

Decision Notice – Premises Licence

MEMBERS PRESENT:	Councillor J Baugh - Chairman Councillor P Heath Councillor G Prime
PREMISES:	Jeffreys Convenience Store 63 Jeffrey's Road Cressing, Braintree, Essex CM77 8JQ
APPLICANT:	Mr N Jeyakumar
DATE OF HEARING:	Friday, 5th April 2024
DATE OF NOTICE:	Friday, 12th April 2024
The decision of the Licensing Sub-Committee in respect of this application for a Premises Licence takes effect on 12th April 2024.	

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 2003¹ and Braintree District Council's Licensing Policy, the Licensing Sub-Committee has decided to **GRANT** the application for a Premises Licence for Jeffreys Convenience Store, 63 Jeffrey's Road, Cressing, Braintree, Essex CM77 8JQ as set out below:

The licensable activities permitted under this Premises Licence are:

Licensable Activity	Days and Hours			Place
Supply of Alcohol	Mon	06:00	23:00	Off the premises
	Tue	06:00	23:00	
	Wed	06:00	23:00	
	Thu	06:00	23:00	
	Fri	06:00	23:00	
	Sat	06:00	23:00	
	Sun	06:00	23:00	
Non-Standard Timing/Seasonal Variations:		None		

¹ Issued December 2023 [Revised guidance issued under section 182 of the Licensing Act 2003 - December 2023.pdf](https://publishing.service.gov.uk/December_2023.pdf) (publishing.service.gov.uk)

The Premises Licence is subject to:

- a. The Mandatory Conditions attached to all Premises Licences.
- b. Those conditions offered by the Applicant to promote the four licensing objectives as set out in Section 18 of their application,
- c. The conditions agreed by the Applicant with the Responsible Authority, Essex Police, prior to the Hearing, except those conditions specified by Essex Police which are a direct duplication of the steps outlined by the Applicant set out in Section 18(b) of their application. Where a requirement of Essex Police is not covered by the Applicant's steps (in full, or in part), the conditions proposed by Essex Police take precedence.
- d. As agreed at the Hearing by the Applicant, the condition relating to the retention period for CCTV recordings is amended to 60 calendar days.
- e. The Licensing Sub-Committee considered that it is proportionate to amend the condition which relates to the 'refusal' entry records to 'as soon as reasonably practicable, but no later than 24 hours'.
- f. The Licensing Sub-Committee also considered that for the conditions which specify measurements of signage, those measurements are to be removed as this is considered to be an over burdensome requirement on the Applicant and not a matter within their direct control, such as signage for the Challenge 25 scheme, which is produced by a third party (Retail of Alcohol Standards Group).
- g. The Licensing Sub-Committee also considered, that in order to promote the licensing objective of the Prevention of Public Nuisance there should be an addition of a condition requiring the Premises Licence Holder to display a suitable notice at the exit of the premises encouraging customers to be quiet when leaving the premises and to respect the rights of people living nearby.

Reasons for Decision

1. The premises to be licensed is Jeffrey's Convenience Store, 63 Jeffrey's Road, Cressing. The premises is situated in a small parade of shops within a residential area in the village of Cressing. It is intended that the premises will operate as a convenience store and a premises licence is sought for the sale of alcohol for consumption off the premises on Monday to Sunday from 06:00hrs to 23:00hrs. At the date of the Hearing the premises is not operating as a business.
2. The Licensing Authority was required to call a Hearing to determine this application due to three representations having been received regarding the application. Two representations were received from local residents and the other was from the Responsible Authority, Essex Police. One of the representations submitted by a local resident was withdrawn prior to the Hearing. The remaining two representations had been made in respect of the licensing objectives of the Prevention of Public Nuisance and the Prevention of Crime and Disorder.

3. The Hearing was attended by representatives of the Applicant and the Responsible Authority, Essex Police. The local resident was unable to attend the Hearing.
4. In considering this application for a Premises Licence, the Licensing Sub-Committee has had regard to the application, the submissions made at the Hearing by the Applicant and Essex Police and to all written representations submitted.
5. The Licensing Sub-Committee has noted from the representation made by Essex Police, that Essex Police have sought the addition of conditions which they have agreed with the Applicant during the statutory consultation period. It is noted that Essex Police consider that the application, in its submitted format, may undermine the licensing objective of the Prevention of Crime and Disorder because they are concerned about how the premises will operate. Essex Police have therefore put forward conditions to promote the licensing objective of the Prevention of Crime and Disorder.
6. The Licensing Sub-Committee was reminded, that in accordance with the advice set out in the Statutory Guidance, the steps set out in the operating schedule (Section 18 of the application) would be translated by the Licensing Authority into conditions that would be attached to the licence.
7. It is noted that the conditions which Essex Police have agreed with the Applicant broadly replicate the steps which the Applicant has set out in their operating schedule in order to promote the licensing objectives. In particular, the provision and operation of CCTV and the need to keep records in relation to the refusal of the sale of alcohol. These conditions were proposed by Essex Police in order to provide a standardised form of wording.
8. The Licensing Sub-Committee has noted that Essex Police have not provided any specific evidence in relation to crime and disorder in the locality, or concerns in respect of the Applicant themselves.
9. The Licensing Sub-Committee has taken into consideration the conditions proposed by Essex Police and considers, that as the Applicant has agreed to these conditions and has considered the potential burden and consequences of them, the conditions (as amended by the Sub-Committee) can be imposed upon the licence in order to promote the licensing objectives.
10. The Licensing Sub-Committee was reminded further, that as the Licensing Authority it may not impose any conditions unless its discretion had been exercised following the receipt of relevant representations and that it was satisfied as a result of a Hearing that it was appropriate to impose conditions in order to promote one or more of the four licensing objectives. Furthermore, if conditions were to be imposed they should be tailored to the size, type, location, characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignored these individual aspects should be avoided. In some cases, it was possible that no additional conditions would be appropriate to promote the licensing objectives.

11. Having regard to the Statutory Guidance, each application for a Premises Licence must be considered by a Licensing Authority on a case-by-case basis and representations submitted by 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.
12. In determining an application for a Premises Licence, 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 Statutory 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 matters which fall outside the provisions of the Licensing Act, such as the matters set out in the representation of a local resident regarding housing developments and the impact they have had on the village of Cressing including parking, highway matters and dog fouling.
13. 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.
14. The Applicant, in their submission, has advised that they have significant experience of working in retail (22 years) and has referred to other premises in another area of the country. The Applicant has advised the Licensing Sub-Committee that they have arrangements in place for non-licensable activities, such as deliveries and waste storage and collection, which seek to avoid causing a disturbance to local residents. In addressing the Licensing Sub-Committee, the Applicant has explained that the premises will be a general convenience store, principally selling groceries and newspapers and that alcohol sales will be an incidental part of the store's operation. The Applicant is not intending to operate as an 'off-licence'.
15. The Licensing Sub-Committee has considered the representation made by the local resident on the basis of public nuisance. Within the representation, reference has been made to the 'need' for the premises and it has referred to other premises within Cressing. The Licensing Sub-Committee is mindful of paragraph 14.19 of the Statutory Guidance, which advises that 'need' is not something that it can consider when discharging its functions in determining an application. This is a matter for the Local Planning Authority.
16. Concerns have been expressed in respect of the potential for anti-social behaviour, drunken abuse and noise as a consequence of the grant of this Premises Licence. The Licensing Sub-Committee has had regard to paragraph 2.27 of the Statutory Guidance, which states that a person's behaviour beyond the immediate area surrounding a premises is a matter of personal responsibility. Whilst the concerns raised in the representation submitted by a local resident are speculative as the premises is not yet in operation, the Sub-Committee considers that there could be potential for a degree of disturbance to be caused due to the hours during which it is intended that the premises

will be open (06:00hrs to 23:00hrs), particularly with customers leaving the premises in the later part of the evening.

17. The Licensing Sub-Committee is persuaded that the premises will operate as a convenience store, and that the steps set out in the application and the additional conditions agreed with Essex Police will give assurances that the premises will operate in a manner that is responsible and will not undermine the licensing objectives. However, the Sub-Committee considers that it would be reasonable for a condition to be imposed which requires the Licence Holder to display a suitable notice at the exit of the premises encouraging customers to be quiet when leaving the premises and to respect the rights of people living nearby in order to promote the licensing objectives of the Prevention of Public Nuisance and the Prevention of Crime and Disorder.
18. The Licensing Sub-Committee considers that no evidence has been presented which would justify the refusal of this application in order to promote the licensing objectives. It is therefore considered that the application should be granted, subject to conditions.

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.