

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Place
To
Licensing Sub-Committee B
On
25th October 2016

Report prepared by: Mark Newton

African Taste, 420 London Road, Westcliff-on-Sea, Essex, SS0 9LA
Application for the Grant of Premises Licence

LICENSING ACT 2003

A Part I Public Agenda Item

1. Purpose of Report

- 1.1 This report considers an application by African Taste Restaurant 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 amended/additional conditions agreed with Essex Police.**

3. Background

- 3.1 The application relates to a premises located on the London Road at the junction with Valkyrie Road along a stretch of commercial units with some residential properties located above and in the adjacent road. Currently the premises is a licensed restaurant,

4. Proposals

- 4.1 The application was given to the Licensing Authority on the 6th September 2016.
- 4.2 Details of the application (including hours amended by the Police) can be briefly summarised as follows:
- a) To provide the sale of Alcohol for on and off the premises on Sundays to Thursdays from 11:00 to 23:00, Fridays and Saturdays from 11.00 to 00.00. The terminal hour is extended on New Year's Eve until 02.00.

- b) The provision of regulated entertainment comprising recorded music on Sundays to Thursdays from 11:00 to 23:00, Fridays and Saturdays from 11.00 to 00.00. The terminal hour is extended on New Year's Eve until 02.00.
- c) The provision of late night refreshment Fridays and Saturdays until 00.00. The terminal hour is extended on New Year's Eve until 02.00.
- d) To be open to the public from Sundays to Thursdays from 11:00 to 23:30, Fridays and Saturdays from 11.00 to 00.30. The terminal hour is extended on New Year's Eve until 02.30.

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 1 interested party, namely 1 local resident.
- 5.3 Additional conditions were agreed with Essex Police during the consultation period which can be found at Appendix 3
- 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 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 24 December 2015 which is time limited, and due to expire on 30 October 2016. It was transferred to Mr Bonsu Freeman on 13th June 2016. Prior to being a restaurant the premises was an off licence.
- 7.2 The existing licence permits the following licensable activities.
- a) The sale of alcohol (on the premises only) daily from to 11.00 to 22.30 and on New Year's Eve until 01:30.
 - b) The provision regulated entertainment comprising recorded music daily from to 11.00 to 22.30 and on New Year's Eve until 01:30.
 - c) The provision of late night refreshment on New Year's Eve until 01:30
- 7.3 A copy of the existing licence that includes all licence hours and conditions has been provided to members of the Licensing Sub Committee

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 - Amended/additional conditions agreed with Essex Police.

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 premises shall be run predominantly as a restaurant and the sale of alcohol for consumption on the premises shall be linked to the purchase of a substantial meal.
- 2) Substantial food and non-intoxicating beverages (including drinking water) shall be available throughout licensing hours.
- 3) The Licensee shall ensure that a minimum of 24 covers are maintained at all times.
- 4) Service of alcohol shall be by waiter/waitress only and shall be limited to persons seated at a table taking a substantial meal.
- 5) 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.
- 6) The Licensee shall ensure that all staff engaged in the sale of alcohol receives sufficient training. Written training records shall be kept on the premises and made available to any officer authorised under the Licensing Act 2003.
- 7) 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.
- 8) The Licensee shall operate a zero tolerance policy with regard to the use/possession of drugs in the venue and shall advertise the same within the premises on posters and similar means.
- 9) 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
- 10) The Licensee shall install and maintain a closed circuit television surveillance (CCTV) system to the reasonable satisfaction of Essex Police. 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 duty at all times when the premises are open. (reworded below in appendix 3)
- 11) The Licensee shall ensure that a suitably worded sign of sufficient size and clarity is displayed at the entrance to the premises and in the area of the alcohol display advising customers that CCTV is operating at the premises.
- 12) The Licensee shall ensure that a written record is kept of any person authorised by the DPS or a personal licence holder to sell alcohol.
- 13) Where persons under 18 years of age are admitted to the premises, they shall be supervised by a responsible adult and proof-of-age scheme shall be enforced. Persons under 18 years of age are not permitted in the premises after 21:00 hours until trading commences on the following day.

- 14) In the event that any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children are provided, these shall be limited to such times when persons under 18 years of age are not present
- 15) Such measures shall be implemented as may be reasonably required by the Licensing Authority to limit noise (being noise arising from regulated entertainment), to that of ambient noise levels at the external boundary of the premises

APPENDIX 3

ADDITIONAL CONDITIONS AGREED WITH ESSEX POLICE

- 1) The terminal hour for Alcohol, Regulated Entertainment and Late Night Refreshment will be Sunday to Thursday 23:00 hrs. Friday and Saturday midnight. All will be subject to an additional 30 minutes for customers to drink up and vacate the premises. New Year's Eve will be 02:00am.
- 2) There shall be no outside furniture besides a suitable removable ash tray or similar item.
- 3) Doors and windows shall be shut when music is playing.
- 4) The Designated Premises Supervisor and the general staff shall take all reasonable steps to prevent noise pollution from the premises.
- 5) No customers shall be permitted to take any drinking vessels outside of the premises. The Designated Premises Supervisor and staff shall take all reasonable steps to prevent this from happening. Bona-Fide off sales will be the only exception and these will be in sealed containers /bottles.
- 6) A suitable removable cigarette bin shall be provided. This shall be taken inside at the close of trading.
- 7) The Licensee shall install and maintain a closed circuit television surveillance (CCTV) system to the reasonable satisfaction of Essex Police. 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 duty at all times when the premises are open. CCTV coverage shall include the frontage of the premises and the main entrance doors. (Reworded condition 10 of appendix 2 above)