

# Licensing Committee AGENDA



THE PUBLIC MAY ATTEND THIS MEETING

Please note this meeting will be audio recorded.

**Date: Wednesday, 18 November 2015**

**Time: 19:15**

**Venue: Committee Room 1, Causeway House, Bocking End, Braintree, Essex, CM7 9HB**

## **Membership:**

Councillor Mrs J Allen  
Councillor M Banthorpe (Chairman)  
Councillor J Baugh (Vice Chairman)  
Councillor S Canning  
Councillor J Elliott  
Councillor J Goodman  
Councillor A Hensman

Councillor H Johnson  
Councillor Mrs J Money  
Councillor Mrs J Pell  
Councillor R van Dulken  
Councillor Ms L Walters  
Councillor Mrs S Wilson

**Members are requested to attend this meeting, to transact the following business:-**

## **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 9th September 2015 (copy previously circulated).

### **4 Public Question Time**

(See paragraph below)

### **5 Application for a Street Trading Consent - Witham Railway Station, Albert Road, WITHAM 4 - 20**

### **6 Licensing Act 2003 - Statement of Licensing Policy 21 - 74**

### **7 Hackney Carriages - Unmet Demand Survey 75 - 77**

### **8 Urgent Business - Public Session**

To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

#### **Exclusion of the Public and Press**

### **9 To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.**

*At the time of compiling this Agenda there were none.*

### **PRIVATE SESSION**

### **10 Urgent Business - Private Session**

To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

E WISBEY  
Governance and Member Manager

### **Contact Details**

If you require any further information please contact the Governance and Members team on 01376 552525 or e-mail [demse@braintree.gov.uk](mailto:demse@braintree.gov.uk)

### **Question Time**

Immediately after the Minutes of the previous meeting have been approved there will be a period of up to 30 minutes when members of the public can speak.

Members of the public wishing to speak should contact the Council's Governance and Members team on 01376 552525 or email [demse@braintree.gov.uk](mailto:demse@braintree.gov.uk) at least 2 working days prior to the meeting.

Members of the public can remain to observe the whole of the public part of the meeting.

### **Health and Safety**

Any persons attending meetings at Causeway House 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 a continuous alarm sounding during the meeting, you must evacuate the building immediately and follow all instructions provided by a Council officer who will identify him/herself should the alarm sound. 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 either switched to silent or switched off during the meeting.

### **Comments**

Braintree District Council welcomes comments from members of the public in order to make its services as efficient and effective as possible. We would appreciate any suggestions regarding the usefulness of the paperwork for this meeting, or the conduct of the meeting you have attended.

Please let us have your comments setting out the following information

Meeting Attended..... Date of Meeting.....

Comment .....

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Contact Details: .....

<b>APPLICATION FOR A STREET TRADING CONSENT - WITHAM RAILWAY STATION, ALBERT ROAD, WITHAM</b>		<b>Agenda No: 5</b>
<b>Portfolio</b>	Environment and Place	
<b>Corporate Priority:</b>	Keeping our District clean and tidy Protecting our environment Promoting safe and healthy living Encouraging flourishing communities Boost employment skills and support business. Promoting and improving our town centres	
<b>Report presented by:</b>	John Meddings	
<b>Report prepared by:</b>	John Meddings	
<b>Background Papers:</b>		<b>Public Report</b>
1. Application made by Mr Suryakant Chhotalal Rao (Appendix 1). 2. Representations received during the consultation period (Appendix 2). 3. Braintree District Council Street Trading and Collections Policy. 4. Licensing Committee Minutes 10th September 2014. 5. Enforcement photograph (Appendix 3)		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
To consider an application by Mr Suryakant Chhotalal Rao for a Street Trading Consent at Witham Railway Station, Albert Road, Witham. The Council's Street Trading and Collections Policy specifies that if representations are received the application is required to be determined by the Licensing Committee.		
<b>Decision:</b> To consider the following options:-		
1. To <b>GRANT</b> the application for a Street Trading Consent. 2. To <b>GRANT</b> the application for a Street Trading Consent with amendments. 3. To <b>GRANT</b> the application for a Street Trading Consent with additional conditions. 4. To <b>REFUSE</b> the application for a Street Trading Consent.		
<b>Purpose of Decision:</b>		
Members of the Licensing Committee are requested to consider an application made by Mr Suryakant Chhotalal Rao for Witham Railway Station, Albert Road, Witham.		

Corporate Implications	
<b>Financial:</b>	If the application is unsuccessful the fee will be returned to the applicant.
<b>Legal:</b>	There is no right of appeal given to the applicant.
<b>Safeguarding:</b>	Not applicable
<b>Equalities/Diversity:</b>	Not applicable
<b>Customer Impact:</b>	The decision made could have an impact on the applicant's business and that of surrounding businesses.
<b>Environment and Climate Change:</b>	Not applicable
<b>Consultation/Community Engagement:</b>	Application subject to a 28 day public consultation period in accordance with Braintree District Council's Street Trading Policy.
<b>Risks:</b>	None
<b>Officer Contact:</b>	John Meddings
<b>Designation:</b>	Licensing Officer
<b>Ext. No.</b>	2213
<b>E-mail:</b>	john.meddings@braintree.gov.uk

## 1. Application

- 1.1 The Licensing Authority received an application for a Street Trading Consent from Mr Suryakant Chhotalal Rao on 29th September 2015 which was validated on 30th September 2015.
- 1.2 The previous consent expired on 9th September 2015. The applicant had submitted an application that was deemed invalid on 10th September 2015 due to the applicant not submitting sufficient information.

The Braintree District Council Street Trading and Collections Policy states that:

*'Applicants should re-submit their application if they wish to continue to trade at least one month before the expiry of their current consent'.*

The first application was submitted one day before the previous consent expired and could not be considered a renewal in accordance with the Council's policy. The application was also substantially different to previous applications to be considered a renewal, due to the increase in trading hours.

- 1.3 The applicant also has let previous consents expire before attempting to submit an application. This occurred with the previous application in 2014 when the applicant was warned that he hadn't submitted an application and was trading on the site without consent.

The applicant was sent renewal paperwork in advance of the expiry of the consent.

- 1.4 In accordance with the Council's Street Trading Policy the Licensing Department consulted with the following:

Essex Police  
Essex County Council Highways and the Highways Agency  
Local Ward Members  
Parish/Town Council  
Braintree District Council – Planning Department  
Braintree District Council – Environmental Health  
Relevant local traders selling similar commodities within 500m radius of the proposed site

- 1.5 During the consultation period, the Authority received four representations. Three of the representations are from existing traders selling similar commodities (Appendix 2).

- 1.6 The hours that the applicant is proposing to trade are set out below:

Monday to Sunday 04:30 to 19:00 hours

- 1.7 The applicant proposes to sell newspapers, tobacco, confectionery, soft drinks, pre-packed sandwiches and hot Indian dal.

## **2. History**

- 2.1 The applicant has previously held a Street Trading Consent for the site at Witham Railway Station, Albert Road, Witham reference **ST203**. This expired on the 9th September 2015.
- 2.2 The previous application for the site was determined by the Licensing Committee on 10th September 2014 after representations were received against the application.

**DECISION:** *That the application submitted by Mr Rao for a Street Trading Consent to sell newspapers, tobacco, confectionery, soft drinks, cut flowers and hot Indian dal from a 'business permit location', outside Witham Railway Station, Albert Road, Witham be granted for Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays and Sundays between the hours of 4.30am and 4.00pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading, and subject to the sale of all other hot beverages, including tea and coffee, being excluded from the Consent.*

*The decision has been made on the basis that the only hot beverage to be sold will be hot Indian dal and that all other hot beverages, including tea and coffee, are specifically excluded from the Consent in accordance with the submission of the applicant's representative.*

## **3. Representations**

- 3.1 During the consultation period the application received four representations. Three of these were from businesses in the vicinity selling similar products.

The fourth was a representation from Braintree District Council's Property Management Team (Appendix 2).

#### **4. Enforcement**

- 4.1 The Licensing Team has been receiving complaints over the last two years that Mr Rao has been breaching the terms of his consent by selling hot drinks (in the form of tea and coffee) and trading beyond the hours stipulated.
- 4.2 The Licensing Committee was informed of the breaches during the determination of the previous consent and this was taken into consideration. The Licensing Committee made it clear to the applicant and his representative that the only hot drink that could be sold under this consent was 'hot Indian dal', specifically excluding the sale of hot drinks, such as tea and coffee.
- 4.3 The Licensing Team continued to receive complaints that the applicant was selling tea and coffee after the decision of the Licensing Committee on 10th September 2014. The consent holder and his legal representative were sent letters warning of the consequences of continuing to sell tea and coffee, in January 2015. Copies of these letters were also delivered to the consent site.
- 4.4 Officers continued to observe sales of hot drinks and more formal action was taken to deal with the issue. A letter was again sent in January 2015 to the consent holder and interested parties again warning of trading not in accordance to the consent issued (selling tea and coffee). The letter detailed that test purchases would be conducted to gather evidence for any potential prosecution and/or enforcement action.
- 4.5 Several test purchases were conducted and tea or coffee was successfully purchased. These test purchases were again followed by either verbal or written warnings. Officers have provided witness statements that can be provided upon request.

Test purchases were conducted on the following dates:

27th January 2015  
24th June 2015  
21st July 2015

- 4.6 Officers have also observed the applicant trading in the centre of the pick-up/drop off point, half on the double yellow lines and half on the business permit location. This has caused emergency vehicles (ambulance) to park in the road and can be seen in the photograph provided (Appendix 3).
- 4.7 The consent expired on 9th September 2015 and Mr Rao was informed in writing that he no longer held a Street Trading Consent for the location at Witham Railway Station. Mr Rao was also informed that continual trading at that location could result in enforcement action.
- 4.8 Since that time several site visits and test purchases have been conducted and observed trading at the site. This trading was also observed after the times authorised on the expired consent (16:00 hours).

- 4.9 Since the expiry of the consent, the applicant has also been witnessed by Officers depositing commercial waste generated from the proposed Street Trading Consent site. An investigation is on-going into what is believed to be an unauthorised deposit of commercial waste.
- 4.10 Over the duration of the previous consent and to the date of writing this report, no response has been received to any of the enforcement letters sent to either Mr Rao, or his legal representative.

## **5. Policy**

- 5.1 The specific parts of the policy that are relevant to this application are detailed below.

Braintree District Council Street Trading and Collections Policy states:

- Where the imposition of conditions is not adequate to control potential problems, applications will be refused. Refusal or withdrawal of street trading consents will be normal in the following circumstances:-
- Where the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, mal-odour, litter, disturbance or anti-social behaviour.
- Where there is not enough space in the street for the applicant to engage in the trading in which he/she desires without causing undue interference or inconvenience to persons using the street.
- Where granting of a consent for the sale of goods or services would conflict with those provided by nearby shops.
- Where the applicant is unsuitable to hold a consent by reason of having been convicted of an offence, or for any other reason.
- Where a trader has failed to comply with the conditions attached to the consent.
- Where street trading in a particular location will conflict with concessions granted to traders.

### **5.2 Renewals**

- (1) Street Trading Consents are issued for a period of up to one year.
- (2) Applicants should then re-submit their application if they wish to continue to trade at least one month before the expiry of their current consent. At this renewal time, the Licensing Officer will undertake a full consultation exercise as before to determine if the street trader is a cause for concern.



### 5.3 Decisions

- (1) Following the determination of an application by the Committee, the applicant and any objectors will be notified of the decision at the end of the hearing. The Licensing Team will then send confirmation in writing, as soon as possible after the decision, or in any case within seven days of the meeting.
- (2) There is **no right of appeal against refusal** to issue consent; therefore any applicant that is aggrieved by the Council's decision has an option to seek a Judicial Review. Where an application is refused, **payment of the application fee shall be refunded**.

15/01542/STR  
ENVIRONMENTAL

29 SEP 2013

HEALTH

BRAINTREE DISTRICT  
COUNCIL (20)

APPENDIX 1

Alt: 438613  
1540

ST 203

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



BRAINTREE DISTRICT COUNCIL

Application for the Grant or Renewal of a  
Street Trading Consent

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

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

You are requested to complete this form in block capitals

1. I, SURYAKANT RAO  
of 8 GLEBEFIELD ROAD, HATFIELD PARK, WILMANSBORO, ESSEX CM8 2HY

Date of Birth ....

Daytime telephone number :- ....

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

BUSINESS PERMIT LOCATION  
OUTSIDE RAILWAY STATION, ALBERT RD  
WILMANSBORO AS PER APPROVED  
LOCATION PLAN

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

2. I wish to trade on the following days between the hours specified.  
(Please see Note – See Braintree District Council Street Trading Policy – Item 8)

Monday: From 4.30am To 7pm Friday: From 4.30am To 7pm  
Tuesday: From 4.30am To 7pm Saturday: From 4.30am To 7pm  
Wednesday: From 4.30am To 7pm Sunday: From 4.30am To 7pm  
Thursday: From 4.30am To 7pm

3. If you wish to trade for a short period, please specify what period below. (i.e Month of January). You will pay the day's trading fee per day you wish to trade.

- 4 I proposed to trade in the following items:-

NEWSPAPERS, TOBACCO, CONFECTIONERY, SOFT DRINKS,  
PRE PACKED SANDWICHES, AND HOT INDIVIDUAL DRINK.

- 5 The registration number of the vehicle from which I propose to trade is:-

[REDACTED]

A photograph or fully drawn details of the proposed stall/vehicle, giving dimensions, must be submitted with new applications or if the stall/vehicle has changed.

### Special Events

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

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

Please identify the number of traders to be covered:

Category 1 – Up to 10 traders

Category 2 – Between 11 and 19 traders

Category 3 – Over 20 traders


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

6 I enclose a payment of:-

For 1 day's trading per week per annum	108.00
For 2 day's trading per week per annum	189.00
For 3 day's trading per week per annum	259.00
For 4 day's trading per week per annum	324.00
For 5 day's trading per week per annum	431.00
For 6 day's trading per week per annum	486.00
For 7 day's trading per week per annum	540.00

One day's trading 22.00 per day

#### Special Events

Category 1 – Up to 10 traders	43.00
Category 2 – Between 11 and 19 traders	59.00
Category 3 – Over 20 traders	75.00

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

7. I am 17 years of age, or over

Signature:  Date: 4/10/15

Please return this form to:-

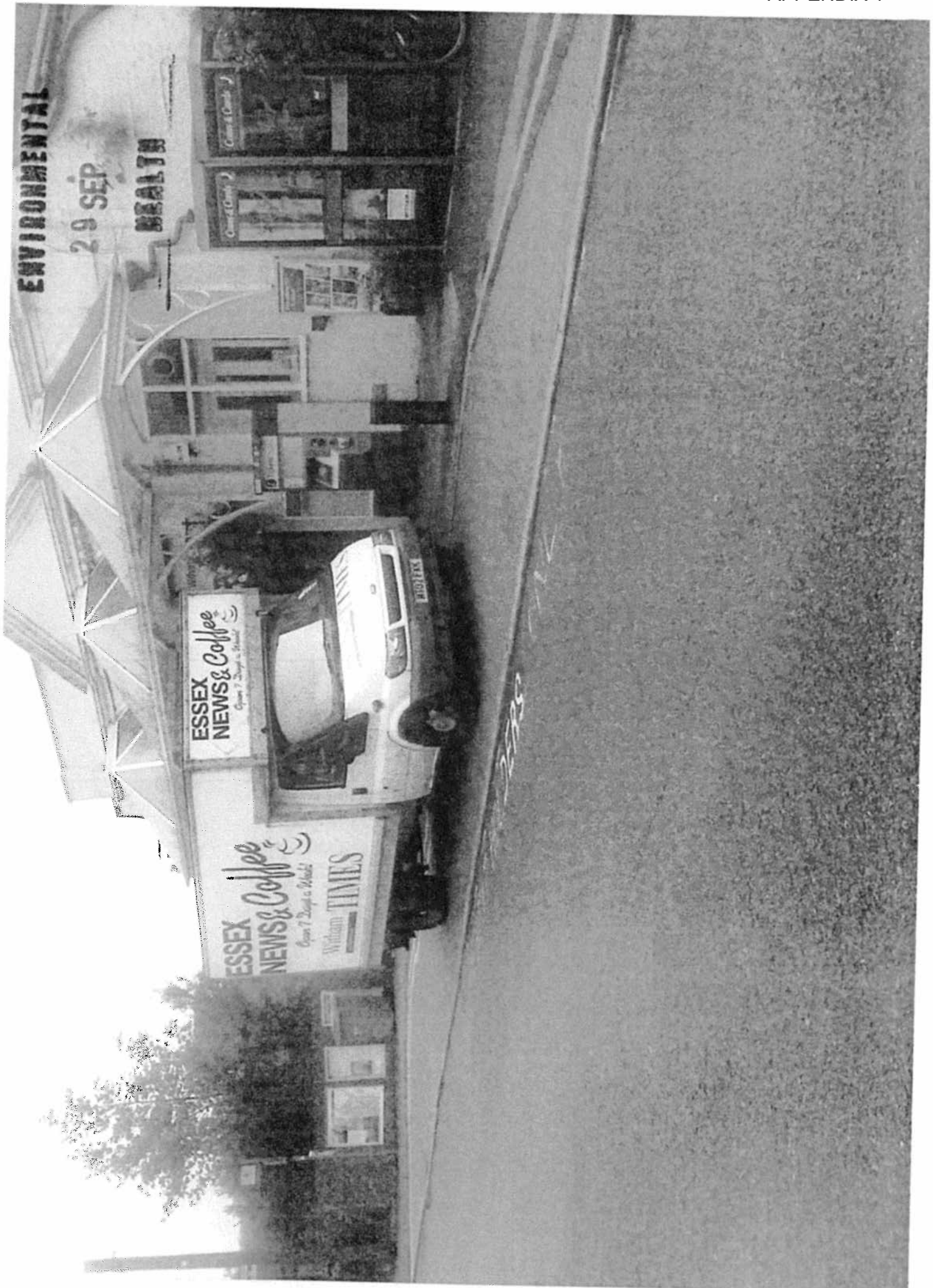
Licensing Officer  
Braintree District Council  
Causeway House  
Bocking End  
Braintree  
Essex  
CM7 9HB

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

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

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





**Webb, Alison**

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**From:** Crepeaholic [REDACTED]  
**Sent:** 13 October 2015 11:10  
**To:** Licensing  
**Subject:** Urgent: Att Mr Mellini Reference ST203

Dear Mr D Mellini

We would like to object against the renewal of street trading consent for Mr S Rao.

The extension of his hours and the range of food (sandwiches etc) along with coffees and hot drinks conflicts with our products and will Impact our trade.

We pay rates and high utilities and we believe support from the council is needed to ensure businesses such as ours and Get it Fresh are not affected. Especially when we display a cleaner and more attractive place to eat/drink around the station area in witham.

When you see a van such as this straight from entering or exiting the station, I don't believe it portrays a very nice image of witham.

We would appreciate your consideration in our objection.

Thank you and kind regards  
Ashley

Crepeaholic

Sent from myMail for iOS

Mark Murphy  
Get It Fresh  
Braintree Road  
Witham  
Essex.  
CM8 2DD

Monday 12th October 2015

Ref: Street trading application for Albert road, Witham.

To whom it may concern,

I would like it noted, once again, that I object to this application.

My concerns are that the van is selling similar items to me (hot drinks, soft drinks, confectionary, etc) and is seriously threatening my business. It is so frustrating, as it seems as though a 'blind eye' is being turned at some level.

It is very hard to understand how permission was granted in the first instance, in 2012, contrary to Braintree District Council's own policy on street trading, and without consulting local businesses.

I was extremely disappointed that even though the committee ruled, in April 2013, that hot drinks could no longer be served by this trader, he carried on to do so without consequence.

Last year (2014) , despite the previous ruling being consistently ignored, it still appeared that no affirmative action was being taken.

I cannot understand why enforcement or legal action has not been taken after the blatant disregard and disrespect this business has shown towards local businesses, Braintree District Council, and all previous Licensing Committee rulings.

It is with regret that I am requesting (for the first time) that the license to trade is not granted at all. Based on the last two and a half years, it seems apparent that the business cannot be trusted to adhere to any conditions imposed by the Licensing Committee.

I am willing to attend any related hearing and elaborate about my concerns regarding this application.

Yours faithfully

Mark Murphy





THE RT. HON. PRITI PATEL MP  
WITHAM

APPENDIX 2

HOUSE OF COMMONS  
LONDON SW1A 0AA

Tel: 020 7219 3528  
E-mail: [withamp@parliament.uk](mailto:withamp@parliament.uk)  
Website: [www.pritipatelmp.com](http://www.pritipatelmp.com)

Mr Mark Murphy  
Get It Fresh  
Braintree Road  
Witham  
Essex  
CM8 2DD

Our Ref: ZA34310

14 October 2015

Dear Mark,

Thank you very much for your telephone call to my office and email regarding the street trader in Albert Road, Witham.

I fully understand the impact that this is having on you and it is concerning to see that rules and licensing conditions appear to have been breached. Businesses and traders should be able to compete fairly and when rules are breached enforcement action should follow.

I will make representations on your behalf to Braintree District Council about the current application and will reiterate to them your concerns with the application and the previous lack of enforcement action.

Yours sincerely,

*witham good sister*



**Rt Hon Priti Patel MP**  
**Member of Parliament for Witham**



**Webb, Alison**

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**From:** Locoexpresso [REDACTED]  
**Sent:** 14 October 2015 16:46  
**To:** Licensing  
**Subject:** Re: Consultation letter - Mr Rao

Dear Licensing

I write to confirm my objections of the recent application of the above . Clearly year after year we are not progressing with a positive outcome of the this "street trader ".

Matters of concerns:

He continues to supply hot drinks ,

Not the masala tea

Or the loose leaf tea !

Everyone knows this is going on and nothing happens . Its a absolute disgrace !

Our services

Locoexpresso sell a wide range of hot and cold beverages .  
Fresh coffee roasted every week.  
Confectionery and news,  
magazines and snacks A wide range of stock available We employ local people and will be opening another branch soon in the area .

Every day were are losing revenue against people breaking the law. Not adhering to the license requirements . Theres no parking or loading for any business use , disabled access very limited and how the hell all the commuters and travellers get parked there I wonder .

It's not needed we have plenty of professional business who support this area .

Braintree council you need to step up and take action as I'm wondering what is going on internally and why is this trader allowed to get away with it year after year .

Kind Regards  
Nav Aggarwal  
LOCOESPRESSO LTD  
[REDACTED]

**Webb, Alison**

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**From:** Whyte, Janet  
**Sent:** 30 September 2015 16:10  
**To:** Licensing  
**Subject:** RE: Application for Street Trading Consent - Mr Rao, trading outside Witham Railway Station, Station Road, Witham  
**Attachments:** RE: Street Trading Consent Application - Mr S Chhotalal Rao t/a Essex News

Hi

Please find attached my previous response to the last Street Trading Consent for Mr. Rao, which remains the same for the renewal.

I understand that Mr. Rao continues to sell hot drinks and that no enforcement has been taken. Can you please advise me if any action will be taken in the future?

Regards

**Janet Whyte**

**Property Management Officer**

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

☎ 01376 552525 Ext. 2924 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | ✉ [janet.whyte@braintree.gov.uk](mailto:janet.whyte@braintree.gov.uk)

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**From:** Licensing

**Sent:** 30 September 2015 3:38 PM

**To:** [cllr.swilson@braintree.gov.uk](mailto:cllr.swilson@braintree.gov.uk); [cllr.akilmartin@braintree.gov.uk](mailto:cllr.akilmartin@braintree.gov.uk); [townclerk@witham.gov.uk](mailto:townclerk@witham.gov.uk); Community Safety and Development Team; ehlicensing; Essex Highways; Essex Police; Health Protection; PlanningEnforcement; Whyte, Janet

**Subject:** Application for Street Trading Consent - Mr Rao, trading outside Witham Railway Station, Station Road, Witham

Dear Colleagues

We have today received and validated an application for a Street Trading Consent in respect of Mr Rao to trade outside Witham Railway Station, Albert Road, Witham.

I have attached a copy of the application form and a photograph of the trading vehicle showing the location of the trading site.

Please can you let me have your observations by **14<sup>th</sup> October 2015**.

If I have not heard from you by the required date I will assume that you have no objections.

**Please note this replaces the consultation email sent out on 10<sup>th</sup> September, as the application submitted on this date was subsequently invalidated.**

Kind regards

**Wendy Baxter**

**Technical Licensing Assistant**

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

01376 552525 Ext. 2790 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | [wendy.baxter@braintree.gov.uk](mailto:wendy.baxter@braintree.gov.uk)

## Webb, Alison

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**From:** Whyte, Janet  
**Sent:** 28 July 2014 10:37  
**To:** Licensing  
**Subject:** RE: Street Trading Consent Application - Mr S Chhotalal Rao t/a Essex News  
**Importance:** High

With reference to the above street trading consent application, I would like to strongly object to the request to trade in the following:

- Hot drinks

The Council has nearby leased premises which predominately sell hot and cold drinks, and sandwiches and have seen their trade affected by the Street Trader being allowed to sell the same things within such close proximity.

I feel that this is unfair competition against the Council's tenant as they have to pay rent, business rates and building insurance. It also affects the level of rental income the Council can achieve from its nearby premises.

I also understand that Mr. Rao does not have a licence to sell hot drinks at present but has continued to do so.

Regards

**Janet Whyte**

**Property Management Officer**

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

☎ 01376 552525 Ext. 2924 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | ✉ [janet.whyte@braintree.gov.uk](mailto:janet.whyte@braintree.gov.uk)

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**From:** Licensing

**Sent:** 18 July 2014 4:59 PM

**To:** Community Safety and Development Team; ehlicensing; Essex Highways; Essex Police; Health Protection; PlanningEnforcement; Whyte, Janet

**Cc:** [Cllr.showell@braintree.gov.uk](mailto:Cllr.showell@braintree.gov.uk); [cllr.mlager@braintree.gov.uk](mailto:cllr.mlager@braintree.gov.uk)

**Subject:** Street Trading Consent Application - Mr S Chhotalal Rao t/a Essex News

Dear Colleagues,

We have today received and validated an application for Street Trading Consent from Mr S Chhotalal Rao. I have enclosed a copy of the application, together with photos and location of the van.

I would be most grateful if you could let me have your observations within 10 working days of this email.

If I have not heard from you by the required date I will assume that you have no objections.

Thank you for your assistance in this matter.

Kind regards

**Wendy Baxter**

**Technical Licensing Assistant**

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

01376 552525 Ext. 2790 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | [wendy.baxter@braintree.gov.uk](mailto:wendy.baxter@braintree.gov.uk)





<b>BRAINTREE DISTRICT COUNCIL'S REVISED STATEMENT OF LICENSING POLICY IN RESPECT OF THE LICENSING ACT 2003</b>		<b>Agenda No: 6</b>
<b>Portfolio</b>	Environment and Place	
<b>Corporate Priority:</b>	Keeping our District clean and tidy Protecting our environment Supporting vulnerable people in our community. Promoting safe and healthy living Boost employment skills and support business. Promoting and improving our town centres	
<b>Report presented by:</b>	John Meddings	
<b>Report prepared by:</b>	John Meddings	
<b>Background Papers:</b>		<b>Public Report</b>
<ol style="list-style-type: none"> <li>1. Braintree District Council's Draft Statement of Licensing Policy 2016 – Appendix 1</li> <li>2. Report and minutes of the Licensing Committee 29th April 2015</li> <li>3. Equality Impact Assessment</li> <li>4. Licensing Act 2003</li> <li>5. Guidance issued under S.182 of the Licensing Act 2003</li> <li>6. Police Reform and Social Responsibility Act 2011</li> <li>7. The Live Music Act 2012</li> <li>8. The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013</li> <li>9. Deregulation Act 2015</li> <li>10. The Legislative Reform (Entertainment Licensing) Order 2014</li> <li>11. Consultation response (Cllr. Richard van Dulken) - Appendix 2</li> </ol>		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
<p>To consider the revised Braintree District Council Statement of Licensing Policy in respect of the Licensing Act 2003 for recommendation to Full Council on 14th December 2015. Each Licensing Authority is legally required to formulate a Licensing Act Policy Statement, which must be reviewed and re-published every five years. The current Braintree District Council Licensing Act Policy Statement came into effect on 7th January 2011.</p>		

<b>Decision:</b>
That the Braintree District Council Statement of Licensing Policy 2016 be recommended to Full Council.
<b>Purpose of Decision:</b>
To approve the revised Braintree District Council Statement of Licensing Policy 2016. This will allow Braintree District Council to meet the timescales set by the Licensing Act 2003.

Corporate Implications	
<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 being able to administer the licensing functions under the Licensing Act 2003.
<b>Safeguarding:</b>	None arising out of this report.
<b>Equalities/Diversity:</b>	An Equality Impact Assessment has been completed.
<b>Customer Impact:</b>	No responses have been received from members of the public or those in the licensing industry.
<b>Environment and Climate Change:</b>	None arising out of this report.
<b>Consultation/Community Engagement:</b>	<ul style="list-style-type: none"> <li>• Consultation has taken place in writing with all stakeholders.</li> <li>• The draft policy has been in place on the Authority's website for comment for the duration of the consultation period.</li> </ul>
<b>Risks:</b>	None arising out of this report. .
<b>Officer Contact:</b>	John Meddings
<b>Designation:</b>	Licensing Officer
<b>Ext. No.</b>	2213
<b>E-mail:</b>	<a href="mailto:john.meddings@braintree.gov.uk">john.meddings@braintree.gov.uk</a>

## 1. Background

- 1.1 Section 5 of the Licensing Act 2003 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 the policy 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 2010 and the policy had taken effect on 7th January 2011.
- 1.5 Since the last review of the policy in 2011 there have been a number of significant changes to the Licensing Act 2003 by amendments made through the introduction of the Police Reform and Social Responsibility Act 2011, the Live Music Act 2012, the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, the Deregulation Act 2015 and the Legislative Reform (Entertainment Licensing) Order 2014.
- 1.6 There have also been a number of amendments to the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 1.7 The reviewed 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.
- 1.8 Whilst there have been significant changes to legislation which will be reflected in technical changes to the policy, the Authority does not propose 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, has been made available for public consultation following the Licensing Committee meeting of 29th April 2015 for a period of 12 weeks.
- 2.2 Letters advising people about the consultation process were sent to Responsible Authorities, Councillors and other persons who would have an interest in the policy, including businesses which are currently holders of a premises licence.
- 2.3 The policy has also been made available for viewing via the Council’s website.
- 2.4 One response has been received during the consultation period from Councillor Richard van Dulken (Appendix 2).

## **3. Equality Impact Assessment**

- 3.1 In accordance with the Authority’s obligations under the Equalities Act 2010, an Equality Impact Assessment has been completed in relation to this policy to determine the possible implications on equality.
- 3.2 The assessment has determined that the policy intends to treat everyone equally.



# ***LICENSING ACT 2003***

# ***STATEMENT OF LICENSING POLICY***

2016



## **FOREWORD**

This is the fourth Statement of Licensing Policy produced by Braintree District Council under the Licensing Act 2003. Since the adoption of the third statement in 2011, there have been a number of minor and more significant amendments to the Act, which have both strengthened powers to local Authorities and protections for communities but also deregulated certain activities in certain circumstances.

Some of the more notable amendments include the Licensing Authority being added as a Responsible Authority, the imposition of additional mandatory conditions, removal of the vicinity test in the consultation process, a summary review procedure in cases of serious crime or disorder, new offences and powers in relation to underage sales, the introduction of measures including Early Morning Restriction Orders and the Late Night levy, The removal of the requirement for certain community premises to have a designated premises supervisor, a simplified variation procedure, the deregulation of regulated entertainment in certain instances, including Live music, revision of the Temporary Event Notice provisions, the introduction of the concept of a Trusted Provider and the changes to the personal licence system which includes the abolition of renewals.

References in this statement to the Licensing Act 2003 are references to the Act as amended. This Statement sets out the general approach the Authority will be taking when making licensing decisions during the five year period up to January 2021. This Policy explains how the Council, acting in its capacity as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that local residents and communities need and expect.

The Licensing Authority recognises its key role in dealing with the consequences of over drinking, subsequent crime and antisocial behaviour and by working with our partner organisations has continued to achieve some notable successes in this area. Whilst it is accepted that the majority of the public are well behaved and responsible, we must not let a minority of badly behaved and inconsiderate individuals spoil life for the majority.

The Licensing Authority recognises how important the leisure and entertainment industry is to the economic and social well-being of the district and well-run businesses will get the support of the Authority. Applications for new leisure developments that are well planned and where issues such as crime and disorder, transport and public safety are considered early in the planning process are welcomed. However, the Licensing Authority has demonstrated on a number of occasions that it will not hesitate in dealing firmly where problems of anti-social behaviour fuelled by excess alcohol and other issues, such as the sale of alcohol to minors, exist.

This Policy will be kept under regular review and it will no doubt continue to change over a period of time to reflect local issues and circumstances. The Licensing Authority will seek through the licensing process and the decisions it takes, to make the Braintree District a safe and welcoming place for residents and visitors to live and visit.

Councillor Mike Banthorpe  
Chairman, Licensing Committee

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## 1.0 INTRODUCTION

### Introduction

- 1.1 Braintree District Council is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
- 1.2 When assessing applications, other than personal licences the Licensing Authority must be satisfied that the measures proposed in the applicant's operating schedule aim to achieve the four licensing objectives. Bold type refers to matters that the Licensing Authority expects to see addressed in the applicant's operating schedule, where appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of the licensing objectives and the control measures that could be implemented by the applicant to achieve that outcome. When assessing applications for Personal Licences the four licensing objectives will apply and the Licensing Authority must be satisfied that the tests established by the 2003 Act are fulfilled.
- 1.3 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.
- 1.4 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and private life; and
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions

### The Licensing Objectives

- 1.5 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives. These are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children From Harm

These are the only objectives that may be taken into account when determining applications for licences and conditions applied will be those necessary for achieving these objectives.

- 1.6 In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.**

### **Statement of Licensing Policy**

- 1.7 The 2003 Act requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act. It has been drafted in partnership with the Essex Joint Licensing Officers' Forum and the Braintree District Community Safety Partnership. This partnership provides a link to Safer Essex who will maintain a strategic overview of issues associated with permissions issued under the Licensing Act 2003, as amended.
- 1.9 In 2011 the Government made changes to the Licensing Act 2003 which now requires the local Authority to review its policy at least every five years. This Policy Statement takes effect on 7 January 2015 and will remain in force for a period of not more than 5 years. It will be subject to regular review and further consultation prior to January 2020.
- 1.10 The Authority must publish the policy before it carries out any function in respect of individual applications and notices made under the terms of the 2003 Act.

### **Consultation**

- 1.11 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.

- 1.12 In developing this Policy Statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Essex County Fire and Rescue Service), Director of Public Health for Essex, the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.
- 1.13 In writing this policy, the Authority has taken care to ensure that the policy is consistent with the provisions of the 2003 Act.

### **Links to other Strategies**

- 1.14 In preparing this statement of licensing policy, the Licensing Authority has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy. The Local Strategies to which this policy references and under which consultations have proceeded are listed at Appendix 2. In considering applications, the Licensing Authority and applicants should recognise the value of the objectives the strategies seek to promote.
- 1.15 Further, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will also be appraised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.16 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Planning Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the planning committee to have regard to such matters when making its decisions.
- 1.17 The Licensing Authority recognises its responsibilities under the Race Relations Act, 1976, as amended by the Race Relations (Amendment) Act, 2000. The impact of this policy on race relations will be monitored through the Council's race equality scheme.

### **Regulated Entertainment**

- 1.18 Having regard to the Council's Cultural Strategy and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities. The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Licensing

Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children.

## Applications

- 1.19 When considering applications, the Licensing Authority will have regard to
- the Licensing Act 2003, as amended and the licensing objectives,
  - Government guidance issued under Section 182 of the Licensing Act 2003, as amended.
  - any supporting regulations
  - this statement of licensing policy
- 1.20 This does not however undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 1.21 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority.
- However, applications for premises licences for permanent commercial premises should normally be from businesses with planning permission, a lawful development certificate or where an application for planning permission or certificate has been made for intended use of the property concerned.** (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.)
- 1.22 In the case Where Braintree District Council is required to apply for a premises licence, the licensing committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the committee. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority may be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.
- 1.23 In all cases, applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.
- 1.24 Appendix 6 provides applicants with the details of the application process, having regard to the Licensing Act 2003 as amended, the regulations, statutory guidance and local practice and procedures. It should be noted that incomplete applications will not be accepted but will be returned with an

explanation of why it is incomplete. An application will only be deemed to be properly served if it has been served as follows:-

(a) By post and sent to the address shown below:-

Licensing  
Braintree District Council  
Causeway House  
Braintree  
Essex  
CM7 9HB

or

- (b) Delivered in person to the above address during normal office opening hours, when a receipt will be issued.
- (c) Has been sent to the Licensing Authority by electronic means, in accordance with the EU Services Directive via the Governments web portal Gov.uk <https://www.gov.uk/>

## Representations

- 1.25 **The relevant Licensing Authority, Chief Officer of Police, the local fire and rescue Authority, the Enforcing Authority under the Health and Safety at Work Act 1974, the local authority with responsibility for Environmental Health, the local planning authority, the Essex Safeguarding Children's board, the relevant Director of Public Health and Trading Standards** are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications for premises licences and club premises certificates, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted.
- 1.26 In addition to the "Responsible Authorities" specified above any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing Authorities in relation to applications for the grant, variation, or review of relevant premises regardless of geographic proximity to the premises. Any representation must be 'relevant', in that the representation relates to one or more of the licensing objectives and must not be considered frivolous or vexatious.
- 1.27 In reference to 1.26 above, representations can be made by persons in their own right but may also request that a representative make a representation on their behalf, a representative may include a legal representative, a friend, a member of parliament, or a local ward or parish councillor who can all act in such a capacity. The list is not exhaustive and may include other examples.
- 1.28 The Authority will make an assessment as to the "relevancy" of any representation if it relates to the likely effect of the grant of the licence on the



promotion of at least one of the licensing objectives. Representations related to variations should be confined to the subject matter of the variation only.

- 1.29 With respect to representation received from parties other than “Responsible Authorities” the Authority will make an assessment as to whether the representation is frivolous or vexatious. The Authority would consider would make a judgement in each instance which would be on the basis as to whether the objection would cause aggravation or annoyance whether to a competitor or other person without reasonable cause or justification.
- 1.30 In the case where a person(s) are aggrieved that there representation has been discounted on the grounds that the representation is frivolous or vexatious can make a complaint via the Council’s Corporate Complaints procedure or via judicial review.

## **Conditions**

- 1.31 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives. Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed 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 that are within the control of individual licensees.
- 1.32 Braintree District Council acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:
- planning controls
  - positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other departments of the local authority
  - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
  - powers of local authorities 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, including the issuing of fixed penalty notices



- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- the confiscation of alcohol from children and adults in designated areas
- police powers to close (extendable to 48 hours) any licensed premises in respect of which a temporary events Notice has effect -on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
- the power of the police, other responsible authorities or other persons to seek a review of the licence or certificate in question
- Raising a contribution to policing the late night economy through the Late Night Levy.
- Early Morning Alcohol Restriction Orders
- The use (where appropriate) of Public Space protection orders (PSPO) as provided by the Anti-social Behaviour Crime and Policing Act 2014 to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality

- 1.33 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.
- 1.34 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premise, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will therefore be avoided and no condition will be imposed that cannot be shown to be necessary for the promotion of the licensing objectives.

### **Delegation of Functions**

- 1.35 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how the licensing authority intends to approach its various functions is attached at Appendix 8. The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

### **The Need for Licensed Premises**

- 1.36 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns as an example the commercial demand for another pub, restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

## Cumulative Impact of a Concentration of Licensed Premises

- 1.37 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 1.38 Cumulative impact policies may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises, and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol.
- 1.39 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.
- 1.40 The Licensing Authority should only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are resulting in unacceptable levels of crime and disorder or public nuisance.
- 1.41 The Licensing Authority, having regard to the evidence currently available, considers that there is no particular part of the district causing a cumulative impact on any of the licensing objectives.**
- 1.42 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be on the objector to provide evidence that additional licences or the variation of existing licences will produce the cumulative impact claimed.

## Advice and Guidance

- 1.43 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the 2003 Act, provide and welcomes the diversity of activities that are provided by licence holders. In respect of new businesses and developments involving licensable activities, the Licensing Authority welcomes an early opportunity to offer advice and guidance; this includes prior to seeking planning permission. At this stage, it is often easier and more cost effective to integrate such issues as crime and disorder, transport and public safety into the early design stages. With regard to existing businesses, discussions, prior to submitting an application under the 2003 Act, will be encouraged to assist applicants to develop their operating

schedule. Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.

- 1.44 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss the proposal with the licensing team and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.
- 1.45 Appendices 3 and 5 provide contact details of various organisations, trade associations and reference literature that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

## **Reviews**

- 1.46 The review process represents a valuable protection mechanism for the community where problems associated with the licensing objectives occur with regards a particular premises.
- 1.47 A review can be triggered at any time following the grant of a premises licence or club premises certificate. The review can be initiated by a responsible authority or other persons due to a matter arising at the premises relating to at least one of the four licensing objectives.
- 1.48 In instances where the Police have made the premises the subject of a closure order based on nuisance or disorder and the magistrates court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and disorder.
- 1.49 Where possible and appropriate the Licensing Authority, Essex Police and/or Essex Fire Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.50 No more than one review from interested parties will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

## **Enforcement**

- 1.51 Braintree District Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services.

- 1.52 The Authority has had regard to the Regulators Code in the development of this policy and any operational procedures relevant to this specific licensing regime. The Authority has regard when setting standards or providing guidance which will guide the regulatory activities of other regulators.
- 1.53 The Authority in following these principles if in a particular instance concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, will not follow that provision, but will aim to record the decision and the reasons for it.
- 1.54 The Code specifies the following guiding principles that the Council support and adopt:
- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
  - Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
  - Regulators should base their regulatory activities on risk
  - Regulators should share information about compliance and risk
  - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
  - Regulators should ensure that their approach to their regulatory activities is transparent
- 1.55 Braintree District Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit offences or fail to comply with licence conditions. Braintree District Council has set clear standards of service and performance that the public and businesses can expect. In particular, the Environmental Services statement of Enforcement Policy that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement are achieved. This policy is advertised and is freely available as are details of the Council's corporate complaints procedures. These documents can also be viewed on the Council's website: [www.braintree.gov.uk](http://www.braintree.gov.uk)
- 1.56 Braintree District Council has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and (Essex County Council) Trading Standards on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

## 2.0 LICENSING OBJECTIVES

2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

2.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome (in bold type). Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.**

2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.

2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for variation or in response to changing circumstances/conditions at the premises. In most situations it is good practice that a documented risk assessment would support the operating schedule.

2.5 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. **Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.**

2.6 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. **For this**

**reason, these elements should be specifically considered and addressed within an applicant's operating schedule.** For example, it would be good practice for applicants to maintain a register of all personal licence holders working at the premises including names, addresses, licence number and issuing licensing authority.

- 2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement of the four licensing objectives, (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). **The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed, where necessary, within an applicant's operating schedule and, in appropriate instances, will agree a maximum occupancy capacity, based on the applicant's assessment within their operating schedule.**
- 2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:
- the nature of the premises or event
  - the nature of the licensable activities being provided
  - the provision or removal of such items as temporary structures, such as a stage, or furniture
  - the number of staff available to supervise customers both ordinarily and in the event of an emergency
  - the age of the customers
  - the attendance by customers with disabilities, or whose first language is not English
  - availability of suitable and sufficient sanitary accommodation
  - nature and provision of facilities for ventilation
- 2.9 The Licensing Authority will consider applications for minor variations to premises licences, provided that the Authority is satisfied that the variation will not adversely impact on the licensing objectives and the Licensing Authority will consult with Responsible Authorities whom they deem necessary to make such assessment.
- 2.9.1 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the occupancy level of the premises without resort to such measures. **However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**



### 3.0 PREVENTION OF CRIME AND DISORDER

- 3.1 Braintree District Council is committed to further improving the quality of life for the people of the District of Braintree by continuing to reduce crime and the fear of crime. In preparing their operating schedules applicants will be expected to take account of Braintree District Council Community Strategy document together with any annual review documents. Copies are available on request.
- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Braintree District Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 as amended, reinforces this duty for local authorities.
- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.** (For the term “in the vicinity”, see paragraph 1.24)
- 3.4 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. For guidance purposes these may include:
- Underage drinking
  - Drunkenness on premises
  - Public drunkenness
  - Drugs
  - Violent behaviour
  - Anti-social behaviour
- 3.5 The following are intended to be examples of “control measures”. These are merely given to assist applicants who may wish to take account of them when preparing an operating schedule.
- Effective and responsible management of premises
  - Training and supervision of staff
  - Adoption of best practice guidance (e.g. Safer Clubbing, the National Safe Sensible Social Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
  - Local Alcohol Harm Reduction Strategy
  - Acceptance of accredited ‘proof of age’ cards e.g. PASS, locally approved ‘proof of age’ cards e.g. ‘Prove It’ and/or ‘new type’ driving licences with photographs
  - Provision of effective CCTV in and around premises

- Employment of Security Industry Authority licensed Doorstaff
- Provision of toughened or plastic drinking vessels
- Provision of secure, deposit boxes for confiscated items ('sin bins')
- Provision of litterbins and other security measures, such as lighting, outside premises
- Membership of local 'Pubwatch' schemes or similar organisations

3.6 Where applications are made for premises licences involving the supply of alcohol at sporting events, such as football grounds or premises for wrestling or boxing, the Licensing Authority will consider each application on its individual merits.

Applicants should consider in their operating schedule the individual characteristics of these premises and events and the particular nature of control measures that may, for example, be needed relating to the supply/consumption of alcohol in the grounds/at seats/ on the terraces of sporting events. Any applications of this nature will be considered particularly carefully by the Licensing Authority.

3.7 Within the operating schedule for premises from which alcohol will be sold (with the exception of qualifying community premises), a Premises Supervisor must be designated ('Designated Premises Supervisor' DPS). The Licensing Authority will normally expect the DPS to have been given the day to day responsibility for running the premises by the premises licence holder, and, as such, would normally attend the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training, or have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

3.8 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder, (see appendix 6 for details regarding the application process and timescales for the submission of Temporary Event Notices).

## 4.0 PUBLIC SAFETY

4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. **To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**



- 4.2 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact on the standards of public safety have been considered. These may include:
- the occupancy capacity of the premises
  - the age, design and layout of the premises, including means of escape in the event of fire
  - the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
  - the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
  - customer profile (e.g. age, disability)
  - the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- 4.3 The following are intended to be examples of “control measures”. These are merely given to assist applicants who may wish to take account of them when preparing an operating schedule:
- Suitable and sufficient risk assessments
  - Effective and responsible management of premises
  - Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
  - Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
  - Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide.
  - Provision of effective CCTV in and around premises
  - Provision of toughened or plastic drinking vessels
  - Implementation of crowd management measures
  - Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety, where not required by other legislation

## **5.0 PREVENTION OF PUBLIC NUISANCE**

- 5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

- 5.3 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening. The Licensing Authority will treat each case on its individual merits, however generally within areas having denser residential accommodation, or where relevant representations are received, the Licensing Authority will have particular regard to the potential for, and risk of nuisance occurring, when considering an application for opening after 23.00 hours. If appropriate, the Licensing Authority will impose stricter conditions to promote the licensing objective for the prevention of public nuisance.**
- 5.4 The Licensing Authority will consider each application on its individual merits. Where, in the individual circumstances of an application, the applicant has considered that such a report is not necessary the operating schedule should show what steps will be taken to negate the effect of any noise created on the surrounding residential community.**
- 5.6 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are good reasons for restricting those hours, relating to the prevention of crime and disorder and public nuisance, where relevant representations are made by an interested party or responsible authority. (For example, a limitation may be appropriate following police representation in the case of outlets known to be a focus of disorder and disturbance)
- 5.7 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.**
- 5.8 The following are intended to be examples of “control measures”. These are merely given to assist applicants who may wish to take account of them when preparing an operating schedule:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
  - the hours of opening, particularly between 23.00 and 07.00
  - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
  - the design and layout of premises and in particular the presence of noise limiting features
  - the occupancy capacity of the premises
  - the availability of public transport

- the length of time available between the end of the licensable activities and closure of the premises
- last admission time (premises charging for admission)
- arrangements for the proper collection and disposal of litter and waste in the vicinity of the premises (where relevant the Licensing Committee may place conditions on premises licences to this effect)

5.9 The following are intended to be examples of “control measures”. These are merely given to assist applicants who may wish to take account of them when preparing an operating schedule.

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers (larger Night Clubs)
- Siting of external lighting (including security lighting) sited on the premises
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

## **6.0 PROTECTION OF CHILDREN FROM HARM**

- 6.1 The protection of children from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 6.2 The general relaxation in the Licensing Act as amended, giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability

includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger. This applies to premises licensed under the Licensing Act, 2003, as amended, only and not those fully licensed and regulated as sexual encounter venues under the Local Government (Miscellaneous Provisions Act) 1982.

- 6.4 The Licensing Authority considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 6.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**
- 6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children 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 with a reputation for underage drinking
  - premises with a known association with drug taking or dealing
  - where there is a strong element of gambling on the premises, and
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 6.7 The following are intended to be examples of “control measures”. These are merely given to assist applicants who may wish to take account of them when preparing an operating schedule:
- Effective and responsible management of premises
  - Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
  - Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
  - Adoption of best practice guidance (The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks)

- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs
- Measures to ensure children do not purchase, acquire or consume alcohol
- Measures to ensure children are not exposed to incidences of strong and offensive language, violence or disorder

These examples can be adopted in any combination.

**6.8 In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.**

6.9 If considered appropriate, the licensing authority may require that adult supervisors be checked for suitability to work with children.

6.10 The Licensing Authority will rarely impose complete bans on access to children. In exceptional circumstances, conditions restricting access or excluding children completely may be considered necessary.



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.

Freeport factory outlet village 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, nightclub facilities and swimming pool complex.

Witham is the second largest town and is located in the south of the District on the main line 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



### **Connections between the licensing policy and other Council policies**

This policy is consistent with and is informed by the following policy documents:

1. The Braintree Community Safety Strategy 2015/16
2. The Braintree District Cultural Strategy
3. Braintree District Economic Development Prospectus 2013 – 2026
4. One District - One Vision - A strategy for people and places in the Braintree District
5. People Strategy
6. Braintree District Council Local Development Framework Core Strategy
7. National Planning Policy Framework
8. National Planning Policy Guidance
9. Essex Transport strategy 2011
10. Braintree District Corporate Strategy 2012 – 2016
  - **Place** - Ensuring that our district is a good place to live, work and play
  - **People** - Looking after the people and communities in our district
  - **Prosperity** - Ensuring that our economy grows sustainably
  - **Performance** - Providing excellent, cost effective and valued services for our customers
  - **Partnerships** - Delivering better outcomes by working with others

## **References to Guides and Best Practice**

## **Appendix 3**

Guidance Issued under Section 182 of the Licensing Act 2003	<a href="http://www.direct.gov.uk">www.direct.gov.uk</a> <a href="http://www.hmso.gov.uk">www.hmso.gov.uk</a>
The Alcohol Strategy	<a href="http://www.direct.gov.uk">www.direct.gov.uk</a>
Regulator's Compliance Code	<a href="http://www.berr.gov.uk">www.berr.gov.uk</a>
Environmental Health Enforcement Policy	<a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>
Essex Licensing Enforcement Protocol	<a href="http://www.basildon.gov.uk">www.basildon.gov.uk</a>
Safer Clubbing	<a href="http://www.drugs.gov.uk">www.drugs.gov.uk</a>
The National Alcohol Harm Reduction Strategy Toolkit	<a href="http://www.hmso.gov.uk">www.hmso.gov.uk</a>
The Point of Sale Promotions	<a href="http://www.beerandpub.com">www.beerandpub.com</a>
Security in Design	<a href="http://www.beerandpub.com">www.beerandpub.com</a>
Drugs and Pubs	<a href="http://www.beerandpub.com">www.beerandpub.com</a>
Fire Safety Risk Assessment Guides: Guide 6 – Small and Medium Places of Assembly Guide 7 – Large Places of Assembly Guide 9 – Open Air Events and Venues	<a href="http://www.communities.gov.uk">www.communities.gov.uk</a>
The Event Safety Guide	<a href="http://www.hse.gov.uk">www.hse.gov.uk</a>
Good Practice Guide on the Control of Noise from Pubs and Clubs	<a href="http://www.ioa.org.uk">www.ioa.org.uk</a>
Licensed Property: Noise	<a href="http://www.beerandpub.com">www.beerandpub.com</a>
The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks The Retailer Alert Bulletin	<a href="http://www.portman.group.org.uk">www.portman.group.org.uk</a>
British Institute of Innkeepers Best Practice Training Qualification Door Supervisors Personal Licence Holders Other Bar Staff	<a href="http://www.bii.org">www.bii.org</a>

**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  
Railway Street  
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<br>(Pollution)       | <p>Environmental Health<br/>Braintree District Council<br/>Causeway House<br/>Bocking End<br/>Braintree<br/>Essex CM7 9HB</p> <p>Tel:           01376 551414 ext 2223<br/>E-mail:       envpro@braintree.gov.uk</p>   |
| 6.  | Environmental Health<br>(Health & Safety) | <p>Environmental Health<br/>Braintree District Council<br/>Causeway House<br/>Bocking End<br/>Braintree<br/>Essex CM7 9HB</p> <p>Tel:           01376 551414 ext 2221<br/>E-mail:       healthprotection@braintree.gov.uk</p>   |
| 6a. | Health/Safety Executive                   | <p>Operations Manager<br/>Health and Safety Executive<br/>Wren House, Hedgerows Business Park<br/>Colchester Road<br/>Springfield, Chelmsford<br/>Essex CM2 5PF</p> <p>Tel:           01245 706200<br/>Web:          <a href="http://www.hse.gov.uk">www.hse.gov.uk</a></p> |
| 7.  | Planning Authority                        | <p>Development Services Manager<br/>Development Services<br/>Braintree District Council<br/>Causeway House<br/>Bocking End<br/>Braintree Essex CM7 9HB</p> <p>Tel:           01376 552525<br/>E-mail:       Plancomments@braintree.gov.uk</p>                               |
| 8.  | Trading Standards                         | <p>Essex Trading Standards<br/>Essex County Council<br/>CG32, County Hall<br/>Market Road<br/>Chelmsford CM1 1QH</p> <p>Tel:           0845 6037626</p>   |

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)

**Contact details and useful addresses**

1. Arts Council England  
14 Great Peter Street  
London SW1P 3NQ  
  
Tel: 0845 300 6200  
E-mail: [enquiries@artscouncil.org.uk](mailto:enquiries@artscouncil.org.uk)  
Web: [www.artscouncil.org.uk](http://www.artscouncil.org.uk)
2. Association of Licensed Multiple Retailers  
9b Walpole Court  
Ealing Studios  
London W5 5ED  
  
Tel: 0208 579 2080  
E-mail: [info@almr.org.uk](mailto:info@almr.org.uk)  
Web: [www.almr.org.uk](http://www.almr.org.uk)
3. Braintree District Arts  
Room B 2nd Floor,  
36 George Yard Shopping Centre  
Braintree  
Essex CM7 1RB  
  
Tel: 01376 550373 (Office hours only)  
E-mail: [info@braintreedistrictarts.org.uk](mailto:info@braintreedistrictarts.org.uk)  
Web: [www.braintreedistrictarts.org.uk](http://www.braintreedistrictarts.org.uk)
4. British Beer and Pub Association  
Market Towers  
1 Nine Elms Lane  
London SW8 5NQ  
  
Tel: 0207 627 9191  
E-mail: [web@beerandpub.com](mailto:web@beerandpub.com)  
Web: [www.beerandpub.com](http://www.beerandpub.com)
5. British Board of Film Classification  
3 Soho Square  
London W1 D 3HD  
  
Tel: 0207 440 1570  
E-mail: [helpline@bbfc.co.uk](mailto:helpline@bbfc.co.uk)  
Web: [www.bbfc.co.uk](http://www.bbfc.co.uk)

6. British Institute of Innkeeping  
Wessex House  
80 Park Street  
Camberley  
Surrey GU15 3PT  
  
Tel: 01276 684449  
E-mail: [reception@bii.org](mailto:reception@bii.org)  
Web: [www.bii.org](http://www.bii.org)
7. Equality & Human Rights Commission  
Fleetback House  
2-6 Salisbury Square  
London EC4Y 8JY  
  
Tel: 0207 8327800  
E-mail: [Correspondence@equalityhumanrights.com](mailto:Correspondence@equalityhumanrights.com)  
Web: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)
8. Essex Chamber of Commerce  
2nd Floor  
Viscount House  
London Southend Airport SS2 6YF  
  
Tel: 01702 716000  
Email: [info@essexchambers.co.uk](mailto:info@essexchambers.co.uk)  
Web: [www.essexchambers.co.uk](http://www.essexchambers.co.uk)
9. Community Safety Partnership  
Braintree District Council  
Causeway House  
Braintree  
Essex CM7 9HB  
  
Tel: 01376 552525  
E-mail: [tracey.parry@braintree.gov.uk](mailto:tracey.parry@braintree.gov.uk)  
Web: [www.braintree.gov.uk](http://www.braintree.gov.uk)
10. Racial Equality Council  
Lower Ground Floor  
Civic Centre  
Victoria Avenue  
Southend on Sea  
Essex SS2 6EP  
  
Tel: 01702 333351  
E-mail: [southend@essex-rec.co.uk](mailto:southend@essex-rec.co.uk)  
Web: [www.essexrec.org.uk](http://www.essexrec.org.uk)

11. Essex Trading Standards  
Essex County Council  
CG32  
County Hall  
Market Road  
Chelmsford CM1 1QH  
  
Tel: 0845 6037626  
E-mail:  
Web: <https://www.essex.gov.uk>
12. Equity  
Guild House  
Upper Martins Lane  
London WC2H 9EG  
  
Tel: 0207 379 6000  
E-mail: [info@equity.org.uk](mailto:info@equity.org.uk)  
Web: [www.equity.org.uk](http://www.equity.org.uk)
13. Institute of Acoustics  
3<sup>rd</sup> Floor St Peters House  
45-49 Victoria Street  
St Albans  
Hertfordshire AL1 3BN  
  
Tel: 01727 848195  
E-mail: [ioa@ioa.org.uk](mailto:ioa@ioa.org.uk)  
Web: [www.ioa.org.uk](http://www.ioa.org.uk)
14. Musicians Union  
60-62 Clapham Road  
London SW9 0JJ  
  
Tel: 0207 840 5537  
E-mail: [eastsoutheast@musiciansunion.org.uk](mailto:eastsoutheast@musiciansunion.org.uk)  
Web: [www.musiciansunion.org.uk](http://www.musiciansunion.org.uk)
15. Security Industry Authority  
PO Box 8  
Newcastle upon Tyne NE82 6YX  
  
Tel: 08702 430100  
E-mail: [info@the-sia.org.uk](mailto:info@the-sia.org.uk)  
Web: [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk)



16. The Portman Group  
7-10 Chandos Street  
Cavendish Square  
London W1G 9DG

Tel: 0207 907 3700  
E-mail: [info@portmangroup.co.uk](mailto:info@portmangroup.co.uk)  
Web: [www.portmangroup.org](http://www.portmangroup.org)

## **DETAILS OF APPLICATION PROCESS**

### **GENERAL INFORMATION**

#### **1. GRANT OF A PREMISES LICENCES**

All applications to be made under the provisions of the Licensing Act 2003, as amended, must be made in the form specified by the Secretary of State.

#### **Electronic Applications**

The EU Service Directive is intended to develop a single market for services by breaking down barriers to cross border trade within the EU and making it easier for service providers within scope to set up businesses or offer their services in other EU countries. In light of the changes to the law regarding the EU Services Directive for online applications the Licensing Authority will accept online and electronic applications, however all relevant documents must be supplied together with the appropriate fee. All hard copy applications will be treated in line with the relevant regulations and all applications and relevant documentation must continue to be submitted in their entirety and not in stages to avoid the potential for any errors.

This Authority will continue to assist the applicant in correcting any minor factual errors in their applications. However, the Licensing Authority shall not consider errors to fall within this category which, if permitted could potentially breach relevant regulations nor errors which could result in changes to consultation dates. The interpretation of obvious factual errors shall rest with the Licensing Authority.

Applicants wishing to submit an online application, should follow the attached link:

<http://www.braintree.gov.uk/info/200249/licensing>

General guidance notes regards making an application can be located via the Council's website on [www.braintree.gov.uk](http://www.braintree.gov.uk).

On receipt of an application, the Licensing Authority will check the form and the accompanying documents to ensure that their copy of the application is complete. If the application is not complete, the application will be rejected and all documentation, including the fee, will be returned to the applicant together with an explanation of why the application cannot be accepted. If the application is submitted electronically and is found not to be complete the applicant will be notified, by e-mail, that the application has been rejected.

Copies of all applications submitted to the Licensing Authority must also be forwarded to the Responsible Authorities as detailed in the Guidance Notes at the same time that the application is sent to the proper office of the Licensing Authority as shown in the Licensing Policy. The Responsible Authorities' contact details are also included in Appendix '4' attached to the Licensing Policy. An application is not

deemed as complete unless the Responsible Authorities have been served and received a copy of the application, together with any supporting documents and plan(s) of the premises, on the same day that the application is submitted to the Licensing Authority. For applications submitted online the Licensing Authority will forward copies of complete applications to the Responsible Authorities.

The Licensing Authority will notify the Responsible Authorities that an application has been received and will request confirmation that they have received their copy. If a copy of the application has not been received by any of the consultees by noon the day following the submission of the application to the Licensing Authority, the application will be rejected and all documents, including the fee received by the Licensing Authority will be returned. This will mean that the applicant will have to submit a completely new application.

If the application is confirmed as being complete, with the Responsible Authorities having received their copy of the application together with any supporting documentation, then the timescale laid down by the Government will commence, namely, that an application for the grant or variation of a Premises Licence must be determined within a period of two months from the date a complete application is received, otherwise the application will be deemed as granted (under the EU Services Directive this is known as a Tacit Consent).

The applicant and the Licensing Authority will be informed by the relevant consultee whether or not the application is valid, i.e. that their relevant Licensing Objective has been fully met within their business Operating Schedule and if a representation [objection] is to be lodged. If a representation is received a date will be set for the application to be heard by one of the Premises/Personal Licences Sub-Committees. In the meantime, the applicant and the consultee will be expected to meet and negotiate with a view to that representation being withdrawn and therefore remove the necessity for a Hearing to take place.

On the day that the application has been submitted, a notice to that effect has to be displayed on the premises for a period of 28 days so that members of the public may be aware that an application has been submitted to the Licensing Authority allowing them to make representations if they so wish. The notice must be coloured blue and shall be no less than a minimum of A4 in size with a type size of not less than 12 pitch. The application will also be required to be advertised in a local newspaper in the area in which the premises are situated and the Local Authority will place basic details of the application on their website. If a representation is received which is relevant to one of the four Licensing Objectives, a Hearing will be required. A provisional date for the Hearing will be set and all parties will be advised. In the meantime, the Licensing Authority will initiate a meeting with the applicant and the person making the representation with a view to seeing if an agreement can be reached and the representation withdrawn. If this cannot be achieved, a firm Hearing date will be set and all parties will be advised.

If no representations are received from any source by the relevant expiry date, the application will be dealt with by Council Officers and the licence issued on the terms and conditions as requested.

If an application has to be heard by a Premises and Personal Licences Sub Committee, the decision and the reasons for arriving at that decision will be given to all parties as soon as possible after the decision has been reached. Any party who disagrees with the decision of the Licensing Authority has the right of appeal to the Magistrates' Court and they will be informed of their right of appeal when they receive notification of that decision.

## **2. VARIATION OF A PREMISES LICENCE**

The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online.

The application procedure for the variation of a Premises Licence will follow the same procedural steps as for the grant of a Premises Licence as set out in 1. above, with the exception of a Minor Variation Application and applicants are advised, in the first instance, to contact the Licensing Team on, 01376 557790 or [licensing@braintree.gov.uk](mailto:licensing@braintree.gov.uk) for advice prior to submission, as the application is deemed as rejected if not dealt with within the 15 working day period.

The Act states that a licence may not be varied so as to extend the period for which the current licence has effect nor to seek to vary substantially the premises to which the existing Licence(s) relates. If applicants are in any doubt as to whether they should apply for a variation of their Premises Licence or make a grant application, they should seek advice from the Licensing Authority.

## **3. TRANSFER OF A PREMISES LICENCE**

The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online.

Although procedural arrangements follow those set out in 1. above, it should be noted that only the Police Authority must be consulted and receive a copy of the application and that the period for the receipt of representations from this source is 14 days. For applications submitted electronically the Licensing Authority will serve a copy of the application on the Police Authority.

If no representations are received, the application will be granted in accordance with 1(i) above.

If a representation is received then a Hearing will be arranged in accordance with the procedure set out in 1. above.

## **4. DESIGNATED PREMISES SUPERVISOR**

### **GRANT/SUBSTITUTION OF DESIGNATED PREMISES SUPERVISOR**

Where a licensable activity includes the sale of alcohol, the applicant has to include in his application details of the person he wishes to be specified in the Premises

Licence as the Designated Premises Supervisor. Should it be necessary to request that the licence be varied to so as to substitute another person to act as the Designated Supervisor the following procedure is to be adopted:-

An application shall be submitted to the Licensing Authority in the specified format, together with the documentation specified in the Guidance Notes. Applications can also be submitted online.

A copy of the notice shall be served upon the Police Authority. For applications submitted electronically the Licensing Authority will serve a copy of the notice on the Police Authority.

A copy of the notice shall be served upon the Designated Premises Supervisor [if there is one]

It will be necessary to state whether the application requires the variation to take immediate effect.

The procedure for determining the application follows the normal procedure set out in 3. above in that, if there are no representations from the Chief Officer of Police, the application must be granted.

If representations are received, the Licensing Authority will notify all parties and, unless the representation is withdrawn, a Hearing will be held in accordance with the procedure already detailed in this Appendix.

#### **REMOVAL OF DESIGNATED PREMISES SUPERVISOR**

Where an individual wishes to cease being the Designated Premises Supervisor in respect of a Premises Licence he or she may give the Licensing Authority notice to that effect together with the documentation required for the particular type of notice being given and detailed in the Guidance Notes. Applications can also be submitted online.

Within 48 hours of the notice being served upon the Licensing Authority, the individual must [unless he or she is the Premises Licence holder] serve a copy of the notice and another notice requiring the Premises Licence holder to send the Premises Licence to the Licensing Authority. The Premises Licence holder must comply with this request within 14 days of that notice.

- (c) Provided that the proper notices are served and documentation supplied within the specified timescales, the Licensing Authority will no longer treat that individual as the Designated Premises Supervisor.

#### **5. PROVISIONAL GRANT APPLICATIONS**

The Licensing Act 2003, as amended, permits the granting of Provisional Licences to allow applications to be accepted for the grant of a Premises Licence where the actual premises has not been built or where works are necessary to be carried out to bring the building into use for any purposes covered by the Act. Guidance notes will



be available for those persons wishing to make this type of application and may be obtained from the Licensing Authority upon request.

## **6. INTERIM AUTHORITY NOTICES**

Should a Premises Licence lapse due to the death, incapacity or insolvency of the licence holder, then an application may be made to the Licensing Authority for an Interim Authority Notice to enable the premises to continue to trade pending a transfer application being made.

An application may be submitted by a Personal Representative, a person holding a Power of Attorney or an Insolvency Practitioner.

As soon as the Interim Authority Notice is given, the Premises Licence will be reinstated as from that time and the person who gave the notice will be considered to be the holder of the Premises Licence.

The Premises Licence will lapse after a period of 28 days unless a copy of the notice has been given to the Chief Officer of Police or a Transfer application has been submitted to the Licensing Authority.

If no representation is received, the application will be processed by Officers of the Licensing Authority.

If the Chief Officer of Police wishes to object to the transfer on the grounds of the Crime and Disorder Licensing Objective he must, within 48 hours of receiving the notice, give notice to the Licensing Authority stating the reasons for this decision and, unless the representation is withdrawn, a Hearing will be arranged in accordance with the procedure set out above.

There is nothing to prevent the person giving the Interim Authority Notice from making a transfer application if it is made during the Interim Authority period or if the application for the Interim Authority application is rejected or withdrawn or if the licence lapses again at the time of rejection or withdrawal

In certain circumstances, the Interim Authority Notice may be cancelled if the Crime and Disorder objective is being undermined and the Act provides the procedure which must be followed in this event.

## **7. REINSTATEMENT OF LICENCE**

The Act provides that an application for the reinstatement of a licence following the events set out in Paragraph 6 above can be made when the Interim Authority Licence ceases to have effect when it is cancelled or withdrawn. The application must be made no later than seven days after the licence has lapsed and where an application for transfer has been made.

## **8. GRANT OF A PERSONAL LICENCE**

The sale of alcohol may not be made under a premises licence unless there is a Designated Premises Supervisor in respect of the premises (who must hold a

personal licence; and every sale must be made or authorised by a personal licence holder.

The exception to this rule applies for those Community Premises which have successfully applied to the Licensing Authority to remove the DPS requirement. Premises where the requirement for a personal licence holder applies may have more than one personal licence holder at the premises. The requirement that every sale of alcohol must at least be authorised by a personal licence holder does not mean that the licence holder has to attend or oversee each sale; it is sufficient that such sales are authorised.

There is no requirement to have a DPS in relation to Temporary Event Notice or Club Premises Certificate, and sales or supplies of alcohol authorised by a TEN or Club Premises Certificate do not need to be authorised by a personal Licence Holder.

#### Eligibility

In the case of an application for a personal licence the requirements are:

The applicant must be aged over 18

The applicant possesses a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person as prescribed in the Licensing Act 2003 (Personal Licences) Regulation's 2005

The applicant has paid the appropriate fee to the licensing Authority  
In a case in which the applicant has an unspent conviction for a relevant offence or a foreign offence, the police have not objected to the grant of the application on crime prevention grounds or the licensing authority has considered their objection but determined that the grant of the application will not undermine the crime prevention objective.

Applicants who are ordinarily resident in a licensing authority's area are required to make an application to that licensing authority. An applicant who is not ordinarily resident in a licensing authority's area (which may include persons living outside England and Wales), may apply for the grant of a personal licence to any licensing authority in England and Wales.

#### **Criminal records**

As part of the process, in accordance with regulations, applicants must include a criminal conviction certificate, a criminal record certificate or the results of a subject access search of the Police National Computer by the National Identification Service to the licensing authority.

The authority is required to notify the Police when an applicant is found to have an unspent conviction for a defined relevant offence or for a foreign offence. In the case where the Police object to an applicant who has a defined relevant offence or for a foreign offence on crime prevention grounds, the applicant is entitled

to a hearing before the authority. If the Police do not issue an objection Notice and the application otherwise meets the requirements of the Act, the authority must grant the application.

Certain defined relevant offences never become spent, however if an applicant can demonstrate that the offence in question took place so long ago and that the applicant no longer has a propensity to re-offend, the authority may consider it appropriate to grant the application on the basis that doing so would not undermine the crime prevention objective.

Applications that are refused, the applicant is entitled to appeal the decision made. In a case where an application is granted despite a police objection notice, the Chief Officer of Police is entitled to appeal against the authority's decision.

Relevant Authority

A personal licence can be surrendered suspended revoked or declared forfeit by the courts. Once granted the authority remains the "relevant licensing authority" for it and its holder, even though the individual may move out of the licensing authority area.

Change of details

The licence holder is required to notify the authority of any changes of name or address and any changes are to be recorded by the authority. The licence holder and the courts must notify the authority of any defined relevant convictions and the licence holder must advise the authority of any foreign offences.

Renewal

The Deregulation Act 2015 removes the requirement to renew a personal licence every ten years as was previously intended in the Licensing Act 2003. The provision came into effect from 1<sup>st</sup> April 2015.

## **9. EXEMPTIONS**

The following activities are not regarded as Regulated Entertainment and are exempt for the purposes of the Act: -

Incidental Music - the performance of live music or the playing of recorded music if it is incidental to some other activity,

Incidental film – an exhibition of moving pictures if it is incidental to some other activity,

A spontaneous performance of music, singing or dancing,

Garden fetes – or similar if not being promoted or held for purpose of private gain,

Films for advertisement, information, education or in museums or art galleries,

Television or radio broadcasts – as long as the programme is live and simultaneous,

Vehicle in motion – at a time when the vehicle is not permanently or temporarily parked,

Games played in pubs, youth clubs etc ( e.g. pool, darts and table tennis);

Stand-up comedy; and

Provision of entertainment facilities (e.g. dance floors)

As a result of deregulatory changes that have amended the Licensing Act 2003, no licence is required for the following:

Plays: performances between 08:00 – 23:00 on any day provided the audience does not exceed 500.

Dance: performances between 08:00 – 23:00 on any day provided the audience does not exceed 500. Any dance that is adult entertainment remains licensable.

Films: no licence is required for “not for profit” film exhibition held in community premises between 08:00 – 23:00 on any day provided the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises and (b) ensures that each such screening abides by age classification rating.

Indoor sporting event: no licence is required for an event between 08:00 – 23:00 on any day, providing that those present does not exceed 1000.

Boxing and Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco – Roman wrestling or freestyle wrestling between 08:00 – 23:00 on any day, providing the audience does not exceed 1000.

Live music: no licence is required for:

A performance of unamplified live music between 08:00 – 23:00 on any day, at any premises.

A performance of amplified live music between 08:00 – 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500. Provided that a number of other conditions are satisfied (see paragraphs 15.38 – 15.43 of the Home Office guidance 182 Licensing Act 2003).

A performance of amplified live music between 08: 00 - 23:00 on any day, in a workplace (The Live Music Act 2012 provides that if premises are licensed under the 2003 Act, they cannot also be treated as a workplace for the purpose of the 2012 Act) that is not licensed to sell alcohol on those premises, provided the audience does not exceed 500.

A performance of amplified live music between 08:00 – 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is

not licensed to sell alcohol. Provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

A performance of amplified live music between 08:00 – 23:00 on any day, at the non – residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500 , and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school, or (iii) the health care provider for the hospital.

Recorded Music: no licence is required for:

Any playing of recorded music between 08:00 – 23:00 on any day on any premises authorised to sell alcohol for consumption on those premises, providing the audience does not exceed 500. (Provided that a number of other conditions are satisfied (see paragraphs 15.38 – 15.43 of the Home Office guidance 182 Licensing Act 2003).

Any playing of recorded music between 08:00 – 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

Any playing of recorded music between 08:00 – 23:00 on any day at the non – residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor, or (iii) the health care provider for the hospital.

Cross activity exemptions: no licence is required between 08:00 – 23:00 on any day , with no limit on audience size for:

Any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

Any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;

Any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and;

Any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a movable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

## TEMPORARY EVENT NOTICES

### APPLICATION PROCESS / TIMESCALES

The system of permitted temporary activities is intended as light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried out on the “premises user” gives notice to the authority of the event.

#### **Limitations**

A number of limitations are imposed on the use of TENS which apply to:

- The number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and five times in a calendar year for other people.
- The number of times a TEN may be given for any particular premises (12 times in a calendar year. (From January 1<sup>st</sup> 2016 this will increase to 15 times in a calendar year)
- The maximum duration of an event authorised by a TEN is 168 hours (seven days)
- The maximum total duration of the events authorised by TENS in relation to individual premises (21 days in a calendar year)
- The maximum number of people attending at any one time (fewer than 500)
- The minimum period between events authorised under separate TENS in relation to the same premises (not including withdrawn TENS) by the same user (24 hours).

There is also a limitation that any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The Act defines an associate in relation to the premises user as being:

- The spouse or civil partner of that person
- A child, parent, grandchild, grandparent, brother or sister of that person
- An agent or employee of that person or
- The spouse or civil partner of a person listed in either of the two preceding bullet points.

Activities that exceed these limits will require a premises licence or club premises certificate. TENS may also be given in respect of premises which already hold a licence to cover licensable activities not permitted by the existing authorisation.



## **Standard and Late Temporary Event Notices**

Excluding the day the Notice is received and the first day of the event to which it relates, the Notice must be submitted "Ten working days" in advance. A Notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year will be returned as void and the activities described in it will not be authorised.

From the date of submission, the Police and Environmental Health have a period of three working days from when they are given the Notice to object to the Notice if they so wish on the basis of any of the four licensing objectives. Where an objection is given, there is provision for the Police or Environmental Health to agree with the premises user to modify the TEN.

The authority requires that notices are not given to the authority more than 6 months in advance of the first day of the event.

A late Temporary Event Notice can be given to the authority up to five working days but no earlier than nine working days before the event is due to take place. The number of late TENs that can be given in a calendar year is limited to TEN for personal licence holders and two for non personal licence holders.

Late TENs count towards the total number of permitted TENs and once these limits have been reached, the licensing authority will issue a counter notice if any more are given.

## **Application Process**

The TEN must be given to the authority in the form prescribed. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment.

The Notice can be submitted in two ways.

- 1) Written applications
- 2) Electronic applications

## **Service of written standard Temporary Event Notices and Late Temporary Event Notices**

In order for your Notice to be deemed as having been properly served, you should proceed in accordance with the Temporary Event procedures set out at the end of the application form. The form should be completed in accordance with the instructions contained in the form, which should be submitted as follows:-

- (a) Two copies to the Licensing Authority at the following address:

The Licensing Officer, Braintree District Council, Causeway House,  
Braintree, Essex CM7 9HB

(b) One copy to Essex Police at the following Address:

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

### **Service of electronic standard Temporary Event Notices and Late Temporary Event Notices**

The authority encourages the submission of notices electronically. Applicants using the electronic facility via the following link

[https://www.braintree.gov.uk/info/200579/temporary\\_event\\_notice](https://www.braintree.gov.uk/info/200579/temporary_event_notice)

are not in addition required to serve notices on either the Police or Environmental as the authority will do this on your behalf.

**N.B.** When accepting an application for a Temporary Event Notice, the Licensing Authority will assume that the applicant has ensured that all the necessary permissions and planning consents have been obtained to enable the particular event to take place.

### **The role of the authority**

The authority will check that the limitations set down in the act are being observed and take action if not.

Where the application is not within statutory limits the authority will issue a counter notice the premises user.

Where the TEN or Late TEN is in order, the relevant fee is paid and there are no objections by the Police or Environmental Health, the authority will record the notice in the register and send an acknowledgement to the premises user

If the authority receive an objection notice from the Police or Environmental and which is not withdraw, (in the case of a standard TEN only) a hearing will be convened unless all parties following discussions agree that this will not be necessary. If the Licensing Authority upholds the representation, then a Counter Notice will be issued giving the reasons for the decision and copies of the Notice will be given to the Police or Environmental Health. However, if the Temporary Event noticed is in order and no Counter Notice is given, the Licensing Authority will record the event in the Licensing Register and the event will proceed.

### **Applying conditions**

Only the authority can impose conditions from the existing conditions on the premises licence or club premises certificate to a TEN. The authority can only do so:

- If the Police or Environmental Health have objected to the TEN
- If that objection has not been withdrawn

- There is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given.
- And if the authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

## **Appeals**

If, as a result of the Police or Environmental Health lodging a representation, the Licensing Authority issues a Counter Notice, the premises user has the right of appeal. However, there is no right of appeal in the case of a Late Temporary Event Notice or where the limits have been exceeded with regard to the number of persons attending the event or where the premises user has not given the required ten working days' notice.

Similarly, if the Police or Environmental Health lodge a representation and the Licensing Authority does not issue a Counter Notice, the Police may appeal against that decision.

In both cases the appeal is made to the Magistrates' Court within 21 days, commencing on the day which either party was notified of the decision either to issue - or not issue - a Counter Notice. However, no appeal may be brought later than 5 working days before the first day of the relevant event period.

**Delegation of Functions****Appendix 7**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal Licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made regarding cumulative impact	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	

Determination of application to vary premises licence at community premises to include alternative licence condition			All cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

**List of persons/bodies consulted in preparation of this Policy**

In accordance with Section 5(3) of the Licensing Act 2003, Braintree District Council consulted with the following during the course of the preparation of this Statement of Licensing Policy:

1. The Chief Officer of Police for Braintree District;
2. The Essex Fire and Rescue Service;
3. persons/bodies representative of local holders of premises licences;
4. persons/bodies representative of local holders of club premises certificates;
5. persons/bodies representative of local holders of personal licences; and
6. persons/bodies representative of businesses and residents in the Braintree District.



**Webb, Alison**

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**From:** cllr.rvandulken@braintree.gov.uk  
**Sent:** 22 July 2015 11:10  
**To:** Meddings, John  
**Subject:** RE: Licensing Act 2003 - Policy Review

Dear John;

Thank you for circulating this document. I am, by the way, on the Licencing Committee for 2015/16.

My comments are as follows:

1. The Policy Statement says, of the four licencing objectives, that "these are the only objectives that may be taken into account when determining applications for licences". I suggest that the word "may" is too vague and that "**can**" or "**will**" might serve the purpose better. In addition, and more importantly, should the four objectives actually be "**minimum objectives**", or could this nuance somehow be brought into the Policy?
2. 1.15 - the word should I think be "**apprised**" not "appraised".
3. There could be a fifth objective (wording to be defined) along the lines of "**Avoidance of undue burden on NHS and emergency services**" in dealing with the aftermath of Friday and Saturday evening sessions in particular. This is something on which I have strong views, whereby already stretched medical and police resources are often diverted from their prime responsibilities to deal with the unfortunate results of totally avoidable nocturnal accidents and drunkenness....
4. 1.33 - Line 3. Instead of "may" perhaps substitute "**shall at the discretion of the Licensing Authority.....**"
5. Re Reviews: 1.47 - should there be a better definition of "other persons"? Could this be just one aggrieved local resident who can call for a review?

I hope that these thoughts are helpful.

Regards

Cllr. Richard van Dulken  
 BDC - Yeldham Ward




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**From:** Meddings, John  
**Sent:** 21 July 2015 16:37  
**To:** All Councillors  
**Subject:** Licensing Act 2003 - Policy Review

Dear Councillors

### The Licensing Act 2003 – Review of the Braintree District Council's Licensing Policy Statement

Under the terms of the Licensing Act 2003, Braintree District Council, being the Licensing Authority under the Act, is required to review its licensing policy statement every five years. The original licensing policy came into effect in January 2005 and was last reviewed in 2010.

The policy must now be fully reviewed, and re-published by no later than 7<sup>th</sup> January 2016. A revised draft policy has been prepared for consultation purposes and can be accessed from the Council's website:

[http://www.braintree.gov.uk/info/200137/consultations/96/contribute\\_to\\_a\\_council\\_consultation](http://www.braintree.gov.uk/info/200137/consultations/96/contribute_to_a_council_consultation)

The consultation will take place between **20<sup>th</sup> July 2015** and **13<sup>th</sup> October 2015**.

Braintree District Council would value any comments you may have on the content of the Policy. If you wish to make any representation regarding this consultation then please do so, by either emailing your comments to [licensing@braintree.gov.uk](mailto:licensing@braintree.gov.uk) or writing to me at, Licensing, Braintree District Council, Causeway House, Braintree, Essex CM7 9HB by

If you have any questions regarding the above please do not hesitate to contact me.

Yours sincerely

**John Meddings**  
**Licensing Officer**

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

☎ 01376 552525 Ext. 2213 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | ✉ [john.meddings@braintree.gov.uk](mailto:john.meddings@braintree.gov.uk)

COMMENCEMENT OF STUDY OF SERVICE PROVIDED BY HACKNEY CARRIAGE VEHICLES IN THE BRAINTREE DISTRICT		Agenda No: 7
Portfolio	Environment and Place	
Corporate Priority:	Encouraging flourishing communities Boost employment skills and support business	
Report presented by:	John Meddings, Licensing Officer	
Report prepared by:	Daniel Mellini, Environmental Health Manager	
Background Papers:	Public Report	
None	Key Decision: No	
Executive Summary:		
<p>The Authority is required to commission a survey to ascertain whether there are a sufficient number of licensed Hackney Carriage vehicles in the District. The Authority must commission the survey in order to meet its obligations in accordance with Section 16 of the Transport Act 1985 and to defend the current policy of restricting the quantity of Hackney Carriage vehicle licences.</p> <p>The purpose of this report is to inform the Licensing Committee that the Authority is in the process of seeking tenders to commission a survey to ascertain whether there are sufficient licensed Hackney Carriage vehicles in the District. Once the provider has been appointed and the survey completed, a further report will be presented to the Licensing Committee for consideration.</p>		
Decision:		
<p>That the report be noted.</p>		
Purpose of Decision:		
<p>To inform the Committee about the process for commissioning a survey to ascertain whether there are sufficient licensed Hackney Carriage vehicles in the District.</p>		

<b>Corporate Implications</b>	
<b>Financial:</b>	The direct cost of the last survey which was completed in 2012 was £13,700. The cost of the forthcoming survey has not been determined at this time. The cost of the survey is to be met by the licensed Hackney Carriage Trade, recovered within the licence fee.
<b>Legal:</b>	<p>The present legal provision on quantity restrictions for Hackney Carriages outside London is set out in Section 16 of the Transport Act 1985. This provides that the grant of a Hackney Carriage Proprietor's licence may be refused for the purpose of limiting the number of licensed Hackney Carriages 'if, but only if, the Council is satisfied that there is no significant demand for the services of Hackney Carriages within the Braintree District which is unmet'.</p> <p>The Licensing Committee will be aware that, in the event of a challenge to a decision to refuse a licence, the Council would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.</p>
<b>Safeguarding:</b>	None arising from this report.
<b>Equalities/Diversity:</b>	None arising from this report.
<b>Customer Impact:</b>	None arising from this report.
<b>Environment and Climate Change:</b>	None arising from this report.
<b>Consultation/Community Engagement:</b>	Consultation with the licensed trade and users of Hackney Carriage Vehicles in the District.
<b>Risks:</b>	Potential legal challenge should the survey not be completed.
<b>Officer Contact:</b>	John Meddings
<b>Designation:</b>	Licensing Officer
<b>Ext. No.</b>	2213
<b>E-mail:</b>	<a href="mailto:john.meddings@braintree.gov.uk">john.meddings@braintree.gov.uk</a>

## 1. Background

- 1.1 In accordance with Section 16 of the Transport Act 1985, the Licensing Authority is required to defend its policy of regulating the number of Hackney Carriages in the District. Currently, the Authority regulates the number of licensed Hackney Carriage vehicles to 84.
- 1.2 The last survey of demand was completed in June 2012 and it was presented to the Licensing Committee on 18th July 2012. At that time, the decision had been taken that no additional Hackney Carriage vehicle licences should be issued.
- 1.3 The Authority is now in the process of commissioning a provider to undertake an up-to-date survey to include a consultation exercise with the licensed Hackney Carriage Trade, users and potential users of licensed Hackney Carriages in the District.

- 1.4 The cost of the survey is to be met by the licensed Hackney Carriage Trade, recovered within the licence fee. The contribution towards the cost of the survey does not allow participation in the decision making process. However, a copy of any final report will be given to the Taxi Association when it is submitted to Councillors and the Association will be given the opportunity to make representations to the Licensing Committee.
- 1.5 Once the survey has been completed and the report finalised in Spring 2016, Councillors will be asked to consider the matter and make a decision based on the findings.
- 1.6 In considering this report, Councillors' attention is drawn to the latest Government guidance about restrictions on the number of Hackney Carriage vehicle licences (Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance March 2010).
- 1.7 Since the Transport Act 1985, it has been possible for Licensing Authorities in England and Wales (outside of London) to refuse a 'taxi' licence application if they are satisfied that there is no significant unmet demand for 'taxis' in their licensing area.