

Decision Notice – Premises Licence

MEMBERS PRESENT:	Councillor J Baugh (Chairman of the Licensing Sub-Committee) Councillor I Parker Councillor R Wright
PREMISES:	Land North of Halstead Road Sible Hedingham Halstead, Essex CO9 3AN
APPLICANT:	Mrs J J Powell
DATE OF HEARING:	Wednesday, 5th July 2023
DATE OF NOTICE:	Tuesday, 11th July 2023
The decision of the Licensing Sub-Committee in respect of this application for a Premises Licence takes effect on 11th July 2023.	

The Licensing Sub-Committee has read the material presented to it and it 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 **GRANT** the application for a Premises Licence for land North of Halstead Road, Sible Hedingham as set out in the application and as amended below:-

1. The Premises Licence granted permits only four "events" per calendar year. Each "event" is limited to a maximum duration of four consecutive calendar days upon which licensable activities may take place.
2. The activities permitted under this Premises Licence are:

Licensable Activity	Days and Hours			Place
Live Music	Mon	09:00	23:30	Indoors and Outdoors
	Tue	09:00	23:30	
	Wed	09:00	23:30	
	Thu	09:00	23:30	
	Fri	09:00	23:30	
	Sat	09:00	23:30	
	Sun	09:00	23:30	
Non-Standard Timing: None				

Recorded Music	Mon	09:00	23:30	Indoors and Outdoors
	Tue	09:00	23:30	
	Wed	09:00	23:30	
	Thu	09:00	23:30	
	Fri	09:00	23:30	
	Sat	09:00	23:30	
	Sun	09:00	23:30	
Non-Standard Timing: None				
Performance of Dance	Mon	09:00	23:00	Indoors and Outdoors
	Tue	09:00	23:00	
	Wed	09:00	23:00	
	Thu	09:00	23:00	
	Fri	09:00	23:00	
	Sat	09:00	23:00	
	Sun	09:00	23:00	
Non-Standard Timing: None				
Supply of Alcohol	Mon	09:00	23:00	On and Off the Premises
	Tue	09:00	23:00	
	Wed	09:00	23:00	
	Thu	09:00	23:00	
	Fri	09:00	23:00	
	Sat	09:00	23:00	
	Sun	09:00	23:00	
Non-Standard Timing: None				
Opening Times	Mon	00:00	00:00	
	Tue	00:00	00:00	
	Wed	00:00	00:00	
	Thu	00:00	00:00	
	Fri	00:00	00:00	
	Sat	00:00	00:00	
	Sun	00:00	00:00	
Non-Standard Timing: None				

3. 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, as amended below, and the Mandatory Conditions attached to all Premises Licences.
4. Prior to and during the Hearing the Applicant agreed to amend the application and agreed to further conditions with the Responsible Authorities for Environmental Health and Health and Safety. The Applicant also confirmed during the Hearing that, where mentioned in Section M of the application form, all references to 1000 attendees has been reduced to 500 and she agreed to provide Event Management Plans for those events with up to 500 attendees.

Reasons for Decision

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.

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 those who have submitted written representations.

The application considered by the Licensing Sub-Committee was for a Premises Licence for:

- a) The supply of alcohol – Monday to Sunday from 09:00hrs to 23:00hrs for On and Off the premises
- b) Live Music and Recorded Music (Indoors and Outdoors) – Monday to Sunday from 09:00hrs to 23:30hrs
- c) Provision of Dancing (Indoors and Outdoors) - Monday to Sunday from 09:00 to 23:00hrs
- d) Anything similar to b) and c) above.

The application stated in Section M (Prevention of Crime and Disorder) that the Licence “shall not authorise licensable activities open to the public more than six times per year”. However, the size and duration of the events were not specified within the application.

In accordance with the provisions of the Licensing Act 2003 Live and Recorded Music between the hours of 8.00am and 11.00pm on any day

does not require a licence on a premises which is authorised to sell alcohol for consumption on the premises where the audience does not exceed 500.

In addition, the Act also states that no licence is required for the provision of Dance between the hours of 8.00am and 11.00pm on any day where the audience does not exceed 500.

Because of these provisions of the Licensing Act 2003, the Licensing Authority cannot seek to control dancing, and live and recorded music where it takes place with an audience of less than 500 as this is “deregulated” and therefore may take place without a licence. The Licensing Authority may only remove the effect of the deregulation provision of the Act when imposing a condition on a Premises Licence as a result of a licence review. This is a separate legal process to the Sub-Committee’s consideration of the application for a Premises Licence.

As a consequence, the Licensing Sub-Committee at this stage is restricted as to what it may consider to address the concerns of local residents in respect of noise caused by music emanating from the licensed premises where there are audiences which do not exceed 500 during the hours of 8.00am and 11.00pm.

The site to be licensed (Land north of Halstead Road, Sible Hedingham) is a 10.23 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 application plan. 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 0.1km to 0.8km radius (approximately) of the boundary of the site.

The Licensing Sub-Committee has considered the representations made by the objectors who are local residents, which can be summarised into the following:

- The site is an open field;
- Noise emanating from the premises affecting the enjoyment of their homes;
- Noise issues during previous events;
- Safe use of the public highway/access and egress from the premises including that required by emergency services should there be an incident on site;
- Lack of detail on the duration of an “Event”;
- Absence of an Event Management Plan for events with less than 1000 attendees;
- The applicant’s failure to contact the residents in advance of submitting the application for the Premises Licence.

The Licensing Sub-Committee also heard from residents on other matters regarding the use of the site, which are not matters that the Sub-Committee

can take into consideration in its determination as they are outside the scope of the Licensing Act and are matters for other regimes. These include the need for planning permission, structures on site and their removal, use of neighbouring land and the clearance of the site after events.

The representations by the objectors for Environmental Health and Health and Safety, who are Responsible Authorities under the Act, have been noted. In particular, they have agreed conditions with the Applicant prior to the Hearing which have overcome their respective concerns.

The Licensing Sub-Committee has taken into consideration the amendments made to the application by the Applicant during the Hearing specifically:

- The six events are reduced to four events per calendar year. Each event will be for no more than four consecutive calendar days upon which licensable activities will take place.
- The number of attendees where referred to in the application and the agreed conditions as 1000 has been reduced to 500.
- An Event Management Plan is to be provided for events with up to 500 attendees.

The Licensing Sub-Committee has listened to the concerns of those who have made representations to the application, in particular in relation to noise nuisance and the management of the site including traffic accessing and exiting the site.

The local residents have referred to complaints made in respect of previous licensable activities taking place on the site under Temporary Event Notices. The Council's records show that no complaints have been made to the Licensing Authority or to the Responsible Authorities in respect of their concerns. The Applicant's witness Mr McManus, Licensing Officer for Essex Police, also advised that his licensing system shows no record of any complaints. The Licensing Sub-Committee appreciates the statements by the residents that they have been disturbed by previous events, but it is only able to act upon the evidence before it.

The Licensing Sub-Committee has had regard to the representation of the Responsible Authority (Environmental Health) in particular regarding noise issues, which it considers should be addressed by the submission of a Noise Control Management Statement as part of an Event Management Plan.

The Licensing Sub-Committee is satisfied that this should assist with identifying and minimising sources of noise emanating from the premises which otherwise might cause unacceptable disruption to the residents of the locality. During the Hearing, the Applicant referred to producing Event Management Plans for events which have been held under Temporary

Event Notices and which have had a limited capacity of 499 attendees. Therefore, the Licensing Sub-Committee in acknowledging that this is an accepted practice for the Applicant, is satisfied that it will not create an unreasonable burden on the Applicant and is a proportionate step in order to promote the licensing objectives, in particular the prevention of public nuisance.

The Licensing Sub-Committee further considers that the requirement for the Applicant to submit an Event Management Plan (EMP) incorporating a Traffic Management Plan and a Noise Control Management Statement and for that Plan to be agreed before the event can take place will address the concerns held by local residents and give them confidence that there will be measures in place to minimise the impact of events held under the licence.

The Licensing Sub-Committee considers that the timescale for submitting an EMP should be extended in order to provide reasonable time for the Responsible Authorities and Essex County Council Highways to consider the EMP. This will ensure that there is sufficient time to enable those Authorities to discharge their roles/functions and to ensure that an event can proceed with appropriate safeguards in place for the users of the site, attendees of an event and the neighbouring residents.

The Licensing Sub-Committee considers that an EMP should be submitted by the Applicant at least four months prior to an event where there are expected to be 500 or more attendees and at least two months prior to an event where there are expected to be up to 500 attendees. Other timescale provisions relating to the agreement of plans, as set out in paragraph (b) 8 of the Operating Schedule set out in Section M of the application shall also be amended from six weeks to four weeks and shall be applicable for all EMPs.

Having regard to the nature of the one event the applicant has advised will be held (CozFest a music festival) and the other events which are likely to be of a smaller scale (reference being made to farmer markets and the site being a wedding venue), the Licensing Sub-Committee considers that the reduction made by the Applicant to four events per calendar year (each no longer than four consecutive calendar days with no licensable activities taking place after 11.30pm) is a proportionate use of the site. The Sub-Committee notes that the consequence of this is that licensable activities may only take place on a maximum 16 days per year and this should allay the concerns of residents that events could be held every day of the calendar year.

The Applicant has also indicated that she does not wish to have glass on the premises and this has been covered by the Operating Schedule included within Section M of the application and in the agreed conditions. The Licensing Sub-Committee concurs with the Applicant's concerns and in order to promote the licensing objective of the prevention of crime and disorder it has strengthened the "condition" set out in paragraph (b) 13 of the Operating Schedule within Section M of the application to prevent use of glass on the site.

The Licensing Sub-Committee considers that in order to promote the licensing objective of the prevention of public nuisance and to promote good relationships with the local community, the Applicant should provide notification of all forthcoming events at the earliest opportunity and contact details for key personnel who may be contacted before and during events should issues arise. Notifications and contact details should be provided to the occupiers of all residential premises within an 800 metre radius of the boundary of the Premises Licence. Paragraph (d) 1 of the Operating Schedule set out in Section M of the application shall be amended to reflect this.

The EMP and the process which will be required to be followed for each of the four events under the licence and the restriction on the number of days per event and over the whole calendar year, together with all the steps as set out in Part M of the application, together with the agreed conditions to promote the four licensing objectives persuade the Sub-Committee that the grant of this application is acceptable.

It is therefore considered that the application should be granted.

The Operating Schedule as set out in Section M of the application, as amended, is as follows:-

a) General – all four licensing objectives (b, c, d and e)

1. An Event Management Plan (EMP), including a Traffic Management Plan and a Noise Control Management Statement to be submitted 4 months before for events of 500 or more people. An Event Management Plan, including a Traffic Management Plan and a Noise Control Management Statement to be submitted 2 months before for events of less than 500 people.
2. To follow health and safety guidelines in all aspects. Risk Assessments to be drawn up and included in individual Event Management Plans.
3. To ensure professional services are obtained and utilised as required.
4. To ensure all professional employees and volunteers are adequately briefed and are able to contact each other and the organiser immediately in the event of a problem arising.

b) The prevention of crime and disorder

1. A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement and is either a:

- Proof of age card bearing the PASS Hologram;
- Photocard driving licence;
- Passport; or
- Ministry of Defence Identity Card.

The premises shall clearly display signs at each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.

2. All staff engaged in the sale or supply of alcohol on the premises shall have received training in relation to and including under-age sales, how to recognise drunkenness and the duty not to serve drunk persons.

3. Training records shall be maintained and kept for a minimum of 12 months and made available to police or licensing authority staff upon reasonable request.

4. A refusals record shall be maintained at the premises, which details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale. All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to police or licensing authority staff upon reasonable request.

5. The premises shall have in place and operate a zero-tolerance policy with regard to the use/possession of controlled drugs and psychoactive substances and advertise the same within the premises on posters and similar means. This policy may form part of the Event Management Plan.

This policy shall specifically include but not be limited to:

- I. Searching practices upon entry;
- II. Dealing with patrons suspected of using drugs on the premises;
- III. Scrutiny of spaces including toilets or outside areas;
- IV. Clear expectations of staff roles (including the DPS, managers/supervisors and door supervisors);
- V. Staff training regarding identification of suspicious activity and what action to take;
- VI. The handling of items suspected to be illegal drugs or psychoactive substances
- VII. Steps taken to discourage and disrupt drug use on the premises
- VIII. Steps to be taken to inform patrons of the premises drug policy/practices
- IX. Patrol of perimeter (Heras) fencing to deter drug supply.

6. The Licence shall not authorise licensable activity open to the public for more than four events per calendar year with each event being over a maximum of four consecutive calendar days.

7. Customers will not be permitted to remove from the premises any drinks supplied by the premises in open containers.

8. An Event Management Plan, incorporating a Traffic Management Plan and a Noise Control Management Statement shall be submitted to the Responsible Authorities including the Licensing Authority, Essex Police and Essex County Council Highways at least 4 months prior to any event open to the public where 500 or more people are expected to attend and at least

2 months prior to any event open to the public where less than 500 people are expected to attend and licensable activity shall not take place if any of these object to the Event Management Plan in writing within 4 weeks of submission and that objection is not rescinded.

9. An incident log shall be maintained and made immediately available to police or licensing authority staff upon reasonable request. The log must be completed as soon as is possible and shall record the following: (a) All crimes reported to the venue (b) All ejections of patrons (c) Any complaints received concerning crime and disorder (d) Any incidents of disorder (e) All seizures of drugs or offensive weapons.

10. SIA licensed security staff shall be used in accordance with a site security plan which will form part of the Event Management Plan and a record shall be maintained (on the premises) which is legible and details: a) The day and date when door supervisors are deployed; b) The name and SIA registration number of each door supervisor on duty at the premises; and c) The duty start and end time for each door supervisor. This record shall be retained for 31 days and be immediately provided to police or licensing authority staff upon reasonable request.

11. The licence holder will appoint a competent security/stewarding contractor with expertise in the operation of security and stewarding of large-scale outdoor events. The security/stewarding contractor will ensure there are the correct number of SIA registered security staff at the event. Full details will be contained within the EMP.

12. The licence holder will ensure a full stewarding plan and evacuation plan will be produced as part of the EMP.

13. At all events open to the public drinks will be dispensed in either plastic bottles or collapsible cups or containers, no glass vessels to be handed to the public.

14. At all events open to the public the licence holder will ensure the perimeter of the licensed area will be securely fenced and cordoned off to enable the licence holder to safely control the event.

15. At all events, off-sales of alcohol in glass bottles will be allowed in a dedicated security-controlled area which will be detailed in the Event Management Plan/Alcohol Management Plan and on the Site Plan each year. The customer will be advised that no glass is allowed on site and required to immediately deposit their purchases away from the area of licensable activity.

16. In addition to water, other non-alcoholic beverages shall be available at all times whilst alcohol sale or supply takes place.

17. The sale of glass bottles for Champagne, sparkling or premium wines and the use of glass containers will be allowed only at private events not open to the public.

c) Public safety

1. Marquees and Big Top to be erected by experienced/trained team. No public access allowed during installation. Detailed on individual Event Management Plan.
2. Any temporary fabric structures to be checked on a daily basis once installed. Additional checks and measures to be carried out in the event of adverse weather conditions.
3. No vehicles allowed to move on site within the public hours unless with previous permission and cordoned off from the public by not less than 3 stewards/marshals/security team members.
4. Traffic Management Company to be employed for larger events as required and detailed on individual Event Management Plan.
5. Pedestrian entrance to be marshalled by stewards in Hi Vis vests as required and detailed on individual Event Management Plan.
6. Access route encircling site for larger events as required to avoid having vehicles on site and alert public to presence of the river. Detailed on individual Event Management Plan.
7. Generators to be situated away from temporary structures. Sand and/or appropriate fire extinguisher to be available beside each generator in case of fire.
8. No smoking allowed in Marquees or Big Top.
9. Lost child collection point at First Aid tent. Children under 12 to be issued with wristbands holding parent's phone number.
10. Water barrels and fire extinguishers to be placed throughout site for immediate use in case of fire as required and detailed on individual Event Management Plan.
11. Emergency exit through neighbouring farmland agreed with the owner.
12. No open fires to be allowed on the area of licensable activity, the public camping area, or the car park.
13. Adequate lighting to be installed over entrances and car park for larger events as required and detailed on individual Event Management Plan.
14. All traders to send proof of PLI, Risk Assessment and Food Hygiene certificate (if applicable). No traders to be admitted without the appropriate paperwork being submitted.
15. Toilets to be constantly lit after sunset as required and detailed on individual Event Management Plan.

d) The prevention of public nuisance

1. The occupiers of all dwellings within an 800 metre radius of the boundary of the premises licence to be notified of all forthcoming events at the earliest opportunity and provided with contact details of key personnel who may be contacted before and during all events, and encouraged to raise any concerns.
2. Entrance to car park to be manned by Stewards/Marshals wearing Hi Vis vests. Site entrance signs to be set by entrance for events as required and detailed on individual Event Management Plan.
3. No drinks in open containers to be removed to the campsite or car park.
4. Professional technician employed with equipment to monitor decibel levels and ensure noise is funnelled in one direction for larger events as required and detailed on individual Event Management Plan.
5. Entrance to Big Top/Marquee during event to be angled to decrease noise disruption for neighbouring properties.
6. Decibel checks to be carried out throughout the course of the event for larger events offering amplified music as required and detailed on individual Event Management Plan.
7. Bar staff to exercise their discretion, training and licensing directives when serving alcohol.
8. Professional S.I.A. licensed security staff to intervene in the event of any disruptive behaviour as required.

e) The protection of children from harm

1. Children under 12 to be supplied with wrist bands showing a parent's phone number and directed to the First Aid tent should they become lost. First Aid tent to be pointed out to all on entrance to the site for larger events as required and detailed on individual Event Management Plan.
2. DBS checked volunteers to be called to the First Aid tent via walkie talkie or PA announcement in the event of a lost child for larger events as required and detailed on individual Event Management Plan.
3. No child allowed to be returned without a full description of the child being given to the volunteer. If child is reluctant to go with person collecting them, police to be called as required and detailed on individual Event Management Plan.

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
PO. 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.