

Decision Notice – Variation of Premises Licence

MEMBERS PRESENT:	Councillor M Banthorpe (Chairman of the Licensing Sub-Committee) Councillor Mrs J Allen Councillor H Johnson
PREMISES:	The Bell Inn Dunmow Road Great Bardfield Essex CM7 4SA
APPLICANT:	Ms Sharon Alford, The Bell Essex Ltd
DATE OF HEARING:	Thursday 19th April 2018
DATE OF NOTICE:	Monday, 23rd April 2018

The Licensing Sub-Committee has read the material presented to it and has listened to all the evidence and submissions, including the representations of those who did not attend the Licensing Hearing, or declined to participate in the Hearing.

In considering the provisions of Section 35 of the Licensing Act 2003, the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (issued April 2017) and Braintree District Council's Licensing Policy, the Licensing Sub-Committee has decided to **GRANT THE VARIATION** to the **Premises Licence (G2/2 – 16/00909/LADPS)** for the above premises as follows:-

Box	Regulated Entertainment	Days and Hours			Place
13	Supply of Alcohol	Mon	10:00	01:00	On and Off the Premises
		Tue	10:00	01:00	
		Wed	10:00	01:00	
		Thu	10:00	01:00	
		Fri	10:00	01:00	
		Sat	10:00	01:00	
		Sun	10:00	01:00	
<u>Seasonal Variations:</u> New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.					

The Premises Licence is subject to the conditions contained in the existing Licence (G2/2 – 16/00909/LADPS).

Reasons for Decision:

Before setting out the reasons for its decision, the Licensing Sub-Committee clarifies that it is only able to consider the application to vary the Premises Licence as submitted in accordance with Section 35 of the Licensing Act 2003.

The Licensing Sub-Committee is mindful of the Statutory Guidance in Paragraph 1.17 of the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (April 2017) (hereinafter referred to as "The Guidance"), which states that each application must be considered on its own merits and standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

The Licensing Sub-Committee is also mindful of Paragraph 10.8 of the Guidance, which states that the Licensing Authority may not impose any conditions unless its discretion has been exercised following the receipt of relevant representations and it is satisfied as a result of a Hearing (unless all parties agree a Hearing is not necessary), that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

The Licensing Sub-Committee, having regard to the application and the representations made prior to and during the Hearing, considers that it is not proportionate and necessary for the promotion of the licensing objectives to impose a further condition.

Braintree District Council does not have a cumulative impact policy and therefore cannot take into account the number of other premises in the area, or their hours, in determining this application for variation. The Licensing Sub-Committee is required to consider this application on its own merits.

The Licensing Sub-Committee is reminded of paragraph 9.43 of the Guidance which states that the Licensing Authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

It is noted by the Licensing Sub-Committee that no representations to this application to vary have been made by the Responsible Authorities, including Braintree District Council's Environmental Services and Essex Police.

Whilst it is noted by the Licensing Sub-Committee that no complaints have been made to the Licensing Authority about the premises in respect of noise nuisance, representations have been submitted based mainly on concerns about the potential for 1) disturbance to local residents as a result of patrons leaving the premises, 2) damage to vehicles and doors being knocked on by patrons leaving the premises and 3) noise nuisance from music.

Having regard to points 1 and 2 of the representations, no evidence has been presented which has persuaded the Licensing Sub-Committee that these

issues are directly attributable to the management of The Bell Inn and its patrons.

The Licensing Sub-Committee cannot take into consideration in the determination of this application, activities/behaviours which are not in the control of the Applicant. The Licensing Sub-Committee would advise that matters of concern such as these are reported to Braintree District Council's Licensing Team so that they may be investigated and, if necessary, appropriate action taken.

Addressing point 3 of the representations summarised above, the application before the Licensing Sub-Committee does not relate to a change to licensing activities in respect of music, but solely to the supply of alcohol. The review of the licence on the ground of noise nuisance from music is outside the scope of the application under Section 35 of the Act.

The Members of the Licensing Sub-Committee have in mind the concerns of those who have made representations. The Members have also been advised by the Applicant that she intends to continue with the usual hours (the hours permitted in accordance with the Premises Licence prior to this application) and that the additional hours sought under the variation are to give flexibility should they be required. The Licensing Sub-Committee is persuaded that it is not the intention of the Applicant to utilise these extended hours as the standard hours. In response to questions from Members of the Licensing Sub-Committee, the Applicant gave an example that currently later in the evening, customers are required to go to other licensed premises in the village which have later licensing hours, citing that customers leave her premises to attend another in the village with later hours and that she wishes to accommodate these customers. However, based upon the current customer base, it is not anticipated that this would be a regular occurrence. The Applicant clarified also that the majority of customers were from the village of Great Bardfield and that they went to the premises on foot. The provisions of the Licensing Act 2003, which enabled regulated entertainment to take place until 23:00hours if alcohol was permitted to be sold at the premises were also acknowledged.

The Licensing Sub-Committee has been advised that the Applicant has been in control of the premises for the last two years and wishes to serve the community. Reference was made in the representations to an incident which allegedly involved a complaint being made to the Applicant about loud music, during which it is alleged the Applicant swore. The Applicant was questioned about this incident by Members of the Licensing Sub-Committee who were satisfied from the explanation given that this was not a matter which would enable them to consider refusing the application, nor demonstrated that the relevant licensing objective had been undermined.

The Licensing Sub-Committee was encouraged from the submissions of the Applicant, that based on her current management of the premises they were being adequately controlled by her management practices.

The application is for an increase in hours for the supply of alcohol in order to give flexibility. The Licensing Sub-Committee has not heard any evidence

which suggests that it is intended to use the hours applied for as the standard hours. Therefore, the Licensing Sub-Committee considers that it would not be proportionate, or appropriate to reduce the number hours from those which have been applied for.

The opening hours of the premises are excluded from this decision notice as opening hours are not a licensable activity. Please note that opening hours will be expressed in the Premises Licence issued by the Licensing Authority.

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.