

# Southend-on-Sea Borough Council

Report of The Executive Director of Neighbourhoods and  
the Environment

To

Licensing Sub-Committee B

On

27<sup>th</sup> April 2021

Report prepared by: Theo Bahannack

Agenda  
Item No.

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1 Parkgate, Westcliff-on-Sea  
Essex, SS0 7NY

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 Daniel Carter 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 domestic premises, located in a residential street, at 1 Parkgate, off Park Road, Westcliff-on-Sea.

4. Proposals

4.1 The application was given to the Licensing Authority on the 8th of March 2021 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 supply alcohol for consumption off the premises via online orders, on a 24 hour basis. (it should be noted that customers do not have access to the licensed premises, see condition 7 in appendix 2)

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 two local residents.

5.3 No representations were withdrawn, following consultation with the objectors.

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 conditions.

8.2 Appendix 2 - Conditions drawn from the operation schedule, together with Amended and additional conditions agreed with Essex Police and the applicant 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.

## APPENDIX 2

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

1. The Licensee, shall ensure that at all times, has the sufficient training and up-to date knowledge to fulfil the terms and conditions of the licence and for preventing crime and disorder.
2. The licensee, shall ensure that the appropriate systems are in place both online and physically in relation to the sale and provision of alcohol, particularly with regard to drunkenness and underage persons.
3. The Licensee to provide an indoor CCTV camera. The system shall observe the hallway and doorway into the premises.
4. The Licensee will limit the number of bottles stored at the premises to a maximum of 48 at any given time. The alcohol designated and purchased through the business will be kept in a locked cupboard situated in the 'office'.
5. Where the sale of alcohol takes place on any website, customers are to be notified of the age verification policy, 'No ID No sale/delivery' policy and that it is an offence for a person under the age of 18 to buy or attempt to buy alcohol; or buy, or attempt to buy, alcohol for a person under the age of 18.
6. Alcohol shall not be delivered to any person other than at a residential or business address given. It will not be delivered to persons in the vicinity or in a Park, Street or similar location.
7. All orders/deliveries which include alcohol shall be paid for at the time of ordering via the internet, or via telephone credit card payment. There will be no cash or payment taken at the time of delivery.
8. At the point of delivery there shall be age verification process in place (Challenge 25). To include any third-party delivery services used.
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.
10. 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.

11. No customer or member of the public shall have access to the premises where the alcohol is stored.
12. A refusals record shall be maintained at the premises that 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 shall 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 be either electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.