

Committee: Licensing and Environmental Health Committee **Date:**
Title: Application for a new Premises Licence 14 December
Premises: Rumblebees Bookshop and Music Cafe 2023
Applicant: Trevor Averre-Beeson
Report Author: Sharon Bartram, Licensing Support Officer
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Summary

1. The Licensing sub-committee consider a new application for a premises licence made by Trevor Averre-Beeson in accordance with section 17 of the Licensing Act 2003 ("The Act") in respect of Rumblebees Bookshop and Music Café at Rumballs Shop, Braintree Road, Felsted, Dunmow, Essex CM6 3DJ.

This application has received relevant representations during the consultation period and therefore this matter has been referred to the sub-committee for adjudication. Members are requested to determine what steps, if any, it considers are appropriate to promote the licensing objectives for the overall interests of the community.

2. In carrying out its licensing functions, the sub-committee should give appropriate weight and consideration to:
 - a) The Licensing Act 2003 ("The Act")
 - b) Secondary regulations issued under the Act
 - c) Section 182 guidance issued to local authorities under the Act
 - d) UDC's Statement of Licensing Act 2003 Policy 2022- 2027
 - e) The steps that are appropriate to promote the licensing objectives
 - f) The premises licence application
 - g) Relevant representations (and supporting evidence) submitted by all parties.

Recommendations

3. The options open to the Committee are set out by law, and are:
 - To grant the application
 - To modify the application by inserting conditions
 - To reject the whole or part of the application

Financial Implications

4. None

Background Papers

5. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Appendices

- Appendix A Premises licence application form
- Appendix B Revised plan of the premises
- Appendix C Representation - Essex Police (Support)
- Appendix D Representation - Environmental Health (Support)
- Appendix E Representation - Anna Alexander-Williams, Station Rd (Object)
- Appendix F Representation - Clodagh Brown, Braintree Rd (Object)
- Appendix G Representation - Simone Gubbins, Chelmsford Rd (Object)
- Appendix H Representation - Brian & Ann Joslin, Braintree Rd (Object)
- Appendix I Representation - Philip Carrington, Braintree Rd (Object)
- Appendix J Representation - Caroline & Peter Scott-Bowden, Braintree Rd (Object)
- Appendix K Representation - Heather Read, Felsted Parish Council (Object)
- Appendix L Representation - Nicola Douglas, Station Road (Object)
- Appendix M Email from UDC with salient points from Mr Averre-Beeson's response sent to E – L above.
- Appendix N Email response from Philip Carrington dated 05/12/2023
- Appendix O Email response from Caroline Scott-Bowden 05/12/2023

6. Acting in the capacity of the Licensing Authority, members must seek to promote the Licensing Objectives. Where members consider that matters have engaged one or more of the objectives, they may exercise their discretion. The Licensing Objectives as set out in the Licensing Act 2003 are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

7. There is no hierarchy of importance among the objectives, and all must be given equal weight.

Application

8. A new valid application was submitted by Mr Averre-Beeson on 30 October 2023 (**Appendix A**)
9. A plan was also submitted, outlining the premises which included the outside as a licensable area.

10. Mr Averre-Beeson has applied to carry out the following licensable activities:
 - Sale by retail of alcohol Monday – Sunday 10:00 – 22:00
 - Performance of Live Music Monday – Sunday 10:00 – 22:00
 - Playing of Recorded Music Monday – Sunday 10:00 – 22:00
11. Mr Averre-Beeson intends to sell books, coffee, alcohol and food and to hold musical event nights, quiz nights and book club nights.

Consultation

12. Essex Police and Environmental Health have both responded in their capacity as Responsible Authorities.
13. The representation from Essex Police was a positive one following negotiations with Trevor Averre-Beeson. It was agreed that the proposed licensable area would be reduced to include only the inside area. The outside area would remain unlicensed. This would mean that no alcohol would be sold outside and no music will be played outside. A new plan was submitted. **(Appendices B & C)**
14. Environmental Health also sent a positive representation and they have agreed a noise management plan with Mr Averre-Beeson. **(Appendix D)**
15. This application has attracted eight representations from members of the public, with concerns about noise disturbance **(Appendices E – L)**

Applicant's Response

16. In order to mediate with those objecting by addressing noise disturbance concerns and to avoid a committee hearing, Mr Averre-Beeson has read each of the representations submitted and provided a response to those concerns regarding possible noise disturbance.
17. The salient points of the applicant's response concerning noise disturbance were sent to all those objecting the application, to see if their concerns had been addressed and if they would consider withdrawing their objection. **(Appendix M)**
18. At the time this report was sent to print on 05/12/2023, Mr Philip Carrington and Mrs Caroline Scott-Bowden had both responded to say that there were still outstanding issues and they were notified that the matter would go before the licensing panel. **(Appendices N and O)**

19. The applicant and all other parties that made representations have been sent the statutory Notice of Hearing, inviting them to attend this hearing.

Determining the application

20. Any decision is to be made regarding the Licensing Act 2003, the Secretary of State's Revised Guidance issued under Section 182 of the Licensing Act 2003, and the Council's adopted Statement of Licensing Policy.
21. Members are reminded that should any conditions be added or modified, they should be practical, enforceable, and appropriate to promote the Licensing Objectives.

Secretary of State's Revised Section 182 Guidance for the Licensing Act 2003

22. The sub-committee's attention is directed towards Chapter 9 'Determining applications' and Chapter 10 'Conditions attached to premises licences and club premises certificates' and Chapter 16 'Regulated Entertainment' in the Section 182 Guidance
23. Para 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning...
24. Para 9.4 ...There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.
25. Para 9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.
26. Para 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations 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 or premises user as the case may be.
27. Para 9.43 The 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.
28. Para 9.44 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. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters...

29. Para 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following 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. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.
30. Para 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

Legal Considerations

31. Members should provide reason(s) for any decision taken and should set out the reasoning where they determine to depart in any way from the Policy or Guidance.
32. In addition to determining the application in accordance with the legislation, the Sub Committee must have regard to the:
 - a) common rules of natural justice
 - b) provisions of the Human Rights Act 1998
 - c) considerations in Section 17 of the Crime and Disorder Act 1998
33. The Human Rights Act 1998, which requires authorities to take into account the rights of individuals to respect for their private and family life (Article 8), a right to a fair trial/hearing (Article 6) and to protection of their property (Article 1, Protocol 1).
34. There is a statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1988 to exercise its various functions doing all that it can to prevent Crime and Disorder, and Anti-Social Behaviour, behaviour adversely affecting the environment as well as the misuse of drugs, alcohol and reoffending in the Local Environment.

35. Under section 181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal for the applicant or a party to the hearing against a decision of the Licensing Sub Committee to the Magistrate's Court within 21 days of being notified.

Impact

36.

Communication/Consultation	Details of the application was conveyed to all relevant responsible authorities. A blue public notice was displayed on the premises for the required timeframe and a public notice was placed in a local publication circulated within the area of the premises.
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	Under Article 1 First Protocol to the European Convention on Human Rights everyone is entitled to peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest. The imposition of conditions under the Licensing Act 2003 is a legitimate interference with this right in this context. If an applicant, responsible authority or interested party is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court
Sustainability	None
Ward-specific impacts	Felsted and Stebbing being the wards within which the premises is situated
Workforce/Workplace	None

Situation

37. Rumblebees Bookshop and Music Café, Rumballs Shop, Braintree Road, Felsted, Dunmow, Essex CM6 3DJ is a small shop in a residential area in Felsted. The building was previously a butcher shop and it is being leased by the owner, who was the former butcher.
38. Mr Trevor Averre-Beeson previously managed the same premises, then called Rumballs Shop from 18 May 2021 when the previous premises licence was granted until this year. Unfortunately, the licence lapsed. Under Section 27(1)(d) of the Licensing Act 2003, a premises licence lapses on the insolvency of the premises licence holder and any application for the transfer of a premises licence must be made no later than 28 days after the lapse of the licence in accordance with S50(3)(a) of the Licensing Act 2003. In this case, the premises licence lapsed due to the insolvency of the licence holder, Edgeley Estates Ltd and no transfer application was received within the required timeframe.

Risk Analysis

39.

Risk	Likelihood	Impact	Mitigating actions
1 Either no conditions are attached to the licence, or the conditions do not satisfactorily achieve the licensing objectives the prevention of public nuisance	2 There is a possibility that local residents will suffer from public nuisance even if what appears to be appropriate conditions are imposed.	2 Due to the availability of the review procedure any inconvenience which may be suffered by local residents would be relatively short lived.	In light of the objections received to this application members should consider if this meets the licensing objectives

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.