

Decision Notice – Premises Licence

MEMBERS PRESENT:	Councillor J Baugh (Chairman of the Licensing Sub-Committee) Councillor P Euesden Councillor P Schwier
PREMISES:	92 High Street, Braintree, CM7 1JP
APPLICANT:	Allamber Limited
DATE OF HEARING:	Tuesday, 17 th September 2019
DATE OF NOTICE:	Tuesday, 24 th September 2019

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

In considering National Guidance and its Licensing Policy the Sub-Committee has decided to **GRANT** a **Premises Licence** for the above premises as follows:-

Section		Days and Hours			Place
14	Late Night Refreshment	Thu	23:00	00:00	Indoors
		Fri	23:00	00:30	
		Sat	23:00	00:30	
Non Standard Timing: for New Year's Eve: two additional hours to the permitted hours.					
Section		Days and Hours			Place
15	Supply of Alcohol	Mon	11:00	23:00	On the Premises
		Tue	11:00	23:00	
		Wed	11:00	23:00	
		Thu	11:00	00:00	
		Fri	11:00	00:30	
		Sat	11:00	00:30	
		Sun	11:00	22:30	
Non Standard Timing: for New Year's Eve: two additional hours to the permitted hours.					
17	Opening Times	Mon	11:00	23:00	
		Tue	11:00	23:00	
		Wed	11:00	23:00	
		Thu	11:00	00:00	
		Fri	11:00	00:45	
		Sat	11:00	00:45	
		Sun	11:00	22:45	
Non Standard Timing: N/A					

The Premises Licence is subject to these conditions:-

(1) The conditions offered by the Applicant in order to promote the four licensing objectives as set out in Section 18 of their application.

(2) The following conditions which the Sub-Committee considered necessary:-

The installation of prominent, clear and legible notices on display at the exit requesting the public to respect the needs of the nearby residents, to leave the premises and area quietly and to discourage smoking outside the premises so as not to cause annoyance and nuisance to the residential premises.

Reasons for Decision

Paragraphs 9.42 and 9.43 of the Section 182 Statutory Guidance (April 2018) states that the Council's determination should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the Applicant. The Council'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.

In considering this application, it is noted that there are no objections by the Responsible Authorities.

Two representations were submitted by Residents from the locality, and these were considered by the Sub-Committee in the determination of the application for the Premises Licence. It is noted that the representations had been based mainly on concerns about the potential for noise nuisance from the premises affecting the residential premises above.

During the hearing Ms Wilding, representing both objectors, confirmed that the information given by the Applicant during the hearing had allayed their concerns regarding the type of premises which would operate under the Licence. However, their concerns regarding the nuisance caused by noise emanating from customers standing outside the premises whilst smoking remained.

The Applicant confirmed that the rear door would not be used by customers to access the Courtyard, and that he had no right under the terms of his Lease to use the Courtyard.

During the presentation by the Applicant, the Sub-Committee was advised that the premises would operate in a style which was focused on being a premises where conversation was the dominant feature with background music. There was no intention for music to be the dominant feature of the

premises. The Applicant explained that their desire was to run a premises which did not compete with the other premises in the Town Centre, offering a more secluded, respectful environment and attracting a clientele who wished to be in a conversational environment.

The Sub-Committee is satisfied that the premises is not intended to be a night time economy destination and a potential source of disturbance to local residents.

Furthermore, the Sub-Committee welcomed the approach by the Applicant to provide their contact details to enable the Residents to contact them should there be an unreasonable disturbance to the enjoyment of their home, which is situated immediately above the premises, and the intention to have monthly meetings with the Residents and neighbouring business to have direct communication. The Sub-Committee commends this approach and would encourage that this direct communication channel is used to encourage neighbourly relations and to resolve any issues/concerns arising out of the Premises Licence.

The Licensing Sub-Committee considers that it is proportionate for the promotion of the Licensing Objective prevention of public nuisance to extend the use of the Notice (as referred to in Box D of Section 18) to discourage smoking outside the premises. The Sub-Committee is persuaded that the Objectors have a genuine concern as to the impact on their home with their living room and bedroom above the premises and exposed to the smoking of customers outside the premises.

The Sub-Committee is persuaded that the steps set out in Section 18 of the application, which the Applicant proposes to take to promote the four licensing objectives, together with their explanations during the hearing in response to the Objector's and Members' questions, are robust to ensure that the four licensing objectives will not be undermined and will address the concerns of those who have made representations.

Note to Applicant:

The Sub-Committee would like to remind the Applicant that its decision to grant the Premises Licence does not influence/bind the Local Planning Authority in respect of any Planning Application submitted in connection with use of the premises.

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.