

5 July 2018

Licensing and Appeals Committee

**Licensing Sub-Committee Hearing in respect of an  
Application for a New Premises Licence – Licensing Act 2003**

**SPORTS LOUNGE, FIRST FLOOR, 40 HIGH STREET,  
BRENTWOOD, ESSEX, CM14 4AJ**

**Report of:** Paul Adams – Principal Licensing Officer

**Wards Affected:** Brentwood South & North

**This report is:** Public

**1. Executive Summary**

- 1.1 An application has been received for a new premises licence in respect of **Sports Lounge, First Floor, 40 High Street, Brentwood Essex, CM14 4AJ**. **Three relevant representations have been received**. Members are requested to determine the application having regard to the operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

**2. Recommendation(s)**

2.1 That the Sub Committee:

Considers this report and appendices together with any oral submissions at the hearing and determines the application in line with the options open to the sub-committee under the Licensing Act 2003: However, the available options are:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To refuse the application in whole or in part

### 3. Introduction and Background

3.1 An authorisation is required in respect of any premises where it is intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

3.2 An appropriate authorisation is either, a premises licence, a club premises certificate or a Temporary Event Notice.

3.3 Licence holders are required, when offering any licensable activity, to ensure that they promote the licensing objectives at all times. The operating schedule of the application contains details of the activities applied for and the control measures that the applicant will have in place in order to promote these objectives. Such measures will, where appropriate, be converted into enforceable conditions on any licence issued.

3.4 The four licensing objectives are;

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

3.5 Any representation must be able to demonstrate that on the balance of Probability the application in its current form will fail to adequately promote one or more of the licensing objectives. No other matters may be considered.

### 4. The Application

4.1 This application was received on 14<sup>th</sup> May 2018 from AA Trading Ltd. in respect of ***Sports Lounge, First Floor 40 High Street, Brentwood, Essex, CM14 4AJ*** A copy of the application is attached at ***Appendix 1.***

- 4.2 This premise is currently a first floor snooker/pool hall and sports bar situated above retail shops in Brentwood High Street, and is currently licensed for the Sale by Retail of Alcohol and Indoor Sporting Events. An OS Street Map and frontage images to better identify the location are attached at **Appendix 2**.
- 4.3 The applicant seeks a new premises licence to conduct the following licensable activity:
- Supply of Alcohol - 11:00 to 02:00 Monday to Sunday
  - Indoor Sporting Events - 11:00 to 02:00 Monday to Sunday
  - Recorded Music - 11:00 to 02:00 Monday to Sunday
- 4.4 There have been 3 valid representations received from two Responsible Authorities and one interested party.
- 4.5 The first representation is from the Environmental Health team, which relates to potential public nuisance that is likely to arise with the introduction of recorded music as a licensable activity and opening up an outside area with no acoustic reduction measures being proposed.  
A copy of the full representation is attached at **Appendix 3**.
- 4.6 The second representation is from the Licensing Authority supporting the public nuisance concerns of the Environmental Health Officer and the increased risk to public safety relating to the use of an outside area and its lack of supervision & other safeguards. A copy of the full representation is attached at **Appendix 4**.
- 4.7 The third representation is from an interested party, Mr Rockall, the proprietor of the Heart of Gold Jewellers shop immediately below the Sports Lounge, and relates increased noise and littering as a public nuisance and has security - crime & disorder - concerns relating to rear of his premises.  
A copy of the full representation is attached at **Appendix 5**.
- 4.8 Any matters recorded in the Operating Schedule (Section O of the application form) will become conditions on the licence if this application is granted, the following conditions will be attached unless modified by this Committee:
- The premises shall install and maintain a comprehensive CCTV system covering the internal and external of the premises which is of evidential quality. It will also cover all entry and exit points enabling full frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open to the public and during all times when customers remain

on the premises. All recordings will be kept in an unedited format for a period of not less than 31 days with correct time and date stamping. Recording shall be made available immediately upon lawful request of Essex Police or other Responsible Authority. Download or export of CCTV should be in the native file format with the native player.

- A staff member from the premises who is conversant with the operation of the CCTV system shall be available at all times when the premises are open to the public. This staff member must be able to show Essex Police or other Responsible Authority recent data or footage with the absolute minimum of delay.
- A plan of the premises identifying the location and direction of CCTV coverage shall be served on Essex Police & the Licensing Authority each time it is altered.
- The premises will maintain a bound log book for all incidents, accidents and emergencies which shall include the following information; and will be available to Essex Police or other Responsible Authority immediately upon lawful request.
  - All crimes reported to the venue.
  - All ejections of patrons.
  - All refusals of service.
  - Any complaints received.
  - Seizures of drugs or offensive weapons.
  - The full name of any person who has been involved in dealing with any of the above matters.
- When licensable activities are permitted beyond 00:00, a minimum of 2 SIA registered Door Supervisors shall be deployed from 21:00 and remain on duty until closing time and all customers have left the premises.
- A bound Door Supervisors register shall be kept. Door Supervisors shall sign to record their start and finish times along with their full name & SIA badge number.
- When SIA registered Door Supervisors are on duty random searching of people and their possessions will be carried out.
- All staff engaged outside the premises shall wear high visibility jackets or vests.

- The management will operate the Essex Police 'Procedures for the Management of Illicit Drugs in Licensed Premises'
- The outside licensed area shall have a screen installed along the wall, a minimum height of 2 meters (or height specified by building control) to prevent objects falling off and/or being thrown.
- Security measures shall be installed to the stairs in the outside licensed area so use of the emergency escape is only in an emergency and to prevent access to the residential area being used by customers.
- Reasonable and adequate staff training to be carried out & properly documented in relation to:
  - Dealing with incidents and prevention of crime and disorder.
  - Sale of alcohol (to underage, persons over 18 purchasing for underage, drunks, etc.) prior to being allowed to sell alcohol.
- All training records will be retained for 12 months and made available to Essex Police or other Responsible Authority upon reasonable request.
- The Premises Licence Holder shall have a Dispersal Policy. A copy of which will be made available to Essex Police and Responsible Authority upon request.
- No persons shall be allowed to leave the Premises whilst in possession of any drinking glass vessel or open glass bottle whether empty or containing any beverage.
- Notices shall be prominently displayed at all exits requesting patrons to leave quietly.
- Clear and legible notices shall be prominently displayed in, and at the entrance to any outside licensed area requesting customers to use the area quietly.

- Customers shall not enter or leave the premises by the stairs into the outside licensed area at any time, except in the event of an emergency.
- The premises shall operate a Challenge 25 age verification policy. Any person who appears to be under the age of 25 shall be asked to produce photographic identification to prove they are 18 or over. Failure to produce will result in service being refused. Acceptable forms of photographic identification include:
  - Passport,
  - Photo card Driving Licence,
  - Photographic ID bearing the 'PASS' hologram.

***A further two conditions were agreed with the Essex Police Licensing Officer:***

- No licensable activities shall take place in external areas at any time.
- No speakers shall be installed or used in the external areas.

**5. Reasons for Recommendation**

- 5.1 These are the options available to the Sub-Committee under the Licensing Act 2003.

**6. Consultation**

- 6.1 The application has been consulted on in accordance with the requirements of the Licensing Act 2003.
- 6.2 Officers from the Licensing Authority have made checks on the display of public notices and in a local newspaper and are satisfied that these requirements have been met.

**7. Statement of Licensing Policy**

- 7.1 There are no specific issues arising from this application in relation to the Councils' Statement of Licensing Policy.

**8. Relevant Sections of the Secretary of State's Guidance**

8.1 The licensing objectives relating to public nuisance matters arising from this application are covered in Section 2, paragraphs 22.15 to 2.25 (pages 9 & 10) of the Licensing Act 2003, Section 182 Guidance (April 2018).

## **9. Legal Considerations**

9.1 Conditions may be attached to the grant of any licence, the hours or activities may be amended as appropriate, or in some cases the application may be refused. However, any action taken must be appropriate and relevant to promotion of the licensing objectives having considered the full details of the application and representations including testimony from any interested party present at the hearing.

9.2 The justification behind any decision to grant or refuse a licence application or the attachment of conditions, or variation of terms applied for must be recorded and given to the applicant and any person that has made representation.

9.3 There is a right of appeal to Magistrates Court by any person or party aggrieved by any decision made by the Sub-Committee.

### **Appendices to this report**

- Appendix 1 - Application Form
- Appendix 2 - OS Street Plan & frontage images
- Appendix 3 - Representation from Environmental Health (Blake)
- Appendix 4 - Representation from Licensing Authority (Leonard)
- Appendix 5 - Representation from Interested Party (Mr. Rockall)

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# Revised Guidance issued under section 182 of the Licensing Act 2003

April 2018

## 2. The licensing objectives

### Public nuisance

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.