

Southend-on-Sea Borough Council

**Agenda
Item No.**

**Report of Deputy Chief Executive (Place)
To**

Licensing Sub-Committee

**On
23rd June 2017**

Report prepared by: Mark Newton

**The Ship Public House, New Road, Leigh-on-Sea, Essex, SS9 2EA
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 the EI Group PLC 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 Proposed Revised Conditions - (following consultation with Essex Police and the Environmental Protection Team during the consultation period.)**

3. Background

- 3.1 The application relates to a premises located on north side of New Road, Leigh-on-Sea.
- 3.2 The premises was trading as a Public House. It was previously licensed under a different licensee. That licence was surrendered on 6 March 2017. The Act provides for an incoming licensee to apply for a transfer of a surrendered Licence within 28 days of the surrender. EI Group applied to transfer but were outside the specified period and the application was therefore invalid.
- 3.3 The previous licence permitted the sale by retail of alcohol for consumption on and off the premises, the provision of regulated entertainment comprising plays, films, indoor sporting events, live music, recorded music, performances of dance or any

similar activity and the provision of entertainment facilities for dancing or similar activity (Entertainment facilities are now deregulated). The provision of late night refreshment without restriction.

- 3.4 A copy of the surrendered licence that includes all licence hours and conditions has been provided to members of the Licensing Sub Committee.

4. Proposals

- 4.1 The application was given to the Licensing Authority on the 25th April 2017 and is for the grant of a Premises Licence

- 4.2 Details of the application can be briefly summarised as follows:

- a) To provide the sale of Alcohol on and off the premises on Sundays to Thursdays from 08:00 to 00:00 (midnight) and on Fridays & Saturdays from 08:00 to 01:00. The terminal hour is extended on a number of notable days.
- b) The Provision of Late Night refreshment on Sundays to Thursdays from 23:00 until 00:00 (midnight) and on Fridays & Saturdays from 23:00 to 01:00. The terminal hour is extended on a number of notable days.
- c) The provision of Regulated Entertainment comprising plays, films indoor Sporting events, live music, recorded music performance of dance and anything similar.
- b) To be open to the public from Sundays to Thursdays from 08:00 to 00:30 and Fridays and Saturdays from 08:00 to 01:30. The terminal hour is extended on a number of notable days.

- 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 were received from seven local residents and Leigh Town Council.
- 5.3 Representations were received from two Responsible Authority, namely Essex Police and the Environmental Protection Team.
- 5.4 Revised conditions were agreed with Essex Police and the Environmental Protection Team during the consultation period which can be found 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 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 - Proposed Revised Conditions (following consultation with Essex Police and the Environmental Protection Team 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.
10. For the purposes of the condition 10 above —
- 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-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.

APPENDIX 2

PROPOSED REVISED CONDITIONS (FOLLOWING CONSULTATION WITH ESSEX POLICE & THE ENVIRONMENTAL PROTECTION TEAM)

POLICE CONDITIONS

1. The premises shall have installed and maintain a closed circuit television surveillance (CCTV) system which at all times complies with the below requirements:-
 - i. CCTV shall be provided in the form a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;
 - ii. CCTV cameras shall cover (all public areas including all entrances and exits); and External Areas
 - iii. Equipment shall be maintained in good working order, be correctly time and date stamped, recordings shall be kept in good working order and kept for a minimum period of 31 days;
 - iv. At all times, whilst the premises is open for licensable activities, there are members of staff able to immediately provide viewable copies of recordings to the police or licensing authority staff upon request;
 - v. The recording equipment and data storage devices shall be kept in a secure environment and fitted with security functions (such as passwords) to prevent recordings being tampered with.

An operational daily log report shall be maintained endorsed by signature, indicating the system has been checked and is compliant: in the event of any failings these are to be recorded immediately. Any failure of the CCTV system which cannot be rectified within 4 hours of discovery shall be reported to Essex Police via e-mail to licensing.applications@essex.pnn.police.uk.

2. 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/Military ID or 'PASS' accredited card.
3. The Licensee shall display signage both inside and outside the premises informing customers to leave quietly and to ensure that local residents are not disturbed.
4. No person under the age of 16 shall be permitted to remain in the premises after 22:00 unless it is for the purpose of completing a meal ordered prior to that time.
5. An incident log shall be kept at the premises, and made immediately available to Police or Licensing Authority staff upon 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) all seizures of drugs or offensive weapons
 - (f) any faults in a CCTV system, searching equipment or scanning equipment mandated as a condition of the licence.
6. 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 must be made immediately available to Police or Licensing Authority staff upon reasonable request.
7. The premises shall have in place and operate a zero tolerance policy with regard to the use/possession of controlled drugs and psychoactive substances and advertise the same within the premises on posters and similar means.
8. The Designated Premises Supervisor shall ensure that:-
- a) No drinking vessel of any kind save for and only bona fide off sales of factory sealed goods are taken beyond the permitted outside drinking areas marked on the approved plans.
 - b) Only toughened glass or polycarbonate drinking vessels are used in the Licensed Area.
9. The Designated Premises Supervisor shall ensure that all employees receive training on preventing sales of alcohol to underage and drunken persons and on the operating schedule /policies adopted by the premises. Training records shall be maintained by the Licensee and shall be available for inspection by the Police or Licensing Authority upon request. The training must be given to a new member of staff before they commence employment and all staff shall receive refresher training every six months.
10. The Designated Premises Supervisor shall risk assess the need for door supervision. Door supervisors will be provided on such dates, in such numbers and between such times as the risk assessment requires. A record will be maintained of the door staff duties including their names and SIA badge numbers.
11. No use shall be made of the external areas save for access and egress and smoking between 23:00 and 08:00 hours.
12. Any event that involves live performers or amplified music outside the venue shall be notified to the Police and Licensing Authority 21 days prior to the event. A full risk assessment shall be completed covering any measures that shall be put in place. Only the most suitable polycarbonate or plastic drinking vessels shall be used for outside events. The Designated Premises Supervisor shall engage with the

Police and Local Authority to address concerns such as noise, placement of speakers, times, location of barriers and the use of SIA door Supervisors. If the Police or Licensing Authority identify any potential problems that cannot be resolved by talking then these concerns shall be placed in writing and the event shall be withdrawn. All outside events shall cease at 21:00 hours.

ENVIRONMENTAL PROTECTION TEAM CONDITIONS

13. Before the playing of amplified music or speech, suitable and appropriate noise limiting devices shall be provided in every relevant area within the premises through which all amplification sources shall be connected. The devices shall be set by a suitably qualified acoustician (not a sound engineer) having particular experience and expertise in this field of acoustic work, at levels determined to prevent statutory noise nuisance affecting the occupiers of any noise sensitive premises. The devices, and the levels to which they have been set by the acoustician, shall be maintained at all times thereafter.
14. Before initial use of any part of the first floor of the premises that are the subject of this Licence, a scheme of acoustic attenuation shall be designed by a suitably qualified acoustician having particular experience and expertise in this field of acoustic work. The scheme shall be designed to effectively prevent the breakout of amplified music and speech from causing statutory noise nuisance to the occupiers of any noise sensitive premises. A copy of the proposals shall be submitted to the Licensing Authority for approval prior to installation. Following approval, the scheme shall be installed in accordance with that design and maintained at all times thereafter.