

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Executive Director  
(Neighbourhoods and the Environment)  
To

Licensing Sub-Committee A

On

15<sup>th</sup> March 2021

Report prepared by: Theo Bahannack

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148-150 Hamlet Court Road, Westcliff-on-Sea  
Essex, SS0 7LN

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 Saam Balasingam & Sithamparapillai Uthayaraj 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, together with amended and additional condition agreed with Essex Police during the consultation period for the Sub-Committee's consideration.

3. Background

3.1 The application relates to a premises located on Hamlet Court Road, on the junction of St. Johns Road, Westcliff-on-Sea.

4. Proposals

4.1 The application was given to the Licensing Authority on the 4<sup>th</sup> of January 2021 and is for the grant of a Premises Licence. The hearing was delayed as the consultation period was extended following a failure in the advertising of the application.

4.2 The application was amended by the applicant after consultation with Essex Police, so as to reduce the licensable hours originally sought.

- 4.3 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 23:00.
  - b) To be open to the public daily from 06:00 to 00:00.

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 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 eleven local residents.

5.3 Three representation were later withdrawn, two of those following the amendments to the hours and conditions agreed with Essex Police and the applicant.

5.4 No Representations were made by any of the Responsible Authorities. Conditions were agreed with Essex Police during the consultation period which can be found at **Appendix 2**.

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 Amended and additional conditions agreed with Essex Police and the applicant 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)
  - 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.

## APPENDIX 2

### CONDITIONS DRAWN FROM THE OPERATING SCHEDULE, TOGETHER WITH AMENDED AND ADDITIONAL CONDITION AGREED WITH ESSEX POLICE AND THE APPLICANT.

1. Personal Licence holders on duty. (to be clarified at the hearing)
2. The Designated Premises Supervisor shall supervise day to day running of the business
3. The Licensee shall ensure that the premises is secured with an appropriate 24 hour alarm system.
4. The Licensee shall ensure that staff have unobscured vision of the entrance and exit area from the counter.
5. All staff shall receive training in regards to the fire drill and first aid.
6. 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) any faults in a CCTV system mandated as a condition of the licence

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

7. A refusals record shall be maintained 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 must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to 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.
8. 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 The Police, Trading Standards or Licensing Authority staff upon reasonable request.
9. 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

The premises 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.

10. The premises shall have installed and maintain a closed circuit television surveillance (CCTV) system which at all times complies with the below requirements:
- CCTV shall be provided in the form a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;
  - CCTV cameras shall cover all entrances and exits and the areas where alcohol sales take place;
  - 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;

Upon the reasonable request of the Police or Licensing Authority staff, within 48 hours viewable copies of recordings shall be provided.

Signs must be displayed at all entrances and exits advising customers that CCTV is operating at the premises at all times when the premises conducts licensable activities.

11. 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.