

Southend-on-Sea Borough Council

Report of Deputy Chief Executive (Place)
To
Licensing Sub-Committee A
On
6th February 2017

Agenda
Item No.

Report prepared by: Mark Newton

The Crafty Half, 1376 London Road, Leigh-on-Sea, Essex, SS9 2UH
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 Stephen Geoffrey Warner 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 Proposed Revised Conditions - (following consultation with the Essex Police)

3. Background

3.1 The application relates to a premises located on the London Road between the junctions of Leigh Gardens and Canvey Road along a stretch of commercial units with some residential properties above.

4. Proposals

4.1 The application was given to the Licensing Authority on the 18th December 2016.

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

To provide the sale of alcohol for consumption off the premises:
Mondays to Saturdays from 09:00 to 22:00, and Sundays from 09:00 to 16:00.

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 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 Representation was received from one local resident.

5.3 Copies of the representation 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6.1 Formal objections having been made and not withdrawn or resolved, the Licensing Authority is obliged to hold a hearing to consider them.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. Background Papers

7.1 Council's Statement of Licensing Policy.

8. Appendices

8.1 Appendix 1 - Mandatory conditions.

8.2 Appendix 2 - Proposed Revised Conditions - (following consultation with Essex Police).

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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)
 - (a) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (b) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (c) 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 either—
 - (i) a holographic mark, or
 - (ii) an ultraviolet feature.
- 5) 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.
- 6) For the purposes of the condition 5:-
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; .
 - (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.
- 7) Where the permitted price given by sub-section (b) of condition 6 would (apart from this condition) not be a whole number of pennies, the price given by that sub-section shall be taken to be the price actually given by that sub-section rounded up to the nearest penny.
- 8) (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.

PROPOSED AMENDED CONDITIONS - (FOLLOWING CONSULTATION WITH ESSEX POLICE)

- 1) The challenge 25 scheme shall be adopted. Any person under the age of 25 years shall be challenged for I.D. Suitable I.D will be a photo driving licence, Passport, and any accredited form of I.D including Forces I.D. Challenge 25 posters shall be displayed.
- 2) All staff shall receive training in the sale of alcohol and the laws relating to this. Written records shall be kept and signed and dated by the staff member and the person acknowledging. Refresher training shall be carried out at least every six months. All records shall be made available for any authorised person wishing to examine them.
- 3) A refusal book shall be kept and maintained. All refusals shall be recorded including the reason for the refusal. The refusal book shall be made available to any authorised person who wishes to examine them.
- 4) An incident book shall be kept and maintained. All incidents shall be recorded detailing the nature of the incident. The incident book shall be made available to any authorised person who wishes to examine them.
- 5) A closed circuit television surveillance (CCTV) system shall be installed to cover the licensed area and to include the main entrance door and the frontage of the premises. Recordings shall be of good quality and retained for a minimum of 31 days. There shall always be a member of staff available to download images upon the reasonable request of any Authorised person. Posters stating CCTV is in use shall be displayed.
- 6) All reasonable efforts shall be made to prevent persons from hanging around out front of the premises. This could include groups of youths, homeless persons or street drinkers.
- 7) Persons under 16 years of age shall not be allowed entry to the premises unless they are accompanied by an adult.
- 8) No 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 may be provided.