

Southend-on-Sea Borough Council

Report of The Executive Director of Neighbourhoods and
the Environment

To

Licensing Sub-Committee B

On

11 July 2022

Report prepared by: Mark Newton

Agenda
Item No.

The Cork Dork, 86 The Ridgeway, Westcliff-on-Sea, SS0 8NU
Application for a Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report.

This report considers an application by Bumblebee Tuna Ltd. for 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 additional conditions (following consultation with The Licensing Authority and Environmental Protection Team during the consultation period) for the Sub-Committee's consideration.

3. Background.

3.1 The application relates to premises located in The Ridgeway, Westcliff-on-Sea, within a parade of commercial units, some with residential properties upstairs and with residential properties on the opposite side of the road.

4. Proposals.

- 4.1 The application was submitted to the Licensing Authority on the 18 May 2022.
- 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 on the premises:
Daily from 11:00 to 23:00
 - b) The supply of alcohol for consumption off the premises:
Daily from 09:00 to 23:00
 - c) Hours of opening for the premises are from:
Daily from 07:00 to 23:00
- 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 new 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 Eleven (11) representations were received from local residents objecting to the application.
- 5.3 Conditions were agreed with The Licensing Authority and The Environmental Protection Team, both acting as a Responsible Authority during the consultation period which can be found at **Appendix 2**.
- 5.4 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.

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 additional conditions (following consultation with The Licensing Authority and Environmental Protection Team during the consultation period).

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. 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.
11. The admission of children to the exhibition of any film shall be restricted in accordance with the recommendations of the British Board of Film Classification.

APPENDIX 2

CONDITIONS DRAWN FROM THE OPERATING SCHEDULE, TOGETHER WITH ADDITIONAL CONDITIONS (FOLLOWING CONSULTATION WITH THE LICENSING AUTHORITY AND THE ENVIRONMENTAL PROTECTION TEAM DURING THE CONSULTATION PERIOD).

- 1) All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme ongoing and under constant review and shall be made available to a relevant responsible authority when called upon. No member of staff should be permitted to sell alcohol until such time as they have successfully completed this training. The training shall cover the topics below:
 - Sale of alcohol to persons under 18 (penalties)
 - Age verification policies and acceptable forms of identification
 - Proxy sales of alcohol to children
 - Signs of drunkenness and intoxication
 - Recording refusals
 - The Licensing Objectives

- 2) The Licensee to adopt a "Challenge 25" policy where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age-restricted products are asked for proof of their age. The licensee shall ensure that notices advertising that the premises operates a "Challenge 25" scheme shall be displayed in a clear and prominent positions at the premises. Including at the premises entrance. The following proofs of age are the only ones to be accepted:
 - proof of age card bearing the PASS hologram logo;
 - passport; or
 - UK photo driving licence.
 - A Military ID Card

- 3) All occasions when persons have been refused service shall be recorded in the premises daily register. The register shall contain details of the time and date, description of the attempting purchaser, description of the age restricted products they attempted to purchase, the reason why the sale was refused and the name/signature of the salesperson refusing the sale.

- 4) A premises daily register shall be kept at the premises. This register shall be maintained and kept for a rolling period of 12 months. The register shall record all incidents which may have occurred which are relevant to the supply of alcohol and the promotion of the licensing objectives. Such incidents shall include, but not be limited to, complaints made to the premises alleging nuisance or anti-social behaviour by persons attending or leaving the premises and all refusals to sell alcohol. The register shall be readily available for inspection by an authorised person upon reasonable request.

- 5) A CCTV system shall be installed to cover all entry and exit points enabling frontal identification of every person entering in any light condition.
 - a) The CCTV system shall continually record and cover areas where alcohol is kept for selection and purchase by the public, whilst the premises is open for licensable activities. It shall operate during all times when customers remain on the premises.
 - b) All recordings shall be stored for a minimum period of 31 days and shall be made available upon the request of Police or an authorised officer of the council throughout the preceding 31-day period.
 - c) A staff member from the premises who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show a Police or authorised council officer recent data or footage with the minimum of delay when requested.
 - d) CCTV shall be downloaded on request of the Police or authorised officer of the council.
 - e) Appropriate signage advising customers of CCTV being in operation, shall be prominently displayed in the premises.
 - f) A documented check of the CCTV shall be completed monthly to ensure all cameras remain operational and the 31 days storage for recordings is being maintained.
- 6) All drinks promotions shall be risk-assessed to ensure the promotion is not irresponsible. Each risk-assessment shall consider the nature of the premises, the nature of the promotion including the size and duration of any discount and the type of customer potentially attracted by the promotion.
- 7) All spirits shall be for off sales only.
- 8) All on sales shall be by table service only.
- 9) There shall be no vertical drinking at the premises.
- 10) There shall be no self-service of spirits on the premises.
- 11) All doors and windows shall remain closed except for access and egress between 21:00 hours and 08.00 hours the next day to minimise noise breakout.
- 12) No person shall be allowed to leave the premises whilst in the possession of any open drinking vessel, whether empty or containing any beverage.
- 13) Signage requesting customers to be respectful of others when entering or leaving the premises shall be installed in a prominent position by the premises' exit.
- 14) Arrangements shall be put in place to ensure that waste collection contractors do not collect refuse between 19:00 and 07:00.

- 15) No glassware shall be disposed of externally after 20:00 hours or before 09:00 hours and outside these hours shall be stored internally.
- 16) The premises' frontage shall be regularly monitored to keep it clean and clear of litter.
- 17) All exit routes and public areas shall be kept unobstructed, shall have non-slippery and even surfaces, shall be free of trip hazards and shall be clearly signed.
- 18) Regular checks and maintenance shall be carried out on all equipment, electrical installations, emergency lighting and fire alarms and equipment to ensure their continued safe operation. A written record of these checks shall be kept and made available to an authorised officer of the licensing authority.
- 19) The Licensee shall ensure that a suitable fire risk assessment and emergency plan is in place at all times.
- 20) An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.