

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Deputy Chief Executive (Place)
To

Licensing Sub-Committee A

On
4th July 2019

Report prepared by: Mark Newton

1145 London Road, Leigh-on-Sea, Essex, SS9 3JE
Application for the Grant of a Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report

- 1.1 This report considers an application by Nilgun Shephard 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 existing licensed premises located on the London Road, Leigh-on-Sea, between the junctions of Olivia Drive and Scarborough Drive along a stretch of commercial units.

4. Proposals

- 4.1 The application was given to the Licensing Authority on the 8th May 2019.
- 4.2 Details of the application which are to be determined by the Sub-Committee can be briefly summarised as follows:
- a) To provide the sale of alcohol on and off the premises on Sundays & Thursdays from 15:00 to 00:00. Fridays & Saturdays from 15:00 to 02:00.
 - b) The provision of late night refreshment on Sundays & Thursdays from 23:00 to 24:00. Fridays and Saturdays from 23:00 to 02:00.

- c) To be open to the public on Sundays & Thursday from 15:00 to 00:00 and Fridays & Saturdays from 15:00 to 02:00

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 Leigh Town Council and two Responsible Authorities, namely Essex Police and the Licensing Authority in its role as a responsible authority.
- 5.3 Copies of the representation have been provided to the Sub-Committee Members. In accordance with the legislation, all parties have been invited to attend the hearing.
- 5.4 At the time of going to press the two Responsible Authorities have advised that negotiations are still ongoing with the applicant.

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. Existing Licensing Controls

- 7.1 The existing Premises Licence permits the following activities:
- a) The provision of late night refreshment on Sundays to Thursday from 23:00 to 01:00. Fridays and Saturdays from 23:00 to 03:00.
 - b) The provision of regulated entertainments comprising recorded music Sundays to Thursdays from 11:00 to 24:00. Fridays and Saturdays from 11:00 to 02:00.
- 7.2 A copy of the existing licence that includes all licence hours and conditions has been provided to members of the Licensing Sub Committee

8. Background Papers

- 8.1 Council's Statement of Licensing Policy.

9. Appendices

- 9.1 Appendix 1 - Mandatory conditions.
- 9.2 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.

CONDITIONS DRAWN FROM THE OPERATING SCHEDULE

- 1) All staff shall be fully trained in their responsibilities with regard to the sale of alcohol, and shall be retrained every six months, with recorded training records kept for inspection. Such training shall be recorded, and these records shall, on request, be made available to any Police or authorised person immediately upon demand.
- 2) Staff shall be trained to be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the situation without risk to customer or staff, then they are instructed to call the Police.
- 3) Alcohol shall only be sold to, and consumed by, persons seated at tables, or those waiting for a table. (to be clarified at hearing)
- 4) Deliveries shall only made to those over the age of 18.
- 5) A challenge 25 age verification scheme shall be used. ID will also be required for deliveries to customers who do not look 25 years old. Customers will be required to prove by way of photographic ID, either a passport or driving licence that they are at least 18. The card used for purchase will also be checked against the ID provided. If the business is in any doubt then the delivery of alcohol shall not be made, and a full refund shall be issued. Only photographic ID is accepted (passport, driving licence, proof of age card with PASS hologram, or military ID). Anyone who appears to be under the age of 25 is challenged to provide ID. If the customer is unable to provide identification then no sale is made. No ID no sale. Any staff member who may be under the age of 18 must call a senior staff member to take over the sale and complete the transaction. If it is known that a customer intends to purchase alcohol to provide to minors then that sale will be refused. All refused sales will be recorded in a refusals book, which will be made available for inspection by Police or Licensing Officers of the council on request.
- 6) An extensive CCTV system shall be in operation to provide security and identify any culprit who is intent in causing trouble in store. There shall be a monitor on the shop. All images shall be stored for a period of 31 days after which they can be erased or saved at the request of the Police. All current security measures shall remain in place. (to be clarified at hearing) Staff shall be fully trained in the operation of the CCTV system. Images shall be made available to the Police or authorised Licensing Officer from the council on request.
- 7) No one shall be permitted to loiter outside the premises thus having the potential of causing nuisance to customers, either in requesting they purchase alcohol on their behalf, or general intimidating behaviour. The entrance to the store shall be visible from the till point area, and shall be monitored by the staff. CCTV cameras shall also pick up any disturbance in this area.
- 8) Patrons leaving the premises shall be requested to leave in a quiet and orderly manner, by way of instore signage.