

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Executive Director
(Neighbourhoods and the Environment)
To

Licensing Sub-Committee

On

4th September 2020

Report prepared by: Anthony Byrne

Scouts, adjacent to 53 High Street, Leigh-on-Sea, Essex, SS9 2EP
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 Scouts of Leigh Ltd. 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 conditions drawn from the operation schedule, together with amended and additional conditions (following consultation with The Licensing Authority and Essex Police during the consultation period) for the Sub-Committee's consideration.**

3. Background

- 3.1 The application relates to a premises located in High Street Leigh-on-Sea also known as Leigh Old Town. This is an area of mixed commercial and residential properties, including premises associated with the fishing and tourism industries as well as a number of licensed premises.

4. Proposals

- 4.1 The application was given to the Licensing Authority on the 29th June 2020 and is for the grant of a Premises Licence.
- 4.2 The date of hearing was delayed due to the Covid-19 outbreak.

- 4.3 Details of the application which is 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 daily from 09:00 to 00.00. Following consultation with The Licensing Authority the sale of alcohol from the premises (off sales) has been withdrawn from the application. On Sundays preceding Bank Holiday Mondays, St. Valentine's Day, Christmas Eve and New Year's Eve these hours shall be 09.00 to 01.00.
 - b) To provide Late Night Refreshment daily from 23.00 to 00.00. On Sundays preceding Bank Holiday Mondays, St. Valentine's Day, Christmas Eve and New Year's Eve these hours shall be 23.00 to 01.00.
 - c) Hours of opening to the public are from 09.00 to 00.00. On Sundays preceding Bank Holiday Mondays, St. Valentine's Day, Christmas Eve and New Year's Eve these hours shall be 09.00 to 01.00. (NB: The planning permission for the A3 restaurant use of the premises places conditions on the opening times of the premises.)
- 4.4 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 14 local residents.
- 5.3 No Representations were made by any of the Responsible Authorities except the Licensing Authority. This representation was later withdrawn following the agreement of conditions. Conditions were also agreed with The Essex Police during the consultation period which can be found at **Appendix 2**.
- 5.4 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 conditions.
- 8.2 Appendix 2 - **Conditions drawn from the the operation schedule, together with amended and additional conditions (following consultation 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.

For the purposes of the above condition —

- 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)
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-paragraph shall be taken to be the price actually given by that sub-paragraph 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.

CONDITIONS DRAWN FROM THE OPERATING SCHEDULE, TOGETHER WITH AMMENDED AND ADDITIONAL CONDITIONS (FOLLOWING CONSULATION WITH THE LICENSING AUTHORITY AND ESSEX POLICE DURING THE CONSULATION PERIOD).

- 1) Alcohol shall be supplied ancillary to a table meal only.
- 2) There shall be no off-sales of alcohol, notwithstanding the relevant provisions of the Business and Planning Act 2020.
- 3) No bottles, glasses or containers shall be taken outside the perimeter of the premises.
- 4) All staff 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. 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 police, trading standards or licensing authority staff upon reasonable request.
- 5) No alcohol may be supplied by an individual unless that individual has the written consent of the Designated Premises Supervisor or other employed Personal Licence Holder. A written record of this consent must 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.
- 6) Where SIA licensed door supervisors are used at the premises a record shall be maintained (on the premises) which is legible and details:
 - The day and date when door supervisors were deployed;
 - The name and SIA registration number of each door supervisor on duty at the premises;
 - 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 police or licensing authority staff upon reasonable request.
- 7) A properly specified and fully operational CCTV recording system shall be installed, operated and maintained.
 - The system shall incorporate a camera covering each of the entrance doors and be capable of providing an image which is regarded as 'identification standard' of all persons entering and/or leaving the premises.
 - The CCTV system shall be in operation at the premises at all times when the premises are used for the provision of licensable activity.
 - All CCTV recordings shall be securely stored for a minimum of one calendar month.
 - A staff member from the premises who can operate the CCTV system shall be on the premises at all times when the premises are open to the public.

This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.

- Signage indicating that a CCTV recording system is in operation shall be displayed prominently in the premises.
- 8) The Licensee shall implement a written dispersal policy to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours both residential and business and to make the minimum impact upon the neighbourhood in relation to potential nuisance, anti-social behaviour, crime and disorder. The Licensee shall comply with the contents of the policy or any subsequent version agreed with the police and licensing authority. The policy shall include the following matters:-
- How patrons leaving the premises shall be directed away from the premises;
 - How patrons will be informed of the services of taxi and private hire operators;
 - What staff will be responsible for supervising those leaving the premises and how they will supervise such persons;
 - Any 'wind' down periods;
 - Methods to prevent re-entry to the premises;
 - How bottles and glasses will be prevented from being removed from the premises at closing time.
- 9) The premises licence holder shall uphold a zero tolerance policy in relation to illegal drugs.
- 10) Any person entering the premises who appears to be under the influence of alcohol or drugs shall in the interests of other members of the public using the premises be requested to leave the premises.
- 11) A premises daily register shall be kept at the premises. This register shall be maintained and kept for a rolling period of 12 months. The register shall record all incidents which may have occurred which are relevant to the supply of alcohol and the promotion of the licensing objectives. Such incidents shall include, but not be limited to, complaints made to the premises alleging nuisance or anti-social behaviour by persons attending or leaving the premises and all refusals to sell alcohol. The register shall be readily available for inspection by an authorised person upon reasonable request.
- 12) All occasions when persons have been refused service shall be recorded in the premises daily register
- 13) A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are the following recognised photographic identification cards: a driving licence, a passport, a military identification card or a Proof of Age card carrying a 'PASS' hologram.
- 14) There shall be no children unaccompanied by a responsible adult on the premises after 19:00.
- 15) All drinks promotions shall be risk-assessed to ensure the promotion is not irresponsible. Each risk-assessment shall consider the nature of the premises, the

nature of the promotion including the size and duration of any discount and the type of customer potentially attracted by the promotion.

- 16) Super-strength lagers, beers and/or ciders, i.e. those with an ABV of 6.5% or higher, shall not be sold at the premises.
- 17) External seating shall be monitored frequently.
- 18) Patrons smoking outside the premises shall be monitored regularly to ensure the potential for noise nuisance is controlled.
- 19) The premises' frontage shall be regularly monitored to keep it clean and clear of litter.
- 20) The seating area outside the premises shall be cleared by 22:00.
- 21) The premises licence holder shall ensure that an electrical compliance check is made at least once a year.
- 22) An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.
- 23) All exit routes and public areas shall be kept unobstructed, shall have non-slippery and even surfaces, shall be free of trip hazards and shall be clearly signed.
- 24) No accumulation of combustible rubbish, dirt, surplus material or stored goods shall be permitted to remain in any part of the premises except in an appropriate place and of such quantities so as not to cause a nuisance, obstruction or other safety hazard.
- 25) Arrangements shall be put in place to ensure that waste collection contractors do not collect refuse between 19:00 and 07:00.