

Decision Notice – Variation of the Club Premises Certificate

MEMBERS PRESENT:	Councillor J Baugh (Chairman) Councillor G Prime Councillor W Taylor Councillor R Wright (Reserve)
PREMISES:	Coggeshall Conservative Club 32 Church Street Coggeshall Colchester Essex CO6 1TX
APPLICANT:	Mr W Mills, Club Steward, for Coggeshall Conservative Club
DATE OF HEARING:	Wednesday, 6th September 2023
DATE OF NOTICE:	Friday, 8th September 2023
The decision of the Licensing Sub-Committee in respect of this application to vary the Club Premises Certificate takes effect on 8th September 2023	

Pre-Decision Notes:

1. Amendment to the Application:

The application to vary the Club Premises Certificate (C2/5) has been amended by the Applicant prior to the Licensing Hearing.

The original application sought to vary the Club Premises Certificate to allow for the following:

- 1) To increase the licensable area to include the external area (car park) as shown in Appendix 2 to the report for the Licensing Hearing held on 6th September 2023.
- 2) Off-sales for a period of 7 months of the year from 1st April to 31st October each year between the hours of 12:00hrs and 20:00hrs.

As set out in the report for the Licensing Hearing, the Applicant agreed with the Responsible Authority, Essex Police, to amend their application by removing the external area from the application and to agree to conditions as set out in Appendix 1 to this Decision Notice.

The changes agreed between the Applicant and Essex Police mean that the application no longer seeks to increase the licensable area to cover the car park as shown in Appendix 2 to the Hearing Report.

The remaining aspect of the application to vary the Club Premises Certificate to be determined by the Licensing Sub-Committee is the addition of off-sales

for the period from 1st April to 31st October each year between the hours of 12:00hrs and 20:00hrs as set out in Section 12 of the application.

The consequence of the removal of the external area (car park) from the application is that that no licensable activities can take place in that area under the authority of the Club Premises Certificate.

2. Consumption Area

The Applicant also agreed with Essex Police to identify an area within the car park for the consumption of alcohol purchased as an off-sale. This area is shown by blue hatching in Appendix 5 to the Hearing Report.

The consumption of alcohol is not a licensable activity and it is not therefore required to be included within the Club Premises Certificate and accompanying plan, but the Club Premises Certificate Holder is still required to promote the licensing objectives in respect of ancillary activities, such as consumption, where there is link to licensable activities.

3. Off-Sales

Section 73(2) of the Licensing Act 2003, states that a Club Premises Certificate which authorises the supply of alcohol for consumption off the premises must include the following conditions; 1) that the supply must be made at a time when the premises are open for the purpose of supplying alcohol, in accordance with the Club Premises Certificate, to members of the Club for consumption on the premises; 2) that any alcohol supplied for consumption off the premises must be in a sealed container; and 3) that any supply of alcohol for consumption off the premises must be made to a member of the Club in person.

4. Determination of Application to Vary

As a result of the amendment to the application, the Licensing Sub-Committee's consideration of this matter is limited to off-sales. The Sub-Committee may only consider the relevant sections of the representations made in respect of off-sales and it cannot consider those parts of the representations which relate to aspects of the application which have subsequently been withdrawn.

Decision

In considering the provisions of Section 85 of the Licensing Act 2003, the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (issued August 2023), and Braintree District Council's Licensing Policy, the Licensing Sub-Committee has decided to **GRANT** the **Variation of the Club Premises Certificate** for the above premises as set out in the application (as amended) and subject to:

- 1) The conditions agreed by the Applicant with Essex Police as set out in Appendix 1 to this Decision Notice.

- 2) The condition offered by the Applicant during the Hearing that a check will be made of customers' club membership prior to the authorisation of any off-sales being made, in order to comply with Section 73 of the Licensing Act 2003.
- 3) The steps set out in Section 16 of the application and the mandatory conditions attached to all Club Premises Certificates.

Reasons for Decision

The Licensing Sub-Committee was required to determine the application for the variation of the Club Premises Certificate in accordance with Section 85 of the Licensing Act 2003, following the receipt of 24 relevant representations made by local residents. In determining this matter, the Sub-Committee had regard to all relevant written representations submitted and the oral submissions made at the Hearing so far as these related to the revised application. No Responsible Authorities had objected to the application, although Essex Police had agreed an amendment to the application during the statutory consultation period to remove the external area (car park) and to impose conditions.

In presenting the application, the Applicant stated that they wished to vary the Club Premises Certificate to enable off-sales to take place and to enable the proposed "beer garden" (consumption area) to be used in the Summer months to boost trade for the Club. It was envisaged that the beer garden would be used by a maximum of 20 people, that chairs and tables would be provided, and that the area would be screened and landscaped. The area would be kept clean and tidy and any unruly or disruptive behaviour by users would be considered by the Club's Committee. The use of the area would be between 12:00noon and 8:00pm each day between 1st April to 31st October each year. Customers would be asked by Members of the Club to move away from the area after 8:00pm. All off-sales would be made to Members of the Club only and the Applicant during the Hearing offered a condition that all Club Memberships would be checked prior to authorising an off-sale. All off-sales would be made in sealed containers. The Applicant stated that the Club would install a CCTV system and that notices would be erected to ask patrons to be respectful of neighbours.

The Sub-Committee noted that a substantial number of the concerns raised by the local residents related to matters which could not be taken into consideration when determining this application as they either related to matters which did not form part of the original application to vary the Club Premises Certificate, or the subsequently amended application, or they related to matters that were outside of the provisions of the Licensing Act 2003.

Representations had been made in respect of smoking, the location of the designated smoking area, and the agreement made with the Club regarding the use of neighbouring private land for customers of the Club to smoke; rats and the accumulation of waste in the car park together with the location of the bin store; use of the car park by residents and "others" who are not residents or do not have permission to use the car park; access arrangements between

the users of the car park and the Club as the landowner and the provision of a barrier to the car park; Members of the Club being able to see into adjoining residential properties from unlicensed areas; the impact of the potential loss of three car parking places to accommodate the consumption area on traffic flow and additional parking in Church Street, Coggeshall; pollution from lights and vehicles; and the installation of CCTV infringing on the privacy of nearby residential properties including their gardens. These were all matters which the Licensing Sub-Committee could not consider when determining this application for off-sales. The Section 182 Guidance stated that for representations to be relevant they should be confined to the subject matter of the variation, namely the addition of off-sales to the existing Club Premises Certificate.

Concerns had also been raised in relation of the licensing objective of the protection of children from harm in respect of children of Club members being left unattended in the car park and to noise, including bad/offensive language, affecting the ability of children to study and sleep in the adjoining properties which overlook the car park. However, these were not matters which were relevant to the application as the licensing objective of the protection of children from harm related to children being on the licensed premises and not children within their own homes.

Concerns had been raised in respect of Members of the Club standing in the car park area looking into the residential properties which form the boundaries of the car park and Members of the Club taking photographs of the CCTV which residents have installed on their properties. Whilst the Sub-Committee acknowledge from the evidence provided that those persons have come from the Club, the Sub-Committee is mindful of the Statutory Guidance regarding the management of the behaviour of customers once they are beyond the direct management of the licence holder and their staff.

The Licensing Sub-Committee are sympathetic to these concerns. However, these are not matters which the Sub-Committee can take into account when considering the provision of off-sales. The Sub-Committee acknowledges the residents' views that the Club should be accountable for the behaviour of its members. Whilst these issues have been raised in evidence to support the residents' concerns about the management of the premises, the behaviours referred to are not in the opinion of the Sub-Committee to be within the direct control of the Club and are matters of personal responsibility for the individuals concerned. Furthermore, the Sub-Committee considers that these issues are more suited for an application for a review of the Club Premises Certificate.

The residents have advised the Sub-Committee that they have complained directly to the Club, which has resulted in little comfort or action to alleviate the issues raised, namely the behaviour of those who have left the premises, or stand outside of the premises.

The Sub-Committee was concerned to hear that residents are not willing to report matters to the Licensing Authority on the basis that they are concerned with wasting time, or it not being a good use of Council resources. The Sub-

Committee wishes to stress that it is necessary for matters to be raised with the Council should there be issues with licensed premises.

Whilst the Sub-Committee accepts that residents wish to be good neighbours, that they wish to see the Club succeed, and that they value the part it plays in their community, there is a time when that approach does not achieve the desired outcome and matters need to be raised with the Responsible Authorities to enable them to investigate and, if appropriate to promote the licensing objectives, to seek a review.

The current Chairman of Coggeshall Conservative Club, Mr Dan Willoughby, who was present at the Hearing, advised the Sub-Committee that he had been elected in March 2023 and he acknowledged that previous requests to the Club from residents for action had not been successful. However, as a local resident himself, Mr Willoughby stated that he understood the concerns and he indicated that he would be more proactive in the management of the premises, which would include referring any member of the Club to the Club's Committee should there be a complaint in respect of their conduct.

The Licensing Sub-Committee, in accepting that some of the concerns raised in the representations submitted prior to and during the Hearing related to residents' concerns as to how off-sales would be managed, have considered the relationship between off-sales and the use of the consumption area.

When discussing the consumption area, the Applicant explained that the area would be subject to landscaping and screening to protect the privacy of the neighbouring residential properties. Furthermore, signage would be erected to advise the users of the consumption area to be respectful of the neighbouring properties and the permitted times for its use of 12:00noon to 8:00pm during the period 1st April to 31st October each year. This would be in addition to the requirements for the consumption area as set out in the conditions agreed by Essex Police (Appendix 1).

The Licensing Sub-Committee also noted the comment made by the Club Chairman, Mr Willoughby, that he would work with residents directly affected by the location of the consumption area to ensure that that the screening put in place was appropriate to limit the intrusion of the consumption area.

Mr Willoughby stated also that the car park would be subject to landscaping to ensure that those customers leaving the Club premises and crossing the car park to sit in the consumption area would be guided so as not to come into conflict with users of the car park and moving vehicles.

Whilst the Licensing Sub-Committee acknowledges that the consumption area and the use of the car park are outside their jurisdiction as these are not licensable activities, it considers that the actions which the Club are proposing to take to manage the car park and the consumption area in which off-sales could be consumed, in addition to the agreed conditions with Essex Police, would promote the licensing objectives of the prevention of public nuisance and public safety.

In respect of the concerns raised regarding Club members' behaviour in the external area, the Sub-Committee is mindful that Essex Police, via their negotiations, have secured the provision of CCTV as a condition of the Club Premises Certificate. The Club, during the Hearing, confirmed that CCTV is already in place, however this is at their discretion. The new condition will assist with the investigation of complaints in respect of alleged misconduct within the external area. This again, in the view of the Sub-Committee, would promote the licensing objectives of the prevention of public nuisance and public safety.

The Licensing Sub-Committee has noted that the parties to the Hearing are of the consensus that they need to be good neighbours and reliance is being placed on the statements made by the representative of the Club as to how matters, which are outside the scope of the Licensing Act 2003 and the Club Premises Certificate, will be managed.

In determining this application, Members of the Licensing Sub-Committee noted that the Applicant would be taking appropriate management steps, including monitoring, to ensure that noise emanating from the consumption area would not cause disturbance to local residents. The Sub-Committee was satisfied from the evidence presented and having regard to the promotion of the licensing objectives, that it was not appropriate to refuse the application. The Sub-Committee considered that it was not necessary to impose conditions on the grant of the variation of the Club Premises Certificate other than the additional conditions agreed by the Applicant with Essex Police prior to the Hearing and as offered by the Applicant during the Hearing.

The Licensing Sub-Committee would encourage the Applicant to engage with the residents to resolve any concerns about how the premises are managed and how the outside areas of the premises are used.

The Applicant and the objectors were advised that there was a right to request a review of the Club Premises Certificate.

End of Decision

Right of Appeal

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

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

Telephone: 01245 313300.
Email enquiries: esosprey@hmcts.qsi.gov.uk

For further guidance on appeals to the Magistrates' Court please contact the Magistrates' Court, or seek independent legal advice.

Right to Request a Review

At any stage following the grant of a Club Premises Certificate, or the variation of a Certificate you may be able to ask the Licensing Authority to review the Club Premises Certificate. 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 Club Premises Certificate is having on at least one of the four licensing objectives. Further information about reviews can be found at www.gov.uk.

Conditions agreed with Responsible Authority, Essex Police

CCTV

1. The premises shall have installed and maintain a closed circuit television surveillance (CCTV) system that at all times complies with the below requirements:
 - a) CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;
 - b) CCTV cameras shall cover {all public areas including} all entrances and exits and all areas where the sale of alcohol takes place;
 - c) Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order and kept for a minimum period of {31} days;
 - d) At all times, whilst the premises is open for licensable activities, there are members of staff able to immediately provide viewable copies of recordings to the police or licensing authority staff upon reasonable request;
 - e) The recording equipment and data storage devices shall be kept in a secure environment and fitted with security functions (such as passwords) to prevent recordings being tampered with;
2. Signs must be displayed at all entrances and exits advising customers that CCTV is operating at the premises and shall be a minimum size of 200mm x148mm and clearly legible at all times when the premises conducts licensable activities.

Table and Chairs in the Outside Area (Car Park)

3. Outside tables and chairs shall be rendered unusable and immovable by 20:00hours each day.
4. If tables and chairs are present in the car park they must be protected from vehicle manoeuvring within the car park, with some form of safety barrier

Challenge 25 Scheme

5. 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 (photo, name, date of birth and either a holographic mark or ultraviolet feature) **and** is either a:
 - a) Proof of age card bearing the PASS Hologram;
 - b) Photocard driving licence;
 - c) Passport; or
 - d) Ministry of Defence Identity Card.

Staff Training

6. All staff engaged in the sale or supply of alcohol on the premises shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every six months.

Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to Police, Trading Standards or Licensing Authority Staff upon reasonable request.