

# Southend-on-Sea Borough Council

**Report of Corporate Director for Place  
to  
Licensing Sub-Committee (B)  
on  
11 April 2016**

Report prepared by: Deborah Bentham

**Agenda  
Item No.**

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**Broadway, 12 Broadway, Leigh-on-Sea, SS9  
Application for the Grant of Premises Licence**

**LICENSING ACT 2003**

***A Part I Public Agenda Item***

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**1. Purpose of Report**

- 1.1 This report considers an application by Corner Flag Limited for the grant of a Premises Licence in respect of Broadway, 12 Broadway, Leigh on Sea, SS9 1AW.

**2. Recommendation**

- 2.1 **That the Sub-Committee determines the application.**
- 2.2 **Should the Sub-Committee decide to approve the application Appendix 1 sets out the mandatory conditions that must be added to the licence.**
- 2.3 **Appendix 2 to this report sets out the conditions originally offered as part of the application, for the Sub-Committee's consideration.**
- 2.4 **Appendix 3 sets out the conditions agreed between the applicant and Essex Police and the Licensing Authority in its role as the Responsible Authority.**

**3 Background**

- 3.1 The application relates to an established bar formerly known as The Carlton. The premises are situated at 12 Broadway which is a busy thoroughfare housing a number of licensed premises. The Broadway comprises an open planned bar area with access / egress at the front on to the Broadway. There is a beer garden to the rear of the property used for consumption and smoking.
- 3.2 The premises has operated for many years as a public house and has held a Premises Licence with Southend Borough Council since the introduction of the Licensing Act in 2005. The Premises licence remains in place. This application is however for a new Premises Licence (and not to vary the existing licence) which seeks to extend the terminal hours of licence activities and include some additional conditions. Details of the current licence and conditions are detailed in paragraph 6.5.1.

## 4 Proposals

- 4.1 The application was given to the Licensing Authority on 12 February 2016 and is for the grant of a Premises Licence.
- 4.2 Details of the application, as amended , can be briefly summarised as follows:-
- a) The supply of alcohol for consumption on and off the premises as follows:-  
Sunday to Thursday 10.00 to 00.00  
Friday and Saturday 10.00 to 01.00 the following morning
  - b) Provision of regulated entertainment comprising Indoor sports as follows:-  
Sunday to Thursday 10.00 to 00.30  
Friday and Saturday 10.00 to 01.30 the following morning
  - c) Provision of regulated entertainment indoors comprising recorded and live music, dancing and entertainment of a similar nature and provision of films  
Sunday to Thursday 10.00 to 00.30  
Friday and Saturday 10.00 to 01.30 the following morning
  - d) To provide late night refreshment indoors as follows:-  
Sunday to Thursday 10.00 to 00.00  
Friday and Saturday 10.00 to 01.00 the following morning
  - e) The premises to remain open during the following hours  
Sundays to Thursday from 10.00 to 00.30 the following morning  
Friday and Saturday 10.00 to -01.30
  - f) In respect of all the above activities on the following days the terminal hours of licensable activities shall be extended by 1 hour:-  
Sundays immediately prior to a Bank Holiday Monday, Christmas Eve, Boxing day, Maundy Thursday, St. Patrick's Day & St Georges Day.
  - g) On New Year's Eve from the end of the permitted hours to the start of the permitted hours the following day.
- 4.3 **Note:** the above application originally sought terminal hours for alcohol on Sunday to Thursday from 10.00 to midnight and Saturday and Sunday to 02.00 the following mornings plus an additional 30 minutes for regulated entertainment. Following negotiations with Essex Police and the Licensing Authority acting as Responsible Authority see paragraph 5.2 below and Appendix 3..

## 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 Police and Licensing Authority as a Responsible Authority met with the applicant and it was agreed that the application be amended in order to reduce the terminal hours sought and to add a number of additional conditions, should the licence be granted (Please see Appendix 3 for full details)
- 5.3 12 letters making representations have been received from interested parties (Please note that at the time of writing 2 parties have not provided their address details and these have been requested)
- 5.4 A copy 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 necessary 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.

## 6.5 Existing Licence

6.5.1 This application is not for a variation of an existing licence. However, details of the current licence, for information are as follows:-

- a) The supply of alcohol for consumption on and off the premises as follows:-  
Monday to Thursday 10.00 to 23.00 the following morning  
Friday and Saturdays 10.00 to 00.00  
Sundays from 12 noon to 23.00
- b) Provision of regulated entertainment comprising recorded music live music indoors as follows:-  
Mondays to Saturdays from 19.00 to 23.00
- c) Provision of regulated entertainment comprising recorded music indoors  
Monday to Saturday from 08.00 to 01.30 the following mornings  
Sunday from 08.00 to 00.30 the following morning.
- d) To provide late night refreshment indoors as follows:-  
Mondays to Saturday from 23.00 to 01.30  
Sundays 23.00 to 00.30
- e) The premises to remain open during the following hours  
Mondays to Saturdays from 08.00 to 01.30  
Sunday 08.00 to -00.30
- f) Extensions on special occasions as detailed in the copy licence provided to the Sub Committee

6.6 A copy of the existing licence that includes all licence conditions has been provided to members of the Licensing Sub Committee and will be available at the hearing if required

## 7 Background Papers

7.1 Council's Statement of Licensing Policy.

## 8. Appendices

8.1 Appendix 1 – Mandatory conditions

8.3 Appendix 2 – Conditions drawn from the application, for the Sub-Committee's consideration.

8.3 Appendix 3- Conditions agreed between the applicant 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) 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.
- 10) 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.
- 11) 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 APPLICATION/ OPERATING SCHEDULE SEE AMENDMENTS AND ADDITIONS AGREED WITH POLICE IN APPENDIX 3

- 1 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.
- 2 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.
- 3 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. AMENDED SEE APPENDIX 3.
- 4 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.
- 5 The Licensee shall operate a zero tolerance policy with regard to the use/possession of drugs in the venue and shall advertise the same within the premises on posters and similar means. AMENDED – SEE APPENDIX 3
- 6 Toilets shall be checked on a regular basis for the purpose of crime prevention.
- 7 Where door staff are utilised at the premises, the Licensee shall ensure that a proper record is kept to show full details of all door staff on duty. A personal licence holder shall be on the premises from 22.00 until closing time. SEE AMENDED APPENDIX 3
- 8 A Personal Licence holder shall be on the premises from 22.00 until closing time. AMENDED SEE APPENDIX 3
- 9 The Licensee shall ensure that only toughened glass drinking vessels shall be used on the premises. The Licensee shall take all reasonable and practicable steps to ensure that no bottles or drinking vessels are taken from the premises save for bone-fide 'off' sales. AMENDED SEE APPENDIX 3
- 10 Persons under 16 years of age shall not be allowed entry to the premises unless they are accompanied by an adult. AMENDED SEE APPENDIX 3
- 11 The gaming machines shall be adequately monitored to prevent access by children and warning signs shall be displayed.
- 12 Arrangements shall be maintained with taxi services to facilitate the prompt departure of patrons.



- 13 Bottle bins shall not be emptied between 8pm and 9am the following day. AMENDED  
SEE APPENDIX 3.
- 14 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 shall not  
be provided.

## **APPENDIX 3**

### **CONDITIONS AGREED BETWEEN THE POLICE LICENSING AUTHORITY ACTING AS RESPONSIBLE AUTHORITY AND THE APPLICANT**

- 1 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 31 days and made available to Essex Police on request. A member of staff who is trained to view/download images from the CCTV shall be on duty at all times when the premises are open. In the event of technical failure of the CCTV equipment the Premises. Licence Holder/DPS must report the failure to the Police Licensing Team Immediately.
- 2 The Licensee 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.
- 3 The Licensee shall operate a zero tolerance policy with regard to the use/possession of Drugs /Psychoactive Substances in the venue and shall advertise the same within the premises on posters and similar means. (without prejudice to the Psychoactive Substances Act 2016)
- 4 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.
- 5 A minimum of TWO Security Industry Authority registered door staff will be employed from 2000hrs every Friday and Saturday night until 30 minutes after close of business. Also on Sundays preceding a Bank Holiday And the Bank Holiday. The DPS will risk assess the number and use of door staff on other days, times and occasions or where the Police have requested door staff are used. A record to be maintained of the door staff duties including name & SIA badge numbers.
- 6 A Personal License Holder shall be on the premises from 21:00 hours until closing time with a full complement of staff being a minimum of three Thursday through

Sunday and all Bank Holidays.

- 7 No Bottles, Glasses or Drinking Vessels to be taken beyond the boundary of the licensed area as marked on the deposited plans except bona fide off sales.
- 8 Persons under 16 years of age shall not be allowed entry to the premises unless they are accompanied by an adult. No persons under 18 year of age shall be allowed on the premises after 21:00 hours until opening the following day.
- 9 Commercial rubbish bins shall not be used or emptied between 20.00 hours and 09.00 hours the following day.
- 10 No use shall be made of the rear external area's save for access and egress between 22:00 and 10:00 hours.
- 11 The DPS or a representative holding a Personal License shall actively take part in any local Licensing/ Watch/BOBB scheme and engage and work with the local Police community and Licensing teams.