

# LICENSING COMMITTEE AGENDA

Wednesday, 12 December 2018 at 07:15 PM

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

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

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

**Membership:-**

Councillor Mrs J Allen	Councillor H Johnson
Councillor M Banthorpe (Chairman)	Councillor Mrs J Pell
Councillor P Barlow	Councillor B Rose
Councillor J Baugh (Vice Chairman)	Councillor Mrs L Walters
Councillor J Elliott	Councillor Mrs S Wilson
Councillor J Goodman	Vacancy
Councillor A Hensman	

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

A WRIGHT  
Chief Executive

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

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

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

### **Question Time**

The Agenda allows for a period of up to 30 minutes when members of the public can speak. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) no later than 2 clear working days before the day of the meeting. The Council reserves the right to decline any requests to register to speak if they are received after this time. Members of the public can remain to observe the public session of the meeting.

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

### **Health and Safety**

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

### **Mobile Phones**

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

### **Webcast and Audio Recording**

Please note that this meeting will be audio recorded only.

### **Documents**

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

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

## **PUBLIC SESSION**

**Page**

**1 Apologies for Absence**

**2 Declarations of Interest**

To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Licensing Committee held on 12th September 2018 (copy previously circulated).

**4 Public Question Time**

(See paragraph above)

**5 Application for a Street Trading Consent - The Swiss Bell Car Park, Mountbatten Road, BRAINTREE 4 - 28**

**6 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.

**7 Exclusion of the Public and Press**

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

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

## **PRIVATE SESSION**

**Page**

**8 Urgent Business - Private Session**

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

<b>APPLICATION FOR STREET TRADING CONSENT - THE SWISS BELL CAR PARK, MOUNTBATTEN ROAD, BRAINTREE, CM7 9UL</b>		<b>Agenda No: 5</b>
<b>Portfolio</b>	<b>Environment and Place</b>	
<b>Corporate Priority:</b>	<p><b>A sustainable environment and a great place to live, work and play</b>  <b>A prosperous district that attracts business growth and provides high quality employment opportunities</b>  <b>Residents live well in healthy and resilient communities where residents feel supported</b></p>	
<b>Report presented by:</b>	<b>Alexandra Maschas, Licensing Officer</b>	
<b>Report prepared by:</b>	<b>Alexandra Maschas, Licensing Officer</b>	
<b>Background Papers:</b>	<b>Public Report</b>	
<ol style="list-style-type: none"> <li>1. Application made by Mr Jerry Rogers (Appendix 1)</li> <li>2. Representations received during the consultation period (Appendix 2)</li> <li>3. Braintree District Council Street Trading and Collections Policy (Appendix 3)</li> </ol>	<b>Key Decision: No</b>	
<b>Executive Summary:</b>		
<p>To consider an application by Mr Jerry Rogers for a Street Trading Consent at The Swiss Bell Car Park, Mountbatten Road, Braintree, CM7 9UL. 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.</p>		
<b>Recommended Decision:</b> To determine one of the following options:-		
<ol style="list-style-type: none"> <li>1. To <b>GRANT</b> the application for a Street Trading Consent.</li> <li>2. To <b>GRANT</b> the application for a Street Trading Consent with amendments.</li> <li>3. To <b>GRANT</b> the application for a Street Trading Consent with additional conditions.</li> <li>4. To <b>REFUSE</b> the application for a Street Trading Consent.</li> </ol>		
<b>Purpose of Decision:</b>		
<p>Members of the Licensing Committee are requested to consider an application made by Mr Jerry Rogers to trade at The Swiss Bell Car Park, Mountbatten Road, Braintree, CM7 9UL.</p>		

<b>Corporate Implications</b>	
<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 against refusal to issue consent; therefore any applicant that is aggrieved by the Council's decision has an option to seek a Judicial Review. Street Trading is controlled in accordance with the provisions contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
<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> Alexandra Maschas	
<b>Designation:</b> Licensing Officer	
<b>Ext. No.</b> 2229	
<b>E-mail:</b> <a href="mailto:alexandra.maschas@braintree.gov.uk">alexandra.maschas@braintree.gov.uk</a>	

## 1. Application

1.1 The Licensing Authority received an application for a Street Trading Consent from Mr Jerry Rogers on 25<sup>th</sup> October 2018 which was validated on the same day (Appendix 1).

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

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

1.3 The hours the applicant is proposing to trade are set out below:

Sunday to Thursday	15:30 – 00:00
Friday to Saturday	15:30 – 01:00

1.4 The applicant proposes to sell Hot Food and drinks.

- 1.5 The applicant is proposing to trade on private land. Mr Rogers has permission from the land owner to trade at that location.

## **2. Representations**

- 2.1 During the consultation period the application received one representation from Braintree District Council's Environmental Health Officer (Appendix 2).
- 2.2 Environmental Health have objected on the grounds that the hours and the location are not appropriate for this type of application. Mr Rogers has responded to the objection, however Environmental Health are not satisfied that the location and hours are suitable. An email chain is shown as Appendix 2.

## **3 Policy**

- 3.1 Street Trading is controlled in accordance with the provisions contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 3.2 The Council adopted this schedule on 15th March 1984. As a result, all streets within Braintree District are designated as Consent Streets. This means that anyone who wishes to trade on a street, highway, or other area to which the public have access without payment must hold a Street Trading Consent.
- 3.3 There are additional requirements where a trader is conducting their business from private land. In such cases the applicant must make enquiries with regard to planning permission and seek the landowner's permission to trade.
- 3.4 The Braintree District Council Street Trading Policy states:

Each application for grant or renewal of street trading consent will be considered on its merits.

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

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

Standard conditions will be imposed unless circumstances dictate otherwise.

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

- (a) Where the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, mal-odour, litter, disturbance or anti-social behaviour.

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

3.5 In considering this application sections 1(a) and (b) of the Street Trading Policy may be considered relevant.

#### 4. **Decision**

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

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.**

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

**Braintree**  
District Council

**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, MR. JERRY ROGERS.....

of

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)

SWISS BELL CAR PARK MOUNT BATTON

ROAD, BRAINTREE, ESSEX.....

CM7-9UL.....

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 3:30 To 12.00 PM Friday: From 3:30 To 1:00 AM  
Tuesday: From 3:30 To 12.00 PM Saturday: From 3:30 To 1:00 AM  
Wednesday: From 3:30 To 12.00 PM Sunday: From 3:30 To 12:00 AM  
Thursday: From 3:30 To 12.00 PM

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.

N/A

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

FOOD

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

N/A

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

6. Trading Name : FIVE STAR KEBABS

7. I am registered as a food business with (Name of Local Authority)

NEW BUSINESS APPLIED 22/10/18

8. Date of last Food Hygiene Inspection and Food Hygiene Rating:-

NEW APPLICATION

### 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


 N/A

**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: 23/10/18.....

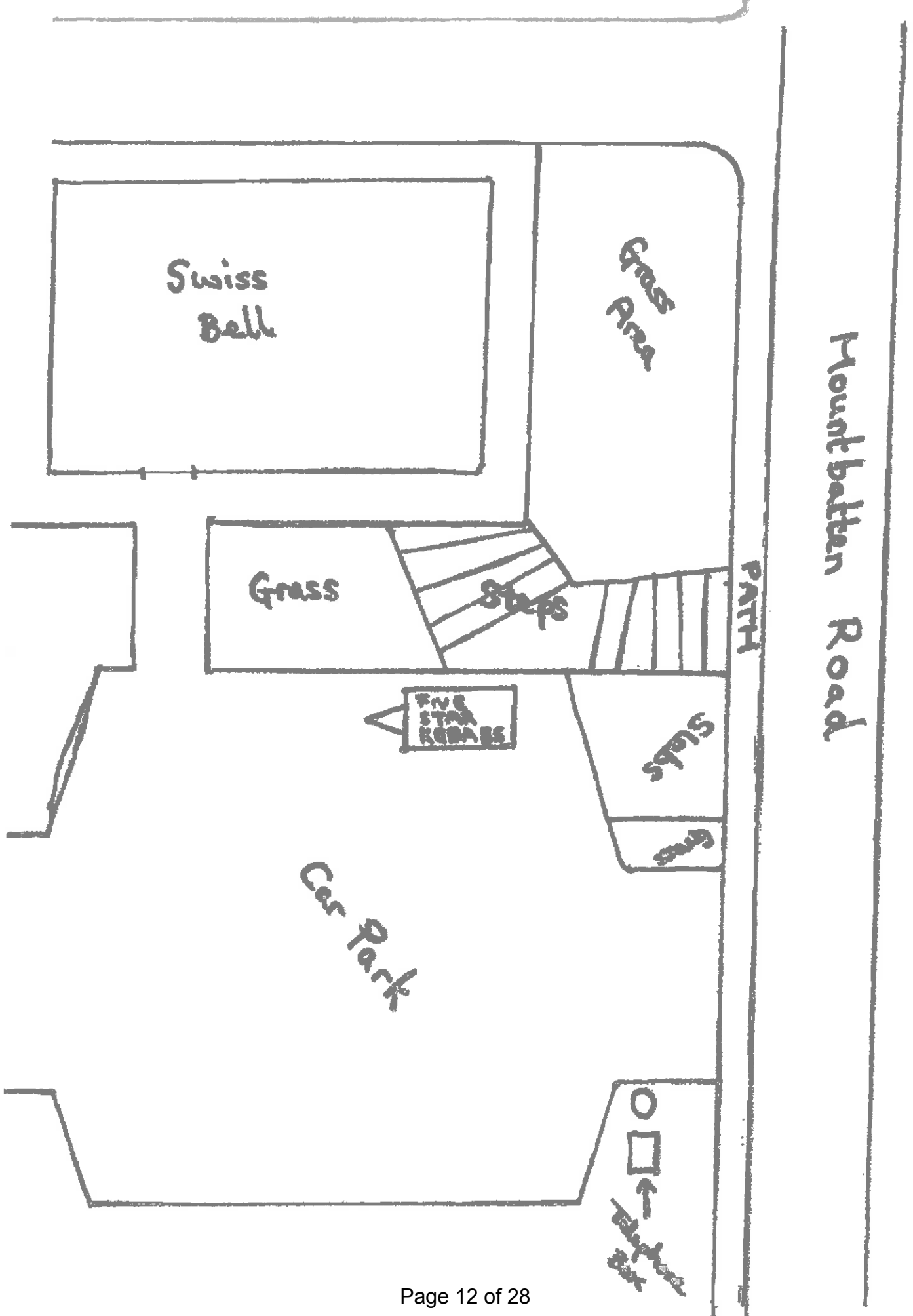
Please return this form to:-

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.



**Maschas, Alexandra**

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**From:** Philp, Garry  
**Sent:** 16 November 2018 10:39  
**To:** Maschas, Alexandra  
**Subject:** RE: Street Trading Consent renewal application - Jerry Rogers, trading on The Swiss Bell Car Park, Mountbatten Road, Braintree, CM7 9UL

Dear Alex,

This street trader is located in the wrong location and is operating too late. Also many of the points listed below are irrelevant from my perspective.

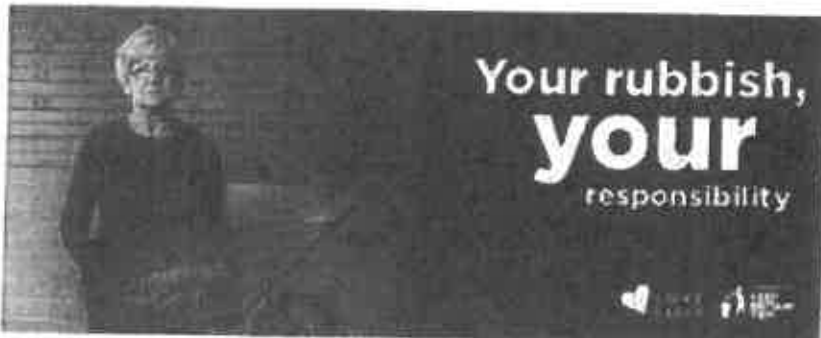
This will generate complaints and the applicant should consider another location which is not surrounded by residential development.

Also the applicant cannot be reliant of the CCTV of the Co-Op as part of their management strategy for dealing with anti-social behaviour.

Therefore my objection to this application remains.

Kind regards

**Garry Philp** BSc (Hons) MCIH  
**Senior Environmental Health Officer**  
**Public Health & Housing**  
Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB  
01376 552525 Ext. 2258 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | [garry.philp@braintree.gov.uk](mailto:garry.philp@braintree.gov.uk)



**From:** Maschas, Alexandra  
**Sent:** 15 November 2018 4:36 PM  
**To:** Philp, Garry <[garry.philp@braintree.gov.uk](mailto:garry.philp@braintree.gov.uk)>  
**Subject:** FW: Street Trading Consent renewal application - Jerry Rogers, trading on The Swiss Bell Car Park, Mountbatten Road, Braintree, CM7 9UL

**From:** Jerry rogers [mailto:[jerry.rogers@braintree.gov.uk](mailto:jerry.rogers@braintree.gov.uk)]  
**Sent:** 04 November 2018 17:57  
**To:** Maschas, Alexandra <[alexandra.maschas@braintree.gov.uk](mailto:alexandra.maschas@braintree.gov.uk)>  
**Subject:** Re: Street Trading Consent renewal application - Jerry Rogers, trading on The Swiss Bell Car Park, Mountbatten Road, Braintree, CM7 9UL

Dear Alex

I am writing to you regarding the email you forwarded to me that you received from Gary Philp.

My response is as follows:

I have lived in Braintree on the Fairview estate for the past 31 years, I own along with my wife and daughter a local child care business in Braintree. I have three daughters and 7 Grand Children whom all live in Braintree.

Before opening our childcare business i worked for the probation service as an officer for twelve years in and around the Braintree area. As an Officer i dealt with young offenders as well as mature people up to the age of 70 years.

As we are very well known in Braintree and have looked after and watched local children grow up around the estate, i feel the presence of the food van would be an asset to the estate and would not attract people to hang about to cause unnecessary disturbance.

I understand that the food van will attract people of all ages, but with years of working with the general public and the skills i have learnt in my previous jobs i feel that i would be able to deal in a professional manner hoping to defuse any situations that may arise.

I have spoken to a vast amount of people who live on the Fairview estate and all have spoken positively about the possibility of a food van being on the estate.

I would like to work in partnership with yourselves, the police and any other persons who you would like me to get involved with. I am happy to attend any meetings that you wish should any issues arise.

A daily check and a litter pick if required would be carried out on a daily basis.

I understand the coop shop has had a new CCTV camera fitted that spans both of the car parks which helps immensely with loitering.

Please would you share with anybody you think should read this regarding my application to open a Food Van.

If you require any further information please don't hesitate in contacting me.

Kind Regards

Mr J J Rogers

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From: Maschas, Alexandra <[alexandra.maschas@braintree.gov.uk](mailto:alexandra.maschas@braintree.gov.uk)>

Sent: 30 October 2018 11:51

To:

Subject: FW: Street Trading Consent renewal application - Jerry Rogers, trading on The Swiss Bell Car Park, Mountbatten Road, Braintree, CM7 9UL

Dear Mr Rogers,

As per our earlier telephone call please find below the objection from Environmental health.

Kind regards

Alex

**Alexandra Maschas**  
**Licensing Officer**

**Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB**  
**☎ 01376 552525 Ext. 2229 | [www.braintree.gov.uk](http://www.braintree.gov.uk) |**

**Braintree District Council**

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

**Braintree District Council Website**

**✉ [alexandra.maschas@braintree.gov.uk](mailto:alexandra.maschas@braintree.gov.uk)**

**From: Philp, Garry**

**Sent: 29 October 2018 08:29**

**To: Maschas, Alexandra <[alexandra.maschas@braintree.gov.uk](mailto:alexandra.maschas@braintree.gov.uk)>**

**Subject: RE: Street Trading Consent renewal application - Jerry Rogers, trading on The Swiss Bell Car Park, Mountbatten Road, Braintree, CM7 9UL**

Dear Alex,

I have reviewed the attached application and I am concerned over the location of the street trader and also the times at which the trader wishes to operate as this is a residential area and this is likely to cause a noise disturbance to local residents due to the hours of operation and also attracting persons to the area late at night.

I do not feel that the hours or the location are appropriate for this type of operation.

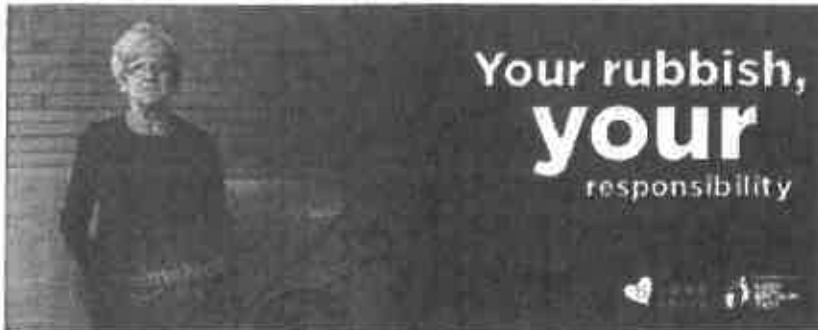
Kind regards

**Garry Philp BSc (Hons) MCIEM**

**Senior Environmental Health Officer**

**Public Health & Housing**

**Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB**  
**01376 552525 Ext. 2258 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | [garry.philp@braintree.gov.uk](mailto:garry.philp@braintree.gov.uk)**



**From:** Maschas, Alexandra

**Sent:** 26 October 2018 4:49 PM

**To:** Community Services <[communityservices@braintree.gov.uk](mailto:communityservices@braintree.gov.uk)>; ehlicensing <[ehlicensing@braintree.gov.uk](mailto:ehlicensing@braintree.gov.uk)>; Essex Highways <[Olive.Porter@essexhighways.org](mailto:Olive.Porter@essexhighways.org)>; Essex Police <[cdnorthlicensing@essex.pnn.police.uk](mailto:cdnorthlicensing@essex.pnn.police.uk)>; Health Protection <[HealthProtection@braintree.gov.uk](mailto:HealthProtection@braintree.gov.uk)>; PlanningEnforcement <[planning.enforcement@braintree.gov.uk](mailto:planning.enforcement@braintree.gov.uk)>; Cllr Lyn Walters <[cldr.lwalters@braintree.gov.uk](mailto:cldr.lwalters@braintree.gov.uk)>; Cllr Stephen Canning <[cldr.scanning@braintree.gov.uk](mailto:cldr.scanning@braintree.gov.uk)>; Cllr Wendy Schmitt <[cldr.wschmitt@braintree.gov.uk](mailto:cldr.wschmitt@braintree.gov.uk)>

**Cc:** Meddings, John <[john.meddings@braintree.gov.uk](mailto:john.meddings@braintree.gov.uk)>

**Subject:** Street Trading Consent renewal application - Jerry Rogers, trading on The Swiss Bell Car Park, Mountbatten Road, Braintree, CM7 9UL

Dear Colleagues

Please find attached a copy of an application for Street Trading Consent in respect of Mr Jerry Rogers of  
to trade in The Swiss Bell Car Park, Mountbatten Road, Braintree,  
CM7 9UL.

I have attached a copy of the application form and plan of trading site for your interest.

Please can you let me have your observations by 12<sup>th</sup> November 2018.

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

Thank you.

Kind regards

**Alexandra Maschas**

**Licensing Officer**

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

☎ 01376 552525 Ext. 2229 | [www.braintree.gov.uk](http://www.braintree.gov.uk) | ✉ [alexandra.maschas@braintree.gov.uk](mailto:alexandra.maschas@braintree.gov.uk)



# Licensing Policy

## Street Trading and Collections Policy

(AUGUST 2007)

### Introduction -

#### 1 Street Trading -

- 1 -General Policy
2. - Legislation
- 3 - Licensing Process Delegation Functions
- 4 - Consultation
- 5 - Renewals
- 6 - Decisions
- 7 - Exemptions
- 8 - Hours of Trading
- 9 - Markets
- 10 - More Than One Trader
- 11 - Special Events
- 12 - Pedestrian Areas
- 13 -Trading on Clearways
- 14 Markets
- 15 Conditions
- 16 Planning Permission
- 17 Licensing Act

#### 2 Charitable Collections -

- Legislation
- Authorisation
- Consultation
- Allocation and recording
- Touting
- Direct Debits
- House to House Collections

#### 3 Other Activities -

- Petitions
- Awareness
- Market Research
- Pedlars
- Markets
- Busking

#### 4 Enforcement -

- Introduction
- Enforcement

## **Introduction**

### **General Information**

(1) The aim of this policy is to prevent obstruction of the streets of Braintree District and ensure the safety of persons using them. In doing so, it recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people of the area.

(2) This policy will guide the licensing team/Committee when it needs to consider applications such as:

- Street Trading
- Charitable Collections
- House to House Collections

### **Consultation**

(1) In determining this licensing policy, the Council has consulted the following people and bodies:

- Essex Police
- Town Centre Strategy Groups
- Town & Parish Councils
- Charitable Organisations
- Existing Consent Holders
- Essex County Council Highways
- Highways Agency
- Local Chamber of Commerce (Witham Braintree & Halstead)

(2) Various other stakeholders within the council have been included as part of this consultation. These include:

- Environmental Health
- Legal Services
- Members of the Council
- Chair of Licensing Committee
- Cabinet Member for Public Protection & Healthy Living

### **Review of the Policy**

(1) This policy will be reviewed every three years. At the time of the review, we will again consult all interested parties. As well as the three yearly reviews, we will continue to evaluate the policy and may update it at any time.

# Part 1 – Street Trading

## Introduction

This part of the Licensing Policy sets out how the council will deal with applications for Street Trading Consents in Braintree District.

It also highlights the council's undertaking to avoid duplication with other statutory provisions and our commitment to work in partnership with other enforcement agencies.

The Council aims to provide a clear, consistent licensing service-to-service users. At the same time, it aims to protect the safety of highway users and to prevent nuisance or annoyance.

## 1. General Policy

Each application for grant or renewal of street trading consent will be considered on its merits.

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

- (a) Obstruction of the street or danger to persons using it; or
  - (b) Nuisance or annoyance (whether to persons using the street or otherwise).
- Standard conditions will be imposed unless circumstances dictate otherwise.

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

- (a) Where the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, mal-odour, litter, disturbance or anti social behavior.
- (b) In respect of applications for hot, mal-odorous food where granting the application is likely to give rise to mal-odour, litter, disturbance or anti social behavior.
- (c) Where there is not enough space in the street for the applicant to engage in the trading in which he/she desires without causing undue interference or inconvenience to persons using the street.
- (d) Where granting of a consent for the sale of goods or services would conflict with those provided by nearby shops.
- (e) Where the applicant is unsuitable to hold a consent by reason of having been convicted of an offence, or for any other reason.
- (f) Where the applicant has at any time been granted a Street Trading Consent by the Council, and has persistently refused or neglected to pay fees due to them for it or charges due to them for services rendered.
- (g) Where applicant or operator of the stall is under the age of 17 years.
- (h) Where a trader has failed to comply with the conditions attached to the Consent.

- (i) Where street trading in a particular location will conflict with concessions granted to traders.
- (j) Where the street trading may damage the structure or surface of the street.
- (k) Where the appearance of the trading equipment or structure is in use is not compatible with the character of the area in which it is proposed to be situated.
- (l) Where the quality of stall and the impact of its activities may be detrimental to the character and appearance of the area in which it is proposed to trade.

The Council may at any time revoke a Consent or vary the conditions of an existing consent where there are reasonable grounds for so doing.

## 2. Legislation

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

(2) The Council adopted this schedule on 15<sup>th</sup> March 1984. As a result, **all streets** within Braintree District are designated as Consent Streets. This means that anyone who wishes to trade on a street, highway or other area to which the public have access without payment must hold a Street Trading Consent.

(3) In addition, anyone trading on adjacent private land within **7 metres** of the highway is required to hold a street trading consent.

(4) There are additional requirements where a trader is conducting their business from private land. Please refer to paragraph 16.

(5) The Act defines street trading as “the selling or exposing or offering for sale of any article (including a living thing) in a street.

(6) There are exemptions from requiring a consent to trade on a street. Please refer to paragraph 7.

## 3. Licensing Process & Delegation of Functions

(1) Applications for street trading consents are delegated to either the Licensing Committee or to the Licensing Officer.

(2) The delegation will be as follows:

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Licensing Committee</b>	<b>Officers</b>
Grant or renewal for a Street trading Consent		If a representation is made.	If no representation is made
Grant or renewal for a Street Trading Consent in the Pedestrian Area		All Cases	

Grant or renewal for a Street Trading Consent for a Special Event		If a representation is made	If no representation is made
Grant or renewal for a second Street Trading Consent in one location		All Cases	
Grant or renewal for a Street Trading Consent prohibited by other legislation			Refused delegated to Officer and Committee Advised
Review of policy & Conditions	In all cases		
Grant or renewal for a Street Trading Consent in same area		All Cases	

(3) Where an application is referred to the Licensing Committee, it will determine each application on its own merit. Members of the Committee will consider all information attached to the application, and the contents of this policy.

#### **4. Consultation on Applications for Consents**

When we receive an application for a Street Trading Consent the council will seek the advice of:

- Essex Police,
- Essex County Council Highways or Highways Agency if A12 or A120
- The local ward Members.
- Braintree District Council – Planning
- Braintree District Council – Environmental Health
- Parish / Town Council
- Relevant local traders selling similar commodities within 500 m radius of the proposed site.

#### **5. 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.

#### **6. 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.**

## **7. Exemptions**

(1) The Act makes certain activities exempt from the requirement to hold a consent. These are:

- Pedlars acting under the Pedlars Act 1871.
- Anything done within a market or fair – please refer to paragraph 14.
- Trading on a trunk road picnic area under Section 112 of the Highways Act 1980
- News vendors selling only newspapers or periodicals
- Petrol filling stations
- Shops forecourts
- Roundsmen (as they have defined customers, defined routes)- The Council will refer to recent case law in their interpretation (Kempin v Brighton & Hove – where in the absence of a statutory definition, the court defined a roundsman to be one who goes round a defined list of customers for orders and the delivery of goods).
- Objects or structures placed on, in or over a highway under Part VIIIA of the Highways Act 1980 – table & chairs on the highway
- Operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980
- Street collections

## **8. Hours of Trading**

Trading within the Braintree District will cease at the following hours;

Sunday to Thursday (inclusive)	until Midnight
Friday & Saturday	until 01:00 am the following morning

## **9. Trading on Market Days**

Street Trading will not be permitted on the respective market days in each of the three towns within the district.

## **10. More Than One Trader in a Location**

(1) The Council will normally only allow one trader to hold a consent in a specific location, unless the second applicant wishes to trade in a different commodity.

(2) The exceptions to this rule are:

(a) Where a special event is arranged and there will be more than one trader covered by the event consent.

(b) In the case of "Mobile Traders" – where a vehicle is stationary for less than 15 minutes in one location and doesn't return to area within 2 hours.

(3) Where a new applicant wishes to trade in a location where an existing trader already holds a consent to trade in the same commodity the application will be presented before the Licensing Committee for determination.

## **11. Special Events**

(1) At special events, we will issue one consent to the person organising the event, rather than to each individual trader. This policy is aimed at promoting events and encouraging more traders to attend them.

(2) We will issue a single consent, which will cover a number of traders. The number of traders covered is as follows:

Category 1 – Up to 10 traders

Category 2 – Between 11 and 19 traders

Category 3 – Over 20 traders

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

(3) 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. The reason that traders for food are not included is due to the potential risk to public safety. Each trader will need to be visited by an Environmental Health Officer, who will inspect before consent is issued.

## **12. Trading on Pedestrian Areas**

(1) It is the council's policy to discourage applications where a trader wishes to trade in a pedestrian area of a town centre..

(2) All applications to trade in these areas will be presented before the Licensing Committee for determination.

## **13. Trading on Clearways**

(1) Essex County Council have specific orders which prohibit trading on any Clearway within the Braintree District. The following roads are classed as Clearways:

- A131
- B1018 (Braintree to Witham Road)
- Millennium Way (Approach Road to Freeport Shopping Village)

### **13a Trading on Trunk roads**

Any trader operating from a pitch situated on the **A12** or the **A120** must be mindful that the Highways agency have the powers to move on any trader that is causing;

- A general Nuisance
- Displaying illegal signage
- Causing litter
- Causing a distraction to motorists

It is highly unlikely that the Highways Agency will give permission trade on these roads.

## **14. Markets**

(1) Statutory markets, or markets granted by charter, are exempt from requiring a consent.

## **15. Conditions**

(1) The council have adopted conditions relating to Street Trading. These conditions are attached to this policy as **Appendix A**.

## **16. Planning Permission**

In such cases the applicant must make enquiries with regard to planning permission and to seek the landowners permission to trade.

**(2) If a consent is required, the onus is on the applicant to obtain both planning permission and permission to trade from the landowner prior to making an application for street trading consent. It is not the responsibility of the issuing Authority to investigate and obtain this information.**

## **17. Licensing Act 2003**

(1) In addition to the requirement of having a street trading consent, applicants who sell hot food or drink between 11.00 pm and 01.00 am will need a premises licence under the Licensing Act 2003.



## **Part 2 – Charitable Collections**

### **1 Introduction**

This part of the Policy sets out how the council will deal with charitable organisations that wish to collect monies and/or goods for charity.

### **2 Legislation**

(1) Street Collections are covered by regulations made under the Police, Factories, etc (Miscellaneous Provisions) Act 1916 as amended by section 251, schedule 29 of the Local Government Act 1972. Anyone wishing to collect money on a street or public place as defined in the Act must obtain a permit from the Council.

(2) House to House Collections require to be licensed by the Council under the House to House Collections Act 1939. This Act only covers Charitable Collections and not companies collecting for profit. Companies collecting for profit should identify that they are not charitable on their bags or leaflets.

### **3 Consultation on Applications**

(1) The Council will record all street collections and house to house collections in an electronic diary to avoid two organisations collecting on the same day in the same locality.

(2) The Licensing Officer will consult Essex County Council Highways where the application for a street collection includes placing a structure or vehicle on the street/highway.

### **4 Number of Permitted Collections**

(1) The Council will have a co-ordinated approach to how many street collections and other such activities we will allow in any one area. We will only permit one collections in any one town or village per day.

(2) The Council do not allow direct debit collections.

## **Part 3 – Other Activities**

### **Introduction**

There are a number of other activities that take place in the streets of the Braintree District that cannot be controlled by licence.

**These activities are listed below.**

### **Petitions**

People or organisations asking members of the public to support their cause, such as political groups, welfare or ecological groups.

### **Awareness**

People, groups or organisations such as radio stations, television stations or the armed forces may wish to raise awareness by handing out leaflets or undertaking promotional activities.

### **Market Research**

This type of activity includes mail order companies, insurance companies and national questionnaires.

### **Pedlars**

They are required to hold a certificate issued by the Police Force in the area that they reside. They are able to travel to trade within the area. They must only stop to trade when approached by a customer. They must not remain stationary after the sale has been made.

### **Markets**

Please refer to paragraph 14 of this Policy

### **Busking**

(1) If a group of buskers gather, so as to cause a nuisance to passers by or by local traders, then the council will ask them to cease and leave the area.

(2) We may call for assistance from Essex Police when dealing with such issues.

## **Part 4 – Enforcement**

### Introduction

This section of the Licensing Policy details the council's commitment to enforcing the provisions contained within the appropriate legislation. It also highlights the council's commitment to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues.

The Licensing officers aims to work closely with other enforcement authorities when dealing with issues on the street.

Where licensable activities are conducted without the benefit of a licence, will look to gather evidence and take enforcement action as appropriate.

We may call for assistance from Essex Police when dealing with such issues.

We will enforce the provisions of all appropriate legislation and will ask persons causing a nuisance to cease the activity that they are conducting and leave the area.

## **Appendix A.**

The Following conditions be attached to all street trading consents:

- This street trading consent does not convey any other approvals that may be necessary under the Food Hygiene regulations, Planning legislation or other appropriate legislation.
- The holder of a street Trading consent shall take all reasonable precautions to prevent obstruction of the street or danger to persons using the street and to prevent nuisance or annoyance, whether to persons using the street or otherwise.
- The Holder of a street trading consent shall ensure that suitable arrangements are made for the disposal of any litter that may be caused in connection with the trading permitted under this consent.
- The Holder of a street trading consent shall be required to seek the approval of the Council to any proposed change to the mode of trading permitted under the consent.
- The name of the holder of a street trading consent trading with a vehicle shall be displayed on the vehicle used in connection with the trading.
- This street trading consent does not convey any right to trade on privately owned property.