

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Executive Director  
(Neighbourhoods and the Environment)

To

Licensing Sub-Committee

On

8<sup>th</sup> October 2020

Report prepared by: Anthony Byrne

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34-36 Elm Road, Leigh-on-Sea, SS9 1SN  
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 Rococo (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 premises located in Elm Road, within a parade of commercial units, some with residential upstairs. The site occupies a unit on the east side of the road between North Street and Broadway.

## 4. Proposals

- 4.1 The application was given to the Licensing Authority on the 9<sup>th</sup> 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 Mondays to Wednesday from 09:00 to 23:30, Thursdays 09:00 until 00:00, Fridays and Saturdays 09:00 until 01:00 and Sundays 09:00 until 23:30.
  - b) To provide provision of Films, Recorded Music and Late Night Refreshment Monday to Wednesday from 23:00 to 23:30, Thursdays from 23:00 until 00:00, Fridays and Saturdays from 23:00 until 01:00 and Sundays 23:00 until 23:30.
  - c) The Provision of Live Music daily from 09:00 until 23:00.
  - d) Hours of opening for the premises are Monday to Thursday from 09:00 until 00:00 and Fridays to Sunday 09:00 until 01:00.
- 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 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-on-Sea Town Council.
- 5.3 Representations were made by The Licensing Authority as one of the Responsible Authorities and withdrawn following agreement with the applicant. Conditions were agreed by the applicant with The Licensing Authority and Essex Police. These can be found in can be found at **Appendix 2**.
- 5.4 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.

## **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 sale by retail of alcohol for consumption on and off the premises.
- b) The provision of late night refreshment.
- c) The provision of regulated entertainment comprising live music, recorded music, and films. (Entertainment facilities are now deregulated).

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. It should be noted that the application subject of this report is for the grant of a new premises licence not the variation of the existing licence.

## **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 the operation schedule, together with amended and additional conditions (following consultation with The Licensing Authority and Essex Police during the consultation period).



## 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) Subject to public health requirements and any private pre-booked function, a minimum of 50 covers shall be maintained on the ground floor and a minimum of 25 covers maintained on the first floor of the premises.
- 2) The capacity of the premises shall not exceed 150 patrons (excluding staff).
- 3) On 12 days per calendar year, and no more than 2 days per month, the tables on the first floor of the premises may be removed to accommodate pre-booked functions. These shall be known as 'special days'.  
The licensee shall keep a register of these days including details of the person who booked, the reason for the event and number of persons attending as confirmed by the person booking the function. The record shall be available for inspection by Licensing Authority and/or Police.
- 4) The premises shall run as a restaurant and except for private pre booked functions and the first floor area hatched on the plan, customers will be seated at tables with waiter/ waitress service and the sale of alcohol for consumption on the premises shall be linked to the purchase of a substantial meal.
- 5) Any sale of alcohol for consumption off the premises shall be limited to persons having purchased a meal and shall be in a sealed container. This may include a part consumed item which has been re-sealed.
- 6) Customers will not be permitted to take their drinks and consume them standing on the street outside the premises.
- 7) 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 will be provided in the form a recordable system, capable of providing pictures of evidential quality {in all lighting conditions} particularly facial recognition;
  - (ii). CCTV cameras shall cover all entrances {and exits} and the areas where alcohol sales take place;
  - (iii). Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order and kept for a minimum period of 31 days;
  - (iv). Upon the reasonable request of the police or licensing authority staff, within 48 hours viewable copies of recordings will be provided.
- 8) 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. Refresher training shall be undertaken every 6 months. Training records shall be maintained by the Licensee and shall be available for inspection by the Police or Licensing Authority upon request.

- 9) Toilet areas shall be checked at 60-minute intervals when the premises are open, for the purpose of crime and disorder prevention. The Licensee shall keep a written record of these checks and it shall be available for inspection by the Licensing Authority and/or Police.
- 10) Entrances and exits shall be kept clear at all times.
- 11) The Licensee shall conduct risk assessments as appropriate, in relation to public safety.
- 12) The Licensee shall ensure that signage is displayed to request departing patrons to leave quietly.
- 13) The Licensee shall ensure that arrangements are in place with a local taxi firm to take persons away from the premises quickly and quietly.
- 14) Bottle bins shall not be emptied after 20:00 or before 08:00 on any day.
- 15) 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.
- 16) The Licensee shall ensure that signs are located at the point of sale and in the area where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.
- 17) 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.
- 18) Persons under 16 years of age shall not be permitted on the premises except when:
  - i) supervised by a responsible adult, and
  - ii) only when partaking of a table meal or attending a pre- booked private function.
- 19) No 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 may be provided.
- 20) No 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 may be provided.
- 21) An incident log shall be kept at the premises and made immediately available to police or licensing authority staff upon reasonable request.  
The log must 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.

- 22) A written record shall be kept of all staff authorised to sell alcohol on behalf of either the designated premises supervisor or a personal licence holder. Such records shall be available for inspection by the Police or Licensing Authority upon request.
- 23) All entrance and exit doors and folding doors to the restaurant shall be kept closed from 22:00 to 09:00 except for access and egress when the premises is open to the public.
- 24) From 4<sup>th</sup> July 2020 to 31<sup>st</sup> March 2021 inclusive, the period specified in condition 27 shall be amended from commencing at 22:00, to commence at 23.00 and end at 09:00.
- 25) No regulated entertainment will be provided in an external area of the premises.
- 26) Save for incidental music, when amplified music or sound is provided at the premises between 22:00 and 09.00 the following day, all exit and entrance doors, the folding doors and all windows shall be kept closed except for access and egress when the premises is open to the public.
- 27) The external terrace area will be cleared of customers by 22:00 each day.