

Decision Notice – Premises Licence

MEMBERS PRESENT:	Councillor J Baugh (Chairman) Councillor A Hensman Councillor R Wright
PREMISES:	Old Essex Barn Cranes Lane Kelvedon Essex CO5 9AX
APPLICANT:	Mr P Barton-Wright and Old Essex Barn Ltd
DATE OF HEARING:	Friday, 21st May 2021
DATE OF NOTICE:	Friday, 28th May 2021

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
E	Live Music	Mon	10:00	24:00	Indoors and Outdoors
		Tue	10:00	24:00	
		Wed	10:00	24:00	
		Thu	10:00	24:00	
		Fri	10:00	24:00	
		Sat	10:00	24:00	
		Sun	10:00	24:00	
Non Standard Timing: None					
F	Recorded Music	Mon	10:00	24:00	Indoors and Outdoors
		Tue	10:00	24:00	
		Wed	10:00	24:00	
		Thu	10:00	24:00	
		Fri	10:00	24:00	
		Sat	10:00	24:00	
		Sun	10:00	24:00	
Non Standard Timing: None					

J	Supply of Alcohol	Mon	08:00	23:00	On the Premises
		Tue	08:00	23:00	
		Wed	08:00	23:00	
		Thu	08:00	23:00	
		Fri	08:00	23:00	
		Sat	08:00	23:00	
		Sun	08:00	23:00	
Non Standard Timing: None					
L	Opening Times	Mon	00:00	24:00	
		Tue	00:00	24:00	
		Wed	00:00	24:00	
		Thu	00:00	24:00	
		Fri	00:00	24:00	
		Sat	00:00	24:00	
		Sun	00:00	24:00	
Non Standard Timing: None					
<p>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 M of their application and the Mandatory Conditions attached to all Premises Licences. No additional Conditions are considered to be necessary.</p>					
<p>The decision of the Licensing Sub-Committee in respect of this application for a Premises Licence takes effect on 28th May 2021.</p>					
<p><u>Reasons for Decision</u></p> <p>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.</p> <p>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.</p> <p>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.</p>					

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 the Hearing by the applicant and one of the four objectors. The Licensing Sub-Committee has also had regard to the written representations submitted by all of the objectors, which were based on the licensing objective of the prevention of public nuisance.

The Licensing Sub-Committee noted that the main thread of the representations received to the application were set in the context of the concerns that there would be noise nuisance emanating from the premises and that the premises would be operating seven days a week.

The objectors stated that the venue was in close proximity to residential properties in Cranes Lane, Church Street and London Road, Kelvedon and, as such, the playing of live and recorded music between 10:00 hours and 24:00 hours, seven days a week was not acceptable, or appropriate. The objectors considered that this had the potential to create excessive noise and disturbance to local residents. Furthermore, as the venue was surrounded by flat, open countryside with few hedges, trees or any rising ground to absorb sound, the objectors considered that the use would have a detrimental effect on the peace and tranquillity of the area. It was anticipated that problems with excessive noise levels would increase during the Summer months when those attending events at the venue would move outside and local residents would leave windows open overnight. It was requested that the days on which live music could be played should be limited to Fridays and Saturdays. An objector acknowledged that the Barn had previously been used as a wedding venue and that live and recorded music had been permitted. However, the noise created at that time had been mostly at the weekend, not every day. It was also considered that the proposal would lead to an increase in the flow of traffic at an inadequate and dangerous entrance to Cranes Lane, which was located at the end of a busy slip road leading off the A12.

No representations had been submitted by the Responsible Authorities.

The applicant stated that they wished to provide a high end wedding venue. The site had previously been used for this purpose, but the applicant wished to provide live and recorded music from 10:00 hours to 24:00 hours seven days a week as it was now popular to hold weddings during the week as well as at weekends. Twilight wedding ceremonies from 17:00 hours to 23:00 hours were possible. It was anticipated that there could be three

weddings per week at the weekend during the Summer months, with possibly one being at an off-peak time. An application for a wedding venue licence had been submitted.

The applicant stated that the outside area of the premises would be used occasionally and that the playing of live music eg. on a piano, or a cello may take place. However, the use would not be solely outside. The applicant stated at the Hearing that the capacity of the venue indoors was 82 people. The applicant subsequently advised post-Hearing that the capacity of the venue indoors was 82 people seated and 120 people standing. The applicant stated that notice of their application had been posted on site and advertised as required, but they apologised for not contacting neighbours direct regarding the proposal. The applicant offered to meet with residents to discuss the best way forward and to alleviate concerns and to provide a contact telephone number so that residents could contact the premises should they have concerns regarding noise from the premises. The applicant also offered to monitor noise levels by positioning sound meters on the perimeter of the site and to attach a sound 'cut-off' facility to music equipment if required.

In determining this application, Members of the Licensing Sub-Committee were advised at the Hearing, that in accordance with amendments to the Licensing Act 2003 by the Deregulation Act 2015, a Premises Licence was not required for the performance of unamplified live music between 8.00am and 11.00pm on any day. A Premises Licence was also not required for the performance of amplified live music and/or the playing of recorded music between the same hours and on any day if the premises was authorised to sell alcohol for consumption on the premises and the premises had a capacity of less than 500 people. Any excessive noise levels at the premises could be controlled by the Local Authority in accordance with other legislation. However, Members of the Sub-Committee noted from the comments made by the applicant and in response to questions by an objector that they would be taking appropriate management steps, including monitoring, to ensure that noise emanating from the premises would not cause disturbance. It was noted that traffic issues relating to the premises were not within the jurisdiction of the Licensing Sub-Committee and were a matter for the Highways Authority.

The Licensing Sub-Committee is satisfied from the evidence presented that it is not appropriate to refuse the application for the promotion of the licensing objectives, nor did the Sub-Committee consider that it was necessary to reduce the hours for the playing of live and recorded music; or to require the imposition of conditions on the grant of the Premises Licence.

Furthermore, the Sub-Committee considered the likely effect of the granting of the application for the Premises Licence on those who had made representations. However, from the explanation given at the Hearing by the applicant as to how the premises intend to operate; the proposed dialogue with local residents; and the measures offered to deal with any issues of noise nuisance it is considered that these are sufficiently robust to ensure that the objectives will not be undermined and that the concerns of those who have made representations will be addressed.

The Licensing Sub-Committee would encourage the applicant to engage with residents to seek to resolve concerns as to how the premises will operate.

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.