready to proceed.

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Meeting: Licensing Sub-Committee
Date: 28 July 2023
Classification: Part 1
Key Decision: No
Title of Report: Station Pizza and Wine Store, 226A Station Road,
Westcliff-on-Sea, SS0 7SD

Executive Director: Neighbourhoods & Environment
Report Author: Mark Newton

1. Executive Summary

Members are invited to consider an application by S & J Food Beverage Ltd for 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 condition must be applied. (This is set out in Appendix 1).

2.3 Appendix 2 sets out conditions drawn from the operation schedule, together with additional conditions (following consultation with Essex Police during the consultation period) for the Sub-Committee's consideration.

3. Background.

3.1 The application relates to a premises located on Station Road, Westcliff-on-Sea with residential properties either side of the premises and C2C railway tracks on the opposite side of Station Road. The premises has been used as a food related commercial premises for a number of years.

4. Proposals.

4.1 The application was submitted to the Licensing Authority on the 2 June 2023.

4.2 Details of this application which are to be determined by the Sub-Committee can be briefly summarised as follows:

a) The supply of alcohol for consumption on and off the premises:

Daily from 12:00 - 00:00 (on and off the premises)

Daily from 00:00 - 05:00 (off the premises - deliveries)

b) The provision of late night refreshments

Daily from 23:00 - 00:00 (on the premises)

Daily from 00:00 - 05:00 (off the premises - deliveries)

- 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 Copies of applications for a new premises licence are required by law to be sent 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 Six (6) representation were received from local residents objecting to the application.
- 5.3 Two (2) representations were received from the Responsible Authorities, Licencing Authority and Environmental Protection. Conditions were agreed with Essex Police during the consultation period which can be found at **Appendix 2**.
- 5.4 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. Legal Implications.

- 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 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 the operation schedule, together with additional conditions (following consultation with Essex Police during the consultation period).

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 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.
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 tap water is provided on request to customers where it is reasonably available.
 7. 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.

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; and
 - (b) Customers are made aware of the availability of these measures.
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.

For the purposes of the above condition —

- 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)
10. Where the permitted price given by sub-section (b) of Condition 9 would (apart from this condition) 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
- (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.
- 11 The admission of children to the exhibition of any film shall be restricted in accordance with the recommendations of the British Board of Film Classification.

APPENDIX 2

CONDITIONS DRAWN FROM THE OPERATING SCHEDULE, TOGETHER WITH ADDITIONAL CONDITIONS (FOLLOWING CONSULATION WITH ESSEX POLICE DURING THE CONSULATION PERIOD).

- 1) The premises shall be operated as a takeaway and restaurant and the sale of alcohol shall be linked to the purchase of food.
- 2) All staff engaged in the sale or supply of alcohol shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every six months. Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to police, trading standards or licensing authority staff upon reasonable request.
- 3) No alcohol may be supplied by an individual unless that individual has the written consent of the Designated Premises Supervisor or other employed Personal Licence Holder. A written record of this consent shall be retained on the premises at all times when such an individual supplies or proposes to supply alcohol and be made available immediately upon reasonable request of the police or licensing authority.
- 4) A refusals record shall be maintained at the premises which details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale. All entries shall be made as soon as possible and in any event within 4 hours of the refusal and the record shall be made immediately available to police, trading standards or licensing authority staff upon reasonable request. The refusals record shall either be electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.
- 5) An incident log shall be kept at the premises and made immediately available to police or licensing authority staff upon reasonable request. The log shall be completed as soon as is possible and within any case within 4 hours of the occurrence and shall record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in a CCTV system mandated as a condition of the licence

The incident log shall either be electronic or maintained in a bound document and be retained for at least 12 months from the date of the last entry.

- 6) A Comprehensive recordable CCTV system shall be installed and maintained covering the trade areas whilst encompassing all ingress and egress to the premises. The system must continually record whilst the premises is open for licensable activities and during all times when customers remain at the

premises. The system shall be capable of providing pictures of evidential quality, in particular facial recognition. All recordings shall be stored for a minimum period of 31 days with date and time. Recordings shall be made available immediately upon the request of a Police or Authorised Officer.

- 7) 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 shall be able to show Police or authorised officer recent data or footage with the absolute minimum of delay when requested.
- 8) A Challenge 25 proof of age scheme shall be operated at all times. Anyone attempting to purchase alcohol that appears to be under 25 years of age shall be asked for proof of their age.
- 9) The only forms of acceptable identification shall be either a valid photographic driving licence, a valid passport, military identification or any other recognised form of photographic identification incorporating the PASS logo. Failure to produce satisfactory proof of age when purchasing alcohol shall result in a refused sale.
- 10) Clear and prominent signage informing customers of the age verification policy in operation shall be clearly displayed at all entrances to the premises. At the point of sale and in close proximity to the alcohol displayed.
- 11) Alcohol sales for consumption off the premises shall only be supplied in sealed vessels.
- 12) Prior to accepting an order which includes alcohol for delivery, the customer shall be asked if they are over 18 years of age.
- 13) At the time of the order the customer shall be informed that the person accepting the delivery shall need to provide an acceptable form of photographic ID proving that they are 18 years of age or over in line with the Challenge 25 requirements.
- 14) Alcohol shall not be delivered to any person other than at a residential or business address given. It shall not be delivered to persons in the vicinity of the premises or in a park, street or similar location.
- 15) All orders/deliveries which include alcohol shall be paid for at the time of ordering via the internet, or via telephone credit card payment. There shall be no cash or payment taken at the time of delivery.
- 16) Persons undertaking deliveries shall be over 18 years of age.
- 17) Information regarding refusals to sell alcohol and refusals to deliver alcohol shall be recorded and retained in useable form and made available to authorised officers upon request.
- 18) The store shall be closed for public access 00.00 to 05.00 Hours and it shall only do delivery orders.

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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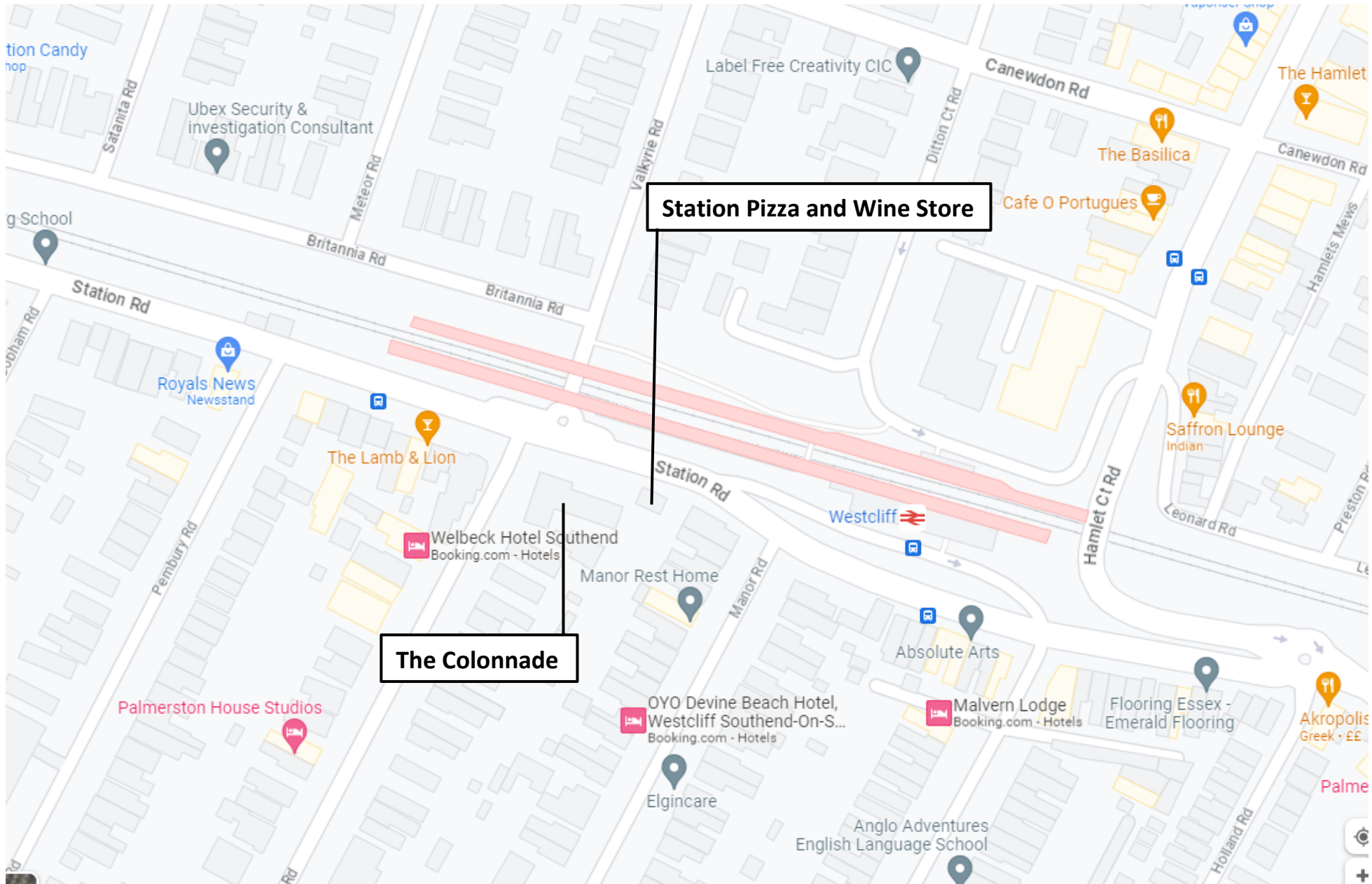
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