

Decision Notice – Premises Licence

MEMBERS PRESENT:	Councillor Mrs J Beavis (Chairman) Councillor Mrs M Cunningham Councillor Mrs I Parker
PREMISES:	Unit 10, Middleton Hall Farm Middleton Road Middleton Sudbury, Suffolk CO10 7LL
APPLICANT:	Mr P Brady and Mr A Hensby
DATE OF HEARING:	Tuesday, 24th May 2022
DATE OF NOTICE:	Tuesday, 31st May 2022

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

In considering the provisions of Section 18 of the Licensing Act 2003, the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (issued April 2018) and Braintree District Council's Licensing Policy, the Licensing Sub-Committee has decided to **GRANT** a **Premises Licence** for the above premises as set out in the application as follows:-

Section		Days and Hours			Place
J	Supply of Alcohol	Mon	10:00	22:00	On the Premises
		Tue	10:00	22:00	
		Wed	10:00	22:00	
		Thu	10:00	22:00	
		Fri	10:00	22:00	
		Sat	10:00	22:00	
		Sun	10:00	22:00	
Non Standard Timing: None					
L	Opening Times	Mon	10:00	23:00	
		Tue	10:00	23:00	
		Wed	10:00	23:00	
		Thu	10:00	23:00	
		Fri	10:00	23:00	
		Sat	10:00	23:00	
		Sun	10:00	23:00	
Non Standard Timing: None					

The Premises Licence is subject to the Conditions offered by the applicant in order to promote the four licensing objectives, as set out in Section M of their application and the Mandatory Conditions attached to all Premises Licences. No additional Conditions are considered to be necessary, but the following Information to Applicant has been agreed:-

Information to Applicant

The fridge containing alcohol to be consumed on the premises should be kept locked at all times and it should not be accessible by customers/members of the public.

The decision of the Licensing Sub-Committee in respect of this application for a Premises Licence takes effect on 31st May 2022.

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.

Paragraphs 9.42 and 9.43 of the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (April 2018) state 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, paragraph 9.44 of 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 Sub-Committee's decision cannot be based on planning grounds.

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 imposition of standard conditions should be avoided and may be unlawful where it cannot be shown that they are appropriate for the promotion of the licensing objectives in an individual case. In this case, having regard to the application and the representations made prior to and during the Hearing the Licensing Sub-Committee considers that it is not proportionate or necessary for the promotion of the licensing objectives to impose any further conditions.

In considering this application for a Premises Licence, the Licensing Sub-Committee has had regard to the application and the submissions made at the Hearing by the applicant and by people who had submitted representations. The Sub-Committee has also had regard to all of the written representations submitted in respect of the application.

The Licensing Sub-Committee noted that the representations submitted in respect of the application were based mainly on the effect of the application on the licensing objective of the prevention of public nuisance and they related to potential noise nuisance and light pollution emanating from the premises. Concern had also been expressed that the use of the premises could generate additional traffic movements on the local road network, which some correspondents considered to be inadequate and unsafe, and that the ability of some drivers may be adversely affected if they had consumed alcohol at the venue. Reference had also been made to an increased use of the Middleton Hall Farm site as a whole; about additional HGV movements in the area; and about the effect that the grant of a Premises Licence could have on other licensed premises.

The Licensing Sub-Committee acknowledged that highway considerations; the overall use of the site; and the need for a Premises Licence and the impact that the grant of a Licence could have on other proprietors selling alcohol were not matters that it could consider in determining the application. The Sub-Committee has had regard to paragraphs 2.7 and 14.19 of the Guidance. The Sub-Committee is reminded that Premises Licence Holders are responsible for ensuring the safety of those using their premises. However, beyond the immediate area surrounding the premises, individuals have personal responsibility for their actions. Furthermore, the Sub-Committee is also reminded that the need for a licence and impact on other licensed premises in the vicinity are not matters for the Licensing Authority in the discharge of its licensing function.

No representations had been submitted by the Responsible Authorities.

The applicant stated that the premises had been operating as a 'golf hub' since September 2021. Customers could utilise either the 'golf hub's' 'custom fit' golf club service and/or use the 'golf simulator'. The simulator enabled users to 'play' a virtual round of golf at various golf courses around the world. Use of the simulator had to be pre-booked on-line and a maximum of eight people could use it at any one time. Sessions could last for three to four hours. To date, customers using the simulator had provided their own alcohol to consume whilst on the premises, but it was proposed that this arrangement should stop and that they should only be able to consume alcohol that they had purchased on the premises. The alcohol on sale would be limited to bottled beer, cider and prosecco. No spirits would be sold. This arrangement would enable the 'golf hub' business to benefit commercially from alcohol sales and to monitor the consumption of alcohol. People who had not pre-booked to use the simulator would not be able to attend the premises just to consume alcohol. The applicant indicated that the purpose of the application was to regularise a process which was already occurring and not to attract more custom. It

was proposed that alcohol should be sold on the premises from 10:00 hours to 22:00 hours seven days a week, but this would be dependent on bookings. The applicant did not consider that the proposal would lead to more traffic using the site.

Having regard to the licensing objectives, the Licensing Sub-Committee is satisfied from the evidence presented that it is not appropriate either to refuse the application, or to impose conditions on the grant of the application. The Sub-Committee has considered the likely effect that the grant of the application could have on those who have made representations and it has acknowledged that the premises has operated as proposed since September 2021 without any complaints being made. Furthermore, the application seeks to regularise and control the consumption of alcohol by preventing customers from supplying this themselves and ensuring that only alcohol purchased on the premises is consumed. It is also acknowledged that alcohol will be consumed within the premises only, not outside or taken away to be consumed off the premises. The Sub-Committee was pleased to hear that the applicant's arrangements for keeping alcohol secure will ensure that it cannot be accessed by customers or any accompanying children. Whilst not making it a condition of the Premises Licence, the Sub-Committee recommends that having regard to the size of the premises that the applicant maintains the practice of keeping the fridge in which the alcohol will be stored locked and not accessible by members of the public.

Based on the explanation given by the applicant at the Hearing as to how the premises will operate, it is considered that these premises will not be a destination drinking establishment and that the applicant seeks only to supply alcohol to customers who have booked to attend the premises to use the golf simulator. The Licensing Sub-Committee considers that the matters which are set out in Part M of the application will provide sufficiently robust measures to ensure that the licensing objectives will not be undermined and that the concerns of those who have made representations will be addressed.

It is therefore considered that the application should be granted and that no additional conditions are necessary.

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 sent to the:-

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

CM1 9PZ

and marked 'Pre-Court'.

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.