
LICENSING APPLICATION – LICENSING ACT 2003

1 SUMMARY

- 1.1 This report introduces an application for the grant of a premises licence made under section 17 of the Licensing Act 2003.
- 1.2 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

2 BACKGROUND

- 2.1 The application was given to the Licensing Authority by Law, Hurst & Taylor (Solicitors) on behalf of Daryl Anthony Mercer (the applicant) and refers to premises known as Daryl's Grill at land owned and operated by Rochford District Council as a municipal car park on the east side of Websters Way, Rayleigh.
- 2.2 Appendix A consists of a copy of the original application form.

Description of Premises

- 2.3 The premises to which the application relates is a mobile trailer that is parked in the central area of the Council's car park in Websters Way, generally during the hours 9pm to 3am on each Friday and Saturday night.
- 2.4 The trailer provides hot dogs, hamburgers and similar, together with hot and cold non-alcoholic drinks for customers to take away.
- 2.5 Due to the distance from the highway the operation of the business does not require a street trading licence; a premises licence is required due to the hours of operation extending beyond 11pm.
- 2.6 Appendix B consists of a copy of the plan of the premises.

Previous History

- 2.7 The application follows a refusal to grant a previous application for a premises licence that was considered by a Licensing Sub-Committee on 14 February 2006.
- 2.8 That application related to land at the rear of 59 High Street, Rayleigh. Representations were made concerning the licensing objectives of prevention of crime and disorder and prevention of public nuisance.
- 2.9 The Sub-Committee refused the application for the following reasons: -
 - (a) Evidence from various parties suggested that the applicant would not be able to promote the licensing objectives.

- (b) There had been, and would continue to be, incidents of public nuisance by way of noise disturbance, litter, fat deposits and human waste.
- (c) The congregation of large numbers of people, mainly youngsters, was also likely to lead to crime and disorder,
- (d) the steps offered by the applicant in his operating schedule to promote the four licensing objectives did not go far enough to address the problems associated with the application.

2.10 Since that date Mr Mercer has continued to trade in the vicinity of Websters Way and has been the subject of enforcement visits by Licensing officers on differing occasions, the last being at 1.45am on Saturday, 14 October 2006.

2.11 On no occasion during the course of those visits have officers witnessed any sign of public disorder, excessive noise or evidence of litter in the vicinity.

3 APPLICATION

3.1 The application is made in accordance with section 17 of the Licensing Act 2003 and The Licensing Act 2003 (Premises Licence and Club Premises Certificates) Regulations 2005.

3.2 The following licensable activities and hours of opening for the premises are being applied for: -

Activity	Time/s	Days
Provision for late night refreshment	2300 hrs – 0300 hrs the following day	Friday & Saturday
Hours of opening	2100 hrs – 0300 hrs the following day	Friday & Saturday

Amendments to the application

3.3 There are no amendments to the original application.

Conditions

3.4 The matters listed in the relevant sections of part 3 of the application form will be converted into new conditions on the premises licence, as will those arising from compromises reached prior to the hearing and any additional or amended conditions arising from the Sub-Committee's determination.

4 REPRESENTATIONS

- 4.1 Representations have been received from one Responsible Authority, namely the Local Planning Authority, concerning issues of crime and disorder and public nuisance.
- 4.2 Appendix C consists of a copy of the representation received.

5 NOTICES

- 5.1 All parties involved have been served with the relevant notices and documentation required by paragraphs 6 and 7 of The Licensing Act 2003 (Hearings) Regulations 2005.
- 5.2 The notices and documentation included an explanation of the rights of persons to attend hearings and to be represented, to give evidence and to call witnesses, the consequences of not attending, the procedure to be followed at a hearing, and, for applicants only, a copy of all relevant representations made.
- 5.3 Paragraphs 8 and 9 of the regulations require that parties notify the Licensing Authority, no later than 5 working days before the hearing, of those matters mentioned in paragraph 5.2 above. A pro-forma and pre-paid envelope was included for that purpose with the notices and documentation mentioned in the preceding paragraph.
- 5.4 Although at the time of reporting no notification had been received, it is understood that Mr N Barnes will represent the Local Planning Authority and Mr Hurst of Law, Hurst & Taylor (Solicitors) will represent the applicant.

6 POLICY CONSIDERATIONS

Legal provisions

- 6.1 The provisions of the Licensing Act 2003, The Licensing Act 2003 (Hearings) Regulations 2005, Guidance issued under Section 182 Licensing Act 2003 and the Statement of Licensing Policy, approved by Full Council for the period 7 January 2005 – 6 January 2008 need to be considered by Members in determining the application.

7 OPTIONS

- 7.1 The following options are available to Members: -
- (a) Grant the application, subject to such conditions as are consistent with the operating schedule, modified to such extent as Members consider necessary for the promotion of the licensing objectives.
- (b) Exclude from the scope of the licence any of the licensable activities to which the application relates.

(c) Reject the application.

(d) Subject to paragraphs 11 - 13 of the Licensing Act 2003 (Hearings) Regulations 2005, adjourn the hearing to a specified date or arrange for a hearing to be held on specified additional dates, where Members consider this to be necessary for their consideration of any representations or notice made by a party.

8 RECOMMENDATION

8.1 It is proposed that the Sub-Committee **RESOLVES**

To determine the application, having considered all representations made at the hearing.

G Woolhouse
Corporate Director (External Services)

Background Papers: -

None

For further information please contact Kevin Doyland or Peter Nellies on: -

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