

The application was for the following licensing activities:

Provision of Live and Recorded Music (Indoors), Provision of Performances of Dance (Indoors), and The Sale of Alcohol (For consumption both on and off)

Sunday – Wednesday	10:00 – 00:00
Thursday	10:00 – 01:00
Friday – Saturday	10:00 – 02:00

For statutory bank holiday weekend periods (Friday Saturday Sunday & Monday) the Thursday before Good Friday and Christmas Eve, the finish time would be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, the finish time would be extended by one hour, with seven days' notice and agreement with the police.

Late Night Refreshment (Indoors)

Sunday – Wednesday	23:00 – 01:00
Thursday	23:00 – 02:00
Friday – Saturday	23:00 – 03:00

For statutory bank holiday weekend periods (Friday Saturday Sunday & Monday) the Thursday before Good Friday and Christmas Eve, the finish time would be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, the finish time would be extended by one hour, with seven days' notice and agreement with the police.

Opening Hours

Sunday – Wednesday	09:00 – 01:00
Thursday	09:00 – 02:00
Friday – Saturday	09:00 – 03:00

For statutory bank holiday weekend periods (Friday Saturday Sunday & Monday) the Thursday before Good Friday and Christmas Eve, the finish time would be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, the finish time would be extended by one hour, with seven days' notice and agreement with the police.

The application was received by the Licensing Authority on the 11 March 2021. The premises licence application and the operating schedule set out the conditions which would be attached to the licence, if this application was to be granted. This application was for a premises licence identical to the one already granted to Blue Boar Holding Ltd at the same location.

All Responsible Authorities had been notified, it had been properly advertised at the premises and in a local newspaper. All residences and businesses within a 150 metre radius of the premises were individually consulted.

The authority had received one representation from Lambourne Parish Council and twenty-eight represents from residents and businesses in the area. There had been no comments from Community Resilience, Essex County Fire and Rescue Service, Environmental Health and Essex Police.

(b) Presentation of the Application

Mr Dadds introduced the application and highlighted that this was a shadow licence which mirrored the licence that had already been granted. He noted that none of the responsible authorities had objected and outlined their responsibility in relation to the Licensing Act. He advised the panel that this was a successful food led business with no intention of changing the business operation. He detailed that property rights were not required to be taken into consideration and detailed that a tenant can apply for a shadow licence. The business had approximately 180 covers. He reiterated that the applicant did not want to make any changes to the licence, but simple to mirror what was already in place.

The Legal Advisor, R Ferreira, stated that shadow licences normally mirrored the existing licence; crime and disorder was normally led by the police, public nuisance was led by Environmental Health; there must be evidence to back up objections and this may not be considered if speculative; issues between freeholder and tenant could not be considered by the panel, anyone could apply for a licence even if they were not the owner of the premises and each case must be considered on it's own merits.

(c) Questions for the Applicant from the Sub-Committee

The Sub-Committee sought clarity on the amount of outside space that would be used. Mr Dadds advised that in the long term this would be the terrace, but that during covid restriction there had been wider use of the outside space and car park had been used. The Sub-Committee referred to role of Mr King and were advised that he worked at the premises and bore no relevance to the application. The applicant and Mr Dadds client was Mr Andrews.

(d) Questions for the Applicant from the Objector

Ms Evans asked if music would be played up until the hours applied for in the licence. Mr Dadds explained this application mirrored what was in the current licence and advised that there was no intention to change the way the business had operated for the last 12 years.

Ms Feeney asked why music was needed if the business was food led and questioned the use of trestle tables and benches in the car park. Mr Dadds advised that music was ancillary to food, the hours in the application were the same as the hours in the existing licence and the background music stopped outside by 10pm, The car park would fully revert to a car park when covid restrictions had stopped.

Ms Zeitler drew attention to the abatement notice that had been served by Environmental Health and the objection raised by Lambourne Parish Council and asked Mr Dadds if these were relevant representations. Mr Dadds responded that the Sub-Committee could determine what weight it attached to evidence, but that there had been no objections raised by Environmental Health, the Police or the Licensing Authority. She further queried the role of Mr King. Mr Dadds advised that Mr King was not a relevant person and he would only answer questions relevant to the Licensing Act. Mr Dadds confirms that the application was made on behalf of ADO Catering Limited, that he had taken his instructions from Mr Andrews and he had confirmed this in writing on 1/4/21.

Ms S Cook advised there was no issues with the tenant and asked why after 12 years there was a need for a shadow licence. Mr Dadds advised that his advice to

his client was subject to legal privilege and his client was entitled to apply for a shadow licence.

(e) Presentation from the Objector

Mr Evans advised that the residents had been subject to excessive noise from a new clientele at the premises, music events with DJs were planned which would lead to noise problems. He advised he was aware of two fights that had occurred and people had sat on his wall and vomited on his property. This was a conservation area and the pub getting bigger was not good for the residents.

Ms Feeney agreed with Mr Evans and advised the panel that there had been an increase in litter. She also advised that the pub had a minder on the door which she suggested showed that were expecting trouble.

Ms Zeitler suggested that in the last 12 months there had been a change in the operation and behaviours in relation to crime and public nuisance. There was nothing in the application that indicated the applicant would ensure that public nuisance and crime would be prevented. There had been an abatement notice served and this should inspire no confidence in the application. She suggested that a shadow licence did not need to mirror current landlord's licence and that the panel should consider more stringent conditions.

(f) Questions for the Objector from the Sub-Committee

There were no questions from the Sub Committee.

(g) Questions for the Objector from the Applicant

There were no questions from the applicant.

(h) Closing Statement from the Applicant

Mr Dadds explained that this was a shadow licence as such the hours were already applicable. The food led business would continue to operate as it had been, but the applicant wanted their own licence. He advised that there had been no fights at the premises and there was a litter pick, but as the business did not operate a takeaway service litter should be minimal. He suggested it was unusual to receive representation and a request for more onerous conditions from landlord and that a tenant should be free to make an application for a shadow licence. Mr Dadds stated that no primary evidence had been presented in relation to public nuisance, and suggested that Environmental Health would have submitted a representation if there were ongoing problems. He acknowledged there has been an increased use of outside space and the car park due to the pandemic and lessons had been learnt, this had ensured the business and jobs had been preserved. Mr Dadds stated that no primary evidence had been presented in relation to public nuisance. There had been no objections from the Police, Licensing Authority or Environmental Health. This licence was the same as that which was already in effect and he requested that the licence be granted as applied for.

(k) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application. During their deliberations the Sub-Committee received no further advice from the Legal Officer present. However, clarification was given around the nature of a shadow licence. The Sub Committee noted all of the submissions and

representations, both oral and written made in relation to this application and considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

RESOLVED:

That the application for a premises licence in respect of The Blue Boar, Market Place, Abridge, RM4 1UA be **GRANTED** subject to the following conditions which they considered were reasonable and proportionate for the promotion of the licensing objectives:

1. The conditions which were consistent with the Operating Schedule.

The applicants and the objectors were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

116. APPLICATION FOR A STREET TRADING CONSENT - THE BROADWAY, LOUGHTON

The three Councillors that presided over this application were Councillors I Hadley, A Lion and P Stalker.

The Chairman introduced the Members and Officers present and outlined the procedure that would be followed for the determination of the application.

In attendance were the applicant's representative Ms Matthews and the objectors: Ms Porter from Essex County Council and Ms Grace.

(a) Application before the Sub-Committee

The Licensing Officer, P Jones, informed the Sub-Committee that an application had been made by Stuart Matthews of Debden Traders' Association, to trade at The Broadway, Loughton for a Street Trading Consent for a market selling mixed goods including hot and cold food and drink (no alcohol).

Monday to Sunday 08:00 – 17:00.

The application was received by the Licensing Authority on the 24 March 2021.

There was no requirement in the Local Government Miscellaneous Provisions Act 1982 to carry out any consultation, but Essex Police, Essex Fire and Rescue Service, Environmental Health, Community Resilience, Loughton Town Council and the ward councillors had been notified and had no comments or objections. Public notices were placed along The Broadway.

The authority had received representations from Essex County Council, a local business and a regular stall holder.

(b) Presentation of the Application

Ms Matthews provided some background to the application and explained that management of the association was now the responsibility of the applicant. The space outside the premises had been used for 30 years and this was typical of many high streets, there had been no safety issues, complaints accidents or use of public liability insurance. The consent would give the freedom to house markets and

traders, revive The Broadway and attract market traders. There had been no objections from Environmental Health, the Police and Fire Service. She suggested that Essex Highways should visit the site to see the extremely wide pavement and the concerns raised by Ms Grace could be addressed.

(c) Questions for the Applicant from the Sub-Committee

The Sub-Committee sought clarify on the number of traders in the association and if items on display from shops spanned across adjacent shop premises. The association comprised of seventeen traders from The Broadway and no (zero) stall holders. Items had spanned adjacent properties with permission from the shopkeepers during covid lockdown. Market traders would be independent traders and the shops and stall were not mutually exclusive.

(d) Questions for the Applicant from the Objector

There were no questions from the objectors.

(e) Presentation from the Objector

Ms Porter advised the Sub-Committee that from the kerb to the premises was public highway and businesses could not extend onto the public highway. A street trading consent did not allow trading from the public highway and Essex Highways had to raise their objection to a street trading consent.

Ms Grace, advised the Sub-Committee that the sprawling goods along the pavement was dangerous for wheelchair users and prams. She detailed that in the last eight years there had only ever been two or three stalls and that she had no objection to the consent for two days per week, as that could bring interest but an increase to seven days would impact on her business.

Ms Tuckey, Licensing Officer, advised the Sub Committee that sub -letting was not allowed. Ms Porter confirmed that the public highways was from the kerb to the building with no space outside the shops. The Legal Advisor, R Ferreira, advised that the that the boundaries would be clearly shown on the lease, that pavement licences, designed primarily for tables and chairs, were a separate entity and that street trading consents could not be used to expand your shop onto the public highway.

(f) Questions for the Objector from the Sub-Committee

The Sub Committee asked if there had been complaints, for clarity around the Essex County Council perspective and if Highways could take action. Ms Porter advised that no complaints had been received but this was Highway Law. Displaying goods and extending the business onto the public highways could lead to further action, it was acknowledged that in practice individuals used a limited amount of the highway, but that encroachment could not be allowed through a street trading consent.

The Sub Committee asked Ms Grace how it had impacted on her business, she advised that plants being sprawled across The Broadways seven days per week would directly impact her business.

(g) Questions for the Objector from the Applicant

Ms Matthews asked why Essex County Council had not objected in January, Ms Porter advised that there had been an objection.

Ms Matthews advised that Mr Sparks could sell flowers, plants and bouquets, the consent for seven days would attract market holders to come forward.

(h) Closing Statement from the Applicant

Ms Matthews expressed her disquiet and questioned why the application had been allowed to come to Sub- Committee. She highlighted the value of outside space being utilised by the shops during the social distancing and restrictions places on individuals and business during the pandemic.

(k) Consideration of the Application by the Sub-Committee

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application. During their deliberations the Sub-Committee received the following advice: historical information about the market; markets which have a charter are different to street trading consents; and a street trading consent cannot be used as an extension of a shop.

RESOLVED:

That the application for a Street Trading Licence made by Debden Traders' Association, to trade at The Broadway, Loughton shall **NOT BE GRANTED**.

The reason for the decision of the Sub-Committee was that Essex County Council objected to a business having a street trading consent whereby it would expand their selling areas onto the public highway which would be contrary to the Highways Act 1980 in that it would obstruct the public highway.

CHAIRMAN