

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Place
To

Licensing Sub-Committee

On
12 February 2016

Report prepared by: Mark Newton

341 London Road, Westcliff-on-Sea, Essex, SS0 7HT
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 NESHET KOC 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.
- 2.4 Appendix 3 sets out conditions agreed between the applicant and the Licensing Authority and Essex Police.

3 Background

- 3.1 The application relates to a premises located on London Road within Westcliff-on-Sea, along a stretch of commercial units with residential properties located above and behind some of the units. The premises comprise a former restaurant and takeaway. The application is to convert the premises to a licensed restaurant and takeaway.

4 Proposals

- 4.1 The application was given to the Licensing Authority on the 23rd December 2015.
- 4.2 Details of the application can be briefly summarised as follows:
- a) To provide the sale of Alcohol for both on and off the premises Mondays to Sundays from 11:00 hours to 00:00 hours (midnight).

- b) To provide regulated entertainment consisting of Performance of Live Music, Recorded Music and the Performance of Dance from 11:00 hours to 00:00 hours (midnight) Mondays to Sundays.
- c) To offer the provision of Late Night Refreshment from 23:00 hours to 00:00 hours (midnight) Mondays to Sundays.
- d) The terminal hour is extended for all activities to 01:00 (the following day) on St. Patricks, St. Georges, St. David's & St. Andrews Days, Maundy Thursday to Easter Monday, Halloween (31st October), Christmas Eve to New Year's Eve and all bank & public holidays and the day immediately preceding them.
- e) To be open to the public from 11:00 hours to 00:30 hours the following day..

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 has now withdrawn.
- 5.3 No Representations were made by any of the Responsible Authorities. Conditions were agreed with the Licensing Authority and Essex Police during the consultation period which can be found at Appendix 3.
- 5.4 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.

8.3 Appendix 3 - Conditions agreed with the Licensing Authority 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. 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)

Where the permitted price given by sub-section (b) of Condition 11 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

CONDITIONS DRAWN FROM THE OPERATING SCHEDULE

- 1) Any sale of alcohol for consumption off the premises shall be limited to persons having purchased a meal and shall be in a sealed container. This may include a part consumed item which has been re-sealed.
- 2) The premises shall be run predominantly as a restaurant and the sale of alcohol for consumption on the premises shall be linked to the purchase of a substantial meal.
- 3) Substantial food and non-intoxicating beverages (including drinking water) shall be available throughout licensing hours.
- 4) Service of alcohol shall be by waiter/waitress only.
- 5) 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 or Home Office Approved ID card.
- 6) 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.
- 7) 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.
- 8) 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.
- 9) 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.
- 10) 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 30 days and made available to Essex Police on request. A member of staff who is trained to view/download images from CCTV shall be on duty at all times when the premises are open.
- 11) The Licensee shall ensure that a suitably worded sign of sufficient size and clarity is displayed advising customers that CCTV is operating at the premises.

- 12) The Licensee shall ensure that the externally stored commercial rubbish bins shall not be used or emptied between 20:00 hours and 09:00 hours the following day.
- 13) In the event that any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children are provided, these shall be limited to such times when customers under 18 years of age are not present

CONDITIONS AGREED WITH THE LICENSING AUTHORITY & ESSEX POLICE

- 1) There shall be a minimum 24 covers maintained downstairs and 34 covers upstairs.
- 2) No deliveries of alcohol shall be permitted from the premises.
- 3) Consumption of alcohol on the premises is not permitted by persons waiting for a takeaway meal to be cooked.
- 4) The external area shall only be used as a smoking area. Patrons will not be permitted to take food or drink with them when going out to smoke.
- 5) A maximum of 8 persons are permitted in the external area.
- 6) The external area shall be closed between 21.30 and 11.00 the following day.
- 7) Deliveries to the premises shall only be via the front doors (on the London Road aspect).