

# LICENSING COMMITTEE AGENDA

Thursday, 14<sup>th</sup> September 2023 at 7.15pm

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

**THIS MEETING IS OPEN TO THE PUBLIC**

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

|                                    |                         |
|------------------------------------|-------------------------|
| Councillor J Ayten                 | Councillor R Ramage     |
| Councillor J Baugh (Chairman)      | Councillor P Schwier    |
| Councillor M Green                 | Councillor M Staines    |
| Councillor P Heath                 | Councillor W Taylor     |
| Councillor I Parker                | Councillor R van Dulken |
| Councillor J Pell                  | Councillor L Walters    |
| Councillor G Prime (Vice-Chairman) | Councillor B Wright     |

Substitutes: Councillor J Beavis, Councillor J Coleridge, Councillor C Dervish, Councillor C Finch, Councillor J Martin, Councillor S Mason, Councillor A Munday, Councillor M Thorogood and Councillor E Williams.

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 24 hours before the start of the meeting.

D GASCOYNE  
Chief Executive

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

### **Declarations of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI), or Non- Pecuniary Interests (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 may ask questions or make statement to the Committee on matters listed on the agenda for this meeting.

All questions or statements should be concise and should be able to be heard within the 3 minutes allotted to each speaker.

Anyone wishing to ask a question or make a statement is requested to register their interest by completing the Public Question Time registration [online form](#) by **midday on the second working day** before the day of the meeting.

For example, if the Committee meeting is 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 to speak if they are received after this time.

When registering for Public Question Time please indicate whether you wish to attend the meeting 'in person', or to participate remotely. People who choose to join the meeting remotely will be provided with the relevant link and joining instructions for the meeting.

Please note that completion of the on-line form does not guarantee you a place to speak during Public Question Time. You will receive email notification from the Governance Service confirming whether your request is successful.

The Chairman of the Committee has discretion to extend the time allocated to registered speakers and to amend the order in which they may speak.

In the event that a registered speaker is unable to connect to the meeting, or if there are any technical issues, their question/statement may be read by a Council Officer.

Further information on Public Question Time is available on the [Council's website](#).

### **Health and Safety**

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

### **Substitute Members**

Only the named Substitutes on this Agenda may 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.

### **Documents**

Agendas, Reports and Minutes may be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

### **Data Processing**

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### **Mobile Phones**

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

### **Webcast and Audio Recording**

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### **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 may send these to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

**PUBLIC SESSION**

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**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 20<sup>th</sup> July 2023 (copy previously circulated).

**4 Public Question Time**

Only Registered Speakers will be invited by the Chairman to speak during public question time.  
Please see the agenda notes for guidance.

**5 Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2023 - To extend Pavement licences to 30th September 2024**

**5 - 8**

**9 - 14**

**6 Licensing Committee Update**

**7 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.

|   |                                     |
|---|-------------------------------------|
| <b>Report Title:</b> Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2023 - To extend Pavement licences to 30 <sup>th</sup> September 2024 |                                     |
| <b>Report to:</b> Licensing Committee   |                                     |
| <b>Date:</b> 14 <sup>th</sup> September 2023  | <b>For:</b> Decision                |
| <b>Key Decision:</b> No   | <b>Decision Planner Ref No:</b> N/A |
| <b>Report Presented by:</b> John Meddings, Principal Licensing Officer  |                                     |
| <b>Enquiries to:</b> John Meddings, Principal Licensing Officer<br><a href="mailto:John.meddings@braintree.gov.uk">John.meddings@braintree.gov.uk</a>                               |                                     |

## 1. Purpose of the Report

- 1.1 The purpose of this report is to brief the Licensing Committee with respect to the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2023 which extends the provision to grant a Pavement Licence to 30<sup>th</sup> September 2024.
- 1.2 Pavement Licences granted before the commencement date of the new Regulations are not affected by the amendments and will expire on 30<sup>th</sup> September 2023. Licences granted after 9<sup>th</sup> August 2023 (the commencement of the Regulations) will expire on 30<sup>th</sup> September 2024.
- 1.3 Members are also requested to consider a revised Officer Scheme of Delegation as set out in this report.

## 2. Recommendation

- 2.1 To note that Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2023 extend the duration of pavement licences to 30<sup>th</sup> September 2024.
- 2.2 Agree the revised Officer Scheme of Delegation with respect to pavement licences as set out in this report.

## 3. Summary of Issues

- 3.1 In response to the coronavirus pandemic, the Business and Planning Act 2020 (“the Act”) made temporary provision for a fast-track process to allow businesses selling food or drink to obtain authorisation from the Council for the placement of furniture such as tables and chairs on the highway adjacent to their premises (a “Pavement Licence”).

- 3.2 Section 4 of the Act provides a duration for all pavement licence granted by the Council. All pavement licences granted could not be for a period of less than 3 months but could not extend beyond 30<sup>th</sup> September 2021. This provision was amended by the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 which extended the statutory expiry date to 30<sup>th</sup> September 2022. This provision was amended again by the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022 which extended the statutory expiry date to 30<sup>th</sup> September 2023.
- 3.3 Section 4 of the Act has been subject to a further amendment by The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2023 which extends the statutory expiry date for all applications made on or after 9<sup>th</sup> August 2023 to 30<sup>th</sup> September 2024.
- 3.4 Any application made before 9<sup>th</sup> August 2023 would not have the benefit of this latest amendment and the pavement licence granted as a result would expire on 30<sup>th</sup> September 2023. The Council cannot extend the expiry date for these pavement licences to the amended date; to do so would be ultra vires. Businesses that wish to extend their current pavement licence beyond this date will be required to apply for a new licence.
- 3.5 The latest report seeks to provide a further update with respect to the licensing regime.

#### **4. Scheme of Delegation**

- 4.1 An Officer Scheme of Delegation was agreed by the Licensing Committee on 14<sup>th</sup> August 2020.
- 4.2 The Officer Scheme of Delegation agreed is set out as below:
- 4.3 To delegate to the Corporate Director, (with the responsibility for Licensing) or their nominated representative, in consultation with the Chairman of the Licensing Committee (or in their absence, the Vice-Chairman) the following functions:
- 4.3.1 To grant an application for a pavement licence as applied for;
  - 4.3.2 To grant an application with amendments including (but not limited to) the addition of conditions, amendments to the area subject to the licence or purposes;
  - 4.3.3 To refuse an application for a pavement licence;
  - 4.3.4 To take enforcement action, including the revocation of a pavement licence in accordance with the provisions of the Business and Planning Act 1990; and
  - 4.3.5 Upon the exercising of the delegated authority each decision will be supported by a written report and a record of decision.

- 4.4 The Licensing Committee are requested to revise the existing delegation which will pass the current delegation from the Corporate Director, (with responsibility for Licensing) or their nominated representative to the Environmental Health Manager (Food, Health & Safety and Licensing) or their nominated representative, in consultation with the Chairman of the Licensing Committee (or in their absence, the Vice-Chairman).
- 4.5 The change to the current Scheme of Officer delegation will help expedite the decision-making process during the 7 day period from the close of the public consultation and the statutory determination date.
- 4.6 Consultation with the Chairman of the Licensing Committee (or in their absence, the Vice-Chairman) will remain part of the decision-making process.
- 4.7 The revised Scheme of Officer delegation is set out below.
- 4.8 To delegate to the Environmental Health Manager (Food, Health & Safety and Licensing) or their nominated representative, in consultation with the Chairman of the Licensing Committee (or in their absence, the Vice-Chairman) the following functions:
- 4.8.1 To grant an application for a pavement licence as applied for;
  - 4.8.2 To grant an application with amendments including (but not limited to) the addition of conditions, amendments to the area subject to the licence or purposes;
  - 4.8.3 To refuse an application for a pavement licence;
  - 4.8.4 To take enforcement action, including the revocation of a pavement licence in accordance with the provisions of the Business and Planning Act 1990;
  - 4.8.5 Upon the exercising of the delegated authority each decision will be supported by a written report and a record of decision.

## **5. Options**

- 5.1 Agree the revised Officer Scheme of Delegation with respect to pavement licences as set out in this report.

## **6. Financial Implications**

- 6.1 There are no financial implications arising from this report.

## **7. Legal Implications**

- 7.1 The Regulations do not affect the Council's arrangement and Officer Scheme of Delegation for dealing with pavement permit applications. The Regulations extend the duration of the pavement licences to 30<sup>th</sup> September 2024.
- 7.2 Section 5 of the Act permits the Council grant a pavement licence subject to such conditions as it considers reasonable. Where a pavement licence is

deemed to be granted by a local authority under section 3(9), it is deemed to be granted subject to any conditions which are published by the Council before the day on which the application for the licence was made.

## **8. Other Implications**

8.1 No other implications have been identified.

## **9. Equality and Diversity Implications**

9.1 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; and
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

9.2 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).

9.3 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **10. Background Papers**

10.1 [The Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2023](#)

10.2 [Licensing Committee Report and Minutes 14<sup>th</sup> August 2020](#)

10.3 [Licensing Committee Report and Minutes 28<sup>th</sup> July 2021](#)

10.4 [Licensing Committee Report and Minutes 12<sup>th</sup> October 2022](#)



|  |                                     |
|--|-------------------------------------|
| <b>Report Title:</b> Licensing Committee Update                        |                                     |
| <b>Report to:</b> Licensing Committee                                  |                                     |
| <b>Date:</b> 14 <sup>th</sup> September 2023                           | <b>For:</b> Noting                  |
| <b>Key Decision:</b> No  | <b>Decision Planner Ref No:</b> N/A |
| <b>Report Presented by:</b> John Meddings, Principal Licensing Officer |                                     |
| <b>Enquiries to:</b> John Meddings, Principal Licensing Officer        |                                     |

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

- 1.1 Members have requested regular updates on applications determined by Licensing Sub Committees and Drivers Panel. A summary of all applications determined since the last report submitted to the Committee on 20<sup>th</sup> July 2023 is provided 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. Licensing applications**

- 3.1 The Licensing Sub-Committee determined an application under the Licensing Act 2003 with respect to the “Cozfest” Music event held on land between Hedingham and Halstead. A Premises Licence was granted subject to conditions imposed by the Licensing Authority following representations from a number of “Responsible Authorities” and objections received from a number of “Interested Parties”.
- 3.2 Drivers Panel” determined ten applications in July and August 2023.
- 3.3 Five cases were determined on 24<sup>th</sup> July 2023. Two applications for the grant of driver licences were determined. The first application was deferred in the absence of the applicant and the second applicant was granted a licence. Three further cases were determined with respect to existing licensed drivers. The first drivers’ licence was revoked on the grounds of conduct, the remaining two licences were revoked on medical grounds.

3.4 Four cases were determined on 27<sup>th</sup> July 2023 with respect to Private Hire Vehicles that did not meet the age requirements set by the Licensing Authority. All four vehicles were inspected by the panel and deemed suitable to be licensed.

3.5 A driver's licence was determined by a Drivers Panel on 15<sup>th</sup> August 2023 following information received by an external partner agency. The licence was subsequently revoked.

#### **4. S.182 Licensing Act 2003 revised guidance**

4.1 The Home Office has made amendments to the Section 182 Guidance which accompanies the Licensing Act 2003. (Section 182 is the Secretary of State's Statutory guidance to Licensing Authority's about how they must discharge their Licensing function). The additional material is to support Licensing Authorities/Committees and applicants when considering the provision of health care and counter terrorism measures at venues. The new considerations appear to align the licensing function to Martyn's law. The amendments are as follows:

- 2.10 Counter terrorism and public safety.
- 2.11 Licensing committees may wish to give due consideration to appropriate counterterrorism measures and advice when considering licence applications, for example at high profile or large premises or events or where there are factors which may increase attractiveness to attacks, and in particular when in receipt of relevant advice from police counter terrorist staff.
- 2.12 It is particularly relevant to consider conditions around health care provision in this regard. Any additional licensing conditions should be appropriate and proportionate to the venue as noted in para 1.16. We recommend that all licensing authorities pay particular attention to terrorist threats when making specific licence conditions in relation to security or health care provision at appropriate premises and events applying for a licence.
- 2.13 As noted in para 2.8 licensing authorities can recommend conditions where appropriate to do so, such as ensuring appropriate access for emergency services and vehicles such as ambulances; good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4); and ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.
- 2.14 However, in some instances, licensing authorities may wish to tailor their approach, depending on the particular nature of the application, and go further when addressing concerns around possible terrorist or other such risks.

## **5. Changes to Temporary Events Notices and Alcohol Off licence entitlements**

- 5.1 The Home Office have notified Licensing Authority's; the Government has decided to extend the alcohol licensing regulatory easement relating to off sales set out in the Business and Planning Act 2020 until 31<sup>st</sup> March 2025.
- 5.2 The easement was due to lapse on 30<sup>th</sup> September 2023 and will now allow businesses that have a licence to sell alcohol on the premises to include off sales as an automatic right.
- 5.3 This easement affects 89 businesses that currently hold an Alcohol on Sales Premises Licence in the Braintree District.
- 5.4 The Home Office have simultaneously amended S.182 guidance which recommends that Licensing authorities may wish to consider applications to include off sales as a minor variation if there are no adverse effects on the licensing objectives.
- 5.5 The regulatory easement set out under the same legislation with respect to Temporary Event Notices (TENs) has not been extended and will lapse on 30<sup>th</sup> September 2023.
- 5.6 The easement temporarily increased the annual number of TENs that a licensed premises user can have in respect of a premises from 15 to 20 per year and increased the maximum number of days on which temporary events may be held at such premises from 21 to 26 per year.

## **6. Martyn's Law – Home Affairs Select Committee comments**

- 6.1 The bill, named after 29-year old Martyn Hett who was one of the 22 victims of the Manchester bombing in 2017, would mean UK venues and local authorities must draw up preventative plans for terrorism.
- 6.2 MPs on the Home Affairs Select Committee found the current bill, which has different standards based on venue capacity, would be hard to apply consistently. They also expressed "concern" that attacks in some parts of the UK, including Scotland, would not fall within the draft bill's scope, and had "serious concerns" about the financial burden it would place on venues. MPs said the bill's aims as it stands are "unclear". They said that it has been promoted as terrorism-prevention legislation, but that most of the measures it contains would instead reduce the consequences of attacks.
- 6.3 The committee called for the legislation to be introduced in stages, beginning with larger venues, and for it to also cover outdoor events at risk of attack (*such as Notting hill Carnival which currently would not be covered by the bill*). It also urged the government to legislate for "live-saving" medical training to be made available at these places.

6.4 Braintree District Council has an internal working group in place to ensure that the requirements of Martyn's Law are met. The group awaits any amendments following the Home select Committee's review.

## **7. Gambling Act 2005 – White Paper review**

7.1 The Gambling Act Review white paper published in April 2023 set out the government's plans for modernising the regulation of gambling in Great Britain. This could lead to major amendments to the Gambling Act – two consultations are now underway on the proposals.

### **7.2 DCMS Consultations – Measures relating to the land-based gambling sector & Maximum stake limit for online slots games in Great Britain**

7.3 The proposals that the DCMS is seeking views on include:

- Relaxation of casino rules:
- Changing the 80/20 ratio governing higher to lower stake machines in arcades and bingo halls;
- Cashless payments on gaming machines:
- Introduction of a legal age limit of 18 for certain gaming machines;
- Introduction of a maximum stake limit for online slots games; and
- Licensing authority fees: ensuring that licensing authorities have the funding they need to carry out their licensing and enforcement duties for premises licences.

7.4 The consultations close on 20 September and 4 October 2023.

### **7.5 Gambling Commission Consultation – Requirements placed on gambling businesses**

7.6 The Gambling Commission is consulting on four keys areas of proposed change to the requirements on gambling businesses, through the Licence Conditions and Codes of Practice (LCCP) and Remote Gambling and Software Technical Standards (RTS). They are also consulting on proposed changes to arrangements for Regulatory Panels.

7.7 The consultation will close on 18<sup>th</sup> October 2023.

## **8 “Tell us Once” service to include licences and permits**

8.1 The Government's "Tell us Once" service - that lets people report a death to most government organisations in one go - now includes notification in relation to licences and permits.

8.2 The implications of this are that when someone registers a death through the “Tell us Once” service, they will now have the option to also notify licensing authorities, amongst others.

8.3 The Council's Licensing Team will need to ensure that it has access to the relevant information so it can respond as required.

## **9 Police led alcohol intervention checklist and toolkit**

9.1 The Government has published an alcohol intervention checklist and toolkit for police forces focused on police led interventions.

9.2 The toolkit will supplement the existing expertise and experience across forces in dealing with alcohol-related incidents.

9.3 The toolkit covers:

- Section 1 – A checklist / self-audit tool
- Section 2 – The toolkit – strategic responses
- Section 3 – The toolkit – licensing, nighttime economy, street drinking and drink-driving
- Section 4 – The toolkit – Addressing individuals with alcohol use disorders
- Section 5 – The toolkit – Innovation
- Sections 6-8 – Alcohol and its impact on policing
- Section 7 – Non crime impacts of alcohol on policing
- Section 8 – The cost of alcohol-related crime to the police
- Section 9 – A leaflet on tackling alcohol-related harm

## **10 Call for evidence – Driver licensing with medical conditions**

10.1 The health and fitness of drivers is just one of the important factors that contribute to road safety. The Roads Minister, Richard Holden MP has opened up a call for evidence from relevant stakeholders to help develop policy or introduce legislative changes that may be able to improve health outcomes for drivers and other road users.

10.2 The Licensing Authority currently requires all licensed taxi and private hire drivers to meet Group 2 medical standards for bus and lorry drivers so any changes may have an impact upon this group of licence holders.

## **11 Scrap metal Dealers Act 2014 – Licensed Premises Proactive Site visits**

11.1 Licensing Officers from the Licensing Team at Braintree District Council teamed up with colleagues from Essex Police to undertake unannounced inspections at a number of licensed scrap metal dealers within the Braintree District. The purpose of the inspections are designed to assess whether sites are acting in accordance with their licence. Further unannounced visits are planned.

## **12 Partnership working – Essex Police**

- 12.1 Licensing Officers from the Licensing Team at Braintree District Council in conjunction with Essex Police undertook a number of routine inspections of licensed premises over a Friday night in August. The purpose of the visits are to ensure that licensed premises are complying with the terms and conditions of their Premises Licences.

## **13 Partnership Working – Chelmsford City Council**

- 13.1 Licensing Officers from the Licensing Team at Braintree District Council in conjunction with colleagues from Chelmsford City Council undertook proactive inspections of licensed taxis and private hire vehicles and their drivers at the Ministry of Sound event at Chelmsford City Racecourse on 2<sup>nd</sup> September 2023.