

## **LICENSING APPLICATION – LICENSING ACT 2003**

### **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.
- 1.3 The report contains references to appendices that, for expediency and practicality, are published separately.

### **2 BACKGROUND**

- 2.1 The application was given to the Licensing Authority by Roger Alan Powell of 315 Ferry Road, Hullbridge, SS5 6NA and refers to premises known as Smugglers Den Club, 315 Ferry Road, Hullbridge, SS5 6NA.
- 2.2 Appendix A1 consists of a copy of the original application form. Appendix A2 consists of a copy of the club rules, existing licences and conditions submitted with the application. Appendices A2 and A3 consist of amendments to the original application.
- 2.3 The applicants are represented by Drysdales Solicitors of 24 – 28 Baxter Avenue, Southend on Sea, SS2 6HZ.

#### **Description of Premises**

- 2.4 The premises to which the application relates are a small building that trade as a proprietary club providing alcohol, music and dancing and food for its members. The licensed area consists of one large room on the ground floor with a bar counter located adjacent to the entrance.
- 2.5 The premises are situated alongside the River Crouch, set back from Ferry Road and accessed via a small side road. It has a small patio area to the front overlooking the river. There are residential properties situated close by in Ferry Road, abutting the rear of the club.
- 2.6 Appendix B consists of a copy of the plan of the premises.

#### **Previous Licences**

- 2.7 A justice's full on-licence was renewed on 2 February 2004.
- 2.8 A Supper Hour Certificate was granted on 6 June 1962 allowing the ancillary sale of alcohol to customers partaking of a table meal until midnight on weekdays and Saturdays and until 2330hrs on Sundays, with an additional 30 minutes drinking-up time.

- 2.9 A Special Hour's Certificate was granted on 7 April 1971 allowing the sale of alcohol until midnight on in respect of each Wednesday, Thursday and Friday and until 0100hrs the following morning for Saturdays, with an additional 30 minutes drinking-up time.
- 2.10 A Public Entertainment Licence was renewed for 12 months commencing 1 January 2005 permitting music and dancing until midnight on weekdays, until 0100hrs the following morning for Saturdays and until 2230hrs on Sundays.
- 2.11 The premises are exempt from requiring a Late Night Refreshment House Licence to provide hot food and beverages for the periods in which the sale of alcohol is permitted, with an additional 30 minutes at the end of each period.
- 2.12 A premises licence under section 17 of the Licensing Act 2003 was granted on 5 August 2005, following an application to convert the existing justice's licence made under Schedule 8 of the Licensing Act 2003 and The Licensing Act 2003 (Transitional provisions) Order 2005.
- 2.13 Appendix C consists of a copy of the premises licence.

### **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.

#### **Operating Schedule**

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

<b>Activity</b>	<b>Time/s</b>	<b>Days</b>
Indoor sporting events – darts, cards, dominoes and similar games.  Live music – singers, musicians, live bands, cabaret shows, karaoke, indoors only.  Recorded music – disco music and background music, indoors only.  Provision of facilities for making music – amplified music system, indoors only.	(a) 1000 – midnight  (b) 1000 – 0100hrs the following day	(a) Sunday – Tuesday  (b) Wednesday - Saturday

Provision of facilities for dancing, indoors only within the licensed area.		
Late night refreshment – hot food and beverages to be consumed on the premises, indoors only.	(a) 2300 – midnight (b) 2300 – 0100hrs the following day	(a) Sunday – Tuesday (b) Wednesday – Saturday
Alcohol – for consumption both on and off the premises.  (Amended by Appendix A2)	(a) 0800 – midnight (b) 0800 – 0100hrs the following day	(a) Sunday – Tuesday (b) Wednesday – Saturday
Hours of opening  (Amended by Appendix A3)	(a) 0800 – 0030hrs the following day (b) 0800 – 0130hrs the following day (c) 0800 – 2330hrs	(a) Monday – Tuesday (b) Wednesday – Saturday (c) Sunday

3.3 The applicant requests a variation to the above days and times for all licensable activity above and for the hours the premises are open to the public, as follows: -

- (a) The hours to be extended from the latest hours of licensable activity on New Year's Eve to the start of the hours for licensable activity on New Year's Day.
- (b) The hours to be extended until 0100hrs the following day on Christmas Eve, Boxing Day and all Thursdays, Fridays, Saturdays and Sundays prior to a bank holiday.

3.4 The applicant also requests that all conditions relating to permitted hours and embedded restrictions under the Licensing Act 1964 be removed, except those relating to the deregulation of New Year's Eve (paragraph 3.3 (a) above).

#### **Variations to the application**

3.5 Amendments to the original application in respect of the supply of alcohol and the hours the premises are to be open to the public are shown in the operating schedule at paragraph 3.2.

**Conditions**

- 3.6 The premises licence is subject to conditions and restrictions carried over from the conversion of the justice's on-licence and the Mandatory Conditions required under sections 19 – 21 of the Licensing Act 2003.
- 3.7 All conditions attached to the premises licence will automatically carry over to the varied licence unless removed or altered as a result of the hearing (see paragraph 3.4 above).
- 3.8 In addition, the matters listed in the relevant sections of part B of the application form, together with the published rules of the Smugglers Den Club, will be converted into new conditions on the varied premises licence, as will any additional or amended conditions imposed by the Sub-Committee following the hearing.

**4 REPRESENTATIONS**

- 4.1 Representations that had been made by Environmental Protection Unit, Rochford District Council were withdrawn following agreement being reached with the applicant in meeting their concerns. No representations were received from other Responsible Authorities.
- 4.2 There have been 4 representations from Interested Parties of which 2 parties were signatory to the same representation.
- 4.3 The representations mainly raise concerns about the potential for crime and disorder and noise disturbance.
- 4.4 Appendix D consists of a copy of the representations 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. The notices and documentation include an explanation of the rights of persons to attend hearings, the consequences if they do not attend, the procedure to be followed at a hearing and, for applicants only, a copy of all relevant representations made.
- 5.2 Paragraphs 8 and 9 of those regulations require that parties notify the Licensing Authority no later than 5 working days before the hearing whether or not they intend to attend the hearing and whether or not they feel a hearing is necessary.
- 5.3 At the time of drafting this report, no such notifications have been received.

**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 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  
Head of Housing, Health & Community Care

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**Background Papers: -**

None

For further information please contact Peter Nellies on: -

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