

Decision Notice – Premises Licence

MEMBERS PRESENT:	Councillor J Baugh (Chairman of the Licensing Sub-Committee) Councillor Mrs M Cunningham Councillor R Wright
PREMISES:	CozFest Land North of Halstead Road Sible Hedingham Halstead, Essex CO9 3AN
APPLICANT:	Mrs J J Powell
DATE OF HEARING:	Wednesday, 25th January 2023
DATE OF NOTICE:	Wednesday, 1st February 2023

The Licensing Sub-Committee has read the material presented to it and has considered all the evidence and submissions.

In considering the provisions of the Licensing Act 2003, the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (issued December 2022) and Braintree District Council's Licensing Policy, the Licensing Sub-Committee has decided to **REFUSE** the application for a Premises Licence for the site known as CozFest, Land North of Halstead Road, Sible Hedingham.

The decision of the Licensing Sub-Committee in respect of this application for a Premises Licence takes effect on 1st February 2023.

Reasons for Decision

The Licensing Sub-Committee is required to consider the application for the Premises Licence as submitted in accordance with Section 18 of the Licensing Act 2003.

The Statutory Guidance issued under Section 182 of the Licensing Act 2003 (December 2022) states that each application for a Premises Licence must be considered by a Licensing Authority on a case-by-case basis and that representations submitted by Responsible Authorities, other persons and the applicant should be taken into account.

In addition, the Guidance states that the determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end.

The Licensing Authority should consider wider issues such as other conditions already in place to mitigate potential negative impacts on the

promotion of the licensing objectives and the track record of the business. Furthermore, the Guidance reminds the Licensing Sub-Committee that it is imperative that the factors which form the basis of its determination are limited to the consideration of the promotion of the licensing objectives and nothing outside those parameters. Consequently, the Licensing Sub-Committee's decision cannot be based on planning grounds or other matters which fall outside of the provisions of the Licensing Act.

The decision of a Licensing Authority should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what is intended to be achieved.

The Licensing Sub-Committee has considered the application and the submission of the applicant during the Hearing. The applicant has advised that they wish to hold one large festival style event and five smaller events akin to weddings and farmers markets.

The site to be licensed is a 10-acre agricultural field in a rural location. Its boundaries are formed by the River Colne, the A1124 and neighbouring fields not within the applicant's ownership. The extent of the site is denoted by a red line on the map submitted by the applicant with the application. All licensable activities and other ancillary uses would take place within this red line area. The site has a single point of access and egress from the A1124. The property of the nearest objector shares two boundaries with the site, with the remaining objectors being within 1km of the site, three of whom are on the west of the site on the opposite side of the A1124.

The applicant has advised that there is a covenant on the land which restricts their use of the land to six public events per annum. The Licensing Sub-Committee has had sight of the Land Registry Office Copy Entries which confirm that the use of the land is subject to a restriction of six events, but they do not specify if the events are public or private. The Licensing Sub-Committee notes also that the covenant restricting the use of the land is a private matter between the landowner (the applicant) and the Transferor/beneficiaries of the covenant and it cannot be enforced by other parties, such as the Licensing Authority, should the restriction be exceeded.

Neither in the application, nor during the Hearing has the applicant specified the proposed duration of the six events and reference has only been made to previous CozFest events which took place under Temporary Event Notices. No further explanation has been provided to the Licensing Sub-Committee.

The Licensing Sub-Committee acknowledges that during the consultation period and prior to the Hearing, the applicant has worked with the three Responsible Authorities Essex Police; Braintree District Council Environmental Health; and Braintree District Council Health and Safety to agree conditions which would apply to the Premises Licence in the event that the Licence was granted. One of the conditions agreed with Braintree District Council Health and Safety stipulates an attendance threshold of 500 people, which if met would trigger the submission of an Event Management Plan by the applicant. Part M of the application sets out that an Event

Management Plan would be submitted for events where more than 1500 guests were in attendance. The Licensing Sub-Committee is concerned that neither the applicant, nor the application have provided sufficient information as to the steps which would be put in place to promote the licensing objectives for licensed events where less than 1500 guests were expected to attend.

The Licensing Sub-Committee is not satisfied from the information contained within the application and the submission made by the applicant during the Hearing when outlining the application and responding to questions raised by objectors and Councillors, that consideration has been given to how events will be managed when an Event Management Plan is not required. The applicant has referred to an Event Management Plan prepared for a previous, discontinued application, but a copy of this was not provided. This would have helped the Licensing Sub-Committee and the objectors to understand what measures might be put in place to promote the licensing objectives and to allay any concerns about how events would be managed.

The Licensing Sub-Committee has noted the reference in Part M of the application to the Challenge 25 Scheme for the sale of alcohol; to the use of SIA Registered security staff; and to lighting. However, it is considered that insufficient information has been provided as to the steps which the applicant would take to promote the licensing objective of the prevention of public nuisance. This licensing objective is of most concern to the objectors.

Whilst this application has been determined on its merits, the Licensing Sub-Committee has had regard to the concerns raised by the objectors about the previous use of the site under Temporary Event Notices and it has considered their concerns in terms of the licensing objective of the prevention of public nuisance. Concerns have been raised in respect of noise (from regulated entertainment and ancillary to the use of the premises by patrons) emanating from the premises. It is acknowledged that the site is an open field without any structures to prevent noise carrying and affecting the immediate neighbouring property, Sparrows Cottage and those further away including Beckfield House. Reference has also been made to public nuisance caused by vehicles entering and exiting the site via its single access and egress and by people exiting the site on foot, or via other means.

The Licensing Sub-Committee has considered granting the Premises Licence subject to the imposition of further conditions for events falling outside the requirement to provide an Event Management Plan. However, having regard to the Statutory Guidance and the site it is considered that the proposed conditions could be disproportionate for the promotion of the licensing objective of the prevention of public nuisance.

Whilst it is not a legal requirement to seek professional advice in submitting an application, regrettably it is clear to the Licensing Sub-Committee that the applicant would have benefitted from obtaining such advice. In particular, the application has provided insufficient information to satisfy the

Licensing Sub-Committee that adequate arrangements would be put in place by the applicant to manage all events permitted by a Premises Licence, whether large or small. The application and subsequent negotiations with the Responsible Authorities appear to have focussed on festival style events and not on all events which could be held under the terms of a Premises Licence. The Licensing Sub-Committee considers that it is unacceptable that arrangements are not in place for smaller events, which the applicant has advised they wish to hold such as weddings, farmers markets and events with fewer than 1500 attendees. Such events could equally cause behaviours to undermine the licensing objectives.

On balance, the Licensing Sub-Committee considers that based on the information available to it at the Hearing; the concerns raised by the objectors; and the need to promote the licensing objective of the prevention of public nuisance this application should be refused.

End of Decision.

Right of Appeal

If you wish to appeal against the Council's decision you must do so in writing to the Magistrates' Court within 21 days of being notified in writing of the Council's decision. A fee must be paid to the Magistrates' Court and your application should be marked 'Pre-Court' and sent to the:-

Essex Magistrates' Court
Court Administration Centre
P.O. Box 10754
Chelmsford
Essex
CM1 9PZ

Telephone: 01245 313300
Email enquiries: esosprey@justice.gov.uk

For further guidance on appeals to the Magistrates' Court please contact the Magistrates' Court or seek independent legal advice. Further information is also available at www.justice.gov.uk.

Right to Request a Review

At any stage following the grant of a Premises Licence, you may be able to ask the Licensing Authority to review the Premises Licence. You will need to complete an application form which can be obtained from the Council or from www.gov.uk. An application for a review must be about the effect that the Premises Licence is having on at least one of the four licensing objectives. Further information about reviews can be found at www.gov.uk.