

Decision Notice – Premises Licence

MEMBERS PRESENT:	Councillor P Schwier (Chairman of the Licensing Sub-Committee) Councillor J Baugh Councillor Mrs L Walters
PREMISES:	Rose's General Store 13 Bridge Street Bures Hamlet Essex CO8 5AD
APPLICANT:	Mr Nicholas Rose and Ms Roisin Jones
DATE OF HEARING:	Thursday, 30th July 2020 Tuesday, 4th August 2020 (announcement of decision)
DATE OF NOTICE:	Tuesday, 4th August 2020

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
15	Supply of Alcohol	Mon	06:00	20:00	Off the Premises
		Tue	06:00	20:00	
		Wed	06:00	20:00	
		Thu	06:00	21:00	
		Fri	06:00	21:00	
		Sat	08:00	21:00	
		Sun	09:00	13:00	
Non Standard Timing: Permitted hours extended to 23.00 hours for the duration of the three day Bures village music festival held annually in July.					
17	Opening Times	Mon	06:00	20:00	
		Tue	06:00	20:00	
		Wed	06:00	20:00	
		Thu	06:00	21:00	

		Fri	06:00	21:00	
		Sat	08:00	21:00	
		Sun	09:00	13:00	

Non Standard Timing: Permitted hours extended to 23.00 hours for the duration of the three day Bures village music festival held annually in July.

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 18 of their application, as amended below; and the Mandatory Conditions attached to all Premises Licences. No additional Conditions are considered to be necessary.

Amendment

Licensing Objective b) The prevention of crime and disorder

At the Hearing the applicant agreed that the 3 x CCTV (interior) and 2 x CCTV (exterior) cameras to be installed at the premises recording at 25 FPS should have '31' day image storage capacity not '14' day image storage capacity as stated in Section 18.

The decision of the Licensing Sub-Committee in respect of this application for a Premises Licence takes effect on 4th August 2020.

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 impact on the promotion of the licensing objectives and the track record of the business.

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 and 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 and prior to the Hearing by the applicant and the representation made by the objectors. The objectors had been invited to take part in the Hearing, but they had chosen not to. The representation did not object to the proposed General Store, but to the sale of alcohol on the basis that this could increase drinking by youths and damage in the village, particularly as the premises were located across the road from the village common. It was also considered that the request for late opening hours could add to any problems which might arise. The objectors had stated that there were two Public Houses locally, which they considered were adequate for the alcohol needs of the area.

Reference has been made to the potential for anti-social behaviour arising from the sale of alcohol and to activity which falls outside the area of the Premises Licence application. It is noted that the applicants live in a property that adjoins the premises and that they, together with the Designated Premises Supervisor, know the area well and many of the people who live there. In determining this application, the Licensing Sub-Committee cannot consider activities/behaviours which are not in the control of the applicant. No evidence has been presented to justify refusal of this application, or to require the imposition of conditions on the grant of the Premises Licence. Furthermore, the Licensing Sub-Committee is mindful that no representations have been submitted by the Responsible Authorities, in particular Essex Police.

The objectors' concern about the proposed opening hours of the premises has been noted. However, Paragraph 10.15 of the Guidance states that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. It is also noted that people such as commuters using local train services, trades people and visitors to the village may wish to use the premises either in the earlier or later hours of the day. The Licensing Sub-Committee is satisfied from the evidence presented that there is no good reason to restrict the hours for the sale of alcohol.

The question of the need for this application has been raised and reference has been made to the existence of other suitable premises in the area. In accordance with paragraph 13.18 of the Guidance, the Licensing Sub-Committee cannot take this into consideration when determining the application. Braintree District Council does not have a cumulative impact policy and therefore each application for a Premises Licence is required to be considered on its own merits. It is acknowledged also, that having alternative premises from which to purchase alcohol provides benefits,

particularly during the current Covid-19 pandemic when some people may chose to remain socially distant and not visit a Public House.

The Licensing Sub-Committee considers that the steps set out in Section 18 of the application, which the applicant proposes to take to promote the four licensing objectives and the explanations given by them during the Hearing, are robust to ensure that the objectives will not be undermined and that the concerns of those who have made representations will be addressed. These steps will become Conditions of the Licence.

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.gsi.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 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.