

Meeting: Licensing Sub-Committee
Date: 29th July 2024
Classification: Part 1
Key Decision: No
Title of Report: Application for a grant of a premises licence
97-101 Shaftsbury Avenue, SS1 3AN

Executive Director: Alan Richards. Neighbourhoods & Environment
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1. Executive Summary

Members are invited to consider an application by A&J Southend 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 conditions must be applied. (These are set out in Appendix 1).

2.3 Appendix 2 sets out conditions drawn from the operating schedule set out in the application, together with those agreed with Environmental Protection and Essex Police for the Sub-Committee's consideration.

3. Background.

3.1 The application relates to a premises located on Shaftsbury Avenue, opposite Southchurch Park and a short walk from the seafront to Eastern Esplanade. Apart from a convenience store next to the premises, the area is predominantly residential.

4. Proposals.

4.1 The application was submitted to the Licensing Authority on the 29 May 2024.

4.2 Details of this application which are to be determined by the Sub-Committee can be briefly summarised as follows:

- a) The sale of alcohol on the premises daily between the hours of 07:00 – 21:00.
- b) Recorded Music daily between the hours of 07:00 – 21:00.
- c) The opening hours of the premises to be the same as the licensable hours.

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 (15) Fifteen representations from local residents were received, objecting to the application (including 2 from local councillors). Two representations were later withdrawn. One representation was received from a local resident in support of the application. A petition comprising of signatures from local residents has also been received in support of the application.

5.3 Environmental Protection and Essex Police agreed conditions with the applicant during the consultation period.

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. Legal Implications.

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 There is no licence at this premises currently.

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 operating schedule, together with those agreed with Environmental Protection and 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.

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 AGREED WITH ENVIRONMENTAL PROTECTION AND ESSEX POLICE DURING THE CONSULTATION PERIOD).

1. The Licensee shall operate a 'Challenge 25' scheme whereby any persons who appear under 25 years of age shall be asked to produce means of identification proving that they are over 18 years of age. The only acceptable identification shall be a passport, UK photographic driving licence or 'PASS' accredited identity card. This shall include appropriate signage advertising the scheme.
2. The Licensee shall ensure that written training records are kept for all staff engaged in the sale of alcohol.
3. The Licensee shall maintain a refusals register with regard to the sale of alcohol within the premises.
4. The Licensee shall install (within 3 months of the grant of the licence) and maintain a Closed Circuit Television surveillance system that records in real time covering licensable areas, the entrance and the exit and front forecourt. Images / recordings shall be retained for a minimum of 31 days and made available to the Police or Licensing Authority on request.
5. A suitably worded sign of sufficient size and clarity will be displayed in the premises advising customers that the CCTV is operating in the premises.
6. A member of staff will always be on call during opening times who is able to download and burn off images from the CCTV system when requested to do so by Police Authorities to achieve the licensing objectives.
7. The Licensee shall co-operate with all reasonable projects of the Licensing and Police Authorities to achieve the licensing objectives.
8. The Licensee shall ensure that a notice is displayed in a prominent location requesting patrons respect the neighbours of the premises and leave quietly.
9. Suitably worded signage of sufficient size and clarity shall be displayed at the entrance to the premises stating CCTV operates in and around these premises.
10. Clear and legible signage advising patrons who appear to be under 25 years of age that they will be required to prove that they are at least 18 years of age.
11. An Incident Log shall be maintained to record incidents relating to crime and disorder and produced on request of Police or any Responsible Authority.

12. The performance of recorded music shall be maintained at background level during opening hours.
13. External areas for disposal of waste and recycling and deliveries and collections shall not be used between the hours of 2100 and 0800.
14. The sale of alcohol will be limited to consumption on the premises and therefore no off sales will be made.