

Decision Notice – Variation of the Club Premises Certificate

MEMBERS PRESENT:	Councillor A Hensman (Chairman) Councillor Mrs L Walters Councillor R Wright
PREMISES:	Kelvedon Conservative Club 84 High Street Kelvedon Colchester Essex CO5 9AA
APPLICANT:	Mr M Goodchild, Club Secretary and Mr L Maxted, Chairman for Kelvedon Conservative Club
DATE OF HEARING:	Thursday, 19th August 2021
DATE OF NOTICE:	Thursday, 26th August 2021

Decision:

Note: During the Hearing the applicant and the only objector to the application, Mr Tom Short, came to an agreement which resulted in Mr Short's representation being withdrawn orally during the Hearing. The application at that point became unopposed and the following decision of the Licensing Sub-Committee was made in reliance of the agreement.

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 April 2018) 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, namely to extend the on-premises sale of alcohol to include the Club's patio area and car park area, and as amended at the Hearing by agreement of the parties.

The variation of the Club Premises Certificate is subject to the agreement made by the applicant and the objector during the Hearing.

The grant is also subject to the steps set out in Section 16 of the application, the Mandatory Conditions attached to all Club Premises Certificates and the following additional Condition agreed to prior to the Hearing by the applicant with Essex Police and as amended at the Hearing:-

- Monday - Wednesday: No use of the outdoor seating area after 9.00pm
- Thursday - Saturday: No use of the outdoor seating area after 10.30pm
- Sunday: No use of the outdoor seating area after 9.00pm

- Bank Holiday Monday: No use of the outdoor seating area after 10.30pm

Access to the outdoor smoking area is not limited to the above timings and use is permitted within the alcohol trading hours specified on the Certificate.

For the avoidance of doubt this decision does not affect the hours for the use of the internal areas of the Club Premises and only applies to the use of the outside area defined in the application plan, that being the patio area and Club car parking area and not the adjacent public pay and display car park.

The decision of the Licensing Sub-Committee in respect of this application for the variation of the Club Premises Certificate takes effect on 26th August 2021.

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 a relevant representation made by a local resident, Mr Short.

No Responsible Authorities had objected to the application, although Essex Police had agreed an amendment to the application during the statutory consultation period to reduce the terminal hours for the use of the outside seating area to Monday to Wednesday and Sunday to 9.00pm and Thursday to Saturday and Bank Holiday Mondays to 10.30pm.

At the Hearing, the objector sought to submit as evidence a letter which he had hand delivered to Kelvedon Conservative Club on 22nd June 2021. However, the applicant did not agree to this request on the basis that the letter did not state the name or address of the sender. The Hearing proceeded without the submission of the letter.

In presenting their application, the applicant stated that they wished to vary the Club Premises Certificate to ensure that the patio area of the premises was licensed for use and that the car park area could also be used for licensed purposes if required in exceptional circumstances. Neither area would be used for entertainment. The applicant stated that the Club was a Members' Club and that all patrons were either members of the Club or their guests, who were required to sign in on entry to the premises and to comply with the rules of the Club. The applicant stated that the Club's CCTV system had been improved and that the external area of the premises could be viewed by staff from within the premises. Furthermore, a new stewardess had been appointed, staff had received training and members had been reminded of the Club's rules. The Club's committee would monitor and review performance on a monthly basis.

The Licensing Sub-Committee noted that the main concern of the objector related to a potential noise nuisance emanating from the patio and car park

areas of the premises, which were in close proximity to residential properties, particularly in the late evening.

In submitting questions, the objector asked the applicant if they were prepared to vary the hours of use of the external area of the premises. As it became apparent that the applicant and the objector were prepared to discuss this point, it was agreed by the Licensing Sub-Committee that it would depart from the procedure to allow an adjournment to enable the parties to speak with a view to reaching an agreement. The Hearing was adjourned at 10.27am and reconvened at 10.45am.

The applicant and the objector stated that they had reached an agreement regarding the times during which the external area of the premises could be used. This would require the use to cease at 9.00pm on Sunday - Wednesday and at 10.30pm on Thursday – Saturday and Bank Holiday Monday. Furthermore, the applicant had agreed to notify members of the Club about the intended use of the external area and that staff and the Club would actively manage the use. The car park area would not be used as a licensed area other than in exceptional circumstances. On this basis, the objector confirmed that his objection to the variation of the Certificate had been withdrawn and he did not oppose the application.

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 premises 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 as the application was unopposed due to the withdrawal of the only representation. 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 Condition agreed by the applicant with Essex Police prior to the Hearing and as subsequently amended at the Hearing following discussions between the applicant and the objector.

The Licensing Sub-Committee was grateful that the parties had come to the Hearing and were receptive to alternative proposals and were prepared to take time to discuss them during the adjournment in order to reach a satisfactory resolution for all parties.

The Licensing Sub-Committee would encourage the applicant to engage with the objector and other local residents to resolve any concerns about how the premises are managed and how the outside areas of the premises are used for licensable activities. The Licensing Committee noted the applicant's invitation to Mr Short to meet with the new Club Stewardess and would encourage that the invitation is honoured and accepted to enhance neighbourly relationships and understanding.

The applicant and the objector 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.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 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.