

# Southend-on-Sea Borough Council

Report of Deputy Chief Executive (Place)

To

Licensing Sub-Committee

On

15<sup>th</sup> July 2019

Report prepared by: Mark Newton

Agenda  
Item No.

Ravens, First Floor & Roof Garden, 6-7 Clifftown Road,  
Southend-on-Sea, Essex, SS1 1AB

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 Andres Artemi 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 Amended and Additional Conditions - (following consultation with the Essex Police during the consultation period).

## 3. Background

- 3.1 The application relates to an existing licensed premises located in Southend town centre at 6-7 Clifftown Road, Southend-on-Sea

## 4. Proposals

- 4.1 The application was given to the Licensing Authority on the 11<sup>st</sup> April 2019 and is for the grant of a Premises Licence. This application, although for a new licence, effectively extends the current hours.
- 4.2 Details of the application which are to be determined by the Sub-Committee can be briefly summarised as follows:
- a) To sub-divided the existing premises (First Floor & Roof Garden only)
  - b) To provide the sale of alcohol on and off the premises, the provision of regulated entertainment comprising plays, films, indoor sports, live music, recorded music,

performances of dance and anything of a similar description to live music, recorded music or performances of dance on Sundays to Thursdays from 08:00 to 01:00. Fridays and Saturdays from 08:00 to 03:00.

Licensable activities are extended on a number of notable days.

- c) The provision of late night refreshment on Sundays to Thursdays from 23:00 to 01:00. Fridays and Saturdays from 23:00 to 03:00.

Late Night Refreshment maybe extended on a number of notable days

- d) To be open to the public on Sundays to Thursdays from 08:00 to 01:30 and on Fridays & Saturdays from 08:00 to 3:30

Opening times are 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 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 three Responsible Authority, namely Essex Police, Environmental Protection Team and The local Planning Authority
- 5.3 Essex Police later withdrew its representation as the applicant agreed amended and addition conditions. **These can be found at Appendix 2**
- 5.4 Environmental Protection Team also later withdrew its representation.
- 5.5 A copy of the representation 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 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 and timings.

- a) The sale of alcohol for consumption on & off the premises. The provision of regulated entertainment comprising plays, performance of dance, films, indoor sporting events, live music, recorded music, and anything of a similar description to live music, recorded music or performances of dance

Fridays and Saturdays	08:00 - 02:00
Sundays to Thursdays	08:00 - 00:00

Licensable activities are extended on a number of notable days.

- b) The provision of Late Night Refreshment may be provided on

Fridays and Saturdays	08:00 - 02:00
Sundays to Thursdays	08:00 - 00:00

Late Night Refreshment maybe extended on a number of notable days.

- c) The opening times of the premises are unspecified.

Friday and Saturday	08:00 - 02:30
Sunday to Thursday	08:00 - 00:30

Opening times are extended on a number of notable days.

- 7.3 A copy of the existing Premises Licence has been supplied to the 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 - Proposed, amended and additional conditions agreed with Essex Police, 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) The responsible person must 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—
  - (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 in a manner which carries a significant risk of undermining a licensing objective; .
  - (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 in a manner which carries a significant risk of undermining a licensing objective; .
  - (d) 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; .

- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 5) The responsible person shall ensure that free potable water is provided on request to customers where it is reasonably available.
- 6) 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.
- 7) 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
- (ii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
- 8) 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.
- 9) For the purposes of the condition 8 —
- 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
- 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-section shall be taken to be the price actually given by that sub-section 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

### AMENDED AND ADDITIONAL CONDITIONS AGREED WITH ESSEX POLICE

#### **Ravens – First floor function room and Roof Garden Conditions agreed between the applicant and the police**

- 1) Discharge points to any mechanical ventilation, air conditioning and refrigeration systems shall be confined to the top and rear elevation of the building.
- 2) Save for exceptional circumstances (which shall be recorded in the door supervisors' record) door supervisors employed at the premises shall have:
  - a. Undertaken a refresher course in physical intervention skills (provided by a trainer who themselves has been trained by a SIA - endorsed awarding organisation and has a SIA required qualification for trainers);
  - b. To have received such training in the last 12 months; and
  - c. Proof of a) and b) to be made available to police, SIA or licensing authority staff within 3 working days.

Within one month of the grant of this licence 50% of door supervisors on duty at any one time shall have received the training shown at a) above rising to 100% within two months thereafter.

*(A new condition proposed by police)*

- 3) All door supervisors supervising the entrance to the premises and the Head Doorman (or person carrying out that function) shall wear Body Worn Video Cameras (BWV). Recordings of BWV shall be retained for a minimum of 31 days and be made available to the Police or an authorised officer of the Licensing Authority upon reasonable request.

These devices shall be capable of continuous recording for at least 6 hours and shall be used in a continuous recording mode whilst a door supervisor is performing licensable activities.

*(A new condition proposed by police)*

- 4) All SIA licensed door supervisors engaged at the premises for the purpose of supervising or controlling queues or customers shall wear high visibility jackets/vests/armbands or similar which clearly identify them as such.

*(A new condition proposed by police)*

- 5) Where SIA licensed door supervisors are employed at the premises (either directly or via a third party) a check of the current validity of each door supervisor's licence shall be conducted via the SIA website at the commencement of employment at the premises and monthly thereafter and recorded in a log. This log shall be retained for at least 6 months after the last recorded check and be immediately provided to the Police, SIA or Licensing Authority staff upon reasonable request.

*(A new condition proposed by police)*

- 6) A qualified first-aider shall be on the premises after 22:00 hours each day when the premises is open for the sale of alcohol. The first aider must have a valid (non-expired) qualification in Emergency First Aid at Work or higher.

Compliance with this requirement may be deferred until 1<sup>st</sup> October 2019 at the latest to enable sufficient staff training.

*(A new condition proposed by police)*

- 7) A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement and is either a:

- Proof of age card bearing the PASS Hologram;
- Photocard driving licence;
- Passport; or
- Ministry of Defence Identity Card.

*(Was originally condition no.1 and has minor amendment to wording from police)*

- 8) The Licensee shall clearly display signs at the each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.

*(Was originally condition no.2 and has minor amendment to wording from police)*

- 9) All staff engaged in the sale or supply of alcohol on the premises 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 the Police, Trading Standards or Licensing Authority staff upon reasonable request.

*(Was originally condition no.3 and has minor amendment to wording from police)*

- 10) A refusals record shall be maintained on each floor 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 the 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.

*(Was originally condition no.4 and has minor amendment to wording from police)*

- 11) 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 of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;

- ii. CCTV cameras shall cover all public entrances and exits, publicly accessible stairways, the alleyway adjacent to the premises and all areas where the sale of alcohol takes place;
- 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 shall be members of staff able to immediately provide viewable copies of recordings to the Police or Licensing Authority staff upon reasonable 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;
- vi. 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 failure this shall be recorded immediately.

*(Was originally condition no.5 and has minor amendment to wording from police in part ii)*

- 12) An incident log shall be kept at the premises, and made immediately available to the 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) 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

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

*(Was originally condition no.6 and has minor amendment to wording from police)*

- 13) During the period in which the premises is open for licensable activities, toilets shall be checked on at least an hourly basis for the purpose:

- A) of detecting and deterring the use of controlled drugs and psychoactive substances; and
- B) maintaining public safety.

A record of these checks shall be maintained with the date, time, and condition of the toilets and staff member conducting the check.

These records shall be made contemporaneously, retained at the premises for at least 3 months and made available immediately upon demand to the Police or Licensing Authority staff.

*(Was originally condition no.7 and has minor amendment to wording from police)*

- 14) 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.

This policy shall specifically include but not be limited to:

- I. Searching practices upon entry;
- II. Dealing with patrons suspected of using drugs on the premises;
- III. Scrutiny of spaces including toilets or outside areas;
- IV. Clear expectations of staff roles (including the DPS, managers/supervisors and door supervisors);
- V. Staff training regarding identification of suspicious activity and what action to take;
- VI. The handling of items suspected to be illegal drugs or psychoactive substances
- VII. Steps taken to discourage and disrupt drug use on the premises
- VIII. Steps to be taken to inform patrons of the premises drug policy/practices

A copy of this policy document shall be lodged with the Police and Licensing Authority.  
*(This replaces the original condition 8 and is new wording from police)*

- 15) No alcohol may be supplied by an individual without the written consent of the Designated Premises Supervisor or other employed Personal Licence Holder.

The written record 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.  
*(This was no.9 and has been amended by police)*

- 16) Off sales shall be limited to part consumed alcohol purchased with a meal and be in resealed container.  
*(This was no 10 – wording unchanged)*

- 17) On commencement of initial employment at the venue, each door supervisor shall be briefed by both a head doorman and a management representative which covers use of force, the tone to be set etc. and a record made of who delivered the briefing and to whom. This briefing shall be refreshed every six months and similarly recorded.  
*(This is a new condition from police)*

- 18) At all times when entertainment, activity or services of an adult nature takes place (which is not subject to a sexual entertainment licence) no persons under the age of 18 shall be permitted to be present.  
*(Was no 11 and has minor wording amendment by police)*

- 19) Except when being used for entry or egress, all external windows and doors shall be kept shut each day between 21:00 and 10:00 the following day.  
*(Was no 13 - police amended wording)*

- 20) Clear and legible notices must be prominently displayed at all exits requesting customers to respect local residents and leave the area quietly.  
*(Was condition 14 – amended police wording)*

- 21) Commercial rubbish bins shall not be used or emptied between 21:00 and 07:00 the following day.  
*(Was no 15 - wording unchanged)*
- 22) A written dispersal policy shall be formulated and provided to the Police and Licensing Authority which amongst other things details:
- How patrons leaving the premises shall be directed away from the premises;
  - How patrons shall be informed of the services of taxi and private hire operators;
  - What staff shall be responsible for supervising those leaving the premises and how they shall supervise such persons;
  - Any 'wind' down periods;
  - Methods to prevent re-entry to the premises;
  - How bottles and glasses shall be prevented from being removed from the premises at closing time.
- (A new condition from the police)*
- 23) Where SIA licensed door supervisors are used at the premises a record shall be maintained (on the premises) which is legible and details:
- I. The day and date when door supervisors were deployed;
  - II. The name and SIA registration number of each door supervisor on duty at the premises; and
  - III. The start and finish time of each door supervisor's worked duty period.
- This record shall be retained on the premises for 31 days and be immediately provided to the Police or Licensing Authority staff upon reasonable request.  
*(This was no 16 and has been replaced by new police wording)*
- 24) On any occasion where the premises conducts licensable activities past 20:00, at least 2 SIA licensed door supervisors shall be on duty from 20:00 until at least 30 minutes after the premises closes.  
*(This was condition 17 and is a new wording from police)*
- 25) No noise including amplified music or voices shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance at any noise sensitive premises.  
*(Was 18 – wording unchanged)*

### **First Floor**

- 26) The capacity of the premises combined shall not exceed 200.  
*(Originally 19a) but amended through discussion)*
- 27) If the premises is to be used for events at which people under 18 years old form a significant proportion of those present the licence holder shall complete a risk assessment in advance with a particular emphasis on protecting children from harm including;

- The risk of under 18 years accessing alcohol whilst on the premises and the steps to be taken to mitigate such risks;
- Whether SIA doorstaff should be employed and their gender profile
- If search practices should be adopted upon entry and how this shall be conducted including actions regarding drugs, alcohol and drunkenness
- Whether any risk exists from the unregulated presence of adults and the steps to mitigate such risks

The appropriate responsible authorities shall be invited to contribute to the compilation of such risk assessments which shall be shared with such parties on reasonable request.

*(A new condition at police request)*

- 28) The premises shall be run predominantly as a restaurant when not in use as a function room.

*(Originally condition 19b – unchanged)*

- 29) At all times, admission to the premises shall remain under the exclusive control of the premises' management and staff and any SIA licensed door supervisors deployed shall be hired (directly or indirectly) by the premises licence holder, designated premises manager or some other responsible person directly involved in the management of the premises.

This requirement exists even where:

- The premises is hired/used by independent promoters; or
- An arrangement exists with an independent promoter who arranges an event that includes admission to the premises.

*(This was condition 20 and has been re-worded by the police)*

## **Second Floor (Roof Garden)**

- 30) There shall be no use of the roof garden from 23:00 until 10:00 the following day other than for maintenance and emergency escape purposes.

*(Originally 22 - minor with word change)*

- 31) The maximum capacity of the roof garden shall not exceed 60 patrons.

*(Originally 23 – unchanged)*