

# **LICENSING COMMITTEE AGENDA**

**Wednesday, 26 February 2020 at 7:15pm**

**Committee Room 1, Braintree District Council, Causeway House,  
Bocking End, Braintree, CM7 9HB**

**THIS MEETING IS OPEN TO THE PUBLIC**  
*(Please note this meeting will be audio recorded)*

[www.braintree.gov.uk](http://www.braintree.gov.uk)

---

**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 S Rehman
Councillor Mrs J Beavis	Councillor B Rose (Vice Chairman)
Councillor P Euesden	Councillor Mrs J Sandum
Councillor A Hensman	Councillor P Schwier
Councillor H Johnson	Councillor Mrs L Walters
Councillor Mrs J Pell	Councillor Mrs S Wilson
Councillor R Ramage	Councillor B Wright

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.

A WRIGHT  
Chief Executive

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

### **Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest**

Any member with a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest 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 Disclosable Pecuniary Interest or other Pecuniary Interest 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.

### **Question Time**

The Agenda allows for a period of up to 30 minutes when members of the public can speak. Members of the public wishing to speak 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 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 Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register to speak if they are received after this time. Members of the public can remain to observe the public session of the meeting.

Please note that there is public Wi-Fi in the Council Chamber, users are required to register in order to access this. There is limited availability of printed agendas.

### **Health and Safety**

Any persons attending meetings in the Council offices are requested to take a few moments to familiarise themselves with the nearest available fire exit, indicated by the fire evacuation signs. In the event of an alarm you must evacuate the building immediately and follow all instructions provided by officers. You will be assisted to the nearest designated assembly point until it is safe to return to the building.

### **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 audio recorded only.

### **Documents**

Agendas, reports and minutes for all the Council's public meetings can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

We welcome comments from members of the public 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 via [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 13th November 2019 (copy previously circulated).
- 4 Public Question Time**  
(See paragraph above)
- 5 Statement of Licensing Act Policy - Licensing Act 2003** **4 - 31**
- 6 Licensing Committee Update** **32 - 33**
- 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.
- 8 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.

## **PRIVATE SESSION**

## **Page**

- 9 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>BRAINTREE DISTRICT COUNCIL'S REVISED STATEMENT OF LICENSING POLICY IN RESPECT OF THE LICENSING ACT 2003</b>		<b>Agenda No: 5</b>
<b>Portfolio</b>	<b>Environment and Place</b>	
<b>Corporate Outcome:</b>	<p>A sustainable environment and a great place to live, work and play</p> <p>A prosperous district that attracts business growth and provides high-quality employment opportunities</p> <p>Residents live well in healthy and resilient communities where residents feel supported</p>	
<b>Report presented by:</b>	John Meddings, Principal Licensing Officer	
<b>Report prepared by:</b>	John Meddings, Principal Licensing Officer	
<b>Background Papers:</b>		<b>Public Report</b>
<ol style="list-style-type: none"> <li>1. Braintree District Council Draft Licensing Act 2003 Statement of Licensing Act Policy (Appendix 1)</li> <li>2. Equality Impact Assessment</li> </ol>		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
To consider the revised Braintree District Council Licensing Act 2003 Statement of Licensing Policy and seek approval for consultation.		
<b>Decision:</b>		
That the of Licensing Act 2003 draft Statement of Licensing Act Policy, with amendments, is approved for consultation		
<b>Purpose of Decision:</b>		
To commence the consultation process on the revised Braintree District Council Licensing Act 2003 Statement of Licensing Act Policy.		
<b>Any Corporate implications in relation to the following should be explained in detail.</b>		
<b>Financial:</b>	The principle behind modifying the policy is to minimise any risk of a judicial review from an aggrieved applicant.	
<b>Legal:</b>	Failure to adopt a policy in line with the Licensing Act 2003 will result in the Council not able to administer the licensing functions under the Licensing Act 2003.	

<b>Safeguarding:</b>	None arising out of this report. The responses to the consultation process may result in issues which will need to be considered.
<b>Equalities/Diversity:</b>	An Equality Impact Assessment has been completed. The responses to the consultation process may result in issues which will need to be considered.
<b>Customer Impact:</b>	None arising out of this report. The responses to the consultation process may result in issues which will need to be considered.
<b>Environment and Climate Change:</b>	None arising out of this report. The responses to the consultation process may result in issues which will need to be considered.
<b>Consultation/Community Engagement:</b>	It is proposed to consult in writing with all stakeholders as highlighted in this report. The period of consultation will last for twelve weeks in order to give all of the identified stakeholders an opportunity to comment on the proposals and will start in March 2020. The draft policy will be placed on the Authority's website for comment for the duration of the consultation period.
<b>Risks:</b>	None arising out of this report. The responses to the consultation process may identify possible risks.
<b>Officer Contact:</b>	John Meddings
<b>Designation:</b>	Principal Licensing Officer
<b>Ext. No:</b>	2213
<b>E-mail:</b>	john.meddings@braintree.gov.uk

## **1. Background**

- 1.1 Section 5 of the 2003 Act requires a Licensing Authority to prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the Authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act.
- 1.2 During the five-year period, the policy must be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. If the Licensing Authority determines and publishes its policy in this way, a new five-year period commences on the date it is published.
- 1.3 Guidance also states “Where revisions to the section 182 Guidance are made by the Secretary of State, it will be for the licensing authority to determine whether revisions to its own licensing policy statement are appropriate”.
- 1.4 The Council last reviewed the Licensing Act 2003 “Statement of Licensing Act Policy” in 2015, which took effect on 7th January 2016.
- 1.5 The Council, in accordance with its duties under the Licensing Act 2003 will now start the process of reviewing the existing policy with amendments with a view to publishing it by 7th January 2021.
- 1.6 The re-published policy will 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 five years.
- 1.7 It is not proposed to introduce any new initiatives or special policies at this time. Should new policy initiatives or special policies be considered within the next policy period, the existing policy will be reviewed accordingly.

## **2. Consultation**

- 2.1 A draft Statement of Licensing Act 2003 Policy, which is based upon the Essex Authorities generic framework will be available for public consultation following this Committee meeting and for a period of 12 weeks.
- 2.2 Letters advising of the consultation will be sent to Responsible Authorities, Members and other persons who would have an interest in the policy, including businesses who are currently holders of a premises licence.
- 2.3 The policy will also be made available for viewing via the Council's website.

## **3. Equality Impact Assessment**

- 3.1 In accordance with the Authority's obligations under the Equalities Act 2010, a draft Equality Impact Assessment has been completed in relation to this policy to determine the possible implications on equality.

- 3.2 The draft assessment has determined that the policy intends to treat everyone equally.
- 3.3 Should the results of the consultation highlight that the draft Equality Impact Assessment does not treat everyone equally, the assessment will be reviewed and amended accordingly.

## **1. Introduction**

## **APPENDIX 1**

- 1.1 This Statement of Licensing Policy sets out the principles by which Braintree District Council intends to discharge its functions as the Licensing Authority under the Licensing Act 2003 (referred to in this document as 'the Act').
- 1.2 The Licensing Authority is responsible for the consideration of applications for the grant of premises licences, club premises certificates, personal licences and processing temporary event notices in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late-night refreshment. References in the text to licensed premises should be taken to include club premises unless the context otherwise requires.
- 1.3 The planning and licensing regimes involve consideration of different (albeit related) matters. The Licensing Committee is not bound by the decisions made by a Planning Committee and vice versa.
- 1.4 There is no legal basis for a Licensing Authority to refuse a licence because the relevant premises does not have planning permission or where there are conditions on the planning permission of a premise.
- 1.5 The Licensing Authority liaises with the Planning Authority to ensure they are aware of all new and varied premises licence and club premises certificate applications. This is achieved via an email sent at the start of the 28 day consultation period. This procedure is in addition to the statutory requirement for all applicants to provide a copy of their application to the Planning Authority.
- 1.6 There are circumstances when a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different from the licensing hours granted, the earlier closing time must be observed. Premises operating in breach of their planning permission would be liable to enforcement action from the planning department even in circumstances where the licensing permission allowed a later terminal hour.

## **2. Description of the District**

- 2.1 Covering approximately 612 square kilometres, the Braintree district is the second-largest Essex local authority in terms of geographical area (Uttlesford is the largest). Whilst large in area the district is only the fifth most populated of the 12 Essex local authorities. The district consists of the two large market towns of Braintree and Halstead along with the 1970's urban 'expanded town' of Witham interconnected with many smaller villages and rural areas. Crossing the southern portion of the district are the two main arterial roads of Essex, the A12 and the A120 which provide the area with quick access to the rest of the county, London and Stansted airport.



- 2.2 A further description of the District can be found in Appendix 1. A map of the area is attached to this policy document at Appendix 2.

### **3. Statement of Licensing Policy**

- 3.1 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 its functions under the Act.
- 3.2 This policy must be reviewed and published every 5 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.
- 3.3 This Policy takes effect on \*\*\*\*\* 2020 and replaces the Policy previously in force.

### **4. Consultation**

- 4.1 In producing this policy, the Licensing Authority carried out an extensive consultation program between March 2020 and May 2020.
- 4.2 The Act requires that the following parties are consulted by the Licensing Authority:-
- a) the chief officer of police for the licensing authority's area,
  - b) the fire authority for that area,
  - c) the director of public health for the licensing authority's area,
  - d) such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority,
  - e) such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority,
  - f) such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority, and
  - g) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

### **5 Approval of Policy**

- 5.1 This policy was approved at a meeting of the Full Council on \*\*\*\*\* 2020 and was published via its website simultaneously. Copies are available on request.

## **6. Exchange of Information**

- 6.1 The Licensing Authority is under a duty to protect the public funds it administers, and to this end may use, for the prevention and detection of fraud, the information provided by applicants. It may also share this information for these purposes with other bodies responsible for auditing or administering public funds.
- 6.2 In accordance with the provisions of the Crime and Disorder Act 1998, the Licensing Authority may exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime.
- 6.3 When undertaking any data sharing exercise, regard shall be had to the relevant provisions contained in data protection laws, including under the General Data Protection Regulations.

## **7. Public Register**

- 7.1 The Licensing Authority keeps a public register which may be inspected at the offices of the Licensing Authority on Mondays to Fridays (except bank and public holidays) between 10 am and 4.00 pm. Regulations prescribe what information should be kept in the register.
- 7.2 The Licensing Authority publishes details of applications on the Councils website [www.braintree.gov.uk/licensing](http://www.braintree.gov.uk/licensing)
- 7.3 A summary of all premises licences issued within the district can be accessed online.

## **8. Compliance and Enforcement**

- 8.1 In exercising its functions with regard to the inspection of premises and to the institution of criminal proceedings for offences committed under the Act, or the calling of a licence review, the Licensing Authority will follow best practice. This requires that actions should be:-
  - ☐ Proportionate - intervention will only take place when necessary. Remedies shall be appropriate to the risk posed and costs identified and minimised.
  - ☐ Accountability - the Licensing Authority shall ensure it is able to justify its decisions and be subject to public scrutiny.
  - ☐ Consistent - rules and standards shall be joined up and implemented fairly.
  - ☐ Transparent - enforcement shall be open and regulations kept simple and user-friendly.

- ☐ Targeted - enforcement shall be focused on the problems and minimise side effects.

- 8.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and will adopt a risk-based inspection programme.
- 8.3 The main enforcement and compliance role of the Licensing Authority is to ensure compliance with the licences and permissions it authorises. Where appropriate, the authority may conduct joint inspections of licensed premises or premises which may need a licence, in conjunction with other enforcing authorities.
- 8.4 Where appropriate complaints will be investigated in accordance with the stepped approach outlined in the Statement of Enforcement Policy.
- 8.5 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.
- 8.6 The Licensing Authority's enforcement/compliance protocols are available on request, as are details of the risk-based approach to inspections.

## **9. Introduction to the Act**

- 9.1 In exercising its functions under the Act, the Licensing Authority must have regard to and promote the 4 licensing objectives namely:-
  - ☐ The prevention of crime and disorder
  - ☐ Public safety
  - ☐ The prevention of public nuisance
  - ☐ The protection of children from harm
- 9.2 Applicants are advised to consider providing evidence that suitable and sufficient control measures, as detailed in their operating schedule, will be implemented and maintained relevant to the nature and mode of operation of their premises and events.
- 9.3 The Licensing Authority has certain expectations in respect of applicants and the operating schedules they produce. It is for applicants to decide on the extent of measures to be set out in their operating schedules but when assessing applications the Licensing Authority must be satisfied that the measures proposed aim to achieve the licensing objectives, as far as is possible.
- 9.4 Duplication with other regulatory regimes should be avoided. In particular, applicants should have regard to the fact that the Local Authority's licensing

function will be discharged separately from its functions as the local planning authority. Normally, applications for premises licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

- 9.5 This policy covers a wide variety of premises and activities and for this reason, it cannot detail all the factors which influence the achievement of the licensing objectives, nor can it detail all the control measures which may be appropriate.
- 9.6 Where valid representations are made the Licensing Authority will make objective judgments as to whether conditions need to be attached to a licence, certificate or permission in order to secure the achievement of the licensing objectives. Any such condition will focus primarily on the direct impact of the activities taking place on the premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters within the direct control of individual licensees.
- 9.7 Licensing law is not the primary mechanism for the general control of individuals once they are away from licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, reasonable steps should be taken to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises; for example, on the pavement, or in a smoking area.

Other mechanisms may be utilised to tackle unruly or unlawful behaviour of patrons when beyond the vicinity of the premises. These include:-

- ☐ measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and departments of the local authority.
- ☐ the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences late at night, street cleaning and litter patrols.
- ☐ powers to designate parts of the local authority area as places where alcohol may not be consumed publicly.
- ☐ police enforcement of the general law concerning disorder and anti-social behaviour.
- ☐ the confiscation of alcohol from adults and children in designated areas.
- ☐ police powers to close down licensed premises for a specific period of time.
- ☐ the power of the police or interested parties to seek a review of the licence.
- ☐ other local initiatives which similarly address such problems.

- 9.8 The Licensing Authority recognises the cultural, social and business importance that premises and events requiring a licence can provide and the diversity of activities which are provided by licence holders. A proper account will be taken of the need to encourage a broad range of entertainments.
- 9.9 The Licensing Authority is under a legal obligation to have due regard (section 149, Equality Act 2010) to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity and to foster good relations between persons with different protected characteristics.
- Those protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation
- 9.10 The impact of this policy on the requirements of the Equality Act 2010 will be monitored through the impact assessments.
- 9.11 When considering applications the Licensing Authority will have regard to the Act and the licensing objectives, this policy, statutory guidance, and all supporting regulations.

## **10. Prevention of Crime and Disorder**

- 10.1 The Licensing Authority is committed to further improving the quality of life for residents and visitors to the district by continuing to reduce crime and the fear of crime.
- 10.2 Section 17 of the Crime and Disorder Act 1998 imposes a duty on the Local Authority when carrying out its various functions to do all it reasonably can to prevent crime and disorder in its area.
- 10.3 When addressing the issue of crime and disorder the applicant is advised to demonstrate, in the operating schedule, that those factors which impact on crime and disorder have been considered. These may include:-
- ☐ Underage drinking
  - ☐ Drunkenness on-premises and elsewhere
  - ☐ Drugs misuse
  - ☐ Violent behaviour
  - ☐ Anti-social behaviour
  - ☐ Control of their patrons while on the premises and as they arrive and depart
  - ☐ Crime statistics in the locale
  - ☐ The nature of the local area
- 10.4 The Licensing Authority expects licensed premises to develop a staff policy and training programme on drug awareness, recognising signs of drunkenness and vulnerability, for example, offering drinking water and advice

on refusing customers who appear drunk and discourage company policies that promote bonuses and sales incentives for selling alcohol. The Licensing Authority will expect necessary precautionary processes to restrict drunkenness, e.g. Home Office Licensing Guidance states drinks promotions should not be designed to encourage individuals to drink excessively or rapidly.

- 10.5 Where licensed premises are suspected of causing nuisance or being associated with the disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. The Committee may consider a suspension of the licence to allow time for new conditions to be enacted.
- 10.6 It is expected that the Designated Premises Supervisor (DPS) should be able to demonstrate that they have the day to day control of the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 10.7 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

## **11. Public Safety**

- 11.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety.
- 11.2 Factors which may have an impact on public safety may include:
  - ☐ the number of people frequenting the premises
  - ☐ the condition, layout and design of the premises
  - ☐ the nature of the activities to be provided
  - ☐ customer profile
  - ☐ the use of special effects such as lasers, pyrotechnics, foam machines and so on.
- 11.3 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.

- ☐ Suitable and sufficient risk assessments.
- ☐ Effective and responsible management of the premises.
- ☐ Provision of a sufficient number of people employed or engaged to secure the safety of all those present.
- ☐ Appropriate instruction, training and supervision of those employed or engaged to secure the safety of all those present.
- ☐ The keeping of appropriate written training records.
- ☐ Adoption of best practice guidance.
- ☐ Provision of effective CCTV in an around the premises.
- ☐ Provision of drinking vessels made from appropriate toughened material.
- ☐ The assessment of the use of polycarbonate drinking vessels over toughened ones on certain occasions.
- ☐ Implementation of crowd management measures.
- ☐ Proper arrangements to enable the personal licence holder to monitor the activity they have authorised.
- ☐ The condition, design and layout of the premises, including the means of escape in an emergency.

## **12. Prevention of Public Nuisance**

- 12.1 Licensed premises have a significant potential to impact adversely on communities through public nuisance which can arise through their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and businesses from the potential consequence of the operation of licensed premises.
- 12.2 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise and disturbance, light, odour, litter and anti-social behaviour.
- 12.3 Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.
- 12.4 Factors which may have an impact on public nuisance may include:-
- ☐ the location of the premises (including open areas associated with them) and proximity to residential and other noise-sensitive premises.
  - ☐ the customer profile.
  - ☐ the hours of operation, particularly between 23.00 and 07.00 hours.

- ☐ the nature of activities provided.
- ☐ the design and layout of the premises and in particular the use of noise limiting features.
- ☐ the number of people frequenting the premises.
- ☐ the availability of public transport and the availability and location of car parks utilised by patrons.
- ☐ any 'wind-down period' between the end of the licensable activities and closure of the premises.
- ☐ the time of the last admission.
- ☐ the use of special effects such as lasers, pyrotechnics, and so on.

12.5 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.

- ☐ Effective and responsible management and supervisory control of premises and associated open areas, including smoking areas.
- ☐ Appropriate instructions, training and supervision of staff.
- ☐ The keeping of appropriate written training records.
- ☐ Control of operating hours for all, or parts of, the premises, including such matters as deliveries and the operation of machinery.
- ☐ Adoption of best practice guidance.
- ☐ Installation of acoustic insulation, suitably controlled, sited and silenced ventilation or air conditioning systems and (where appropriate) sound limitation devices.
- ☐ Signage displayed at premises requesting that patrons leave quietly
- ☐ Management of people (including staff) and traffic (and resulting queues) arriving at and leaving the premises.
- ☐ Liaison with transport providers.
- ☐ Siting of external lighting, including security lighting.
- ☐ Management arrangements for the collection and disposal of litter.
- ☐ Proper arrangements to enable the personal licence holder to monitor the activity they have authorised.

### **13. Protection of Children from Harm**



- 13.1 Family-friendly premises are to be encouraged but the risk of harm to children remains a paramount consideration when applications are determined.
- 13.2 The protection of children from harm includes their protection from moral, psychological and physical harm.
- 13.3 In relation to the exhibition of films, or transmission of programmes or videos, this includes protection from exposure to strong language, sexual expletives and violence. The Licensing Authority will expect licensees to implement measures which restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.
- 13.4 In certain circumstances, children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influence, inappropriate example, the unpredictability of their actions due to their age, and the lack of understanding of danger.
- 13.5 Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to safeguard children from harm.
- 13.6 Factors which may have an impact on the safety of children and give particular cause for concern may include:
- ☐ where entertainment or services of an adult or sexual nature are commonly provided.
  - ☐ where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or premises with a reputation for underage drinking.
  - ☐ Proxy sales of alcohol to minors (i.e. adults purchasing for persons who are underage).
  - ☐ The premises have a known association with illegal drug-taking or dealing.
- 13.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.
- ☐ Effective and responsible management and supervisory control of premises and associated open areas, including smoking areas;
  - ☐ Appropriate instruction, training and supervision of staff;
  - ☐ The keeping of appropriate written training records;
  - ☐ Adoption of best practice guidance;

- ☐ Complete exclusion of children, limitations on the hours when children may be present, restrictions from being in certain parts of the premises, or exclusion from certain activities;
  - ☐ The imposition of requirements for children to be accompanied by an adult;
  - ☐ Acceptance of 'proof of age' documentation, from time to time recognised by the Licensing Authority;
  - ☐ Measures to ensure children do not purchase, acquire or consume alcohol;
  - ☐ Proper arrangement to be made to enable the personal licence holder to monitor the activity they have authorised.
- 13.8 Conditions which require the admittance of children to any premises cannot be attached to licences or certificates.
- 13.9 Where premises provide gaming facilities licenced or permitted under the Gambling Act 2005, the Licensing Authority will expect measures to be in place to prevent children from accessing gaming machines. This should include the appropriate training of staff and the keeping of training records, as well as measures to ensure machines are appropriately monitored by staff. Such measures should be highlighted in the operating schedule.

#### **14. Advice and Guidance**

- 14.1 Pre-application discussions with the responsible authorities are encouraged to assist applicants in developing their proposals and operating schedules. Officers of the Licensing Authority will endeavour to provide guidance at that stage of the process. Where an officer is representing the Licensing Authority in its role as a Responsible Authority, wherever possible another officer will be designated to process the application and provide applicant guidance.
- 14.2 Where appropriate to do so, officers of the Licensing Authority will assist applicants to work with others who may make representations with a view to resolve areas of concern. Once an application has been lodged there are statutory timescales imposed on the application and determination process which restrict the opportunity for such discussions, liaison and mediation.
- 14.3 The Licensing Authority is obliged by the Act to grant an application unless relevant representations are received. If there are no relevant representations the application will be dealt with by the Licensing Authority's licensing officers under the scheme of delegation. If there are relevant representations the application will be considered by the Licensing Sub-Committee at a hearing which will, in most circumstances, be at a meeting held in public.
- 14.4 Mandatory Conditions are imposed by the Act whether or not the application is opposed.

- 14.5 In determining applications for garages, (i.e. forecourt shops) the Licensing Authority must decide whether or not premises are primarily used as a garage and will expect applicants to submit data which establishes the primary use. Where such information is not available (because for example, the premises have only just started trading), we may consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following years to ensure the premises are not primarily a garage.

## **15. Representations**

- 15.1 These may be made by either of the following:
1. Responsible Authorities – A full list of the Responsible Authorities are given in Appendix 3.
  2. Any other person - Regardless of their geographical location, providing that the representation is not vexatious and frivolous in the opinion of the Licensing Authority.
- 15.2 Any representations must relate to the named premises and are restricted to the four licensing objectives. The Licensing Authority will need to be satisfied there is an evidential link between the representations made, the licensing objectives and the premises in question. Where a representation simply relists the licensing objections without stating why it is considered the grant of the application will undermine or fail to promote them, it may be rejected as invalid.
- 15.3 The Licensing Act 2003 (hearings) Regulations 2005 require the Licensing Authority to provide the applicant with copies of any relevant representations made. Any person making a representation to an application should bear in mind that their personal data (such as name and address) will be disclosed to the applicant. The Licensing Authority will not edit letters of representation before it sends it out, with the exception of telephone numbers, e-mail addresses and signatures. All letters of representation will be contained in the agenda should the matter proceed to a sub-committee hearing. Such hearings are open to the public and may include the presence of members of the media. Furthermore, personal data may be published in the minutes which are distributed to all parties to the proceedings and available on the Council's website subject to the exemptions set out in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).
- 15.4 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
- 15.5 If it is considered that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis,

the Licensing Authority may consider alternative approaches such as withholding details or using a general location.

## **16. Licensing Committee**

- 16.1 The Committee is currently composed of 14 Councillors but can include up to 15. A contested application will be heard by a sub-committee comprising 3 members of the Licensing Committee or a quorum as required by the Council's constitution.
- 16.2 When considering applications the sub-committee will have regard to this Policy, statutory guidance, the Act and attached regulations and the licensing objectives.
- 16.3 Each application is considered on its individual merits.
- 16.4 Should the sub-committee decide to approve the application the mandatory licence conditions must be applied. In addition, the sub-committee will determine whether it is appropriate to attach other conditions to a licence, certificate or permission to secure the achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at the premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity of the premises.
- 16.5 In determining whether a person lives or has business interests sufficiently close to the premises so as to be likely to be affected by the proposed activities, the Licensing Authority will consider factors such as:
- The size of the premises;
  - The nature of the premises;
  - The distance of the premises from the location of the residence or business of the person making the representations;
- The potential impact of the premises (e.g. the number of customers and routes likely to be taken by its customers).
- 16.6 Conditions which seek to control the range or nature of activities within the premises, or which are designed to reduce the potential for anti-social behaviour, may be necessary. Such conditions may also seek to directly impact upon the behaviour of customers on, or within the immediate vicinity of, the premises.
- 16.7 The Licensing Authority will avoid attaching conditions which duplicate other regulatory regimes wherever possible.
- 16.8 A list of which matters will be dealt with at committee and those which are delegated to licensing officers can be found at Appendix 4.

## **17. Appeals**

- 17.1 An appeal may be made to the Magistrates' Court against a decision of the Licensing Authority. The appeal must be made within 21 days of being notified of the decision to be appealed against.
- 17.2 The following may appeal:-
- The applicant;
  - A Responsible Authority or any person who made relevant representations;
  - In the case of a review, the holder of the licence or certificate being reviewed.

## **18. Reviews**

- 18.1 A responsible authority or any person may ask the Licensing Authority to review a premises licence because of a matter arising at the premises in connection with any of the 4 licensing objectives.
- 18.2 The Licensing Authority will not normally engage its role as a Responsible Authority by calling reviews on behalf of other persons, such as local residents or community groups. These individuals and groups are entitled to do so in their own right where there are sufficient grounds.
- 18.3 Where Responsible Authorities have concerns about problems identified at premises, the Licensing Authority considers it to be good practice for them to give licence holders' early warning of their concerns and the need for improvement. Where possible and/or appropriate it would be expected that advice and guidance in addressing the issue(s) should be given.
- 18.4 The Licensing Authority draws the attention of Responsible Authorities to the Home office publication, "The Practical Guide for Preventing And Dealing with Alcohol-Related Problems - What You Need To Know".

### **Summary Reviews (Violent Crime Reduction Act 2006)**

- 18.5 Where premises are associated with serious crime or serious disorder a senior police officer (Superintendent or above) may apply for a summary review of a premises licence.
- 18.6 If a summary review is applied for, the Licensing Authority must consider the application within 48 hours (time that is not on a working day is disregarded) and determine what interim steps to take, if any, of those listed below:
- ☐ the modification of the conditions of the premises licence;
  - ☐ the exclusion of the sale of alcohol by retail from the scope of the licence;
  - ☐ the removal of the designated premises supervisor from the licence;

☐ the suspension of the licence.

- 18.7 Although the law allows the decision to be determined in the absence of the premises licence holder, the Licensing Authority will endeavour to always notify the licence holder of the application having been made and of the time, date and place that it will be determined, in order to afford the licence holder or representative the opportunity to attend.
- 18.8 Where the Licensing Authority decides to take any of the interim steps, its decision has immediate effect and immediate notice of the decision must be given to the licence holder.
- 18.9 Where the licence holder makes representation in respect of the decision, the Licensing Authority must hold a hearing within 48 hours (time that is not on a working day is disregarded) of receipt of the representations and, unless they are withdrawn, consider those representations and any made by the police; consider whether the interim steps are necessary for the promotion of the licensing objectives; determine whether to withdraw or modify the steps taken.
- 18.10 The Licensing Authority must also hold a full review hearing within 28 days.

### **Closure of Premises**

- 18.11 Under the Anti-Social Behaviour, Crime and Policing Act 2014, Closure Notices can be issued by the police or local authority for 24 hours (and up to 72 hours where necessary) when satisfied there are reasonable grounds:
- ☐ that the use of particular premises has resulted or is likely soon to result in nuisance to members of the public; or
  - ☐ that there has been or is likely soon to be disorder near those premises associated with the use of those premises.
- 18.12 Closure Orders up to a period of three months can be sought from a Magistrates Court by police and local authorities once a Closure Notice has been issued. The court may make a Closure Order if it is satisfied:
- ☐ that a person has engaged, or is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or
  - ☐ that the use of the premises has resulted, or is likely to result, in serious nuisance to members of the public; or
  - ☐ that there has been, or is likely to be, disorder near those premises associated with the use of the premises;
  - ☐ and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.
- 18.13 Breach of a notice or order is a criminal offence and carries the following sentences upon summary conviction

- ☐ Notice: Up to three months in prison.
- ☐ Order: Up to six months in prison.
- ☐ Both: Up to an unlimited fine for residential and non-residential premises.

#### 18.14 Who Can Appeal?

- ☐ Any person who the closure notice was served on.
- ☐ Any person who had not been served the closure notice but has an interest in the premises.
- ☐ The Council (where closure order was not made and they issued the notice).
- ☐ The police (where closure order was not made and they issued the notice).

### 19. Suspension of Licences

- 19.1 The Licensing Authority is under a duty to suspend Premises Licences and Club Premises Certificates where the Licensee has failed to pay the annual fee within a prescribed period. Licences which are suspended shall cease to have an effect during the suspension period. Furthermore, a licence cannot be transferred during the said period.

### 20. Electronic Applications

- 20.1 In keeping with the Council's policy on the introduction of e-Government, the Licensing Authority consents to applications and other notices being given electronically where the Act and regulations allow.

The Braintree District covers 236 square miles of north Essex and is the second-largest district, in area, in Essex. Largely rural in character, it stretches from the Stour Valley/Suffolk Border in the north to the Chelmer Valley and Chelmsford in the south. Just over half the total population of 149,108 (2013 Mid-Year Population Estimate from Office of National Statistics) live in the three main towns of Braintree, Halstead and Witham and the remainder in the villages, which make up the 54 parishes.

The administrative centre is Braintree, a market town on the A131 and A120, the main east coast route linking Braintree with the M11 and Stansted Airport, which lie just to the west of the District. The A120 has in part been upgraded to improve access to Stansted Airport and the M11.

Braintree Villiage constructed on the outskirts of East Braintree provides a major shopping and leisure facility. The centre features expansive retail shopping, a 12 screen multiplex cinema, bowling alley, several restaurants and swimming pool complex.

Witham is the second largest town and is located in the south of the District on the mainline from Liverpool Street to East Anglia. It provides a diverse landscape with its historic High Street, attractive outlying villages, a major trunk road and significant new development. A key feature is the new Maltings Lane development of 850 dwellings comprising residential areas, a business park, a primary school, neighbourhood centre and community facilities.

Halstead is a small, historic country market town serving the northern half of the District. Situated in a conservation area along the Colne Valley, the town supports residential area, thriving High Street shopping, restored Public Gardens, its own Theatre/Cinema and a swimming pool complex. It has a developing café culture and several evening entertainment establishments and traditional public house/inns. The town has potential for future small residential and commercial developments.

The District has a wide diversity of cultural backgrounds and interests with thriving village and urban communities affording many facilities for leisure and entertainment for both residents and visitors.



## MAP OF BRAINTREE DISTRICT

## Appendix 2



## Appendix 3

## **Contact Details of Responsible Authorities**

1.      Licensing Authority

Licensing Manager  
Braintree District Council  
Causeway House  
Bocking End  
Braintree  
Essex CM7 9HB

Tel:            01376 557790  
E-mail:        licensing@braintree.gov.uk
2.      Police

Licensing Section  
Essex Police  
Police Station  
Blyths Meadow  
Braintree  
Essex CM7 3DJ

Tel:            01376 551312  
E-mail:  
cdnorthlicensing@essex.pnn.police.uk
3.      Fire Brigade

The Community Commander  
Essex County Fire and Rescue Service  
Braintree and Uttlesford  
Fire Station  
Braintree  
Essex, CM7 3JD  
Tel:            01376 345537  
E-mail:  
braintreesdp@essex-fire.gov.uk
4.      The Body Responsible  
For the Protection of  
Children from Harm

Head of Child Protection  
(Licensing Applications)  
Essex County Council  
PO Box 297  
Chelmsford  
Essex, CM1 1YS

Tel:            01245 341932  
E-mail:  
licenceapplications@essexcc.gov.uk

5. Environmental Health  
Environmental Health (Pollution)  
Braintree District Council  
Causeway House  
Bocking End  
Braintree  
Essex CM7 9HB  
  
Tel: 01376 551414 ext 2223  
E-mail: [envpro@braintree.gov.uk](mailto:envpro@braintree.gov.uk)
6. Environmental Health  
Environmental Health (Health & Safety)  
Braintree District Council  
Causeway House  
Bocking End  
Braintree  
Essex CM7 9HB  
  
Tel: 01376 551414 ext 2221  
E-mail: [healthprotection@braintree.gov.uk](mailto:healthprotection@braintree.gov.uk)
- 6a. Health/Safety Executive  
Operations Manager  
Health and Safety Executive  
Wren House, Hedgerows Business Park  
Colchester Road  
Springfield, Chelmsford  
Essex CM2 5PF  
  
Tel: 01245 706200  
Web: [www.hse.gov.uk](http://www.hse.gov.uk)
7. Planning Authority  
Development Services Manager  
Development Services  
Braintree District Council  
Causeway House  
Bocking End  
Braintree Essex CM7 9HB  
  
Tel: 01376 552525  
E-mail: [Plancomments@braintree.gov.uk](mailto:Plancomments@braintree.gov.uk)

8. Trading Standards

Essex Trading Standards  
Essex County Council  
CG32, County Hall  
Market Road  
Chelmsford CM1 1QH

Tel: 0845 6037626

9. Director of Public Health

Melissa Rawlinson  
Licensing Officer  
Public Health Team  
E2 County Hall  
Chelmsford  
CM1 1LX

Tel: 01245 431855

E- mail: [melissa.rawlinson@essex.gov.uk](mailto:melissa.rawlinson@essex.gov.uk)

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
<b>Application for personal Licence</b>		<b>If a police objection</b>	<b>If no objection made</b>
<b>Application for personal licence with unspent convictions</b>		<b>All cases</b>	
<b>Application for premises licence/club premises certificate</b>	<b>If a relevant representation made regarding cumulative impact</b>	<b>If a relevant representation made</b>	<b>If no relevant representation made</b>
<b>Application for provisional statement</b>	<b>If a relevant representation made regarding cumulative impact</b>	<b>If a relevant representation made</b>	<b>If no relevant representation made</b>
<b>Application to vary premises licence/club premises certificate</b>	<b>If a relevant representation made regarding cumulative impact</b>	<b>If a relevant representation made</b>	<b>If no relevant representation made</b>
<b>Application to vary designated premises supervisor</b>		<b>If a police objection</b>	<b>All other cases</b>
<b>Request to be removed as designated premises supervisor</b>			<b>All cases</b>

<b>Application for transfer of premises licence</b>		<b>If a police objection</b>	<b>All other cases</b>
<b>Applications for interim Authorities</b>		<b>If a police objection</b>	<b>All other cases</b>
<b>Application to review premises licence/club premises certificate</b>		<b>All cases</b>	
<b>Decision on whether a complaint is irrelevant frivolous vexatious etc.</b>			<b>All cases</b>
<b>Decision to object when local authority is a consultee and not the relevant authority considering the application</b>		<b>All cases</b>	
<b>Determination of an objection to a temporary event notice</b>		<b>All cases</b>	
<b>Determination of application to vary premises licence at community premises to include alternative licence condition</b>			<b>All cases</b>

<b>Decision whether to consult other responsible authorities on minor variation application</b>			<b>All cases</b>
<b>Determination of minor variation application</b>			<b>All cases</b>

LICENSING COMMITTEE UPDATE		Agenda No: 6
Portfolio	Environment and Place	
Corporate Outcome:	Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:	Public	
None	Key Decision: No	
Executive Summary:		
To update Members on applications determined and relevant new information.		
Recommended Decision:		
To note the information detailed.		
Purpose of Decision:		
To update Members.		
Any Corporate implications in relation to the following should be explained in detail.		
Financial:	None arising from this report	
Legal:	None arising from this report	
Safeguarding:	None arising from this report	
Equalities/Diversity:	None arising from this report	
Customer Impact:	None arising from this report	
Environment and Climate Change:	None arising from this report	
Consultation/Community Engagement:	None arising from this report	
Risks:	None arising from this report	
Officer Contact:	John Meddings	
Designation:	Principal Licensing Officer	
Ext. No:	2213	
E-mail:	<a href="mailto:john.meddings@braintree.gov.uk">john.meddings@braintree.gov.uk</a>	



## **1. Background**

- 1.1 Members have requested regular updates on applications determined at meetings of the Licensing Sub-Committee and the Drivers' Panel. A summary of all applications determined since the previous Licensing Committee meeting held on 13th November 2019 are highlighted below.

## **2. Hackney Carriage & Private Hire Drivers' Licences**

- 2.1 There has been one application presented to the Drivers' Panel since the previous update.
- 2.2 The hearing was the result of an immediate suspension of a licensed driver due to medical grounds. The suspension had been issued in consultation with the Chairman of the Licensing Committee and the Head of Governance.
- 2.3 On 4th February 2020 the Drivers' Panel met and confirmed the suspension of the Hackney Carriage and Private Hire driver's licence in the interest of public safety.

## **3. Licensing Act 2003**

- 3.1 There is a Licensing Act 2003 hearing scheduled for 5th March 2020.
- 3.2 The application is for a new premises licence at Foxborough Hills, Sible Hedingham. The application has attracted several representations from local residents.

## **4. VE Day Celebrations**

- 4.1 The Home Secretary has confirmed that pubs in England and Wales will be able to open for longer to mark the 75th anniversary of Victory in Europe (VE) Day.

Pubs, clubs and bars, which are licensed to trade until 11pm, will be allowed to open for an additional two hours, on Friday 8 May and Saturday 9 May from 11am until 1am the following morning, to mark the anniversary.

The order, laid in Parliament, will also apply to premises licensed to provide entertainment such as music, dances, plays and films.

Commemorations and community events will be held across the country to remember the heroism of British, Commonwealth and Allied armed forces personnel and the contribution of ordinary citizens to the war effort.

The early May bank holiday has been moved from Monday 4 May to Friday 8 May to mark the anniversary.