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## LICENSING APPLICATION – LICENSING ACT 2003

### Premises: Smuggler's Den, Ferry Road, Hullbridge

#### 1 SUMMARY

- 1.1 This report introduces an application for variation of a premises licence made under section 34 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 ELS & Cole Solicitors on behalf of Smuggler's Den Limited and refers to premises known as Smuggler's Den, 315 Ferry Road, Hullbridge.
- 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 are a brick built building that trade as a licensed club.
- 2.4 The premises are situated in a residential area. They have an external area, outside of the licensed area, which is used for the consumption of alcohol.
- 2.5 Appendix B consists of a copy of the plan of the premises, a map of the area in which the premises are situated and an aerial photograph of the area.

##### **Licensing History**

- 2.6 On 5 July 2005 an application was made by Mr Roger Powell to convert the existing Justice's licence and certificates into a premises licence under the transitional provisions of schedule 8, part 2, paragraph 16 of the Licensing Act 2003.
- 2.7 The premises licence was granted on 4 August 2005 and an application to vary that licence was heard before a Licensing Sub Committee on 30 August 2005.
- 2.8 The application was granted permitting the licensable activities within the times and days shown below: -

Activity	Time/s	Days
Sale of alcohol for consumption both on and off the premises.	(a) 0800 – 2330 hours (b) 0800 – midnight (c) 0800 – 0100 hours the following day	(a) Sunday (b) Monday – Tuesday (c) Wednesday – Saturday
Regulated entertainment indoors only consisting of: - Indoor sporting events; live music; recorded music including, karaoke, provision of facilities for making music and for dancing.	(a) 0800 – 2330 hours (b) 0800 – midnight (c) 0800 – 0100 hours the following day	(a) Sunday (b) Monday – Tuesday (c) Wednesday – Saturday
Late night refreshment to be consumed on the premises only.	(a) 2300 – 2330 hours (b) 2300 – midnight (c) 2300 – 0100 hours the following day	(a) Sunday (b) Monday – Tuesday (c) Wednesday – Saturday
Hours of opening	(a) 0800 – 2330 hours (b) 0800 – 0030 hours the following day (c) 0800 – 0130 hours the following day	(a) Sunday (b) Monday – Tuesday (c) Wednesday – Saturday
The hours above are extended: - (a) until 0100 hours the following day on Christmas Eve, Boxing Day and all Sundays prior to a bank holiday. (b) from the terminal hour of licensable activity on New Year's Eve to the commencement hour for licensable activity on New Year's Day;		

- 2.9 The licence was granted subject to a number of conditions, one of which states: -

‘The licensee shall ensure that all external windows and doors are kept closed during hours of business.’

- 2.10 The licence was transferred from Mr Powell to the current holders, Smuggler's Den Limited, 21 Durham Way, Rayleigh on 20 June 2007.
- 2.11 An application for a review of the licence was heard before the Licensing Sub-Committee on 31 October 2007 when additional conditions were applied to the licence.

- 2.12 Appendix C consists of a copy of the current premises licence.

**Premises History**

- 2.13 There have been 2 complaints of noise disturbance and breach of condition received in 2008: -
- (a) On 12 & 19 April 2008 concerning noise from inside the club and late hours
  - (b) On 14 May 2008 concerning noise and offensive language from the newly decked external area, which is also in breach of Club Rule No.10

**3 APPLICATION**

- 3.1 The application is made in accordance with section 34 and schedule 8, part 1, paragraph 7 of the Licensing Act 2003 and The Licensing Act 2003 (Premises licence and club premises certificates) Regulations 2005.
- 3.2 The application is to vary the licence conditions to allow the Club to open its doors and windows during trading hours until 2100 hours each day except when live music or entertainment is being performed, or when amplified music is being played.
- 3.3 Also to allow club members and bona fide guests to use the land marked private on the plan dated 5/11/07 in the same manner as the rest of the club.

**4 REPRESENTATIONS**

- 4.1 There have been two representations from Responsible Authorities, the Local Planning Authority, on the grounds of crime and disorder and public nuisance, and the Environmental Protection Unit on the grounds of public nuisance.
- 4.2 There has been one representation from Interested Parties, Mr & Mrs Darling, on the grounds of public nuisance.
- 4.3 Appendix D consists of copies of the representations received.

**5 NOTICES**

- 5.1 Notices advertising the application were placed by the Licensing Authority at or near the premises, at the Council's offices in Rayleigh and Rochford and on the Council's website, as required by paragraph 38 of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.
- 5.2 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 and 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 those 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 paragraph 5.2 above.
- 5.4 At the time of drafting this report, there had been no response from any of the parties.
- 5.5 It is anticipated that Mr Anthony Cole of ELS & Cole Solicitors will represent the applicant.

## **6 POLICY CONSIDERATIONS**

### **Legal Provisions**

- 6.1 The provisions of 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 2008 – 6 January 2011 need to be considered by the Licensing Sub-Committee in determining the application.
- 6.2 Section 10, paragraph 10.11 onwards of the Guidance is of particular relevance to Licensing Sub Committees where consideration is given to imposing conditions to the grant of an 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.

Richard Evans  
Head of Environmental Services

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**Background Papers:-**

None.

For further information please contact Peter Nellies on: -

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If you would like this report in large print, braille or another language please contact 01702 546366.