

Southend-on-Sea City Council

Report of Executive Director
(Neighbourhoods and the Environment)

To

Licensing Sub-Committee A

On

17 August 2022

Report prepared by: Mark Newton

Agenda
Item No.

The Ironworks, 90 The High Street, Southend-on-Sea, SS1 1JN
Application for a Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report.

This report considers an application by Kiwi Community Events C.I.C. 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 Essex Police during the consultation period) for the Sub-Committee's consideration.

3. Background.

3.1 The application relates to a premises located on Southend High Street within Southend-on-Sea, along a stretch of commercial units situated close to the junction with Tylers Avenue and Clifftown Road. A premises licence allowing off sales daily between 07.00 & 23.00 was previously held on this site by a major supermarket chain.

4. Proposals.

4.1 The application was submitted to the Licensing Authority on the 13 June 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 and off the premises:

Daily from 11:00 to 23:00

b) Hours of opening for the premises are from:

Daily from 08:00 to 23:30

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 One (1) representation was received from a local business objecting to the application.

5.3 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**.

5.4 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.

7. Previous Licensing Controls

- 7.1 The premises previously had the benefit of a Premises Licence, which permitted the following licensable activities:

The sale by retail of alcohol for consumption off the premises daily from 07:00 - 23:00

- 7.2 A copy of the previous licence that includes all licence hours and conditions has been provided to members of the Licensing Sub Committee.

- 7.3 This Premises Licence was surrendered September 2018.

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 Essex Police during the consultation period).

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—
- 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
- (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.

**CONDITIONS DRAWN FROM THE OPERATING SCHEDULE, TOGETHER WITH
ADDITIONAL CONDITIONS (FOLLOWING CONSULATION WITH ESSEX POLICE
DURING THE CONSULATION PERIOD).**

- 1) An appropriate number of first aid kits shall be maintained and available at all times.
- 2) The premises shall install a CCTV system which shall:
 - a. Operate at all times that the premises are open to the public
 - b. Capture images digitally and shall have date and time stamped on them
 - c. Images to be retained for a period of at least 30 days
 - d. Cameras shall be of sufficient sensitivity to enable them to operate as required under their normal working conditions and lighting levels
 - e. External cameras should be capable of giving useable images under a variety of weather and lighting conditions
 - f. Copies of CCTV to be provided to the Police on request
- 3) Signs advising customers that CCTV is in operation shall be displayed in prominent locations in the premises.
- 4) On occasions when licensable activity takes place on the premises beyond 22:00, the management shall risk assess the requirement for SIA doorstaff to be employed at the premises. Evidence of this risk assessment shall be made available for inspection by the Police or Licensing Authority on reasonable request.
- 5) All SIA licensed door supervisors engaged at the premises for the purpose of supervising or controlling customers shall wear a form of high visibility clothing (jackets/vests/armbands).
- 6) The premises shall be predominantly laid out to tables and chairs.
- 7) Substantial food shall be available at all times the premises is conducting licensable activity.
- 8) The premises shall install and maintain a security alarm.
- 9) The premises shall operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 shall be asked for photographic ID to prove their age.
- 10) The only forms of ID that shall be accepted are passports, driving licences with a photograph, photographic military ID or proof of age cards bearing the "PASS" mark hologram, official photographic identity cards issued by EU states bearing a hologram or ultraviolet feature.
- 11) 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 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 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.

- 12) Clear and legible notices shall be prominently displayed at all exits requesting customers to respect local residents and leave the area quietly.
- 13) Suitable and sufficient signage advertising the "Challenge 25" policy shall be displayed in prominent locations in the premises.
- 14) Staff shall receive training in relation to the sale of alcohol commensurate with their duties.
- 15) Staff training shall be refreshed every 6 months.
- 16) A record of staff training shall be kept on the premises and made available to a designated member of the responsible authorities on request.
- 17) An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which shall record the following;
 - a. All crimes reported:
 - b. All ejections of patrons
 - c. Any complaints received.
 - d. Any incidents of disorder.
 - e. Seizure of drugs or offensive weapons.
 - f. Any faults in the CCTV system
 - g. Any refusal of the sale of alcohol.
 - h. Any visit by a relevant authority or emergency service
- 18) 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 shall 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.
- 19) Customers shall not be permitted to remove from the premises any drinks supplied by the premises in open containers. For the avoidance of doubt, any external area highlighted on the licensing plan is designated as being "on" the premises.