

Southend-on-Sea Borough Council

**Report of The Executive Director of Neighbourhoods and
the Environment**

To

Licensing Sub-Committee B

On

13th December 2021

Report prepared by: Paul Richards

**Mad Dogs & Englishmen Interior Ltd, 1349-1353 London Road, Leigh-On-Sea, Essex
SS9 2AB**

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 Mad Dog & Englishmen Interiors Ltd to vary the existing 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. (This is set out in Appendix 1).

2.3 Appendix 2 sets out existing conditions for the Sub-Committee's consideration.

2.4 Appendix 3 sets out an additional condition agreed with Essex Police during the consultation period.

3. Background

3.1 The premises is located on the London Road opposite West Leigh Graveyard and situated on the corner of Flemming Avenue at the end of a row of commercial premises.

3.2 The premises forms part of a mixed commercial premises on this part of London Road, with Sainsbury's Local on the other corner of Flemming Avenue. Fleming Avenue is a Residential Street.

3.3 It has a benefit of a premises licence granted following a Hearing on 29th April 2021. The Decision Notice can be seen in **Appendix 4.**

4. Proposals

- 4.1 The application dated 20th August 21 was submitted to the Licensing Authority. Due to delays with the statutory notice being published in the local newspaper, the consultation process was extended until the 28th October 2021.
- 4.2 Details of this application which are to be determined by the Sub-Committee can be briefly summarised as follows:

To vary the existing Premises Licence to extend the following Licensable activities and times

Recorded Music
Late Night Refreshment
Supply of Alcohol for consumption on the premises:

Friday & Saturday 22:00hrs – 24:00hrs

- 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 Copies of Applications for a variation of 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 The Licensing Authority received Thirteen (13) valid Representations objecting to the proposal to extend the licensing hours on a Friday and Saturday night.
- 5.3 These comprised representations from Leigh Town Council and Twelve (12) from residents.
- 5.4 During the consultation period an additional Licensing Condition was agreed between the applicant and Essex Police, which can be found at **Appendix 3**.
- 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. Existing Licensing Controls

- 7.1 Recorded Music
Late Night Refreshments
Supply of Alcohol for consumption on the premises:
- Sundays and Mondays – 12.00 (noon) to 20.00 hrs
Tuesdays to Saturdays – 12.00 (noon) to 22.00 hrs

8. Background Papers

- 8.1 Council's Statement of Licensing Policy.

9. Appendices

- 9.1 Appendix 1 - Mandatory condition.
- 9.2 Appendix 2 - Current Conditions
- 9.3 Appendix 3 - Additional Condition agreed with Essex Police
- 9.4 Appendix 4 - Decision Notice of the Licensing Sub Committee B, held on the 29th April 2021.

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—
- 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.

APPENDIX 2

CONDITIONS ON THE CURRENT LICENCE

- 01) 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 which is either a:
- Proof of age card bearing the PASS Hologram;
 - Photocard driving licence;
 - Passport; or
 - Ministry of Defence Identity Card.
- 02) The premises shall clearly display signs at each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.
- 03) The premises shall have installed and maintain a closed-circuit television surveillance (CCTV) system which at all times complies with the below requirements:
- a) CCTV shall be provided in the form a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;
 - b) CCTV cameras shall cover all public areas including all entrances and exits;
 - c) 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;
 - d) At all times, whilst the premises is open for licensable activities, there shall be members of staff able to immediately provide viewable copies of recordings to the Police or Licensing Authority staff upon reasonable request;
 - e) The recording equipment and data storage devices shall be kept in a secure environment and fitted with security functions (such as passwords) to prevent recordings being tampered with;

An operational daily log report shall be maintained and endorsed by signature, indicating the system has been checked and is compliant: in the event of any failure, this shall be recorded immediately.

- 04) Signs shall be displayed at all entrances and exits advising customers that CCTV is operating at the premises and shall be a minimum size of 200 x 148 mm and clearly legible at all times when the premises conducts any licensable activities.
- 05) 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 shall be made immediately available to the 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.

- 06) 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) 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 be electronic and be retained for at least 12 months from the date of the last entry.

- 07) All staff engaged in the sale or supply of alcohol on the premises 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.
- 08) 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.
- 09) Staff shall not supply alcohol unless that individual has the written consent of the Designated Premises Supervisor. A written record of this consent shall be retained on the premises at all times when such an individual supply's or proposes to supply alcohol. Such records shall be made available immediately upon reasonable request of the Police or Licensing Authority.
- 10) Where licensable activity takes place on special occasions or where the need arises, the provision of SIA door staff shall be provided on a risk assessment basis in order to ensure the safety and security of patrons. When SIA licensed door supervisors are used at the premises on special occasions or where the need arises, 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; and
 - 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 the Police or Licensing Authority staff upon reasonable request.

- 11) During the period in which the premises is open for licensable activities, the toilets shall be checked on at least an hourly basis for the purpose:

- a. of detecting and deterring the use of controlled drugs and psychoactive substances; and
- b. maintaining public safety.

A record of these checks shall be maintained with the date, time, condition of the toilets and of the staff member conducting the check. These records shall be made contemporaneously, retained at the premises for at least 3 months and made available immediately upon demand to the Police or Licensing Authority staff.

- 12) The premises shall have in place and operate a zero-tolerance policy with regard to the use/possession of controlled drugs and psychoactive substances and advertise the same within the premises on posters and similar means. This policy shall specifically include but not be limited to:
- (i). Searching practices upon entry;
 - (ii). Dealing with patrons suspected of using drugs on the premises;
 - (iii).Scrutiny of spaces including toilets or outside areas;
 - (iv).Clear expectations of staff roles (including the DPS, managers/supervisors and door supervisors);
 - (v). Staff training regarding identification of suspicious activity and what action to take;
 - (vi).The handling of items suspected to be illegal drugs or psychoactive substances;
 - (vii).Steps taken to discourage and disrupt drug use on the premises viii. Steps to be taken to inform patrons of the premises drug policy/practices.

A copy of this policy document shall be lodged with the police and licensing authority.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

- 01) All alcohol sales shall be delivered via a waiter/waitress service to tables. Consumption shall only be permitted while patrons are seated.
- 02) Customers shall not be permitted to remove from the premises any drinks supplied by the premises and no bottles, glasses or drinking vessels shall be permitted to be taken beyond the licensed area marked on the authorised plan.
- 03) Smokers shall only be permitted to use the area at the front of the premises in London Road and shall be limited to a maximum of 6 persons at any one time.
- 04) The use of the door at the rear of the premises shall be restricted to authorised personnel, access and egress for disabled persons or emergency access/egress only.
- 05) No disposal of bottles in the bins shall take place between the hours of 8.00 p.m. until 9.00 a.m. the following morning.

APPENDIX 3

LICENSING CONDITIONS AGREED WITH THE POLICE

1. During the hours where licensable activity takes place, the provision of SIA licensed door staff shall be provided on a risk assessment basis in order to ensure the safety and security of patrons. Where SIA licensed door supervisors are used at the premises a record shall be maintained on the premises during the event and for 3 months thereafter which is legible and details:
 - a) The day and date when the door supervisors were deployed
 - b) The name and SIA registration number of each door supervisor on duty at the premises; and
 - c) The duty start and end time for each door supervisor.

This record shall be made available to authorised representatives of the Police or Local Authority staff upon reasonable request.

APPENDIX 4

DECISION NOTICE Licensing Sub-Committee A Held: Thursday, 29th April 2021

**Mad Dogs & Englishmen Interior Ltd, 1349-1353 London Road,
Leigh-on-Sea, Essex SS9 2AB**

Application for Grant of Premises Licence

The sub-committee has before it an application by Mad Dog & Englishmen Interiors Ltd for the grant of a Premises Licence at Mad Dogs & Englishmen Interior Ltd, 1349-1353 London Road, Leigh-On-Sea, Essex SS9 2AB.

We have listened to all the evidence and submissions and have read all the documents.

We have had regard to the Statutory Guidance Notes and Southend-on-Sea Borough Council's Statement of Licensing Policy. We have considered the four licensing objectives namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

Each contested application is decided on its merits.

The application was presented by the Applicant, Ms Gill Hazell (Director) and Mr Justin Hazell (Designated Premises Supervisor).

The sub-committee noted that no letters of objection to this application had been received from any of the Responsible Authorities

Eleven (11) representations in total had been received from local residents, objecting to the application. Three (3) of these representations were, however, not accepted by the Licensing Authority for the following reasons:

- a) One (1) was invalid as it did not refer/relate to any of the four licensing objectives;
- b) One (1) did not want their address passed on, nor published; and
- c) One (1) was received after the expiration of the consultation process.

One (1) of the representations was withdrawn prior to the commencement of the hearing. Six (6) of the objectors, namely Mr & Mrs Fleetwood, Mr & Mrs Harris, Mr Bewick and Ms Pickering, attended the hearing and gave evidence.

The objections/representations related to concerns of noise and public nuisance, particularly, the noise and disturbance of patrons attending and leaving the premises, and the protection of children from harm, given the close proximity of the premises to a local school. Other issues that were questioned the need for a licensed premises/cocktail bar until 10.00 p.m. daily at this location, the fear of anti-social behaviour and disturbance from intoxicated patrons and the potential of the premises being converted into a bar in the future, parking in residential streets.

The need for licensed premises is not a matter for the sub-committee to consider. The sub-committee noted that there were other licensed premises in proximity to the schools in the area with longer operating hours. The sub-committee also heard that patrons would not be able to drink outside the premises and would only be able to smoke at the front of the

premises in London Road. A doorman/concierge would be able to manage the front of house. There was no intention to change the business to a bar/club but would remain a predominantly afternoon tea business with themed events. The licence was being sought to enable alcohol to be served as part of the offer to customers, in line with other similar afternoon tea businesses. Patrons were currently permitted to bring their own alcohol for consumption on the premises. There had also been several temporary events held at the premises under temporary event notices and there had no recorded incidents/complaints about the premises. The premises had a good relationship with the local community and always tried to address any issues of concern.

During the hearing and in response to resident's concerns, the Applicants agreed to amend the application reducing the timing of licensable activities sought and the times the premises would be open to the public to now be as follows:-

Sundays and Mondays – 12.00 (noon) to 20.00 hrs
Tuesdays to Saturdays – 12.00 (noon) to 22.00 hrs.

The Applicants also offered the following conditions to be added to the licence should the application be granted:-

- Smokers will only be permitted to use the area at the front of the premises in London Road and shall be limited to a maximum of 6 persons.
- No drinks, glassware or bottles to be taken outside of the premises.
- Bottles would not be put into the external bins between the hours of 8.00 p.m. until 9.00 a.m. the following morning.
- Alcohol shall only be served to patrons seated at the tables.

The potential disturbance from the bottles being placed in the external bins and the collection of waste from the bins was discussed. Whilst the Applicant agreed not to put bottles in the bins after 8.00 p.m. until 9.00 a.m. the following day and the collection of the bins by the refuse company generally took place after 9.00 a.m., it may not be possible to prevent the company collecting at an earlier time. The sub-committee noted the undertaking of the Applicant to minimise disturbance and arrange collections after 9.00 a.m. where possible.

On the basis of the evidence presented to it, the sub-committee did not consider that the promotion of the licensing objectives would be undermined by the granting of the application as amended at the hearing, subject to the imposition of appropriate conditions. The amended application is therefore granted subject to:

- (i) The Mandatory Conditions set out in Appendix 1 to the report of the Executive Director (Neighbourhoods and Environment); and
- (ii) The conditions drawn from the Operating Schedule as set out in Appendix 2 to the report of the Executive Director (Neighbourhoods and Environment), subject to the amendment of Condition 10 to now read:

“10. Customers shall not be permitted to remove from the premises any drinks supplied by the premises and no bottles, glasses or drinking vessels shall be permitted to be taken beyond the licensed area marked on the authorised plan.”

(iii) The following additional conditions:

- Smokers are only be permitted to use the area at the front of the premises in London Road and shall be limited to a maximum of 6 persons at any one time.

- No disposal of bottles in the bins shall take place between the hours of 8.00 p.m. until 9.00 a.m. the following morning.
- All alcohol sales shall be delivered via a waiter/waitress service to tables. Consumption shall only be permitted while patrons are seated.
- The use of the door at the rear of the premises shall be restricted to authorised personnel, access and egress for disabled persons or emergency access/egress only.