

# Southend-on-Sea Borough Council

Report of the Executive Director (Neighbourhoods and  
the Environment)

To

Licensing Sub-Committee A

On

18 August 2020

Report prepared by: Mark Newton

Agenda  
Item No.

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27 Eastwood Boulevard, Westcliff-on-Sea

Essex, SS0 0BY

Application for the Grant of a Premises Licence

**LICENSING ACT 2003**

*A Part I Public Agenda Item*

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## 1. Purpose of Report

This report considers an application by Kabesar Limited 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 condition must be applied. (This is set out in Appendix 1).

2.3 Appendix 2 sets out conditions drawn from the operation schedule, with an additional offered condition for the Sub-Committee's consideration.

## 3. Background

3.1 The application relates to a premises located on the corner of Eastwood Boulevard and Cavendish Gardens, Westcliff-on-Sea, within a small parade of shops (3)

## 4. Proposals

4.1 The application was given to the Licensing Authority on the 19<sup>th</sup> June 2020 and is for the grant of a Premises Licence.

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 off the premises daily from 07:00 to 21:00.
- b) To be open to the public daily from 07:00 to 21:00.

- 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 the grant of a 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. One of which was in support of the application.
- 5.3 One representation was later withdrawn, following agreement to the condition which is highlighted at Annex 2 condition 9.
- 5.4 No representations were made by any of the Responsible Authorities.
- 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 condition.

8.2 Appendix 2 - Conditions drawn from the the operation schedule, together with an additional offered condition for the Sub-Committee's consideration.



# 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)
  - 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, TOGETHER WITH AN ADDITIONAL CONDITION**

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, UK military ID or 'PASS' accredited card.
2. At the point of placing an order either by telephone or via a website, customers will be informed that the premises operate a Challenge 25 policy and detail what forms of identification may be required upon delivery
3. The Licensee shall ensure that signage is displayed advising customers that a 'Challenge 25' policy is in force.
4. The Licensee shall ensure that all engaged in the sale or supply of alcohol 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. The training must be given to a new member of staff before they are permitted to sell alcohol. Training records shall be kept on the premises for a minimum of 12 months and made immediately available to authorised police or licensing authority staff upon reasonable request. Those holding an appropriate licensing qualification and/or a Personal Licence shall be exempt from this requirement.
5. The Licensee shall ensure that a refusal book is maintained at the premises which details all refusals to sell age restricted products. 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. The refusals book shall be made available to the Police/Licensing Authority upon request.
6. The Licensee shall ensure that a written record is kept on the premises of all persons authorised by the DPS or a personal licence holder to sell or supply alcohol in their name. Such records shall be made available to the Police/Licensing Authority upon request.
7. The premises shall install and maintain a closed-circuit television surveillance (CCTV) system which at all times complies with the below requirements:
  - a) CCTV shall be provided in the form a recordable system, capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition.
  - b) CCTV cameras shall cover all public areas including all public entrances and exits.

- c) CCTV Equipment shall be maintained in good working order, be correctly time and date stamped. Recordings shall be kept for a minimum period of 31 days;
  - d) At all times, whilst the premises is open for licensable activities, there shall be members of staff on call who is able to provide viewable copies of recordings to the police or licensing authority staff upon reasonable request.
  - e) 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.
8. The Licensee shall ensure that an incident log is maintained on 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 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

**Additional offered condition.**

9. The licensee shall ensure that on any day that schools within 600 metres of the shop are operating (students present) any alcohol on display shall be covered between the hours of 3 pm and 4pm