

# **LICENSING COMMITTEE**

## **AGENDA**

**Wednesday 16th March 2022 at 7.15pm**

**Council Chamber, Braintree District Council, Causeway House, Bocking  
End, Braintree, CM7 9HB**

**THIS MEETING IS OPEN TO THE PUBLIC**

*(Please note this meeting will be broadcast via the Councils YouTube Channel,  
webcast and audio recorded) [www.braintree.gov.uk](http://www.braintree.gov.uk) [www.braintree.gov.uk/youtube](http://www.braintree.gov.uk/youtube)*

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**Members of the Licensing Committee are requested to attend this meeting to  
transact the business set out in the Agenda.**

**Membership:-**

Councillor J Baugh (Chairman)	Councillor Mrs J Pell
Councillor Mrs J Beavis	Councillor S Rehman
Councillor Mrs M Cunningham	Councillor B Rose (Vice Chairman)
Councillor P Euesden	Councillor P Schwier
Councillor A Hensman	Councillor Mrs L Walters
Councillor S Hicks	Councillor B Wright
Councillor H Johnson	Vacancy

**Substitutes:** Councillors J Coleridge, A Munday, Mrs I Parker, Mrs J Sandum,  
D White, Vacancy *(Substitutes who wish to observe the meeting  
will be required to do so via the Council's YouTube Channel).*

**Apologies:** Members unable to attend the meeting are requested to forward their  
apologies for absence to the Governance and Members Team on 01376  
552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by 3pm on the day of the  
meeting.

Any Member who is unable to attend a meeting is able to appoint a  
Substitute. Written notice must be given to the Governance and Members  
team, no later than one hour before the start of the meeting.

A WRIGHT  
Chief Executive

## **INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS**

### **Declarations of Disclosable Pecuniary Interest (DPI), Other Pecuniary Interest (OPI) or Non- Pecuniary Interest (NPI)**

Any member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

### **Public Question Time – Registration and Speaking:**

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Friday, (where there is a bank holiday Monday you will need to register by midday on the previous Thursday).

The Council reserves the right to decline any requests to register for Public Question Time if they are received after the registration deadline.

All questions or statements should be concise and should be able to be read within 3 minutes allotted for each question/statement. The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee

### **Public Attendance at Meetings:**

Public attendance is welcomed but is subject to restrictions due to the Council's arrangements for keeping Causeway House COVID secure and visitors' safe.

Public attendance is limited and will be on first come first served basis with priority given to Public Registered Speakers. In order to maintain safe distances, the Council may have to refuse entry to members of the public. The Council meetings are webcast and are available via the Council's YouTube Channel and can be viewed by the public as a live broadcast or as a recording following the meeting.

Public speakers and public attendees are required to attend on their own, and where possible, only one representative of any community group, family household or Company should attend.

Members of the public intending to come to Causeway House to observe a meeting are recommended to watch the meeting via the webcast or to contact the Governance and Members team to reserve a seat within the public gallery.

**Health and Safety/COVID:**

Causeway House is a Covid secure building and arrangements are in place to ensure that all visitors are kept safe. Visitors are requested to follow all instructions displayed at Causeway House or given by Officers during the course of their attendance. All visitors will be required to wear a mask or face covering, unless an exemption applies.

Anyone attending meetings is asked to make themselves aware of the nearest available fire exit. In the event of an alarm you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point until it is safe to return to the building.

**Documents:**

There is limited availability of printed Agendas at the meeting. Agendas, Reports and Minutes can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

**Substitute Members:**

Only the named Substitutes on this Agenda can be appointed by a Member of the Committee to attend in their absence. The appointed substitute becomes a full member of the Committee with participation and voting rights.

**WiFi:**

Public Wi-Fi (called BDC Visitor) is available in the Council Chamber; users are required to register when connecting.

**Mobile Phones:**

Please ensure that your mobile phone is switched to silent during the meeting in order to prevent disturbances.

**Webcast and Audio Recording:**

Please note that this meeting will be webcast and audio recorded. You can view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-tv/core/portal/home>. The Meeting will also be broadcast via the Council YouTube Channel.

**Comments and Suggestions:**

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

## PUBLIC SESSION

## Page

- 1 Apologies for Absence**
- 2 Declarations of Interest**  
To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meeting**  
To approve as a correct record the Minutes of the meeting of the Licensing Committee held on 28th July 2021 (copy previously circulated).
- 4 Public Question Time**  
(See paragraph above)
- 5 Street Trading Consent Application – Second Avenue, Bluebridge, Industrial Estate, Halstead** **5-18**
- 6 Gambling Licensing Policy Statement - Revised 2022** **19-64**
- 7 Licensing Committee Update** **65-67**
- 8 Urgent Business - Public Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 9 Exclusion of the Public and Press**  
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.  
*At the time of compiling this Agenda there were none.*

## PRIVATE SESSION

## Page

- 10 Urgent Business - Private Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

<b>Report Title: APPLICATION FOR STREET TRADING CONSENT - SECOND AVENUE, BLUEBRIDGE INDUSTRIAL ESTATE, HALSTEAD</b>	
<b>Report to: LICENSING COMMITTEE</b>	
<b>Date: 16th March 2022</b>	<b>For: Decision</b>
<b>Key Decision: No</b>	<b>Decision Planner Ref No: N/A</b>
<b>Report Presented by: John Meddings, Principal Licensing Officer</b>	
<b>Enquiries to: John Meddings, Principal Licensing Officer</b>	

## **1. Purpose of the Report**

- 1.1 Members of the Licensing Committee are requested to consider an application made by Mr Christos Bantounas for a Street Trading Consent at Second Avenue, Bluebridge Industrial Estate, Halstead.

## **2. Recommendations**

1. To **GRANT** the application for a Street Trading Consent.
2. To **GRANT** the application for a Street Trading Consent with amendments.
3. To **GRANT** the application for a Street Trading Consent with additional conditions.
4. To **REFUSE** the application for a Street Trading Consent.

## **3. Summary of Issues**

### **Application**

- 3.1 The Licensing Authority received an application for a Street Trading Consent from Mr Christos Bantounas on 18<sup>th</sup> January 2022 which was validated on the same day (Appendix 1).
- 3.2 In accordance with the Council's Street Trading Policy the Licensing Department consulted with the following:
- Essex Police
  - Essex County Council Highways and Highways Agency
  - Local Ward Members
  - Parish/Town Council
  - Braintree District Council – Planning Department
  - Braintree District Council – Environmental Health
  - Relevant local traders selling similar commodities within 500m radius of the proposed site
- 3.3 The hours the applicant is proposing to trade are set out below:

## **Monday to Saturday**

**07:00 – 23:00**

- 3.4 The applicant proposes to sell hot and cold food.

### **Background**

- 3.5 Mr Bantounas has held a Street Trading Consent for the location detailed in the application for the previous two years.
- 3.6 The previous Consent was granted at the Licensing Committee meeting held on the 26<sup>th</sup> May 2021 (Appendix 4) after a similar objection was received from Mr Sam Johnstone during the consultation period.
- 3.7 The Street Trading Consent currently held by Mr Bantounas for this location expires on the 25<sup>th</sup> May 2022.

### **Representation**

- 3.8 During the consultation period the application received an objection from Mr Sam Johnstone, T/A Bobo's, Third Avenue, Bluebridge Industrial Estate, Halstead (Appendix 2).

### **Policy**

- 3.9 Street Trading is controlled under the provisions contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Council adopted this schedule on 15th March 1984. As a result, all streets within Braintree District are designated as Consent Streets. This means that anyone who wishes to trade on a street, highway, or other area to which the public have access without payment must hold a Street Trading Consent.

There are additional requirements where a trader is conducting their business from private land. In such cases, the applicant must make enquiries with regard to planning permission and seek the landowner's permission to trade.

The Braintree District Council Street Trading Policy states:

Each application for the grant or renewal of a Street Trading Consent will be considered on its merits.

For every such application, or renewal, Braintree District Council may impose such conditions as may be reasonable having regard to all the circumstances to prevent:-

- (a) Obstruction of the street or danger to persons using it; or
- (b) Nuisance or annoyance (whether to persons using the street or otherwise).

Standard conditions will be imposed unless circumstances dictate otherwise.

Where the imposition of conditions is not adequate to control potential problems, applications will be refused. Refusal or withdrawal of Street Trading Consents will be normal in the following circumstances:-

- (a) Where the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, mal-odour, litter, disturbance, or anti-social behaviour.
- (b) In respect of applications for hot, mal-odorous food where granting the application is likely to give rise to mal-odour, litter, disturbance or anti-social behaviour.
- (c) Where there is not enough space in the street for the applicant to engage in the trading in which he/she desires without causing undue interference, or inconvenience to persons using the street.
- (d) Where granting of a Consent for the sale of goods or services would conflict with those provided by nearby shops.
- (e) Where the applicant is unsuitable to hold a Consent by reason of having been convicted of an offence, or for any other reason.
- (f) Where the applicant has at any time been granted a Street Trading Consent by the Council and has persistently refused, or neglected to pay, fees due to them for it or charges due to them for services rendered.
- (g) Where the applicant or operator of the stall is under the age of 17 years.
- (h) Where a trader has failed to comply with the conditions attached to the Consent.
- (i) Where street trading in a particular location will conflict with concessions granted to traders.
- (j) Where the street trading may damage the structure or surface of the street.
- (k) Where the appearance of the trading equipment or structure in use is not compatible with the character of the area in which it is proposed to be situated.
- (l) Where the quality of stall and the impact of its activities may be detrimental to the character and appearance of the area in which it is proposed to trade.

### **Decision**

- 3.10 Following the determination of an application by the Committee, the applicant and any objectors will be notified of the decision at the end of the meeting. The Licensing Team will then send confirmation in writing as soon as possible after the decision, or in any case within seven days of the meeting.

- 3.11 There is **no right of appeal against a refusal** to issue a Consent. Any applicant who is aggrieved by the Council's decision has an option to seek a Judicial Review. Where an application is refused, **payment of the application fee shall be refunded**.

The recommendations set out in this report will help the Council to deliver the following Corporate Objectives:

- A sustainable environment and a great place to live, work and play;
- A well connected and growing district with high quality homes and infrastructure;
- A prosperous district that attracts business growth and provides high quality employment opportunities;
- Delivering better outcomes for residents and businesses and reducing costs to taxpayers.

#### **4. Options**

1. To **GRANT** the application for a Street Trading Consent.
2. To **GRANT** the application for a Street Trading Consent with amendments.
3. To **GRANT** the application for a Street Trading Consent with additional conditions.
4. To **REFUSE** the application for a Street Trading Consent.

#### **5. Financial Implications**

If the application is unsuccessful the fee will be returned to the applicant.

#### **6. Legal Implications**

There is no right of appeal against a refusal to issue a Street Trading Consent. Any applicant who is aggrieved by the Council's decision has the option to seek a Judicial Review.

Street Trading is controlled under the provisions contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

#### **7. Other Implications**

None arising from this report

#### **8. Equality and Diversity Implications**

- 8.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act



- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 8.3 The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **9. List of Appendices**

- 1. Application for a Street Trading Consent made by Mr Christos Bantounas (Appendix 1)
- 2. Representation received during the consultation period from Mr Sam Johnstone - Bobo's an existing Consent holder within 500m (Appendix 2)
- 3. Bluebridge Industrial Estate Map - Best Foods Location (Appendix 3)
- 4. Minutes – Licensing Committee 26th May 2021 (Appendix 4)

## **10. Background Papers**

- 1. Braintree District Council Street Trading and Collections Policy.

Please return to LICENSING,  
Braintree District Council,  
Causeway House, Bocking End,  
Braintree, Essex CM7 9HB



**BRAINTREE DISTRICT COUNCIL**

**Application for the Grant or Renewal of a  
Street Trading Consent**

Local Government (Miscellaneous Provisions) Act, 1982 Section 3, Schedule 4)

**NOTE:** Before completing this form applicants are requested to read the Braintree District Council Street Trading Policy, which accompanies this application form

You are requested to complete this form in block capitals

1.

I, CHRISTOS BANTOUNAS

of .....

Date of Birth:-.....

Daytime telephone number:- ...

e-mail:-.....

hereby apply for a street trading consent to trade in the following streets:-  
(Please specify streets and areas in which you wish to trade)

BLUEBRIDGE INDUSTRIAL ESTATE,  
7-11 SECOND AVENUE, HALSTEAD  
CO9 2SU

**PLEASE ENSURE YOU DO NOT INCLUDE ANY REQUEST FOR MARKET DAY  
TRADING (See Braintree District Council Street Trading Policy – Item 9)**

2. I wish to trade on the following days between the hours specified.  
(Please see Note – See Braintree District Council Street Trading Policy – Item 8)
- Monday: From 7am To 11pm Friday: From 7am To 11pm  
 Tuesday: From 7am To 11pm Saturday: From 7am To 11pm  
 Wednesday: From 7am To 11pm Sunday: From ..... To .....  
 Thursday: From 7am To 11pm
3. If you wish to trade for a short period, please specify what period below. (i.e Month of January). You will pay the day's trading fee per day you wish to trade.
- .....
4. I proposed to trade in the following items:-  
 BACON, SAUSAGES, BURGERS, CHICKEN, CHEESE, HAM, TUNA  
 SALADS, HOT DRINKS, SOFT DRINKS
5. The registration number of the vehicle from which I propose to trade is:-
- .....  
 A photograph or fully drawn details of the proposed stall/vehicle, giving dimensions, must be submitted with new applications or if the stall/vehicle has changed.
6. Trading Name : BEST FOOD
7. I am registered as a food business with (Name of Local Authority)  
 BRAINTREE DISTRICT COUNCIL
8. Date of last Food Hygiene Inspection and Food Hygiene Rating:-  
 2/3/20

### Special Events

At special events, we will issue one consent to the person organising the event, rather than to each individual trader. We will issue a single consent, which will cover a number of traders. Traders wishing to sell hot or cold food are not covered by a consent issued for a special event. Each trader wishing to sell food is required to apply for an individual consent

**NOTE :\*** If the event is being held on behalf of raising funds for a charity etc the fee will be waived.

Please identify the number of traders to be covered:

Category 1 – Up to 10 traders

Category 2 – Between 11 and 19 traders

Category 3 – Over 20 traders


**A photograph or fully drawn details of the proposed stall/vehicles, giving dimensions, must be submitted with applications.**

9. I enclose a payment of:-

For 1 day's trading per week per annum	111.00
For 2 day's trading per week per annum	194.00
For 3 day's trading per week per annum	265.00
For 4 day's trading per week per annum	332.00
For 5 day's trading per week per annum	441.00
For 6 day's trading per week per annum	498.00
For 7 day's trading per week per annum	553.00

One day's trading 23.00 per day

**Special Events**

Category 1 – Up to 10 traders	44.00
Category 2 – Between 11 and 19 traders	60.00
Category 3 – Over 20 traders	77.00

(Cheques should be made payable to "Braintree District Council")

10. I am 17 years of age, or over

Signature: ....

Date: 15/1/22

**IMPORTANT** If you intend to be a 'static trader', to assist in the consideration of your application, you are asked to provide a small sketch of the area from which you wish to trade and the proposed position of the vehicle. Please specify one or two roads and landmarks to help with identifying your proposal.

However, if you apply to renew the consent you currently hold and that application is for precisely the same site, a sketch will not be required.

The Information given here may be used in conjunction with other Local Authorities for the prevention and detection of fraud and is held on computer, which is subject to the Data protection Act 1998.

## Webb, Alison

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**From:** Baxter, Wendy  
**Sent:** 27 January 2022 08:59  
**To:** Baxter, Wendy  
**Subject:** FW: FW: Application for Street Trading Consent (renewal) - 22/00069/STR - Mr C Bantounas - trading site - Site Fronting 11, Second Avenue, Bluebridge Industrial Estate, Halstead

**From:** Licensing  
**Sent:** 27 January 2022 8:55 AM  
**To:** Baxter, Wendy <wendy.baxter@braintree.gov.uk>  
**Subject:** FW: FW: Application for Street Trading Consent (renewal) - 22/00069/STR - Mr C Bantounas - trading site - Site Fronting 11, Second Avenue, Bluebridge Industrial Estate, Halstead

**Wendy Baxter**  
**Technical Licensing Assistant**  
Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB  
01376 552525 Ext. 2790 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | [wendy.baxter@braintree.gov.uk](mailto:wendy.baxter@braintree.gov.uk)

Like many organisations, during the pandemic, our staff moved to home working and we adapted a number of processes to ensure we could still deliver our services to you without the need for a face to face interaction. We are now combining remote working and office working and would like to better understand how this may be impacting on our customers. We would appreciate your feedback in relation to any recent contact you have had with our service by answering a few questions in our short [survey](#). Thank you

**From:**  
**Sent:** 20 January 2022 5:34 PM  
**To:** Licensing <[licensing@braintree.gov.uk](mailto:licensing@braintree.gov.uk)>  
**Subject:** RE: FW: Application for Street Trading Consent (renewal) - 22/00069/STR - Mr C Bantounas - trading site - Site Fronting 11, Second Avenue, Bluebridge Industrial Estate, Halstead

Dear Sirs,

Application for Street Trading Consent (renewal) - 20/01042/STR - Mr C Bantounas - trading site - Site Fronting 11, Second Avenue, Bluebridge Industrial Estate, Halstead.

I wish to make representation against this application.

As discussed previously, and through your admission.  
He is positioned too close to our address of trading as known to you.  
He is selling the same Food and Drinks products, as known to you.

As discussed previously, I had informed you of the purchase of said trading business. At some substantial cost to ourselves, from Mr. Christos Bantounas, who thinks he can happily sell a business and custom, then restart with the aid of the Council 0.1 of a mile away.

Thank you, for giving me the opportunity to oppose this application, as discussed at great length. When the application was granted with no consideration to the points made, above. Previously.

Yours Faithfully,  
Sam Johnstone.

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On Tuesday, 18 January 2022 Licensing <[licensing@braintree.gov.uk](mailto:licensing@braintree.gov.uk)> wrote:

Dear Sirs

The Authority has received and validated a renewal application for Street Trading Consent from Mr Christos Bantounas, to trade on Site Fronting 11, Second Avenue, Bluebridge Industrial Estate, Halstead.

A copy of the application form, plans of the trading site and a photograph of the trading vehicle are attached. Please note the dimensions of the trading vehicle are 7ft x 5ft.

Please can you forward your observations to the Licencing Authority by **1st February 2022**.

Thank you

Kind regards

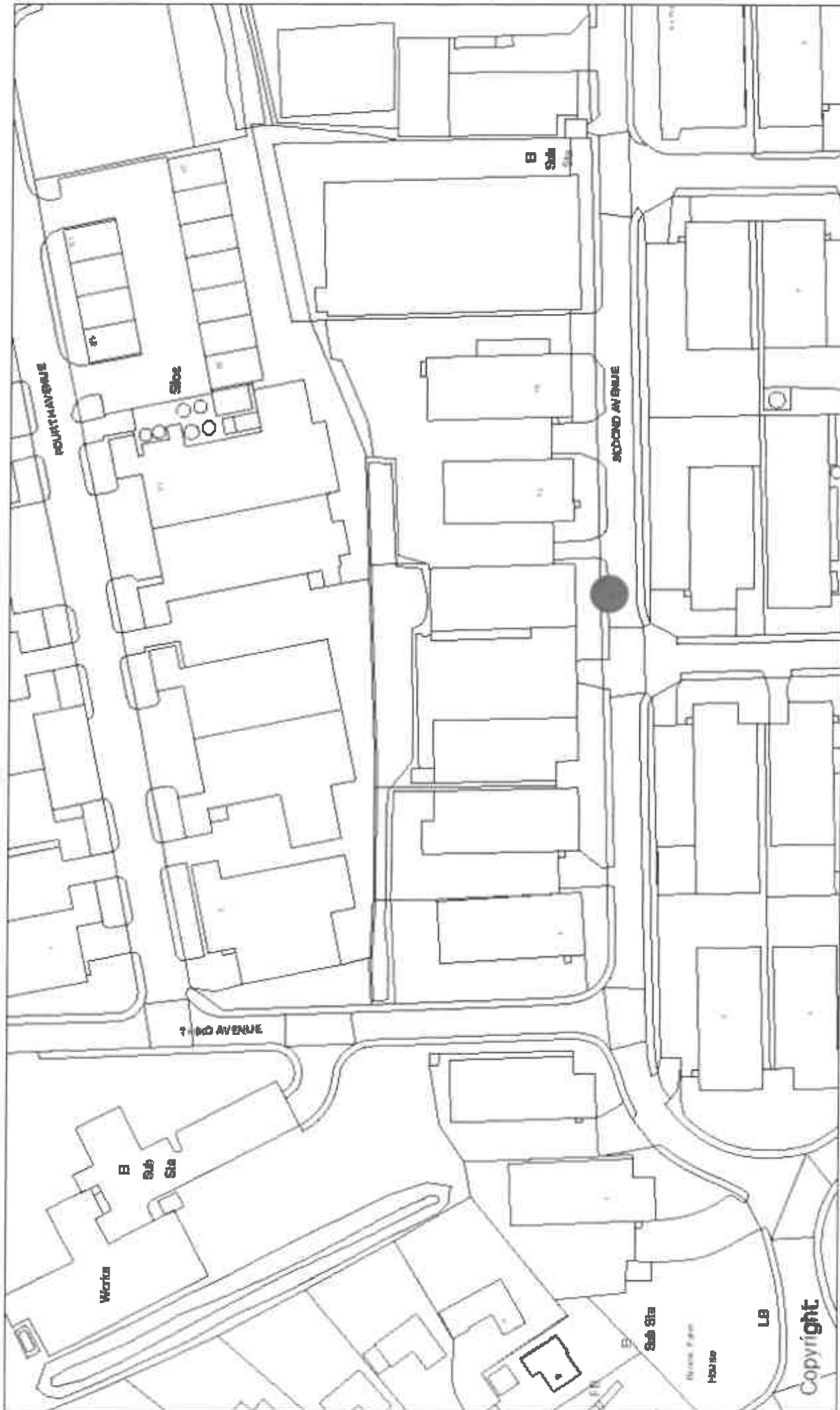
**Licensing**

Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB

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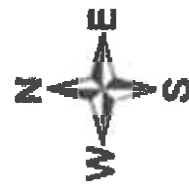


Think before you print!



Date: 13 May 2021

Author: John Meddings



Scale: 1:1,250

# Minutes

## Licensing Committee

26th May 2021 EXTRACT



Present:

Councillors	Present	Councillors	Present
J Baugh (Chairman)	Yes	Mrs J Pell	Yes
Mrs J Beavis	Yes	S Rehman	Apologies
Mrs M Cunningham	Yes	B Rose (Vice-Chairman)	Yes
P Euesden	Yes	P Schwier	Yes
A Hensman	Yes	R van Dulken	Yes
S Hicks	Apologies	Mrs L Walters	Yes
H Johnson	Yes	B Wright	Yes

At the commencement of the meeting, Councillor J Baugh, the Chairman of the Licensing Committee was pleased to welcome everyone to the first 'face to face' meeting of the Committee following a series of 'virtual' meetings. Councillor Baugh was also pleased to welcome Councillor Mrs M Cunningham, who had recently been appointed as a Member of the Committee.

### 1 **DECLARATIONS OF INTEREST**

**INFORMATION:** The following interests were declared:

Councillor Mrs J Beavis declared a non-pecuniary interest in Agenda Item 5 – 'Street Trading Consent Application - Church Street, Bocking' as the owner of Bocking Social Club, which was referred to during the consideration of the Item was known to her.

Councillor Mrs J Pell declared a non-pecuniary interest in Agenda Item 5 – 'Street Trading Consent Application - Church Street, Bocking'; Agenda Item 6 – 'Street Trading Consent Application - High Street, Braintree'; and Agenda Item 7 – 'Street Trading Consent Application – Second Avenue, Bluebridge Industrial Estate, Halstead' as Essex County Council Highways had been consulted about the applications. In particular, Ms O Porter who had submitted representations on behalf of Essex County Council Highways regarding Agenda Items 5 and 6 was known to her.

Councillor Mrs Pell declared a non-pecuniary interest also in Agenda Item 7 – 'Street Trading Consent Application – Second Avenue, Bluebridge Industrial Estate, Halstead' as the objector was known to her.



Councillor P Schwier declared a non-pecuniary interest in Agenda Item 5 – ‘Street Trading Consent Application - Church Street, Bocking’; Agenda Item 6 – ‘Street Trading Consent Application - High Street, Braintree’; and Agenda Item 7 – ‘Street Trading Consent Application – Second Avenue, Bluebridge Industrial Estate, Halstead’ as he was an elected Member of Essex County Council and Essex County Council Highways was referred to in the Agenda reports for each Item.

In accordance with the Code of Conduct, Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the Items were considered.

## 2 **MINUTES**

**DECISION:** That the Minutes of the meeting of the Licensing Committee held on 24th March 2021 be approved as a correct record and signed by the Chairman.

## 3 **QUESTION TIME**

**INFORMATION:** There were no questions asked or statements made during Question Time.

Mr L Rich, the applicant, attended the meeting and he made a statement and answered questions put to him by Members of the Committee during the consideration of Item 6 – ‘Street Trading Consent Application – High Street, Braintree’.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

## 4 **STREET TRADING CONSENT APPLICATION – CHURCH STREET, BOCKING**

## 5 **STREET TRADING CONSENT APPLICATION – HIGH STREET, BRAINTREE**

## 6 **STREET TRADING CONSENT APPLICATION – SECOND AVENUE, BLUEBRIDGE INDUSTRIAL ESTATE, HALSTEAD**

**INFORMATION:** Consideration was given to an application for a street trading consent submitted by Mr Christos Bantounas. Mr Bantounas wished to sell hot and cold food from a van parked on the highway at Second Avenue, Bluebridge Industrial Estate, Halstead. Mr Bantounas wished to trade on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays between the hours of 7.00am and 3.00pm. The application was attached at Appendix 1 to the Agenda report.

It was reported that a previous application by Mr Bantounas for the same location had been granted by a Licensing Officer in accordance with the Council's scheme of delegation for the year prior to the current application as no objections had been received following consultation. However, when Mr Bantounas had commenced trading the Council had received correspondence from another street

trader located at Third Avenue, Bluebridge Industrial Estate. This trader explained that he had purchased the street trading business from Mr Bantounas and that Mr Bantounas was trading in close proximity to his own site. As the other street trader was selling similar commodities he should have been consulted about the original application. The other trader had been consulted about the current application and he had submitted an objection on the basis that Mr Bantounas was operating in close proximity to his own business and that the same food and drink produce was being sold. The objection was attached at Appendix 2 to the Agenda report and it was considered by Members of the Licensing Committee. In accordance with the Council's Street Trading Policy, where representations are received, the application must be referred to the Licensing Committee for determination.

In discussing the application, Members of the Committee were advised that street trading was controlled in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and that following adoption of this Schedule by the Council all streets within the Braintree District had been designated as consent streets. As such, anyone wishing to trade on a street, highway, or other area to which the public had access without payment must hold a street trading consent. Where a person wished to trade from private land, he/she must enquire whether planning permission was required and seek the landowner's permission to trade.

In accordance with Braintree District Council's Street Trading Policy, the Council could grant a street trading consent subject to reasonable conditions being imposed to prevent nuisance or annoyance and that where the imposition of conditions was not adequate to control potential problems, applications would be refused.

Members of the Committee were advised that there was no right of appeal against a refusal to issue a consent, but that an applicant had the option to seek a Judicial Review of the decision. If an application was refused, the application fee would be refunded to the applicant.

**DECISION:** That the application submitted by Mr C Bantounas for a street trading consent to sell hot and cold food from a van parked on the highway at Second Avenue, Bluebridge Industrial Estate, Halstead be granted for Mondays, Tuesdays, Wednesdays, Thursdays and Fridays between the hours of 7.00am and 3.00pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.

## **7 STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS – STATUTORY GUIDANCE POST CONSULTATION**

The meeting closed at 8.34pm.

Councillor J Baugh  
(Chairman)

<b>Report Title: BRAINTREE DISTRICT COUNCIL'S REVISED LICENSING POLICY STATEMENT IN RESPECT OF THE GAMBLING ACT 2005</b>	
<b>Report to: LICENSING COMMITTEE</b>	
<b>Date: 16th March 2022</b>	<b>For: Decision</b>
<b>Key Decision: No</b>	<b>Decision Planner Ref No: N/A</b>
<b>Report Presented by: John Meddings, Principal Licensing Officer</b>	
<b>Enquiries to: John Meddings, Principal Licensing Officer</b>	

## **1. Purpose of the Report**

- 1.1 Braintree District Council is legally required to formulate its own Gambling Licensing Policy Statement which must be reviewed and re-published every three years. The policy must be based on the licensing objectives.

The policy will then set out the principles that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications for licences made under the Act for the subsequent three years.

## **2. Recommendations**

- 2.1 That the draft statement of Gambling licensing policy be approved in its current state for submission to Full Council at the earliest opportunity.

That officers be given delegated authority to make minor amendments, such as typographical issues or any errors identified, before submission to Full Council.

## **3. Summary of Issues**

### **Background**

- 3.1 The Gambling Act 2005 places a statutory responsibility on all Local Authorities to be responsible for the issuing of various permissions, permits and notices relating to the use of premises for gambling activities:-

- a) Consideration of applications for premises licences for:

- Casinos
- Bingo premises
- Betting premises and race tracks
- Adult gaming centres
- Family entertainment centres

- b) Consideration of applications for permits for:

- Gaming machines in alcohol-licensed premises, such as pubs
  - Gaming machines for members' clubs
  - Gaming in members' clubs
  - Unlicensed family entertainment centres - (category D machines only – i.e. those that have the lowest level of stakes and prizes)
  - Prize gaming
- c) Temporary use notices
- d) Occasional use notices
- e) Provisional statements
- f) Registration of small society lotteries
- 3.2 Each Authority is legally required to formulate its own Gambling Licensing Policy Statement which must be reviewed and re-published every three years. The policy must be based on the three licensing objectives, which are;
- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable people from being harmed or exploited by gaming
- 3.3 The re-published policy will then set out the principles that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications for licences made under the Act for the subsequent three years.

### **Consultation**

- 3.4 The draft Gambling Licensing Policy Statement, which is based upon the Essex Authorities generic framework, has been made available for public consultation. The consultation was open for comment between the 4<sup>th</sup> January 2022 until the 6<sup>th</sup> March 2022.
- 3.5 Letters advising of the consultation were sent to Responsible Authorities, Members and other persons who would have an interest in the policy:
- Consultation with a range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, primary care trusts, and advocacy organisations (such as the Citizens' Advice Bureau and trade unions); consultation with businesses that are, or will be, holders of a premises licence;

- 3.6 The policy was also made available for viewing via the Council's website for public comment between 4<sup>th</sup> January 2022 and 6<sup>th</sup> March 2022.
- 3.7 During the consultation period no responses were received. Reviews of the Council's Gambling Licensing Policy Statement historically do not attract much interest. There have also been no significant changes to the Council's Gambling Licensing Policy Statement due to no legislative changes or updates to published guidance.

#### **4. Options**

- 4.1 That the draft Statement of Gambling Licensing Policy be approved in its current state for submission to Full Council at the earliest opportunity.
- 4.2 That officers be given delegated authority to make minor amendments, such as typographical issues or any errors identified, before submission to Full Council.

#### **5. Next Steps**

- 5.1 The draft Statement of Gambling Licensing Policy, if approved, will be presented to Full Council for final approval.

#### **6. Financial Implications**

- 6.1 The principle behind modifying the policy is to minimise any risk of a judicial review by an aggrieved applicant.

#### **7. Legal Implications**

- 7.1 Failure to adopt a policy in line with the Gambling Act 2005 will result in the Council not being able to administer the licensing functions under the Gambling Act 2005.

#### **8. Equality and Diversity Implications**

- 8.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 8.3 The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

**9. List of Appendices**

Braintree District Council Draft Gambling Licensing Policy Statement 2022 – Appendix 1

**10. Background Papers**

[Gambling Commission – Guidance to Licensing Authorities \(5th Edition\)](#)



# GAMBLING LICENSING POLICY STATEMENT

**2022 - 2025**

## **FOREWORD**

This is the fifth Statement of Licensing Policy produced by Braintree District Council under the Act and it will be the basis for all gambling related licensing decisions taken by the Council as the Licensing Authority over the next three years commencing in 2022.

The Act created a unified regulator for gambling in Great Britain called the Gambling Commission and also transferred all responsibilities for licensing gambling premises from the Licensing Justices to Licensing Authorities. These Authorities are responsible for issuing a number of different permits, as well as Temporary and Occasional Use Notices.

This Policy sets out how the Council, as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that children, vulnerable people, and communities need and expect. The Council recognises how important this sector of the entertainment industry is within the district and well-run businesses will get the support of the Council. New gambling related developments that are well planned and can demonstrate initiatives that prevent gambling from being a source of crime and disorder, ensure that gambling is conducted in a fair and open way and protect people from being harmed or exploited by gambling are welcomed. However, the Council will not hesitate in dealing firmly where problems of gambling related crime and disorder exist.

This Policy will be kept under review and it will be amended when issues arise that make change necessary. The Council will seek through the licensing process and the decisions it takes, to make Braintree a safe and welcoming place for both residents and visitors to enjoy.

Councillor John Baugh  
Chairman, Licensing Committee

### Version History

Version No:	Period to which policy applies:	Review date:
1	2007-09	2009
2	2010-12	2012
3	2013-15	2015
4	2016-19	2019
5	2022-25	2022



# **BRAINTREE DISTRICT COUNCIL** **GAMBLING LICENSING POLICY STATEMENT**

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## **PART A**

### **1 INTRODUCTION**

1.1 This Statement of Licensing Policy sets out the principles the Braintree District Council, as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act') proposes to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an "Interested Party";
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting proceedings for offences under the Act.

### **2. THE LICENSING OBJECTIVES**

2.1 In exercising most of its functions under the Act, Licensing Authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:-

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

### **3. DESCRIPTION OF THE DISTRICT**

3.1 The Braintree District Council is situated in the County of Essex, which comprises twelve District and Borough Councils and two Unitary Authorities. Braintree District has a population of 149,108 (2013 Mid-Year Population Estimate from Office of National Statistics) and covers an area of 236 square miles. The main centres of population are in the towns of Witham, Halstead and Braintree. A map of the area is attached to this Policy document at Annex 'D'.

#### **4. RESPONSIBILITIES UNDER THE ACT**

- 4.1 The Act has introduced a new licensing regime for commercial gambling, to be conducted by the Gambling Commission and by Licensing Authorities, depending on the matter to be licensed.
- 4.2 The Act establishes each District or Borough Council as the Licensing Authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. Braintree District Council is the Licensing Authority for the Braintree District.
- 4.3 The Gambling Commission is responsible for issuing Operating and Personal licences to persons and organisations who:-
- operate a casino;
  - provide facilities for playing bingo or for pool betting;
  - act as intermediaries for betting;
  - make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
  - manufacture, supply, install, adapt, maintain or repair gaming machines;
  - manufacture, supply, install or adapt gambling machine software; or
  - promote a lottery.
- 4.4 The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are covered, other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt Small Society Lotteries.
- 4.5 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as they think it is:-
- in accordance with any relevant codes of practice;
  - in accordance with any relevant Guidance issued by the Gambling Commission;
  - reasonably consistent with the Licensing Objectives, and
  - in accordance with the Licensing Authority's Statement of Licensing Policy.

Before the Licensing Authority can consider an application for a Premises Licence, an Operating and Personal Licence, or both, must have been obtained from the Gambling Commission.

## **5. STATEMENT OF LICENSING POLICY**

- 5.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising their functions under the Act.
- 5.2 In this document this is referred to as the 'Policy'. This Policy must be published every three years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.
- 5.3 This Policy takes effect on 29<sup>th</sup> March 2022, and replaces the policy previously in force.

## **6 CONSULTATION**

- 6.1 In producing this Policy, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to consult with additional local groups and individuals. A list of these other groups and persons consulted is also provided below.
- 6.2 The Act requires that the following parties are consulted by the Licensing Authority:-
- the Chief Officer of Police for the Authority's area;
  - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
  - one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.
- 6.3 The other groups and people consulted were:-
- organisations, including faith groups, voluntary and community organisations working with children and young people and organisations working with people who are problem gamblers, medical practices or primary care trusts and the Citizen's Advice Bureau;
  - other tiers of local government;
  - businesses who are, or will be, holders of Premises Licences;
  - responsible Authorities under the Act.
- 6.4 The Licensing Authority's consultation took place between 10<sup>th</sup> January 2022 and 6<sup>th</sup> March 2022.
- 6.5 A full list of comments made and details of the Council's consideration of those comments is available by request to the Licensing Department in writing, or by email [licensing@braintree.gov.uk](mailto:licensing@braintree.gov.uk)

## **7 APPROVAL OF POLICY**

- 7.1 This Policy was approved by Braintree District Council on 28<sup>th</sup> March 2022 and was published via its website on the 28<sup>th</sup> March 2022. Copies are available on request.
- 7.2 It should be noted that this Policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each case will be considered on its own merit and according to the requirements of the Act.

## **8 DECLARATION**

- 8.1 In this Policy the Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses from those consulted during the consultation process and will adopt the Principals of Better Regulation.
- 8.2 Appendices have been attached to this statement providing further information and guidance that is intended only to assist readers and should not be interpreted as legal advice or as constituent of the Council's Policy. Readers of this document are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or the guidance or regulations under the Act.
- 8.3 The Council recognises its responsibilities under equality legislation and will monitor the impact of these statutory duties through its various corporate schemes as Equality Impact Assessment.

## **9 RESPONSIBLE AUTHORITIES**

- 9.1 A full list of the Responsible Authorities designated under the Act and their contact details are given in Appendix B. It should be noted that under the Act, the Licensing Authority is designated as a Responsible Authority.
- 9.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-
- the competency of the body to advise the Licensing Authority;
  - the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
  - the need for the body to be answerable to democratically elected persons rather than any particular invested interest group etc.
- 9.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates the Essex County Council Children's Safeguarding Service for this purpose.

## **10 INTERESTED PARTIES**

10.1 Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:-

*'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-*

*a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*

*b) has business interests that might be affected by the authorised activities,*

*or*

*c) represents persons who satisfy paragraphs (a) or (b).'*

10.2 Interested parties can be persons who are democratically elected, such as District, Parish Councillors and Members of Parliament(MP). No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the Ward likely to be affected. Likewise, Parish Councils likely to be affected will be considered to be interested parties.

10.3 District Councillors who are members of the Licensing Committee will not qualify to act in this way.

10.4 Other than persons mentioned in 10.2 and 10.3, the Licensing Authority will generally require some form of confirmation that a person is authorised to represent an interested party.

10.5 The Licensing Authority considers that the Trade Associations, Trade Unions and Residents' and Tenants' Associations qualify as "Interested Parties" where they can demonstrate that they represent persons in (a) or (b) above.

10.6 In determining if a person lives or has business interests sufficiently close to the premises that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- the catchment area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

10.7 The Licensing Authority will decide if a representation made in respect of an application is valid based on the following

- It is not frivolous or vexatious
- It raises issues that relate to Guidance issued by the Gambling Commission.
- It raises issues that relate to this policy
- It relates to the Licensing Objectives.

## **11 EXCHANGE OF INFORMATION**

11.1 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-

- the provisions of the Act, which include the provision that the Data Protection Act 1998 will not be contravened;
- the guidance issued by the Gambling Commission;
- The General Data Protection Regulation;
- Human Rights Act 1998;
- Freedom of Information 2000;
- Environmental Information Regulations 2004;
- the Common Law Duty of Confidence;
- Electronic Communications Act 2000;
- Computer Misuse Act 1990;
- Criminal Procedure and Investigations Act 1996; and
- Crime and Disorder Act 1998.

11.2 Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail. (Note: Written confirmation may include information in electronic form.) An audit trail should include:-

- record of data disclosed;
- project chronology; and
- notes of meetings with other partners and recent correspondence including phone calls.

11.3 In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers
- Any other person or body designated by the Secretary of State in accordance with the Act.

11.4 The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection



of crime, but we will only share any personal details for this purpose if required to do so by law.

## **12 PUBLIC REGISTER**

- 12.1 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations will prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

## **13 COMPLIANCE AND ENFORCEMENT**

- 13.1 Braintree District Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services.
- 13.2 The Authority has had regard to the Regulators Code in the development of this policy and any operational procedures relevant to this specific licensing regime. The Authority has regard when setting standards or providing guidance which will guide the regulatory activities of other regulators.
- 13.3 The Authority in following these principles if in a particular instance concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable, or is outweighed by another relevant consideration, will not follow that provision but will aim to record the decision and the reasons for it.
- 13.4 The Code specifies the following guiding principles that the Council support and adopt:
- Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
  - Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
  - Regulators should base their regulatory activities on risk.
  - Regulators should share information about compliance and risk.
  - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
  - Regulators should ensure that their approach to their regulatory activities is transparent.
- 13.5 Braintree District Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm

action will be taken against those who commit offences or fail to comply with licence conditions. Braintree District Council has set clear standards of service and performance that the public and businesses can expect. In particular, the Environmental Services statement of Enforcement Policy that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement are achieved. This Policy is advertised and is freely available as are details of the Council's corporate complaints procedures. These documents can also be viewed on the Council's website: [www.braintree.gov.uk](http://www.braintree.gov.uk)

- 13.6 Braintree District Council has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and (Essex County Council) Trading Standards on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.
- 13.7 The Licensing Authority may carry out test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Operators will always be advised of the outcome of the test. Where operators carry out their own test purchasing, the Licensing Authority expect to be advised of the results. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator
- 13.8 Where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the time of the publication of this policy there were four Primary Authority arrangements with host authorities.
- Coral – London Borough of Newham
  - Ladbroks – Milton Keynes
  - Paddy Power – Reading
  - William Hill – City of Westminster

## **14 DELEGATION OF POWERS**

- 14.1 The Council has agreed a scheme of delegation for discharging its functions under the Act and this can be found in Appendix .

<b>PART B</b> <b>PREMISES LICENCES</b>
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## **15. GENERAL PRINCIPLES**

- 15.1 Premises Licences will be subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions, which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is thought appropriate.
- 15.2 Each case will be decided on its merits, and will depend upon the type of gambling that is proposed, as well as taking into account how the applicant proposes that the Licensing Objectives concerns can be overcome.
- 15.3 Licensing Authorities are required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks fit:-
- a) in accordance with any relevant Code of Practice under Section 24 of the Act;
  - b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
  - c) reasonably consistent with the Licensing Objectives (Subject to paragraphs a) and b))and
  - d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

### **15.4 Definition of Premises:**

Premises are defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises although this will always be considered in the light of the guidance issued by the Gambling Commission. It will always be a question of fact in each circumstance. The Gambling Commission does not, however, consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

### **15.5 Demand:**

Demand is a commercial consideration and is not an issue for the Licensing Authority.

### **15.6 Location:**

Location will only be a material consideration in the context of the Licensing Objectives

- 15.7 The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of the premises but that considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the objectives of protection of children and

vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

- 15.8 In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6<sup>th</sup> April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.
- 15.9 The LCCP also states that licensees must review (and update as necessary) their local risk assessments:
- a) to take account of significant changes in local circumstance, including those identified in this policy;
  - b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
  - c) when applying for a variation of a premises licence; and
  - d) in any case, undertake a local risk assessment when applying for a new premises licence.
- 15.10 The Licensing Authority expects the local risk assessment to consider as a minimum:
- whether the premises is in an area of deprivation
  - whether the premises is in an area subject to high levels of crime and/or disorder
  - the ethnic profile of residents in the area, and how game rules, self-exclusion leaflets etc. are communicated to those groups
  - the demographics of the area in relation to vulnerable groups
  - the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather
- 15.11 In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.
- 15.12 Other matters that the assessment may include:
- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
  - Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
  - The layout of the premises so that staff have an unobstructed view of persons using the premises.
  - The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
  - Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.

- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines.

15.13 The Licensing Authority expects all licensed premises' to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.

15.14 Such information may be used to inform the decision the council makes about whether to grant a licence, to grant a licence with special conditions or to refuse an application.

15.15 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

#### 15.16 Local Area Profile

Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Licensing Authority has published a local area profile (LAP). The LAP is published as a separate document to this policy and does not form part of it. The LAP may be reviewed by the Licensing Authority at any time. Such a review would not constitute a review of this policy.

15.17 The LAP should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the LAP and assessment, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent licensing sub-committee when they determine an application that has received representations. The LAP should not be taken as the definitive overview of a particular area and applicants are encouraged to use their own local knowledge in addition to the content of the LAP to inform their local risk assessments.

15.18 The Licensing Authority recognises that it cannot insist on applicants using the local area profiles when completing their risk assessments. However, an applicant who decides to disregard the LAP should be alert to the risk that they may face additional representations and the expense of a hearing as a result. A template of a suggested local risk assessment form for is included at **Annex E**. Applicants and licence holders may use this template or create their own.

#### 15.19 **Duplication with other Regulatory Regimes:**

Duplication with other statutory/regulatory regimes will be avoided where possible. This Authority will not consider whether a licence application is likely to be awarded Planning Permission or Building Control consent.

#### 15.20 **Licensing Objectives:**

Premises Licences granted must be reasonably consistent with the Licensing Objectives. With regard to these Objectives, the following will be considered:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime** –

Whilst the Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this licensing objective.

Where an area has known high levels of organised crime, this Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of door supervisors.

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

- **Ensuring that gambling is conducted in a fair and open way –**  
The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. The Licensing Authority notes that in relation to the licensing of tracks, its role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances, the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling –**  
In practice, the objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

The Council will pay attention to the proposed location of gambling premises in terms of the proximity of gambling premises to schools and vulnerable adult centres, or residential areas where there may be a high concentration of families with children.

There is no definition of the term ‘vulnerable person’ in the Act, but this could include people who are gambling beyond their means and people who may not have the mental capacity to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

The Licensing Authority will consider very carefully whether applications for Premises Licences in respect of gambling premises located close to schools, centres for gambling addicts, or residential areas where there may be a high concentration of families with children, should be granted, and will fully scrutinise the control measures outlined in an operator’s local area risk assessment in this regard.

The Licensing Authority will consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

## 15.20 Conditions

The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing Objectives.

Any conditions attached to Licences will be proportionate and will be:-

- relevant to the need to make the proposed premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

In addition, the Licensing Authority will examine how applicants propose to address the licensing objectives. In considering applications the Licensing Authority will particularly take into account the following:

- proof of age schemes;
- CCTV;
- door Supervisors;
- supervision of entrances/machine areas;
- physical separation of areas;
- location of entry;
- notices and signage;
- specific opening hours; and
- with particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare;

15.21 Decisions upon individual conditions will be made on a case by case basis. Consideration will be given to using control measures, should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. Applicants will also be expected to offer their own suggestions as to the way in which the Licensing Objectives can be effectively met.

15.22 It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

- any conditions on the Premises Licence which make it impossible to comply with an Operating Licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;

- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, and the winning of prizes.

#### 15.23 **Door Supervisors:**

The Licensing Authority may consider whether there is a need for door supervisors in terms of the Licensing Objectives of protecting of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. As the Act has amended the Security Industry Act 2001, door supervisors at Casinos or Bingo premises need not be licensed by the Security Industry Authority.

The Authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

#### 15.24 **Credit:**

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATMs) may be installed in such premises but the Licensing Authority may apply conditions as to where they are sited.

#### 15.25 **Betting Machines: (See Annex A for definition)**

In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the Casino*). This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the Licence, the ability to staff to monitor the use of such machines from the counter.

15.26 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

15.27 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of Codes of Practice or guidance issued under the Act.



## **16 PROVISIONAL STATEMENTS**

- 16.1 It is noted that the guidance from the Gambling Commission states that 'It is a question of fact and degree whether the premises are finished to an extent that they can be considered for a Premises Licence rather than a Provisional Statement'. The Licensing Authority will consider such applications on this basis but will not take into account other permissions that may be required such as Planning Consent.

The applicant should refer to the Act and the detailed information provided in the Guidance

## **17 REPRESENTATIONS AND REVIEWS**

- 17.1 Representations and Applications for Review of Premises Licence may be made by Responsible Authorities and interested parties.
- 17.2 The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is appropriate. For the purpose of exercising its discretion in these matters, the Authority has designated the Head of Environment and Leisure as being the proper person to act on its behalf.
- 17.3 The Licensing Authority will decide if a representation or application for a review is to be carried out on the basis of whether or not the request is:
- Whether the grounds for the request raises issues relevant to the principles to be applied by the Licensing Authority and set out within the Licensing Authority Statement of Policy;
  - Frivolous or vexatious.
  - Based on grounds that will certainly not cause the Authority to wish to revoke/suspend a Licence or remove, amend or attach conditions on the Licence.
  - Substantially the same as previous representations or requests for a review.
  - In accordance with any relevant codes of practice issued by the Gambling Commission.
  - In accordance with any relevant guidance issued by the Gambling Commission.
  - Reasonably consistent with the licensing objectives.
- 17.4 There is no appeal against the Authority's determination of the relevance of an application for review.

## **18 ADULT GAMING CENTRES**

- 18.1 An Adult Gaming Centre is defined in Annex A. Entry to these premises is age restricted.

- 18.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## **19 (LICENSED) FAMILY ENTERTAINMENT CENTRES**

- 19.1 A Licensed Family Entertainment Centre is defined in Appendix 1. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.
- 19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## **20 CASINOS**

- 20.1 The Licensing Authority has made no decision about Casinos, therefore, each application will be considered on its own merits.

### **20.2 Casinos and Competitive Bidding:**

The Licensing Authority is aware that where a Licensing Authority's area is enabled to grant a Premises Licence for a new style Casino, there are likely to be a number of operators which will want to run a Casino. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State.

### **20.3 Betting Machines:**

The Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the Casino*). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things should take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

- 20.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

### **20.5 Credit:**

Credit facilities are prohibited in Casinos. However, this does not prevent the installation of cash dispensers (ATMs) on the premises (although the Licensing Authority may attach conditions as to the siting of such machines).

## **21 BINGO PREMISES**

- 21.1 A Bingo premises is defined in Annex A. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.
- 21.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 21.3 **Credit:**

Credit facilities are prohibited in premises licensed for Bingo, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

## **22 BETTING PREMISES**

- 22.1 Betting Premises are defined in Annex A.
- 22.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 22.3 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

## **23 TRACKS**

- 23.1 A Track is defined in Annex A. Entry to these premises is generally age restricted. On race days, specific areas within the Track may be age restricted dependent on the licensable activities taking place.
- 23.2 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act

## **24 TRAVELLING FAIRS**

- 24.1 The Licensing Authority will determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use.

<p style="text-align: center;"><b>PART C</b> <b>PERMITS/TEMPORARY OR OCCASIONAL USE</b> <b>NOTICES/REGISTRATIONS</b></p>
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## **25 GENERAL**

- 25.1 The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.
- 25.2 Forms and Method of Application and any additional information or documents required for Permits covered by this section will be available either direct from our website ([www.braintree.gov.uk](http://www.braintree.gov.uk)) or in hard copy from our Licensing Department, Tel 01376 557790.

## **26 UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS**

- 26.1 Where a premises does not hold a Premises Licence but wishes to provide Gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 26.2 The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority.
- 26.3 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic Criminal Record Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
  - How the applicant proposes to ensure that children will be protected from harm whilst on the premises.
  - Training covering how staff would deal with:-
    - unsupervised, very young children being on the premises;
    - children causing perceived problems on/around the premises;
    - safeguarding awareness training, and
    - suspected truant children.

## **27 (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS**

- 27.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of Categories C and/or D. The Premises Licence holder needs to notify the Licensing Authority at least two months prior to the date of expiry of the current Permit.
- 27.2 Gaming machines can only be located on licensed premises that have a bar for serving customers.
- 27.3 Premises restricted to selling alcohol only with food, will not be able to apply for a Permit.
- 27.4 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:-
- adult machines being in sight of the bar;
  - adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
  - appropriate notices and signage; and
  - as regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, leaflets/help line numbers for organisations such as GameCare.
  - Relevant codes of practice issued by the Gambling Commission

The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

## **28 PRIZE GAMING PERMITS**

- 28.1 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic Criminal Record Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
  - 
  - Proof of age schemes
  - How the applicant proposes to ensure that children will be protected from harm whilst on the premises.

- Training covering how staff would deal with:-
  - unsupervised, very young children being on the premises;
  - children causing perceived problems on/around the premises;
  - safeguarding awareness training, and
  - suspected truant children.

In addition applicants should be able to demonstrate a full understanding of maximum stakes and prizes (and that staff are suitably trained in this respect)

In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

## **29 CLUB GAMING AND CLUB MACHINE PERMITS**

29.1 Member's Clubs and Miner's Welfare Institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines and to equal chance gaming and games of chance.

29.2 Commercial clubs may apply for a club machine permit, subject to restrictions

29.3 The gambling provided under the authority of a club gaming permit must also meet the following conditions:

(a) in respect of gaming machines:

no child or young person may use a category B or C machine on the premises

that the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines.

(b) the public, children and young persons must be excluded from any area of the premises where the gaming is taking place.

29.4 Section 273 of the Act sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **30 TEMPORARY USE NOTICES (TUN)**

30.1 The persons designated to receive TUNs and to issue objections are specified in Appendix 2.

30.2 A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations will be issued by the Secretary of State prescribing the activities to be covered. At present a Temporary Use Notice can only be issued for equal chance gaming.

- 30.3 For the purpose of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 30.4 The definition of “a set of premises” will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of “a set of premises” the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 30.5 The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

### **31 OCCASIONAL USE NOTICES**

- 31.1 Occasional Use Notices, apply only to tracks, which are described as being premises on any part of which a race or other sporting events take place, or is intended to take place. Tracks need not be a permanent fixture.
- 31.2 OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a Betting Premises Licence for the track.
- 31.3 The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 31.4 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.
- 31.5 The person designated to receive the OUN's and assess validity is specified in the scheme of delegation as shown at Annex E

### **32 SMALL SOCIETY LOTTERIES**

- 32.1 The definition of a Small Society Lottery is contained in Appendix 1 and require registration with the Licensing Authority.

### **33 DEFINITIONS**

In this Policy the definitions contained in Appendix 1 are included to provide an explanation of certain terms included in the Act and this Policy. In some cases they are an abbreviation of what is stated in the Act or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Act.

## **34 HOW TO APPLY FOR A PREMISES LICENCE/TEMPORARY USE NOTICE**

Information and guidance on how to apply for a Premises Licence and other Permits or permissions under the Act will be available either direct from our website or in hard copy from our Licensing Department.

## **35 HOW TO MAKE A REPRESENTATION**

Information and guidance on how to make representations in relation to an application or to apply for a review of a Licence will be available either direct from our website ([www.braintree.gov.uk](http://www.braintree.gov.uk)) or in hard copy from our Licensing Department (Tel 01376 557790).

## **36 FEES**

The Fees that are applicable to any Licences, Permits or any other permissions will be set by the Secretary of State by Regulations and will appear in Appendix 8. The Licensing Authority will determine their fees when Regulations are published.

## **37 USEFUL CONTACTS**

The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) Some of these organisations provide Codes of Practice on their particular interest area.

Contact details of the Licensing Authority and the Responsible Authorities are contained in Appendix 3.



## Definitions

## Appendix 1

Adult	An individual who is not a child or young person.
Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect (Premises limited to entry by adults making Category B, C and D gaming machines available to their customers).
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting Machines	A machine designed or adapted for use to bet on future real events (not a gaming machine).
Bingo	A game of equal chance.
Braintree District Council	The area of Essex administered by the Braintree District Council (see map – Appendix 9)
Casino	An arrangement whereby people are given an opportunity to participate in one or more Casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming	Equal chance gaming and games of chance in members' clubs and miners' welfare institutes (but not commercial clubs).
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines (3 machines of Categories B,C or D).
Code of Practice	Any relevant code of practice under Section 24 of the Act.
Conditions	<p>Conditions to be attached to licences by way of:-</p> <ul style="list-style-type: none"> <li>q Automatic provision</li> <li>q Regulations provided by Secretary of State</li> <li>q Conditions provided by Gambling Commission</li> <li>q Conditions provided by Licensing Authority</li> </ul> <p>Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.</p>
Default Conditions	Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
Delegated Powers	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	

	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> <li>q Small Society Lottery (required to register with Licensing Authorities).</li> <li>q Incidental Non Commercial Lotteries.</li> <li>q Private Lottery (Private Society, Work or Residents lottery).</li> <li>q Customer Lotteries.</li> </ul>
External Lottery Manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the Lottery.
Gaming	Prize Gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.
Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events.
Guidance to Licensing Authorities	Guidance issued by the Gambling Commission 3 <sup>rd</sup> edition dated May 2009.
Human Rights Act 1998 Articles: 1,6,8 and 10	<p>Article 1: Protocol 1 The right to peaceful enjoyment of possessions.</p> <p>Article 6: The right to a fair hearing.</p> <p>Article 8: The right of respect for private and family life.</p> <p>Article 10: The right to freedom of expression.</p>
Incidental Non Commercial Lottery	A Lottery promoted wholly for purposes other than private game, and which are incidental to non-commercial events (commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance).
Exchange of Information	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	<p>A person who:-</p> <ul style="list-style-type: none"> <li>q lives sufficiently close to the premises to be likely affected by the authorised activities;</li> <li>q have business interests that might be affected by the authorised activities, or</li> <li>q represents persons in either of these two groups.</li> </ul>

	See paragraph 10.6 for the criteria the Licensing Authority will apply in determining who lives or has business interests sufficiently close to the premises that they are likely to be affected by any authorised activities.
Licensing Authority	Braintree District Council acting under Section 2 of the Act.
Licensed Family Entertainment Centre	Premises offering Category C gaming machines that are restricted to adults and offering Category D machines to children and young persons in segregated areas.
Licensed Lottery	A Large Society Lottery or a Local Authority Lottery. They require registration with the Gambling Commission.
Licensing Objectives	<ol style="list-style-type: none"> <li>1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.</li> <li>2. Ensuring that gambling is conducted in a fair and Open way.</li> <li>3. Protecting children and other vulnerable persons From being harmed or exploited by gambling.</li> </ol>
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.
Lottery Tickets	<p>Tickets that must:-</p> <ul style="list-style-type: none"> <li>q identify the promoting society;</li> <li>q state the price of the ticket, which must be the same for all tickets;</li> <li>q state the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and</li> <li>q State the date of the draw, or enable the date of the draw to be determined.</li> </ul>
Mandatory Conditions	Specified conditions provided by Regulations under Section 176 of the Act to be attached to Premises Licences.
Members' Club	<p>A Club that must:-</p> <ul style="list-style-type: none"> <li>q have at least 25 members;</li> <li>q be established and conducted 'wholly or mainly' for purposes other than gaming;</li> <li>q be permanent in nature;</li> <li>q not be established to make commercial profit; and</li> <li>q be controlled by its members equally.</li> </ul>
Occasional Use Notice	Betting may be permitted on a 'track' for eight days or less in a calendar year without the need for a full Premises Licence.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in self-contained betting premises with the track premises providing facilities for off course

	betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting - Tracks	Betting that takes place on a track while races are taking place.
Operating Licence	<p>Issued by the Gambling Commission. Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling</p> <ul style="list-style-type: none"> <li>- Casino Operating Licence</li> <li>- Bingo Operating Licence</li> <li>- General Betting Operating Licence</li> <li>- Pool Betting Operating Licence</li> <li>- Betting Intermediary Operating Licence</li> <li>- Gaming Machine General Operating Licence (for an Adult – Gaming Centre Operator or a Family Entertainment Centre)</li> <li>- Gaming Machine Technical Operating Licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine)</li> <li>- Gambling Software Operating Licence (to manufacture, supply, install or adapt gambling software)</li> <li>- Lottery Operating Licence</li> </ul>
Permits	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises. Issued by the Licensing Authority (for Unlicensed Family Entertainment Centres, Prize Gaming, Gaming Machines, on alcohol related premises, Club Gaming and Club Gaming Machines).
Personal Licence	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.
Pool Betting - Tracks	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track.
Premises	Defined as 'any place', including a vehicle, vessel or moveable structure. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.
Premises Licence	Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres.
Private Lotteries	<p>There are three types of Private Lotteries:</p> <ul style="list-style-type: none"> <li>q Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society;</li> <li>q Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises;</li> <li>q Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.</li> </ul>

Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional Statement	Where an applicant can make an application to the Licensing Authority in respect of premises that he:-  <ul style="list-style-type: none"> <li>q Expects to be constructed.</li> <li>q Expects to be altered.</li> <li>q Expects to acquire a right to occupy.</li> </ul>
Regulations	Regulations made by the Secretary of State under the Gambling Act 2005.
Relevant Representations	Representations that relate to the Gambling Licensing Objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.
Responsible Authorities	Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-  <ul style="list-style-type: none"> <li>q Braintree District Council acting as the Licensing Authority</li> <li>q The Gambling Commission</li> <li>q The Chief Officer of Police (Essex Police)</li> <li>q Essex County Fire and Rescue Service</li> <li>q Local Planning Authority, ie Braintree District Council Planning Department</li> <li>q The authority having functions in relation to the environment or harm to human health, i.e. Braintree District Council Environmental Health</li> <li>q Essex Local Safeguarding Children's Board</li> <li>q HM Revenue and Customs</li> <li>q Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency</li> <li>q Other persons prescribed by the Secretary of State</li> </ul> <p>Full details of Responsible Authorities for the Braintree District are contained in Appendix '2' to this Policy.</p>
Small Society Lottery	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Temporary Use Notice	To allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to

	use the premises temporarily for providing facilities for gambling.
The Act	The Gambling Act 2005.
The Council	Braintree District Council
The Commission	The Gambling Commission.
The Policy	The Statement of Licensing Principles published by the Licensing Authority under Section 349 of the Act.
Tote [or Totalisator]	Pool betting on tracks.
Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Travelling Fair	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
Unlicensed Family Entertainment Centre	Premises offering Category D machines only with unrestricted entry.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- <ul style="list-style-type: none"> <li>q gamble more than they want to</li> <li>q gamble beyond their means</li> <li>q who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs</li> </ul>
Young Person	An individual who is not a child but who is less than 18 years old.

### **Contact Details for the Licensing Authority and Responsible Authorities**

ORGANISATION	CONTACT AND ADDRESS	TELEPHONE / FAX / EMAIL
Licensing Authority	Licensing Officer Environmental Services Braintree District Council Causeway House Braintree Essex CM7 9HB	Telephone: 01376 557790 Email: <a href="mailto:licensing@braintree.gov.uk">licensing@braintree.gov.uk</a> Website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>
Essex Police	Licensing Officer Braintree Police Station Blyth's Meadow Braintree Essex CM7 3DJ	Telephone: 01245 452035 Email: <a href="mailto:licensing.applications@essex.pnn.police.uk">licensing.applications@essex.pnn.police.uk</a>
Essex County Fire and Rescue Service	Essex County Fire and Rescue Service Braintree and Uttlesford Headquarters Kelvedon Park Rivenhall Witham Essex CM8 3HB	Telephone: 01376 576000
Essex County Council Children's Safeguarding Service	Head of Children's Safeguarding Service [Licensing Applications] Essex County Council 70 Duke Street Chelmsford Essex CM1 1JP	Telephone: 03330 134076 Email: <a href="mailto:licenceapplications@essexcc.gov.uk">licenceapplications@essexcc.gov.uk</a> Website: <a href="http://www.esccb.co.uk/working-with-children/licensing-guidelines">www.esccb.co.uk/working-with-children/licensing-guidelines</a>

ORGANISATION	CONTACT AND ADDRESS	TELEPHONE / FAX / EMAIL
The Local Planning Authority	Development Services Manager Development Services Braintree District Council Causeway House Braintree Essex CM7 9HB	Telephone: 01376 552525 Fax: 01376 557781
The Local Authority with functions related to prevention of risk of pollution of the environment. (Environmental Health) -	Environmental Protection Team Braintree District Council Causeway House Bocking End Braintree Essex CM7 9HB	Telephone: 01376 552525 Fax 01376 557767
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP	Telephone: 0121 230 6500 Fax 0121 2372236 E-mail: <a href="mailto:info@gamblingcommission.gov.uk">info@gamblingcommission.gov.uk</a> Website: <a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a>
HM Revenue & Customs	Excise Processing Teams BX9 1GL	Phone: 0300 322 7072 (Option 7) Email: <a href="mailto:NRUBetting&amp;Gaming@hmrc.gsi.gov.uk">NRUBetting&amp;Gaming@hmrc.gsi.gov.uk</a>



### Useful Contacts

#### **Trade Associations:**

British Amusement Catering Trade Association	<a href="http://www.bacta.org.uk">www.bacta.org.uk</a>
British Casino Association	<a href="http://www.britishcasinoassociation.org.uk">www.britishcasinoassociation.org.uk</a>
Remote Gambling Association	<a href="http://www.rga.eu.com">www.rga.eu.com</a>
Bingo Association	<a href="http://www.bingo-association.co.uk">www.bingo-association.co.uk</a>
British Horseracing Board	<a href="http://www.britishhorseracing.com">www.britishhorseracing.com</a>
British Greyhound Racing Board	<a href="http://www.thedogs.co.uk">www.thedogs.co.uk</a>

#### **Gambling Support Organisations:**

Gamcare	<a href="http://www.gamcare.org.uk">www.gamcare.org.uk</a>
Responsibility in Gambling Trust	<a href="http://www.rigt.org.uk">www.rigt.org.uk</a>
Gamblers Anonymous	<a href="http://www.gamblersanonymous.org.uk">www.gamblersanonymous.org.uk</a>

### Table of Delegations of Licensing Functions Gambling Act 2005

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>LICENSING COMMITTEE</b>	<b>OFFICERS</b>	<b>HEAD OF SERVICE</b>
Three year Licensing Policy review	All cases			
Fee Setting – when appropriate	All cases			
Authority to make minor amendments to the Gambling Act policy statement in conjunction with the Chairman of the Licensing Committee				All cases
Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn	
Application for a Variation to a Licence		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn	
Application for a Transfer of a Licence		Where representations have been received from the commission	Where no representations have been received from the commission	
Application for a Provisional Statement		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn	
Authority to make representations to all applications on behalf of the Licensing Authority		All cases		All cases
Authority to attach conditions, where relevant, to Premises Licences			All cases	
Authority to refuse applications for Premises Licences			All cases	

Authority to process applications for Temporary Use Notices		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
Authority to process applications for Club Gaming and Club Machine Permits		Where representations have been received and not withdrawn	Where no objections have been made or objections have been withdrawn	
Authority to issue permits for more than 2 machines in Licensed Premises			All cases	
Authority to process application for other Permits			All cases	
Cancellation of Club Gaming/ Club Machine Permits		All cases		
Cancellation of Licensed Premises Gaming Machine Permits			All cases	
Review a Premises Licence		All cases		
Determination as to whether a person is an Interested Party			All cases	
Determination as to whether representations are relevant			All cases	
Determination as to whether a representation is frivolous, vexatious or repetitive			All cases	
Consideration of Temporary Use Notice			All cases	
Decision to give a counter notice to a Temporary Use Notice		All cases		
Consideration of an Occasional Use Notice			All cases	

## MAP OF BRAINTREE DISTRICT



**Local Area Risk Assessment Example Template**

1: Local Area			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
1.1			Systems
			Design
			Physical
1.2			Systems
			Design
			Physical
1.3			Systems
			Design
			Physical

2: Gambling Operation			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
2.1			Systems
			Design
			Physical
2.2			Systems
			Design
			Physical
3.3			Systems
			Design
			Physical

3: Internal and External Premises Design			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
3.1			Systems
			Design
			Physical
3.2			Systems
			Design
			Physical
3.3			Systems
			Design
			Physical

Actions following assessment:			
1: Local Area			
Action	Person/Dept tasked	Date tasked	Date completed
2: Gambling Operation			
Action	Person/Dept tasked	Date tasked	Date completed
3: Internal and External Premises Design			
Action	Person/Dept tasked	Date tasked	Date completed

Signed:		Date:	
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Print Name:	
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Notes: In addition to the requirement for existing licence holders to have a local area risk assessment, this risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises. (see section 14 of this policy)

Risks: Area of consideration that may impact on one or more of the licensing objectives

Local Risks: These are the identified factors that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises

Licensing Objectives: these are the three licensing objectives under the Gambling Act 2005 to which the risk factors have been identified as potentially impacting. For ease of reference within this assessment the objectives have been given codes that should be used to replace the full objective. These codes are CD for the Crime and Disorder objective, FO for the Fair and Open objective and CV for the protection of children and the vulnerable. Control Measures:

These are measures that the operator can put in place to mitigate the risk to the licensing objectives from the risk factors. These control measures are split into three categories, systems, design and physical.

The fact that there are three subsections in each section of the template should not be taken to suggest that you should limit your assessment to three risks for each section. The above template is an example only. You are at liberty to use your own design.



<b>Report Title: LICENSING COMMITTEE UPDATE</b>	
<b>Report to: LICENSING COMMITTEE</b>	
<b>Date: 16th March 2022</b>	<b>For: Noting</b>
<b>Key Decision: No</b>	<b>Decision Planner Ref No: N/A</b>
<b>Report Presented by: John Meddings, Principal Licensing Officer</b>	
<b>Enquiries to: John Meddings, Principal Licensing Officer</b>	

## **1. Purpose of the Report**

- 1.1 Members have requested regular updates on applications determined at meetings of the Licensing Sub Committee and Drivers' Panel. A summary of the applications determined at a meeting of the Drivers' Panel held in 2022 is set out below.
- 1.2 The report will also highlight other significant issues relevant to licensing.

## **2. Recommendations**

- 2.1 The report is for information only and Members are only required to note the content.

## **3. Updates**

### **Taxis**



- 3.1 Licensing Officers undertook proactive checks of Hackney Carriages and Private Hire Vehicles with Essex Police over the course of a Friday night in

February in Braintree and Witham. Twenty vehicles were checked and the operation highlighted several safety defects (tyres) which resulted in temporary suspensions. Several drivers were found to be breaching licensing conditions by not displaying identification, or inappropriate dress. These matters were dealt with through the Council's Penalty Points Scheme. The event was publicised on the Braintree Facebook Page as a Community Safety Partnership event receiving 15 likes, 3 shares and 1 comment.

- 3.2 The Licensing Team continues to process a higher than average number of new vehicle and driver applications mainly driven by two large companies choosing to licence their vehicles/drivers with Braintree District Council. On average since the start of the year the Team is conducting 14/15 knowledge tests a week in addition to revision training provided prior to the tests.
- 3.3 A complete policy and procedures review is underway for taxis. This includes a small Members' Working Group to assist officers and to give Members a sense of ownership of the policies. Officers are now preparing drafts to present to the Working Group and then to the Licensing Committee for approval.
- 3.4 Two applicants attended a meeting of the Drivers' Panel to have their 'fit and proper' status determined due to them falling outside of the Council's Criminal Convictions Policy. One of the applicants was successful in obtaining a driver's licence and the other application was refused. The driver who was refused a licence was provided with advice with regard to making a future application.
- 3.5 HMRC has published further guidance to help licensees and licensing bodies prepare for new tax checks introduced under Schedule 33 of the Finance Act 2021. The detailed guidance is in addition to and sits alongside the preparatory guidance published in October 2021, which is still available.

compliance history having been reduced. This will enable businesses to achieve five star rating after one year, compared to the previous need for three years.

## **Gambling**

- 3.8 A review of the Council's Gambling Act 2005 Licensing Policy Statement is underway and consultation on it runs from 4th January 2022 and ends on 6th March 2022. To date there have been no responses, although this isn't unusual as there have been no significant changes to the Policy Statement and its review rarely attracts interest. The review of the Policy Statement is a statutory requirement.