

Minutes

Licensing Committee

9th September 2009



Present:

Councillors	Present	Councillors	Present
M J Banthorpe (Chairman)	Yes	M Lynch	Apologies
J C Collar	Yes	T McArdle	Yes
J G J Elliott	Apologies	A M Meyer	Apologies
R Elliston	Yes	Mrs J A Pell	Apologies
J H G Finbow	Yes	A F Shelton	Apologies
Mrs S A Howell	Yes	Mrs J A Smith	Yes
P J Hughes	Yes	F Swallow	Yes
E R Lynch	Apologies		

At the commencement of the meeting the Chairman was pleased to welcome Mr John Meddings who had been appointed as Temporary Licensing Officer. The Committee was advised that Rachel Crouch, Licensing Officer, would be commencing maternity leave from 23rd September 2009 and Members wished her well.

19 **DECLARATIONS OF INTEREST**

INFORMATION: There were no interests declared.

20 **MINUTES**

DECISION: That the Minutes of the meeting of the Licensing Committee held on 15th July 2009 be approved as a correct record and signed by the Chairman.

21 **QUESTION TIME**

INFORMATION: There were no questions asked or statements made.

22 **STREET TRADING CONSENTS - HIGH STREET AND BANK STREET, BRAINTREE**

INFORMATION: Consideration was given to two applications for street trading consents which had been submitted by Mr Roger Green. Mr Green wished to sell ice-creams and cold drinks from a van parked on the highway in the vicinity of David Connolly Jewellers, High Street, Braintree. Mr Green wished to trade on Mondays, Tuesdays, Thursdays and Fridays between the hours of 9.00am and 5.15pm. As objections had been received by the Council in respect of this application, Mr Green had submitted an alternative application for consent to sell ice-creams and cold drinks from a van parked on the highway in the vicinity of Barclays Bank, Bank Street, Braintree on the same days and between the same hours.

Following consultation, Essex County Council Highways had objected to the application for High Street on the grounds that no vehicles other than buses and delivery vehicles were permitted to enter the High Street. It was unlikely that a dispensation would be granted, but if it was this would only be for a short period of time and a daily charge would be enforced. The County Council had also objected to the application for Bank Street on the grounds that Bank Street was subject to 'No Waiting at Any Time' parking restrictions; the footway was not constructed to allow vehicles to be parked on, or driven across it; the parking of a vehicle at this junction would reduce the forward visibility of approaching vehicles; and no vehicles other than delivery vehicles and vehicles for people with disabilities were permitted to enter Bank Street. The District Council's Landscape Services Manager had indicated also that a tree was to be planted near to Barclays Bank in November 2009 and this was likely to require the excavation of a substantial area of paving. The Landscape Services Manager had expressed concern also about the effect of vehicle exhaust/generator emissions on people using the nearby benches and about the potential for oil drips on to the pavement. Letters of support for both applications had also been submitted.

Mr Green attended the meeting, presented his application and answered questions put to him by Members. Mr Green indicated that he wished to trade mainly in the Summer months during school holidays. Mr Green stated also that he would provide a litter bin for his customers and that he would collect any litter dropped. Mrs A Poulter was in attendance at the meeting also and she spoke in support of Mr Green's applications. Mrs Poulter pointed out that she was employed by the District Council as the Market Superintendent, but that she was supporting Mr Green in her private capacity.

Mr Green, Mrs Poulter and members of the public and press were excluded from the meeting whilst the Committee made its decision.

DECISION:

- (1) That the application submitted by Mr Green for a street trading consent to sell ice-cream and cold drinks from an ice-cream van located at the junction of Bank Street and High Street, Braintree adjacent to David Connolly Jewellers be granted for Mondays, Tuesdays, Thursdays and Fridays between the hours of 9.00am to 5.15pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.

Mr Green was advised to apply for a dispensation to access the High Street and to contact the Licensing Officer for further advice if this was refused.

- (2) That the application submitted by Mr Green for a street trading consent to sell ice-cream and cold drinks from an ice-cream van located on the highway in the vicinity of Barclays Bank, Bank Street, Braintree be refused.

23 **PAVEMENT PERMIT – THE NAGS HEAD WINE BAR, MARKET PLACE, BRAINTREE**

INFORMATION: The Committee considered an application which had been received from Mr Ben Marsden (Silvergate Leisure Ltd) for a Pavement Permit in respect of the pavement area adjacent to The Nags Head Wine Bar, Market Place, Braintree. Mr Marsden wished to place six tables and 24 chairs in the area from Monday to

Sunday between the hours of 10.00am and 6.00pm. Following consultation on the proposal, objections had been submitted by the proprietor of Heddingham Models and Collectables based on the behaviour of some customers, and from the District Council's Community Wardens/Street Scene Officers on the grounds that the proposal would encroach and impact on existing market stalls/area. It was subsequently reported that the possible impact of the proposal on the market had lessened following the introduction of changes to rubbish collections. Essex County Council had raised no objection to the application, subject to one set of tables and chairs being omitted, to the remaining tables and chairs being placed against the boundary wall of The Nags Head Wine Bar, and to a footway of a minimum 1.8 metres in width being available at all times.

Mr Marsden attended the meeting, presented his application and answered questions put to him by Members. Mr Marsden stated that the glasses used at the premises were made of toughed glass, that customers would not be permitted to take bottles outside the premises, that the premises would be properly managed and that he would comply with the Council's Pavement Permit Conditions.

Mr Marsden and members of the public and press were excluded from the meeting whilst the Committee made its decision.

DECISION: That the application submitted by Mr Marsden for a Pavement Permit in respect of the pavement area adjacent to The Nags Head Wine Bar, Market Place, Braintree be granted for Mondays to Sundays between the hours of 10.00am to 6.00pm, subject to the omission of the table and chairs marked by the letter 'F' on the plans submitted with the application, to the tables and chairs being placed against the boundary wall of The Nags Head Wine Bar, to a footway of a minimum 1.8 metres in width being available at all times, and to the applicant complying with the Council's Pavement Permit Conditions.

24 **PAVEMENT PERMIT – MARDY'S, 10-12 MARKET PLACE, BRAINTREE**

INFORMATION: The Committee considered an application which had been received from Mr Ben Marsden (Silvergate Leisure Ltd) for a Pavement Permit in respect of the pavement area adjacent to Mardy's, 10 – 12 Market Place, Braintree. Mr Marsden wished to place six tables and 24 chairs in the area from Monday to Sunday between the hours of 11.00am and 6.00pm. Following consultation on the proposal, objections had been received from the proprietor of Heddingham Models and Collectables based on the behaviour of some customers, and from the District Council's Community Warden/Street Scene Officer on the grounds that the proposal would encroach and impact on existing market stalls/area. It was subsequently reported that the possible impact of the proposal on the market had lessened following the introduction of changes to rubbish collections. Essex County Council had raised no objection to the application, subject to the tables and chairs being positioned on site in accordance with the plan submitted with the application and not on the designated footway.

Mr Marsden attended the meeting, presented his application and answered questions put to him by Members. Mr Marsden stated that the glasses used at the premises were made of toughed glass, that customers would not be permitted to take bottles outside the premises, that the premises would be properly managed and that he would comply with the Council's Pavement Permit Conditions.

Mr Marsden and members of the public and press were excluded from the meeting whilst the Committee made its decision.

DECISION: That the application submitted by Mr Marsden for a Pavement Permit in respect of the pavement area adjacent to Mardy's, 10 – 12 Market Place, Braintree be granted for Mondays to Sundays between the hours of 11.00am to 6.00pm, subject to the tables and chairs being positioned on site in accordance with the plan submitted with the application and not on the designated footway, and to the applicant complying with the Council's Pavement Permit Conditions.

25 **DRIVERS' PANEL RESPONSIBILITIES**

INFORMATION: Consideration was given to a report on proposed amendments to the Scheme of Delegation set out in the Council's Constitution in respect of Private Hire and Hackney Carriage Drivers' Licences

It was reported that currently the Constitution required the Drivers' Panel to determine an application for a driver's licence where the driver had six or more penalty points on his/her DVLA driving licence, and/or an unspent disqualification, and/or a criminal record. This had resulted in an increase in the number of Drivers' Panel meetings being held and had led to some applicants, who had appeared before the Drivers' Panel previously, having to appear before the Panel again upon the renewal of their annual licence. This requirement applied even though there may not have been any change to the driver's circumstances, for example they had not incurred additional penalty points on their DVLA driver's licence; received a conviction, caution, or complaint; or received penalty points under the Council's Administrative Penalty Points scheme, since the grant of their last driver's licence. In the circumstances, it was proposed that the Scheme of Delegation should be amended to avoid Drivers' Panel meetings having to be held and to reduce the amount of time spent by Members and Officers in dealing with applications.

DECISION: That it be **Recommended to full Council** that the Scheme of Delegation contained within the Constitution be amended to authorise the Licensing Officer, in consultation with the Chairman of the Licensing Committee, to approve applications for Hackney Carriage and Private Hire Vehicle drivers' licences and dual Hackney Carriage and Private Hire Vehicle drivers' licences where the applicant has six or more penalty points on their DVLA driver's licence, but has been licensed by the Council in the last 12 months and there has been no change to his/her circumstances since the last application was considered by the Drivers' Panel, namely:-

- No suspension, or revocation of the Hackney Carriage and/or Private Hire Vehicle driver's licence;
- No further convictions revealed by a Criminal Records Bureau check;
- No further endorsements on the applicant's DVLA Licence;
- No complaints, or breaches of conditions;
- No Penalty Points under Braintree District Council's Administrative Penalty Points scheme

LICENSING ACT 2003 – MINOR VARIATIONS TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES AND ALCOHOL SALES IN COMMUNITY PREMISES

INFORMATION: It was reported that the Government had amended the Licensing Act 2003 with regard to minor variations to premises licences and the supervision of alcohol sales in community premises. The aim of this change was to reduce the administrative burden on businesses and non-commercial organisations, by introducing a new minor variations process and removing the requirement for community premises to have a Designated Premises Supervisor (DPS).

A minor variation was considered to be a variation that would not impact adversely on the licensing objectives. In considering a minor variation application, the Licensing Officer would be required to consult such Responsible Authorities as appropriate, to take relevant representations into account, and to determine the application within 15 working days. There would be no requirement for a Hearing and no right of appeal against the decision.

With regard to community premises, Members were advised that currently premises' licences authorising the supply of alcohol included a mandatory condition which required a DPS to be specified and, that every sale of alcohol at such premises was to be authorised by a personal licence holder. However, the modifications to the 2003 Act permitted the Management Committee of a community premises to include in its application for a premises licence a request for an alternative licence condition to apply instead of the normal mandatory condition. This alternative licence condition required that the supply of alcohol must be made, or authorised, by the Management Committee. The Police would be able to make representations if they believed the inclusion of the alternative condition would undermine the crime prevention objective. If no representations were made, and the Licensing Authority was satisfied that the arrangements for the management of the premises were sufficient to ensure adequate supervision of the supply of alcohol, then the alternative licence condition was to be included.

DECISION: That it be **Recommended to full Council** that the Scheme of Delegation contained within the Constitution be amended to authorise the Licensing Officer under the Licensing Act 2003 to grant or refuse minor variations to premises licences and club premises certificates, and to determine applications made in respect of community premises for the alternative premises licence condition regarding the supply of alcohol to apply instead of the mandatory condition.

LICENSING ACT 2003 – ANNUAL MEETING WITH ESSEX POLICE

INFORMATION: Members were advised that an invitation had been received from Essex Police to hold an Annual Meeting with the Licensing Committee to discuss licensing matters affecting the District.

The Committee was advised that under the previous licensing legislation and regime, Essex Police had attended a meeting with the Essex Magistrates Court in January of each year. The meeting had provided an opportunity for the Magistrates to receive information from the Police about licensing matters arising during the previous 12 months. It was considered beneficial for the Licensing Committee to receive similar information and to provide the Police with an opportunity to discuss licensing matters

with the Committee.

Members were reminded that Essex Police were a Responsible Authority under the Licensing Act 2003, which gave them the power to make representations in respect of licensing applications and to make applications for reviews. In the circumstances, the Police could appear before Members of the Licensing Committee at Licensing Hearings on a regular basis. Whilst there was nothing preventing the Licensing Committee from meeting with Essex Police, arrangements would need to be put in place to minimise any allegation of bias, or pre-determination. This could be achieved by conducting the Annual Meeting in public and working to an agreed set of Terms of Reference.

DECISION: That the following Terms of Reference for the Licensing Committee's annual meeting with Essex Police be agreed.

- The Annual Meeting will be held in public at the first meeting of the Licensing Committee in the calendar year.
- The Annual Meeting will be in the form of a presentation. The presentation by Essex Police to consist of statistical information relating to the Licensing Objective of the prevention of Crime and Disorder with the opportunity for the Licensing Committee to ask questions in relation to the presentation.
- Before the Annual Meeting, an outline of the presentation and any supporting information intended to be presented will be submitted to the Legal Advisor to the Licensing Committee five working days before the meeting.
- Any contact by Essex Police with Members of the Licensing Committee, including the distribution of any information, will be made via the Council's Member Services Officers.
- The Licensing Committee will not discuss any decision of the Licensing Sub-Committee made under the Licensing Act 2003.
- Essex Police will not engage the Licensing Committee with the purpose of consulting/canvassing the view of the Licensing Committee on any matter to be dealt with, or contemplated under the Licensing Act 2003.
- The Annual Meeting shall not be used as a forum to raise issues with the Licensing Authority, or Essex Police.
- The Terms of Reference shall be reviewed from time to time to reflect any changes caused by legislation and the Council's own policies and procedures.
- Any information provided will be subject to the Freedom of Information Act 2005 and the Data Protection Act 1998.

The meeting closed at 8.50pm.

M J BANTHORPE
(Chairman)