

Decision Notice – Premises Licence

MEMBERS PRESENT:	Councillor I Parker - Chairman Councillor R Ramage Councillor R van Dulken
PREMISES:	Tidings Hill's Premier, 56 Tidings Hill, Halstead CO9 1BL
APPLICANT:	Saha & Sons Retails Ltd
DATE OF HEARING:	Tuesday 9th July 2024
DATE OF NOTICE:	Tuesday 16th July 2024
The decision of the Licensing Sub-Committee in respect of this application for a Premises Licence takes effect on 16th July 2024.	

The Licensing Sub-Committee has read the material presented to it and it has considered all the evidence and submissions.

In considering the provisions of the Licensing Act 2003, the Statutory Guidance issued under Section 182 of the Licensing Act 2003¹ and Braintree District Council's Licensing Policy, the Licensing Sub-Committee has decided to **GRANT** the application for a Premises Licence for Tidings Hill's Premier, 56 Tidings Hill, Halstead, CO9 1BL as set out below:

The licensable activities permitted under this Premises Licence are:

Licensable Activity	Days and Hours			Place
Supply of Alcohol	Mon	06:00	23:00	Off the premises
	Tue	06:00	23:00	
	Wed	06:00	23:00	
	Thu	06:00	23:00	
	Fri	06:00	23:00	
	Sat	06:00	23:00	
	Sun	06:00	23:00	
Non-Standard Timing/Seasonal Variations:		None		

¹ Issued December 2023 [Revised guidance issued under section 182 of the Licensing Act 2003 - December 2023.pdf](https://publishing.service.gov.uk/December_2023.pdf) (publishing.service.gov.uk)

The Premises Licence is subject to:

- a. The Mandatory Conditions attached to all Premises Licences.
- b. Those conditions offered by the Applicant to promote the four licensing objectives as set out in Section 18 of their application, subject to the following modifications agreed by the Applicant with the Responsible Authority, Essex Police prior to the Hearing:-
 - 1) the removal of provision No. 5 of box a) of Section 18, namely “no alcohol shall be sold if the CCTV equipment is inoperative for any reason”; and
 - 2) the amendment of provision No. 9 of box a) of Section 18, to include the text highlighted in blue italics. “A book or other form of record, a version of which must be in English, shall be kept in which shall be recorded the date, time and circumstances of a) any challenge made in accordance with the “Challenge 25” scheme *and/or any refusals to supply alcohol* b) any disorder, ejection or other relevant incident that occurs on the premises *c) any CCTV fault and actions to repair*. This book, or record, shall be kept on the premises at all times they are open and shall be made available for inspection immediately upon demand by any police or community support officer or authorised person. The Designated Premises Supervisor shall frequently check the book to ensure all staff are using it and shall sign and date it immediately after the latest entry.

Reasons for Decision

1. The premises to be licensed is Tidings Hill’s Premier, 56 Tidings Hill, Halstead, CO9 1BL. The premises is situated within a residential area in the town of Halstead. The premises is a detached building with a commercial background, with its last use being as a warehouse. It is intended that the premises will operate as a convenience store and a Premises Licence is sought for the sale of alcohol for consumption off the premises on Monday to Sunday from 06:00hrs to 23:00hrs. The application also proposes the provision of late night refreshment on Monday to Sunday from 06:00hrs to 23:00hrs. However, as late night refreshment is only a licensable activity between the hours of 23:00hrs and 05:00hrs, this part of the application cannot be considered as it not required.
2. As at the date of the Hearing, the Licensing Sub-Committee notes that the premises is not operating as a convenience store.
3. The Licensing Authority has called a Hearing to determine this application due to 23 representations having been submitted regarding the application. One representation has been received from the Responsible Authority, Essex Police who has agreed two modifications to the operating schedule with the Applicant. The remaining 22 representations have been submitted by local residents who live within the vicinity of the premises.
4. The Licensing Sub-Committee notes that the Responsible Authority, Essex Police has not provided any specific evidence in relation to crime and disorder in the locality, nor expressed concern in respect of the Applicant.

5. The Hearing has been attended by representatives of the Applicant, the Responsible Authority, Essex Police and two of the local residents who had submitted representations.
6. The representations submitted by local residents set out a number of concerns regarding the use of the premises as a convenience store and the impact that it might have. These concerns are summarised as:
 - The location of the premises is in a residential area on a narrow part of Tidings Hill, which is on a bend and hill and the premises will cause increased traffic congestion and pollution and create increased danger for pedestrians, particularly from vehicles mounting the pavement. Also, increased traffic will impede the use of Tidings Hill by the emergency services.
 - A lack of parking at the premises will cause double parking on the highway. The proposed use will lead to traffic bottlenecks, the blocking of roads and driveways, restrict visibility and cause accidents. Deliveries and visitors to the premises will add to the volume of traffic on Tidings Hill which is used as a through route for traffic entering and leaving the town.
 - There are already other convenience stores selling alcohol nearby and there is no need for an additional store which will bring few benefits.
 - Noise will emanate from the premises. The proposed opening hours are too long (17 hours a day, seven days a week) which will affect local people and children who live nearby especially early in the morning and late in the evening and when deliveries are made.
 - The premises is on a route used by children accessing local primary and secondary schools, including parents with pushchairs.
 - Concern about the appropriateness of having a convenience store in a residential area.
 - Concern that the use of the premises as a convenience store is not consistent with its former use as a warehouse and office space. Concern about the change of use of the premises without the need for further planning permission.
 - The proposed use will encourage anti-social behaviour and the premises will become a gathering point for local youths. The proposed use will lead to an increase in crime and disorder.
 - Concerns have been expressed that the availability of alcohol will exacerbate a growing problem of drug and alcohol consumption in the area. There will be an increase in the number of intoxicated people making their way along Tidings Hill at night, particularly in the summer time.
 - Increased problems with litter and the premises being targeted by shoplifters.

7. In considering this application for a Premises Licence, the Licensing Sub-Committee has had regard to the application, the submissions made at the Hearing by the Applicant, the Responsible Authority, Essex Police and the local residents who attended, and to all written representations submitted.
8. The Licensing Sub-Committee has been reminded, that in accordance with the advice in the Statutory Guidance, the steps set out in the operating schedule (Section 18 of the application) will be translated by the Licensing Authority into conditions that will be attached to the Premises Licence.
9. The Licensing Sub-Committee has taken into consideration the amendments to conditions as proposed by the Responsible Authority, Essex Police and considers, that as the Applicant has agreed to these amendments and has considered the potential burden and consequences of them, the amendments can be imposed upon the Premises Licence in order to promote the licensing objectives.
10. The Licensing Sub-Committee has been reminded further, that as the Licensing Authority it may not impose any conditions unless its discretion has been exercised following the receipt of relevant representations and that it is satisfied, as the result of a Hearing, that it is appropriate to impose conditions in order to promote one or more of the four licensing objectives. Furthermore, if conditions are to be imposed they should be tailored to the size, type, location, characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. In some cases, it is possible that no additional conditions would be appropriate to promote the licensing objectives.
11. Having regard to the Statutory Guidance, each application for a Premises Licence must be considered by a Licensing Authority on a case-by-case basis and representations submitted by interested parties and the Applicant should be taken into account. In addition, 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.
12. 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.
13. Furthermore, the Statutory Guidance reminds the Licensing Sub-Committee that it is imperative that the factors which form the basis of its determination are limited to the consideration of the promotion of the licensing objectives and nothing outside those parameters. Consequently, the Licensing Sub-Committee's decision cannot be based on matters which fall outside the provisions of the Licensing Act, such as issues raised in representations submitted by local residents regarding traffic, highway safety, parking, the use of the premises historically and as proposed and the need for the premises, which are planning matters. The Sub-Committee has listened to concerns regarding the suitability of the site and the impact on the area. As advised, these issues cannot be taken into account as part of the licensing regime, but they may be referred to as part of the planning process and there will be an opportunity to make representations during that process.

14. The Licensing Sub-Committee has noted that if it is not minded to grant a Licence under the Licensing Act 2003, this would not prevent the premises from opening and trading as a convenience store. The grant of a Premises Licence under the Act would relate only to the supply of alcohol for consumption off the premises and it would not regulate any other retail activities.
15. The Licensing Sub-Committee has had regard to the reference made within some representations submitted by local residents about the 'need' for the premises and about other convenience stores selling alcohol being located in Halstead. However, the Licensing Sub-Committee is mindful of paragraph 14.19 of the Statutory Guidance, which advises that 'need' is not something that it can consider when discharging its functions in determining the application. 'Need' relates to commercial demand and it is a matter for the Planning Authority and for the market.
16. The Applicant, in their representations made at the Hearing, has advised that they have experience of working in retail and have referred to other premises which they have managed in other areas of the country. The Applicant has also advised the Licensing Sub-Committee that they have arrangements in place for non-licensable activities, such as deliveries and waste storage and collection, which seek to avoid causing a disturbance, including noise to local residents.
17. The Licensing Sub-Committee has considered the concerns expressed in relation to the premises being a source of noise nuisance and anti-social behaviour, including attracting those who are intoxicated travelling through the area of Tidings Hill from the town centre, and the potential for shoplifters. The Statutory Guidance reminds the Licensing Sub-Committee that a Premises Licence Holder cannot be held responsible for the actions of individuals once they have left their premises. However, the Licensing Sub-Committee considers that the operating schedule sets out appropriate steps to encourage customers of the convenience store to be considerate when leaving the premises. Furthermore, the Licensing Sub-Committee considers that the use of CCTV, staff training and the Challenge 25 Scheme and the supporting refusals book will ensure that the premises are managed in order to promote the licensing objectives of the Prevention of Crime and Disorder and the Prevention of Public Nuisance. The Licensing Sub-Committee notes also, that whilst not matters they can consider, some of the measures being put in place by the Applicant as detailed in the operating schedule, such as lighting, regular inspection by staff of the outside area of the premises and the provision of and emptying of litter bins, will act as a deterrent and address some of the concerns expressed by local residents.
18. The Licensing Sub-Committee has been impressed with the level of detail provided within the operating schedule, which sets out the steps as to how the premises will be managed in order to promote the licensing objectives. These steps will be converted into conditions to be attached to the Premises Licence. It will be a requirement for the premises to be operated in accordance with these conditions. Furthermore, the Sub-Committee is satisfied that the steps set out in the application and the revised conditions agreed with the Responsible Authority, Essex Police will provide assurances that the premises will operate in a responsible manner and that the licensing objectives will not be undermined.

19. The Licensing Sub-Committee understands the concerns of the local residents. However, it considers that no evidence or information has been presented which would justify the refusal of this application in order to promote the licensing objectives. It is therefore considered that the application should be granted, subject to conditions.

End of Decision.

Right of Appeal

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

Essex Magistrates' Court
Court Administration Centre
PO. Box 10754
Chelmsford
Essex
CM1 9PZ
Telephone: 01245 313300
Email enquiries: esosprey@justice.gov.uk

For further guidance on appeals to the Magistrates' Court please contact the Magistrates' Court or seek independent legal advice. Further information is also available at www.justice.gov.uk.

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.