

# **Southend-on-Sea Borough Council**

**Report of Corporate Director for Place  
To**

**Licensing Sub-Committee A**

**On  
25<sup>th</sup> July 2016**

Report prepared by: Mark Newton

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**La Petite Petanque, Alexandra Bowling Green, Cambridge Road,  
Southend-on-Sea, Essex, SS1 1EY  
Application for the Grant of Premises Licence**

**LICENSING ACT 2003**

***A Part I Public Agenda Item***

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## **1. Purpose of Report**

- 1.1 This report considers an application by Rookland Ltd 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 conditions must be applied. (These are set out in Appendix 1).
- 2.3 Appendix 2 sets out possible conditions, drawn from the application, for the Sub-Committee's consideration.
- 2.4 Appendix 3 sets out additional conditions agreed with Essex Police as a Responsible Authority during the consultation period.

## **3. Background**

- 3.1 The application relates to the pavilion building, currently a licensed restaurant, located within Alexandra Bowling Green grounds. Although the postal address given in the application is Cambridge Square Gardens, the café building itself is nearer to Cambridge Road being between Capel Terrace and Cashiobury Terrace.

## **4. Proposals**

- 4.1 The application was given to the Licensing Authority on the 24<sup>th</sup> May 2016.
- 4.2 Details of the application can be briefly summarised as follows:

- a) To provide the sale of Alcohol for on the premises on Sundays to Thursdays from 10:00 hours to 18:00 and on Fridays & Saturdays from 10:00 to 23:00. The terminal hour is extended on Valentine's Day, Christmas Eve, all bank and public holidays until 23:00.
- b) To be open to the public from Mondays to Thursdays from 08:00 hours to 19:00, on Fridays & Saturdays from 08:00 to 23:30 hours and on Sundays from 09:30 to 19:00. The terminal hour is extended on Valentine's Day, Christmas Eve, all bank and public holidays until 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 Applicants for grant of 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 38 interested parties, namely 36 local residents, 1 local business and 1 Councillor.
- 5.3 Representation was received from a Responsible Authority, namely Essex Police. This representation was later withdrawn.
- 5.4 Additional conditions were agreed with the Essex Police as a Responsible Authority during the consultation period 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 to specify a person in the licence as the premises supervisor;
  - d) 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 Licence Controls**

7.1 The premises benefits from an existing Premises Licence, granted on 15 November 2008, following a Licensing Sub-Committee hearing.

7.2 The existing licence permits the following licensable activities.

- a) The sale of alcohol (on the premises only) on daily from 10.00 to 18.00pm.
- b) The provision regulated entertainment comprising recorded music indoors on Mondays to Saturdays from 8.00 to 18:00, Sundays from 9.30pm until 6.00pm. It should be noted that since this application was granted the Deregulation Act 2015 has been passed by parliament. This act removes the need for a licence during the between the hours of 08.00 and 23.00 daily where alcohol is available for consumption on the premise in accordance with a premises licence.

## **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 application, for the Sub-Committee's consideration.
- 9.3 Appendix 3 - Additional conditions agreed with Essex Police.

# 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.
10. For the purposes of the condition 10 above —
- 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)
11. Where the permitted price given by sub-section (b) of Condition 10 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 DRAWN FROM THE OPERATING SCHEDULE**

1. The Licensee shall ensure that a 'Challenge 25' scheme is operated, whereby any person who appears to be under 25 years of age is required to produce means of identification proving they are over 18 years of age. The only authorised means of identification shall be passport, UK photo driving licence or 'PASS' accredited card.
2. Clear and legible signs shall be displayed advising patrons who appear to be under 25 years of age that they shall be required to prove they are at least 18 years of age.
3. The Licensee shall ensure that all staff engaged in the sale of alcohol receives sufficient training, with refresher training carried out at least every 6 months. Written training records shall be kept on the premises and made available to any officer authorised under the Licensing Act 2003. Those holding an appropriate licensing qualification and/or a Personal Licence shall be exempt from this requirement.
4. The Licensee shall ensure that a refusal book is maintained at the premises to record any refusals of alcohol. The refusals book shall be made available to the Police/Local Authority upon request.
5. The Licensee shall ensure that an incident log is maintained on the premises to record any incidents or occurrences relating to crime or disorder issues. The incident book shall be made available for inspection to Police / Local Authority Officers upon request.
6. The Licensee shall install and maintain a closed circuit television surveillance (CCTV) system. Images shall be retained for a minimum of 31 days and made available to Essex Police on request. A member of staff who is trained to view/download images from the CCTV shall be on call at all times when the premises are open.
7. No Bottles, Glasses or Drinking Vessels to be taken beyond the boundary of the licensed area as marked on the deposited plans.
8. There shall be no use of the outside licensed area between 19:00 and 08:00 save for use as a smoking area.
9. The maximum capacity of the licensed area shall be 122 patrons. This shall comprise 70 internally and 52 externally.
10. There shall be no consumption of alcohol at the server.
11. The licensee shall ensure that only persons seated at tables are permitted to consume alcohol.

## **APPENDIX 3**

### **ADDITIONAL CONDITIONS AGREED WITH ESSEX POLICE**

1. Service of alcohol shall be by waiter/waitress only and shall be limited to persons seated at a table taking a substantial meal.
2. The premises shall be run solely as a restaurant and the sale of alcohol for consumption on the premises shall be linked to the purchase of a substantial meal.
3. Commercial rubbish bins shall not be used or emptied between 20.00 hours and 09.00 hours the following day.
4. No unsupervised children shall be permitted on the premises.
5. The Licensee shall ensure that a contact telephone number is prominently displayed for the purpose of resolving residential concerns relating to the premises.
6. The Licensee shall ensure that only toughened glass drinking vessels shall be used on the premises.
7. There should be no access for patrons to the upper roof terrace.