

Southend-on-Sea Borough Council

Report of The Executive Director of Neighbourhoods and
the Environment

To

Licensing Sub-Committee B

On

21st September 2021

Report prepared by: Paul Richards

Agenda
Item No.

Just A Bevy Ltd, 1745 London Road, Leigh-On-Sea, Essex, SS9 2SW

Application to Vary a Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report

This report considers an application by Just A Bevy Ltd, to vary the hours to permit the supply of alcohol Monday to Sunday 00:00 – 24:00 (24 hours a day, 7 days a week.

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 the Licensing Conditions attached to the current Licence.
- 2.4 This application offers several licence conditions to be added as additional licence conditions, if granted. These licence conditions directly address how the premises will operate while carrying out deliveries. (This is set out in Appendix 3).
- 2.5 Appendix 4 is additional conditions (following consultation with Environmental Health) for the Sub-Committee's consideration.

3. Background

- 3.1 The premises is situated within a parade of mixed commercial premises on London Road (A13), between Sutherland Boulevard and Stirling Avenue, with Residential dwelling above.

- 3.2 There is a private road to the rear of the premises, which links Sutherland Boulevard and Stirling Avenue, giving vehicular access for loading and unloading for all of the commercial premises along London Road.
- 3.3 This private road runs along the rear gardens of the properties situated on Olive Avenue.
- 3.4 I have attached an overview image of the area, sourced from Google Maps, (please see Appendix 5)
- 3.2 The premises was previously a Boutique for Pets. On the 16th March 2021, a Premises Licence, for the supply of Alcohol – for Off Sales, Monday to Sunday 07-00hrs to 23-00hrs was granted.

4. Proposals

- 4.1 This application was submitted to the Licensing Authority on 29th June 2021. The Consultation process expired on the 27th July 2021.
- 4.2 Details of this Application which are to be determined by the Sub-Committee can be briefly summarised as follows:
- a) The supply of alcohol for consumption off the premises:
- Monday to Sunday 00:00hrs – 24:00hrs.

- 4.3 This proposal is more fully documented in the application form which has been copied to Sub-Committee Members.

5. Application Procedures

- 5.1 Copies of applications to vary a Premises Licence are required by law to be sent 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 Five (5) valid representations were received objecting to the application within the consultation period. One (1) from the Responsible Authority (Environmental Health), and Four (4) from Interested Parties.
- 5.3 All Representations were sent to the Licensee to allow the Agent to communicate with the objectors, to attempt to achieve an agreement to resolve their concerns raised.
- 5.4 Environmental Health have now withdrawn their representation, as an agreement has been reached between the Licensee and Environmental Health acting as a Responsible Authority. The agreed licensing conditions is attached as Appendix 4.
- 5.5 Copies of the outstanding representations (from Interested Parties) 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 supply of alcohol for consumption off the premises:

Monday to Sunday 07-00hrs to 23-00hrs.

8. Background Papers

8.1 Council's Statement of Licensing Policy.

9. Appendices

- 9.1 Appendix 1 - Mandatory condition.
- 9.2 Appendix 2 - Conditions attached to current Licence.
- 9.3 Appendix 3 - Conditions offered as additional
- 9.4 Appendix 4 - Agreed Conditions with Environmental Health
- 9.5 Appendix 5 - An overview of the area
- 9.10 Appendix 6 - Objector s Location

APPENDIX 1

MANDATORY CONDITION

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—
- the holder of the premises licence,
 - the designated premises supervisor (if any) in respect of such a licence, or
 - 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
- 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.
 - 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 ATTACHED TO CURRENT LICENCE.

1. 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) 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.

2. 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.

3. 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.

4. On first appointment, all staff employed at the premises will receive training on the Licensing Act 2003 including input on preventing underage sales, preventing sales of alcohol to people who are drunk and any other relevant matters.

a). Training shall be regularly refreshed at no less than 6 monthly intervals.

b). The training must be recorded (by way of either a paper or online system) and made available for inspection upon request of a Police Officer or an authorised officer of the licensing authority or (in the case of online training) within 48 hours.

5. A CCTV system will be in operation at the premises and recorded images shall be retained for a period of 28 days.
 - a). CCTV images will be provided to the police and other responsible authorities as soon as practicable and in any case within 48 hours of a request for such images, subject of the provisions of the DPA.
 - b). The register shall be examined on a regular basis by the duty manager/ DPS and the date and time of each examination will be endorsed in the register.
 - c). The register will be made available for inspection by the Police and other responsible authority
6. The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older.
 - a). Posters will be on display advising customers of the 'Challenge 25' policy.
 - b). The only forms of identification that will be accepted at the premises are a passport, UK photo-card driving licences, military ID & cards bearing the 'PASS' hologram.

APPENDIX 3

CONDITIONS DRAWN FROM THE OPERATING SCHEDULE

1. Sales of alcohol shall only be by way of a pre-order delivery service.
2. Prior to accepting an order for delivery, the customer shall be asked if they are over 18 years of age.
3. At the time of the order the customer shall be informed that the person accepting the delivery will need to provide an acceptable form of photographic ID proving that they are 18 years of age or over in line with the Challenge 25 requirements.
4. Deliveries shall not be made to public places such as parks, roadsides or landmarks. Delivery shall only be made to a home or business address given at the time of the order.
5. The person making the delivery shall make the appropriate ID checks at the door of the address under the Challenge 25 Scheme requirements
6. Any person responsible for delivering alcohol shall be fully trained in all elements of Challenge 25, acceptable identification & identifying people who are drunk. They shall also be trained in the process for refusing a delivery in the event of a person who cannot prove their age or who appears intoxicated.

APPENDIX 4

CONDITIONS AGREED WITH ENVIRONMENTAL HEALTH

There will be a written noise management policy and procedure in relation to the delivery of alcohol between 23:00 and 07:00. The policy shall be maintained and made available to Local Authority and Police Officers on request. This must include:

- how awareness of noise is communicated to staff and delivery drivers
- how deliveries and collections of alcohol will be made from the premises without causing excessive noise including training on quiet closing of doors, preventing the idling of engines.
- provision to local residents upon request with telephone numbers where complaints of nuisance can be made during opening hours
- how complaints of noise from residents are responded to and logged

