

Licensing Committee AGENDA



THE PUBLIC MAY ATTEND THIS MEETING

Please note this meeting will be audio recorded.

Date: Wednesday, 10 September 2014

Time: 19:15

**Venue: Council Chamber , Braintree District Council, Causeway House,
Bocking End, Braintree, Essex, CM7 9HB**

Membership:

Councillor J S Allen
Councillor M J Banthorpe (Chairman)
Councillor J Baugh
Councillor T G Cunningham
Councillor J G J Elliott
Councillor J H G Finbow
Councillor M J Fincken
Councillor M E Galione

Councillor C Gibson
Councillor M Green
Councillor S A Howell
Councillor H D Johnson
Councillor J A Pell
Councillor L S Walters
Councillor S A Wilson
Councillor B Wright

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

Page

PUBLIC SESSION

1 Apologies for Absence

2 Member Declarations

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 23rd July 2014 (copy previously circulated).

4 Public Question Time

(See paragraph below)

5 Application for a Street Trading Consent - Layby at Dicketts Hill, A1017 SIBLE HEDINGHAM to GREAT YELDHAM **5 - 40**

6 Application for a Street Trading Consent - 'Business Permit Location', Outside Witham Railway Station, Albert Road, WITHAM **41 - 54**

7 The Legislative Reform (Entertainment Licensing) Order 2014 **55 - 60**

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.

9 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

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 email demse@braintree.gov.uk

Public 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 Governance and Members Team on 01376 552525 or email 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:

APPLICATION FOR STREET TRADING CONSENT – LAYBY AT DICKETTS HILL, A1017 SIBLE HEDINGHAM TO GREAT YELDHAM		Agenda No: 5
<p>Corporate Priority: A better place – Keeping our district clean and tidy, Protecting our environment, Providing green space for everyone Building a prosperous district – Boost employment skills and support businesses, Promoting and improving our town centre, Securing appropriate infrastructure and housing growth</p> <p>Report presented by: John Meddings Report prepared by: John Meddings</p>		
<p>Background Papers:</p> <ol style="list-style-type: none"> 1. Application made by Mr Gary Bentley in respect of the Layby at Dicketts Hill, A1017 Sible Hedingham to Great Yeldham (Appendix 1). 2. Representations received during the consultation period (Appendix 2). 3. Letter from Daniel Mellini, Environmental Health Manager (Food, Health & Safety and Licensing) to Mr Bentley (Appendix 3). 		Public Report
<p>Options:</p> <ol style="list-style-type: none"> 1. To GRANT the application for Street Trading Consent. 2. To GRANT the application for Street Trading Consent with amendments. 3. To GRANT the application for Street Trading Consent with additional conditions. 4. To REFUSE the application for Street Trading Consent. 		Key Decision: No
<p>Executive Summary:</p> <p>To consider an application by Mr Gary Bentley for a Street Trading Consent at the Layby at Dicketts Hill, A1017 Sible Hedingham to Great Yeldham. The Council's Street Trading Policy specifies that if representations are received the application is required to be determined by the Licensing Committee.</p>		

Decision: To consider the following options:-

1. To **GRANT** the application for Street Trading Consent.
2. To **GRANT** the application for Street Trading Consent with amendments.
3. To **GRANT** the application for Street Trading Consent with additional conditions.
4. To **REFUSE** the application for Street Trading Consent.

Purpose of Decision:

Members of the Licensing Committee are requested to consider an application made by Gary Bentley for a Street Trading Consent at the Layby at Dicketts Hill, A1017 Sible Hedingham to Great Yeldham.

Any Corporate implications in relation to the following should be explained in detail

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

1. **Application**

1.1 The Licensing Authority received and validated an application for a Street Trading Consent from Mr Gary Bentley on 10 July 2014.

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 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 a 500m radius of the proposed site

1.3 During the consultation period, the Authority received representations from Mr Stephen and Mrs Helen Jales, Old Drawell Cottage and the residents of Drawell Cottages (Appendix 2).

1.4 In summary the representations specifically relate to the following issues:

- Unsuitable location due to visibility, specifically lorries
- Litter created by the operation of the business
- The smells created by the operation of the business
- The furniture associated with the business; table, chairs, advertising boards and flag pole.

1.5 Street Trading Consents are only issued for one year, therefore an application for consent is required annually.

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

Monday	0800 to 14:00
Tuesday	0800 to 14:00
Wednesday	0800 to 14:00
Thursday	0800 to 14:00
Friday	0800 to 14:00

1.7 The applicant proposes to sell hot and cold food and drink (Burgers/Bacon)

1.8 There are no other existing Street Trading Consents in the immediate vicinity of this location.

1.9 In support of the application, Mr Bentley made several points in correspondence:

- The location of trading will be as indicated on the plan 99% of the time. However, due to trains being moved at the location, it may be necessary to move.

- He clears the whole layby of all rubbish, not just any generated by his business.
- He is requesting nothing different from the previous two years that he has held a consent.

1.10 The applicant has also attached correspondence to the application requesting that he be allowed to have a table and chairs at the site (Appendix 1).

2. History

2.1 The applicant has previously held a Street Trading Consent for this location, but this expired on 18th July 2014.

2.2 The previous application was also determined by the Licensing Committee on 17 July 2013, due to representation being received.

'Decision: That the application submitted by Mr Bentley for a street trading consent to sell hot and cold food and drink from a vehicle parked within a lay-by on land adjacent to the former entrance to Colne Valley Railway, on the A1017, Yeldham Road, Castle Hedingham be granted for Mondays, Tuesdays, Wednesdays, Thursdays and Fridays between the hours of 7.30am and 4.00pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.'

3. Enforcement

3.1 During the previous term of the Consent the Licensing Authority received a complaint that the applicant was operating outside the Consent.

3.2 A successful test purchase was conducted and the applicant was found to be trading 25 minutes before the Consent authorised. In accordance with the Council's Enforcement Policy, the applicant was warned through written correspondence.

3.3 Further test purchases were attempted after the warning and no further breaches were detected.

3.4 The Environmental Health team has received complaints from one of the residents regarding nuisance, specifically noise and smells. However, these complaints were investigated and remain unproven.

4. Policy

4.1 The Braintree District Council Street Trading 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:-

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

14/01/190/STR

APPENDIX 1

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, GARY BENZLEY
of 61 HAWKWOOD ROAD
SIBLE HEDDINGHAM ESSEX

Date of Birth ... [REDACTED]

Daytime telephone number :- ... [REDACTED]

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

LAYBY AT DICKETTS HILL
MAIN ROAD SIBLE TO YELDM
A1124

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 8 To 2 | Friday: | From 8 To 2 |
| Tuesday: | From 8 To 2 | Saturday: | From To |
| Wednesday: | From 8 To 2 | Sunday: | From To |
| Thursday: | From 8 To 2 | | |

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:-

BURGERS BACON HOT COLD FOOD + DRINKS

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

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:

3 July 2014

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.

To whom it may concern

Please may we put our union jack flags back and tables and chairs as this has affected our business not having these items we will take all these items away with us each day

We have asked planning if they have an issue and have been told they have not got a problem

Also highways when they came out and we had our benches there they did also not have a problem as I had set them far away from the road edge

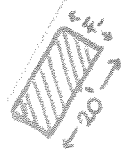
On a foot note many other burger/fast food outlets on the side of the road have these items if you object I would like to be informed of your reasoning

Tables and chairs are the same or like ones that can be purchased from BQ or argos so plastic easy to keep clean and dismantle each shift

Thank you

Gary Bentley

[REDACTED]



48.6m

Braintree
District Council

A 1017

Und

Braintree
District Council



d database right 2014. Ordnance Survey Licence LA100018490.

1 Draxell Cottages
Heddingham Road
Gr. Yeldham
Halstead
Essex CO9 4HS

Dear Sir,

I am writing to register my objection to the renewal of the license for Bentley's fast food van. My objection is on the grounds of safety. The entrance for the area they use ~~does not have~~ a clear view in either direction to pull out from it safely. It is particularly bad from the Great Yeldham side. ~~and~~ This is because the road itself is subject to the national speed limit and the bend obscures fast moving vehicles. This would be particularly dangerous for lorries who have to manoeuvre slowly due to their length.

This site was previously considered too dangerous as the parking for the Colne Valley Railway and they were forced to move their entrance much closer to Poole Street.

The problem ~~parking~~ issue really only related to the busiest days which were Sunday and Bank Holidays when traffic volumes were not so great and did not involve lorries, parking or using the road.

The Bentley's van operates every working day when traffic volumes are their greatest. Lorries still make great use of this road, and they are also the 'prime' customers of these vans.

I am amazed there has not been a major traffic incident already. In my opinion it is only a matter of time.

yours faithfully

MRS S. F. LEWITT

Mr Mrs R.Deller
3 Drawell Cottages
Gt.Yeldham
co94hs

To who it may concern

We strongly object too Bently"s fast food van
licence.As we only live a short distance
away we have people constantly pulling around
to go back to the van. The mess that
blows along the road is unsightly, there is no
mention the awful smells. We have
enough of a problem with the recyling bins with
on the ground. I have to phone up the
council to have it cleared other wise it never
Yours Sincerly
MrMrs R Deller

Mr+ Mrs R Deller
3 Drawell Cottages
Hedingham Road
Great Yeldham
Breantree
Essex
CO9 4HS

To Whom It May Concern

It is with some regret that once again I have to write a letter of complaint, as near by residents, the smells coming from the burger bar that has recently been set up on grounds close to the Coln Valley Railway are really awfull.

We can smell this not only outside but inside also, and as you can understand this is not very nice. None of the residents living here want to have to smell onion burgers and oil, this is highly unpleasant. We have enough problems with people using the recycling area here as a place for dumping their rubbish. I constantly have rung up to complain about getting this cleared. None of us were informed about the burger van opening, and I feel that this is our right to have been notified of a business opening. All of us however feel very strongly about it continuing. Also this is a very dangerous road, there is no speed limit and anyone coming in or out has not got a clear view of any oncoming traffic. We do not understand how this ever got permission to go ahead. We trust that you will give this matter your full attention.

Your sincerely

Also accompanied signature of A.Baster
4 Drawell Cottages

Mr + Mrs R Deller

Helen and Stephen Jales
Old Drawell Cottage,
Hedingham Road,
Great Yeldham,
Essex,
CO9 4HS

24th May 2013

Bentley's fast food van – A RENEWED COMPLAINT

Dear Sir,

Last year you may recall our frustration and communications with you regarding the Bentley's fast food van that was granted licence to trade, without consultation of local residents, adjacent to and nearly opposite our properties. (See attached complaints made in August 2012)

Since then we have been in regular contact with the council regarding numerous issues, primarily the environmental impact (odour of cooked food etc.), road traffic dangers and the increased traffic using our driveways to turn around in. We are therefore writing again to voice our strong and unreserved objection to the re-granting of a trading licence. Also, to object to ANY future licence being granted at this location for either food or street trading purposes.

A summary of our specific concerns is listed below. We have also included individual complaints from **ALL** of the local residents.

It should also be noted, that if necessary, We have asked to be present at the meeting to represent the views of residents at what we understand is normally a closed session meeting of the councillors. We understand this will (as needed) be forthcoming, following a phone call from the council licensing department, advising us that the council legal team feels we have valid objections that are required to be considered.

For clarification we have spent considerable time compiling photographs of breaches of trading laws and outlining the location of all parties involved, the layout of the area concerned and images of illegal copycat street traders and Bentley's Burger Van.

It should be noted firstly though that the area concerned is **NOT A LAY-BY**, nor has it ever been such. It is an area of hard standing that was left over when the original road was relocated some years back by just a few yards. The area is designated as hard-standing for low loaders to be able to deliver and remove trains from the tourist attraction (The Colne Valley Railway). There are no parking signs on the road approaching the site and residents have never had a licence holder trade in this location before.

We now understand that many years back, the Colne Valley Railway used this area for parking for its visitors and as an entrance. However the council, in conjunction with the police and highways agency, deemed the location (on a blind bend in a 60mph speed zone of the A1017) far too dangerous, and it was subsequently relocated several hundred yard away, to a safer more visible location. We regularly have sports motorbikes travelling at nearly 80mph around this bend, fully aware there are no police speed enforcement zones and no speed cameras. In our view, allowing a business to trade from this location is dramatically increasing the risk of a fatal accident in the near future. Especially given the typical customer to use the services (truckers with large slow moving rigs that take both sides of the road and a considerable time to negotiate the entrance and exit of the area of hard standing). It also encourages the aforementioned truckers to use the location to sleep overnight. Something we have seen dramatically increase in these past few months. They frequently sound their horns as they depart, even at 7am.

My further specific objections are as follows:

1. Environmental issue: The offensive smell drifting across our properties from cooked food, every time the wind is North Easterly (around 80 days a year). It is overwhelming especially in the light winds of the summer months while we are in our gardens, and we refuse to believe any councillor would tolerate this if it were to be 'in their back yard'! A contentious issue perhaps, but a harsh truth in our opinion.

2. Health and Safety - The slow moving traffic entering and exiting the area of hard standing that was mentioned above: We fail to understand how the council and highways agency can allow a business to trade from the 'high risk' location previously deemed unsuitable as a location for car parking for the Colne Valley Railway.
3. Advertising: The unsightly 'A' boards and 20ft high mobile flagpoles the trader uses to advertise the business from the roadside have slowly edged further towards our properties over the past weeks and last week the 'A' boards were directly outside our house on the roadside verge. (See picture 1)
4. Litter: Numerous times this year we have picked up litter from outside our properties. There is no doubt this is catering litter that has been blown down the road from the trader's location.
5. The dramatic increase in traffic (sometimes even trucks) that see the vendor too late and then use our driveways to perform a sudden 'U-turn' in, to be able to return to the vendors location
6. The copycat businesses that are also now using the location to trade from **ILLEGALLY**. (See picture 2). The proverbial 'can of worms' has been opened and we now fear that ourselves and the other local residents will be subjected to more and more illegal traders and possibly even a travelling community, as the site is seen as unprotected. Ideally we would like to see the extensive grass and hard standing area protected with tasteful boulders and a gate with a lock and key that only the Colne Valley Railway have access to. As we said before, this is not a lay-by/parking area.
7. There is a risk to children in this location. The permanent tables (we understand are not allowed to remain behind after a days trading - but are there all year round and were installed by the Bentley's Burger Van trader) attract school children to rest there when walking the considerable journey home from Sible Hedingham School to their homes in Great Yeldham. Needless to say, the children are no-doubt unaware of the risk they pose by gathering in a remote and secluded location. (The tables can be best seen in picture 2 but are also visible by the flagpole in picture 1)

In summary, we see no reason why a council cannot at the very least listen to our views if, as claimed and by definition, it functions to represent and protect the interests and rights of its constituents. The smell, litter, unsightliness and near misses by vehicles suddenly braking to turn in to the layby I have seen and heard surely have to be considered, amongst other complaints.

If the council find in favour of the vendor and that our strong concerns and objections are all in vain, then we will reluctantly pursue a legal course of action.

The vendors are a blight on our landscape and a danger. Never before has licence to trade been granted in this unsuitable location and we will fight tooth and nail to ensure never again will such licences be granted. We have already had to endure 12 months of issues just to have our voices finally heard at the licence re-issuing hearing.

The voices and opinions of all the local residents are united and attached within this compiled complaint. It should also be noted that the Colne Valley Railway unusually has not objected to the vendor trading at this location, a location that is in direct competition with their café. We understand this is no-doubt due to a close relative of the vendor being on the management team of the Railway!

Yours sincerely,

Stephen and Helen Jales



The location of the Bentley's burger van and DESPITE the council denying this ever occurs, the advertising 'A' boards are in an unapproved location, far from the van, and opposite our driveway. Also note the 20ft high flag pole and the van being parked on the grass rather than the concrete hard standing 30 yards behind it. The flag also shows the wind direction of North Easterly, creating noxious cooking fumes to blow over our property (behind the tree line to the right of the picture). NOTE ALSO the national speed limit zone (60mph) and the blind bend the vendor is allowed to trade on....an accident waiting to happen! (Sports Motorbikes frequently drive at 90+ MPH along this stretch of road)



New businesses (this one selling 4-6ft wooden carvings) have illegally set up in the location when the food vendor (Bentley's) is not using it at the weekends. Also, the permanent tables (not allowed under council regulations for mobile food vendors) belonging to Bentley's are seen in the foreground!



This shows the hard standing area used by the Colne Valley Railway (previously denied as a parking location for this local tourist attraction as it was deemed far too dangerous (located on a bend in a 60mph section of the A1017)). The gates used by the railway PURELY to load and unload trains are seen at the far end. Bentley's Burger Van chose not to trade on the hard standing and instead is closer to local residents houses on the grass behind the camera in this picture (see picture1). This land is NOT a lay-by. The council have NUMEROUS lay-by's within 2-3 miles of this location that are no-where near houses and the vendor could easily trade from with a similar footfall.



Come one come all !!!! – the now farcical situation we face with multiple traders, both legally and illegally trading from this location. Some also staying overnight.

12th August 2012

COMPLAINT AGAINST THE NEWLY ESTABLISHED MOBILE FAST FOOD OUTLET ON OUR DOORSTEP

Dear Sir,

We are writing to convey our dismay and to enter a formal complaint about the recently established mobile fast food outlet that has arrived on our doorstep. We have stated our annoyance and frustrations via telephone to the council and have been told that our complaint needs to be submitted in writing to the councillors.

We are appalled that the decision to grant a one-year trading licence to the vendor was made without consultation or indeed forewarning to the local residents. The 'Bantleys' fast food trailer has apparently recently received a one-year licence to trade in this location from yourselves. A decision that was, we understand, made by closed committee and is irreversible for the duration of the licence. This is in our opinion a ridiculous policy and disregards the rights of residents.

My wife and I have spoken at length to council officials and understand that the licence will not be renewed in June 2013 if complaints of a justifiable nature are received. We have spoken to our neighbours (being a small and close-knit community), and they are equally appalled at the initial granting of the licence. Our specific grievances are as follows:

- 1) The location used was originally an entrance to the Colne Valley Railway and we understand was closed as such following a safety review and recommendations from the police and Highways Agency. The danger being the turning's location on a blind bend in a national speed limit zone. Quite how the council failed to assess this prior to granting the licence astounds me. We have already personally seen two near misses as HGV's pull out from the location and cars travelling in excess of 60mph fail to spot the danger.
- 2) An application to relocate the recycling centre to the current location of the fast food vendor (currently located locally by neighbour's houses) was made to the council some time ago. This was rejected on the grounds of safety relating to the road dangers outlined in point 1 above. How can the council then seemingly disregard these safety concerns when a trading licence for the same site is granted?
- 3) Thirdly, the smell from the cooking has been noticed by a number of local residents, ourselves included. On occasion, the smells are even noticeable inside local houses. Why should we have this in our own gardens and homes as we sit out in the summer months trying to enjoy social occasions?
- 4) ~~Finally~~, there has been a significant increase in the number of vehicles using our driveway entrance to perform a U-turn in, when they see the vendor at the last minute and by then have missed braking in time for the turning. Why should our drive and our neighbour's driveways be used in this way?
- 5) The very look and feel of our lovely Grade 2 Listed cottage (built c1580) has been eroded by the monstrosity of a fast food van with tables and chairs and matching 20ft flags on the verge opposite the house entrance.

I refuse to believe if any of the councillors that granted this licence were in our situation or were aware of the facts, that the licence would have ever been granted in the first place! We trust you

will consider the above points, if at the very least, for safety's sake. We have also attached a signed complaint from our neighbours and in so doing have provided complaints from 100% of the local residents (four of the five local houses, the fifth being unoccupied at the time of writing).

Finally, we would hope that the council committee would see without question the overwhelming anger and strength of ill feeling towards this establishment's location. We hope that this letter and any future correspondences between now and June 2013 will draw a close to this matter and avert the need for us to escalate our complaint through legal channels. We are happy to hear any views or opinions you may have via our return address provided above.

Yours sincerely,

Stephen and Helen Jakes

Dear Councillors,

I am again writing to register my complaints to having a mobile food vendor trading from the land opposite my property. I have several points I wish to raise and since I am aware that it is ultimately unlikely I will be afforded the opportunity to talk at length on the night, I am highlighting my objections now so that they may be noted. I would hope and expect that those councillors attending the meeting this complaint pertains to, would make time to at least read this summary covering letter, even if the entire ever growing portfolio of complains and emails is not able to be fully digested.

Ultimately, the very fact that every one of the local residents object to Mr Bentley trading from this location and Councillor Hylton Johnson objected on road safety grounds, should be sufficient. However, the key objections outlined herein and the flagrant and serious repeated breaches by the vendor of his licencing terms further highlight our opposition, as local residents. These objections and points of note are listed below and are in chronological order.

I will still request to attend the renewal hearing if required, as I have waited two years for this opportunity, being as I was, unable to attend last year's meeting due to last minute work commitments. I feel very strongly that our objections should be acted upon.

We purchased our 16th century house just three weeks before the vendors licence was issued and feel aggrieved to have to, from the outset, fight to maintain the landscape and tranquillity of the setting.

Key complaints are:

1. I am frustrated by the councils seeming lack of consistency in their policy: for example, when my neighbours objected to the recycling bins (see Appendix 1) being placed near their properties, they requested the council relocate them to the hard standing area where Mr Bentley now trades from. I have been told that this objection was overruled on the grounds that the location was too dangerous, being as it is on a blind bend in a 60mph zone. Yet this road safety issue is one of the very reasons we (and Councillor Hylton Johnson) objected to Mr Bentley operating from the same location. Surely an objection by those who know just how dangerous this local road is should be noted and acted upon. As a point of note, and for anyone in doubt as to the danger of this blind bend location, I have attached a picture of my wheelie bin in appendix 12, which was destroyed recently when a car lost control, mounted the verge and struck it at speed! Also, (Appendix 12) an image taken this past week of yet another road traffic accident at this dangerous stretch of road.

I have also requested that the police set up a mobile speed trap in this location, as motorcyclists in particular regularly use it as a suitable stretch of road to see what their performance bikes are capable of and regularly accelerate to estimated 100Mph+ speeds.

2. During his time at this location, Mr Bentley gradually started to allow his 'A board' advertising signs to slowly migrate further and further down the road until they were almost outside my driveway. I twice had to complain to the council regarding this and he was reminded that these are not to be placed away from his location.

3. The council workers seem unaware of the licencing rules they are there to enforce. I have called the council numerous times to complain at the cooking smells that create mal-odour across our properties when the wind is a light North Easterly and my neighbours have also written regarding this issue. The council staff told me (after almost a year of repeated calls to the environmental team) that mal-odour issues do not apply to mobile food vendors and not to keep calling them regarding this issue. Yet this is clearly listed as a cause for opposition in the licence application form! (See Appendix 2) Rightly or wrongly, I constantly feel the enforcement teams at the council are unaware of many of the rules they are there to enforce. Also, they seem to deny that mal-odour exists (see Appendix 3, an extract from a letter from Corporate Director, Andy Wright – December 2013), but are unwilling to carry out site visits on the days I complained! So quite how Andy Wright can make the statement he did, astounds me.

To that end, the licencing enforcement team seemed unwilling to enforce the decision and ruling by the councillors in last years meeting on the 27th July, stating that Mr Bentley did not have licence to use street furniture (namely flag poles and picnic tables) – see Appendix 4. In fact, following last years meeting, Mr Bentley removed his flagpole immediately after the ruling, but refused to remove the tables. Three weeks later with the tables still in-situ, I spoke with Daniel Mellini, requesting he enforce the removal and was surprised to learn he had decided to allow Mr Bentley to keep the tables until I

could otherwise prove that land ownership and licencing laws prevented him from having them at the location. I was further disappointed to learn that Mr Mellini then decided to try to broker a deal between Mr. Bentley and myself, whereby Mr Bentley only agreed to remove said tables, if I dropped any future objection to his trading from the location opposite my house. This was conveyed to me in a phone call, although (despite my request from the council, for a recording of the conversation – which they told me did not exist) Mr Mellini will only confirm that he tried to broker this deal. The very fact that the removal of the street furniture (highlighted as forbidden during the meeting of July 27th 2013) was now being used as a ‘bargaining chip’ by Mr Bentley, was tantamount to blackmail. (See appendix 5)

I immediately declined this disgraceful offer. What I strongly abhor however, is that the very next day after I declined Mr. Bentley’s unscrupulous offer, he purposefully re-erected his flagpole! (A vindictive act, without doubt). The council enforcement team then finally enforced the removal of all street furniture on October 15th 2013 (nearly 3 months after the councils ruling in July), and only after a warning letter was issued, as Mr Bentley initially ignored the councils instructions to remove the street furniture. As a point of note, at last year’s hearing I have been told by those present, that Mrs Bentley was present and suggested she was unaware of exactly from where and to whom the tables and chairs belonged to. It was only after I questioned this account with Mr Mellini and informed him I had witnessed Mr Bentley and a colleague hammering in the security land anchors and setting up the tables, that the self-ownership/responsibility was finally confirmed by Mr and Mrs Bentley. (See appendix 6)

4. Whilst on the subject of last year’s meeting. I was also made aware during a phone call to the council, that a representative from the Colne Valley Railway was present to act in the defence of the mobile vendor. I was told during this phone conversation that he had claimed no vested interest in the vendor and that he vehemently denied that the entrance where Mr Bentley requested to trade in the vicinity of was ever an ‘old entrance’ to the railway. This directly contradicts a written complaint by one of my neighbours, who has lived in the area for many years. Namely that several years back this land was requested to be used by the railway as parking when it was an old entrance, and was once again on the grounds of road safety, deemed too dangerous (see Appendix 7 – a letter from a long-term resident, with a conflicting account to that of the ‘impartial’ railway worker).

We have been told by a member of the community however that this railway representative is in fact related to Mr Bentley and does not represent the views and opinions of all of the staff at the Colne Valley Railway. Also, why would the railway staff be championing the services of a food vendor that is in direct competition to their ‘buffet carriage café’ at the neighbouring railway? It is nonsensical! Finally, Mr Bentley HIMSELF said the entrance was the old entrance to the railway in his original application form in 2012! (See Appendix 8)

5. As a point of note. On Mr Bentleys original 2012 application form he said he wished to trade from outside the old entrance, a location that was highlighted by a red dot on a map for the councillors to gain an understanding of the location in the 2012 licence granting (see appendix 9). Yet he now trades 100+ yards from that location (far closer to our houses), in a far more visible location. When I raised objection to this with the council, their response was that the location initially requested (further from our houses) needed to be kept clear for the extremely rare occasions deliveries are to be made to the railway through this entrance. The council licencing officer therefore informed me that Mr Bentley can in fact trade therefore from wherever he wants in the 100+ yard long area of hard standing. I find this once again unjust since the location he requested to trade from is TWICE as far from our houses than his current location. Also, I am told the council’s refusal to enforce this issue is in part because he has hot cooking oil on-board and would be unable to move the van if a delivery to the railway was required. This is nonsense, as the location deemed unsuitable is 4-5 cars widths wide (30+ft)!!! Easily wide enough for passing wide loads. It simply comes down to his desire to trade from a far more visible location, irrespective of the fact that in doing so, he has instantly halved the distance between his van and our residential properties.

I only raise these last two points as I feel the council has repeatedly had the wool pulled over their eyes when it comes to this application.

6. My next complaint (in chronological order) is far more serious. Following my refusal to ‘compromise’ with Mr Bentley, by refusing to drop future objections (see point 3), I noticed he started to photograph or appear to photograph myself as I drove out of my driveway and past his location. I can only assume this was some sort of attempt at an intimidation campaign. Initially I simply observed as he would be sat at his unlawfully installed tables, pick up his camera phone and blatantly ‘track’ me with it as I drove past. Then after repeated occurrences, including on one occasion, him pointing his camera

phone at my wife and infant son as they drove past, I had no choice but to contact the police. I simply registered a complaint at this point. All complaint details are available on police record should the council require them (the references for my police complaints are: EP20130928-0904 and October 7th, incident 355).

Unfortunately, the behavioural patterns did not change and after the 4th occurrence I was forced to ask the police to step in. They met with Mr Bentley and myself separately, and although they could find no evidence of actual picture taking, were satisfied with my account, given the "accuracy with which I had described the camera phone I was alleging him to be using" (in their words). There have been no observed incidents since the police intervention.

7. Then in the autumn of 2013 Mr Bentley was observed by residents arriving, opening for business and trading prior to 6.50am when his licence is to trade from 7.30am. The council were duly informed and I have since learnt that following a full investigation, he has been found to be trading outside of his licensing terms/hours. This investigation was lengthy and I was surprised to learn, despite the seriousness of this, that once again and despite being found guilty of a breach of his licensing terms, Mr Bentley was simply let off with another warning letter!

8. The granting of licence and subsequent increased familiarity of this as a location for food services is slowly turning the once green and pleasant location into a 'truck stop'. The associated honking of loud horns by drivers as they pull out of the location or drive past is unbearable and is ruining this quiet residential setting.

During the councils investigations into Mr Bentley breach of his trading hours, and while an enforcement officer was present, she witnessed and can confirm these intrusive truck horns that we as local residents are subjected to daily and at all hours of the day. (See Appendix 10 and Appendix 2). I have been woken on numerous occasions by these and the regularity with which these are now sounding is dramatically on the increase.

Also, the frequency of large goods vehicles and cars carrying out 'U-turns' in our driveways in order to return to the vendors location has dramatically increased. I witnessed this first hand again in my garden the other week and as I walked towards a council Highways Agency car (carrying out a 'U-turn' in my driveway), with arms politely raised in a 'what do you think you are doing, using my driveway in this manner' fashion, the driver simply gave me 'the finger' and drove over to the vendors location.

I feel a council's role is to protect the balance and rights of all of its constituents, and to have such intrusive noise pollution and behaviours thrust upon us is unjustifiable. Especially in a location that previously was a quiet hamlet.

I have raised this issue with the council enforcement team and have been told that there is little that can be done as this is a 'secondary consequence' of Mr Bentley's business since it is not him directly that is creating the noise pollution. But my point remains; if Mr Bentley wasn't trading there, then there wouldn't be any truckers, van drivers, cars and even busses, regularly honking their horns at this location. Surely common sense needs to prevail?

I am also annoyed that at no point in the past two years and despite it being a requirement (see Appendix 11), have the Highways Agency ever replied to the council with a response pertaining to this application. Especially since one of our key concerns is over the road safety of this location. This lack of response has been confirmed to me in writing (email) by Daniel Mellini (see Appendix 11). I don't see how the Council can make an educated, impartial and informed judgement on the re-granting Mr Bentley's licence at the meeting held in July 2013, despite local residents and Hylton Johnson's objections over road safety, when the very body concerned with this safety issue didn't even provide a response to the council!

9. I again had to report Mr Bentley to the council in early March 2014 (just 2-3 months after he was last reported) for once again trading outside of the terms of his licensing agreement by again trading outside of the licence hours.

Specifically in February and March of 2014, Mr Bentley was once again observed by local residents arriving and starting trading well before 7.30am. This was reported to the council enforcement team, but just two working days after this allegation was reported, Mr Bentley uncharacteristically changed his modus operandi.

Unfortunately, since a site visit and 'test purchase' could not be made by the council enforcement officers prior to Mr Bentley changing his modus operandi, no official council action could be taken, despite the council having evidence of this licence breach.

10. In April 2014, in what I can only assume is a continued effort to try to intimidate or harass me, Mr Bentley took to 'giving me the finger' when he saw me departing my driveway and drive past his van and also when he drove past my car. This occurred so frequently that it wasn't long before I was able to provide photographic evidence (see appendix 13). The quality of the image is poor, however you can clearly see Mr Bentley's left middle finger raised at me. If this isn't a clear case of antisocial behaviour, I don't know what is. (See Appendix 2, defining nuisance and annoyance)

11. Then in May 2014 (May 15th as reported to the council), Mr Bentley once again ignored the terms of his licence and the previous warning he had had in respect to erection of street furniture, by again setting up a table and chairs for his customers to use. (See appendix 14). These were collapsible, and taken away at the end of business, but the council confirmed that these are still classed as 'street furniture for customers use' and are therefore not allowed. As I indicated via email to a council licensing enforcement officer (Theresa Debbage), the frequent and flagrant breaches of licence and his attitude to local residents astounds me. I understand he has had at least 2 or 3 official warning letters this year already and I feel these do nothing to either curb his behaviour, or ensure he respects the licensing process and local residents.

Let me be clear. I have no objection to Mr Bentley earning a living in this manner. I merely object to him or ANY VENDOR trading opposite my house, when there are numerous NON-RESIDENTIAL layby's in the nearby district from which they can trade.

It seems every time I have to speak to the council they simply issue warning letters to Mr Bentley, despite regular and blatant disregard for the licensing conditions under which he trades. I realise this sounds accusatory, but given my constant frustrations, the evidence provided and proven herein, and the fractious sentiment this vendors behaviours have created, I feel it is a justifiable comment. I seem to have to fight tooth and nail to not only have my objections noted and prove their legitimacy, but more frustratingly, to have the council enforce the frequent licence infringements pertaining to this application.

As I started out by saying; if ultimately 100% of the local residents object and Councillor Hylton Johnson objects on road safety grounds, then these objections alone should be sufficient. However, points 1-11 serve to further justify my continued and unrelenting campaign to have this licence and any future licences pertaining to this location, rejected.

I hope and simply ask the councillors to act justly and impartially given the irrefutable evidence herein of the regular, flagrant and serious breaches of licence rules Mr Bentley has displayed in the past eighteen months. Otherwise, following legal advice and with regret, I will have no choice but to take legal action initially in the form of a judicial review, to protect my rights.

Yours sincerely

Stephen Jales

Appendix 1 – Recycling bins/centre current location



Appendix 2 – Mal-odour listed on the licencing form & noise/antisocial behaviour (namely the constant and intrusive sounding of truck horns at all hours of the day and the finger gestures from Mr Bentley!)

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.

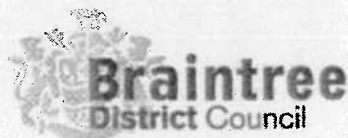
For every such application, or renewal, Braintree District Council may impose such conditions as may be reasonable, having regard to all the circumstances to prevent:-

- (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.

Appendix 3 – Denial of mal-odour even though no environmental officer has EVER conducted a site visit when I complained (on days when the wind is North-Easterly).



Our ref: AW/DM/ah/131121
Your ref:
Ask for: Andy Wright
Dial: 01376 552525
Ext: 2050
Date: 21st November 2013

Environmental Health
Causeway House
Braintree
Essex CM7 9HB
Tel: 01376 552525
Fax 01376 552626
www.braintree.gov.uk

The Council is also aware that Mr Jales has made a number of complaints about the street trader concerning smells, the unauthorised siting of chairs and tables, a large flag and the hours that Mr Bentley is operating. These matters have been investigated and, to date, the allegations of smells have not been proven. The issue of the unlawful siting of a picnic table/chairs and a flag pole has been substantiated, investigated and as a result of action taken by the Licensing Team, the items have been removed.

Appendix 4 – Confirmation of illegal installation of street furniture (an extract from an email from Daniel Mellini – Nov 2013)

.....I am satisfied that the land is classed as land which is publicly maintainable vehicle highway. I also agree that Mr Bentley installed street furniture on the land in question without permission from the land owner. I can also confirm that the licensing Committee of 17th July 2013 requested that the street furniture and flag be removed from the land in question. I can also confirm that a letter was sent to Mr Bentley on 9th October 2013 reminding him of the Licensing Committee's decision and was asked to remove the chairs and tables and flag from the land in question immediately.....

Daniel Mellini

Environmental Health Manager (Food, Health & Safety and Licensing)

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

☎ 01376 552525 Ext. 2228 | www.braintree.gov.uk | ✉ daniel.mellini@braintree.gov.uk

Appendix 5 – Mr Bentley's 'offer' to only remove the tables if future objections by myself are dropped. Something which by law he should have been forced to remove by this time already and yet which he then tried to use as a 'bargaining chip' against me....tantamount to blackmail!

.....but I would in an attempt to resolve the situation request that Mr Bentley move to a different part of this land, remove the chairs and tables and flag which I remember you agreed would help resolve your complaint. I agree that Mr Bentley did offer the compromise of removing the flagpole and street furniture and remaining in the same location and I conveyed that offer to you.....

Daniel Mellini

Environmental Health Manager (Food, Health & Safety and Licensing)

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

Appendix 6 - Mrs Bentley seemingly denying knowledge of ownership / responsibility for the installation of the tables.

.....I was under the impression and I acknowledge that I may be wrong; that Mrs Bentley at the Licensing Committee of 17th July 2013 stated that she could not confirm who installed the picnic table on the land in question.....

Daniel Mellini

Environmental Health Manager (Food, Health & Safety and Licensing)

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

☎ 01376 552525 Ext. 2228 | www.braintree.gov.uk | ✉ daniel.mellini@braintree.gov.uk

Appendix 7 - Confirmation that the location was deemed too dangerous for parking for the railway – extract from a letter of objection from a long-term resident.

1 Dracell Cottages
Heddingham Road
Gr. Yeldham
Halstead
Essex CO9 4HS

Dear Sir,

I am writing to register my objection to the renewal of the license for Bentley's fast food van

My objection is on the grounds of safety. The entrance for the area they use ~~does not have a~~ clear view in either direction to pull out from it safely. It is particularly bad from the Great Yeldham side. and This is because the road itself is subject to the national speed limit and the bend obscures fast moving vehicles. This would be particularly dangerous for lorries who have to manoeuvre slowly due to their length.

This site was previously considered too dangerous as the parking for the Elna Valley Railway and they were forced to move their entrance much closer to Poole Street.

The problem parking issue really only related to the busiest days which were Sunday and Bank Holiday days when traffic volumes were not so great. The lorries, parking on the road

Appendix 8 - Mr Bentley HIMSELF outlining that the location was once an old entrance to the Colne Valley Railway, thereby contradicting his supporter.

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 the application form

You are requested to complete this form in block capitals

1. I, Mr Gary Bentley
of 61 Hawthood Road
Sible Hedingham

Date of Birth: [REDACTED]

Daytime telephone number: [REDACTED]

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

A126 at the layby near the
Old Entrance to the railway.
Yellow Road Sible Hedingham
from A126

PLEASE ENSURE YOU DO NOT INCLUDE ANY REQUEST FOR MARKET DAY TRADING (See Braintree District Council Street Trading Policy - item 3)

Appendix 9 - The location originally applied to trade from



Appendix 10 - The constant truck horns and degradation of the surroundings – an extract from Licence Enforcement Officer Theresa Debbage (Nov 2013)

....Further to your email below I can confirm that I did receive your email on Tuesday 12th November, I apologise for not getting back to you I have been out of the office a lot. I can confirm that I did hear the horn sound from a lorry at 06:58hrs on Tuesday 12th November 2013, which appeared to be as an acknowledgement to Mr Bentley. I then witnessed a bus and a car arrive and the occupants approach Mr Bentley's catering van prior to 07:30hrs. As a result of my visit I have now progressed the investigation further but I am not able to convey the details at this time.....

Theresa Debbage

Licensing Enforcement Officer

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

01376 552525 Ext. 2229 | www.braintree.gov.uk | theresa.debbage@braintree.gov.uk

Appendix 11 - Failure of the Highways agency to have replied to the council at all - (a copy of the application form outlining the required processes and an extract from an email from Daniel Mellini – Sept 2013)

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

.....For the last two years, the authority has consulted with highways when it has received an application for street trading consent from the trader in question but has never received a response.....

Daniel Mellini

Environmental Health Manager (Food, Health & Safety and Licensing)

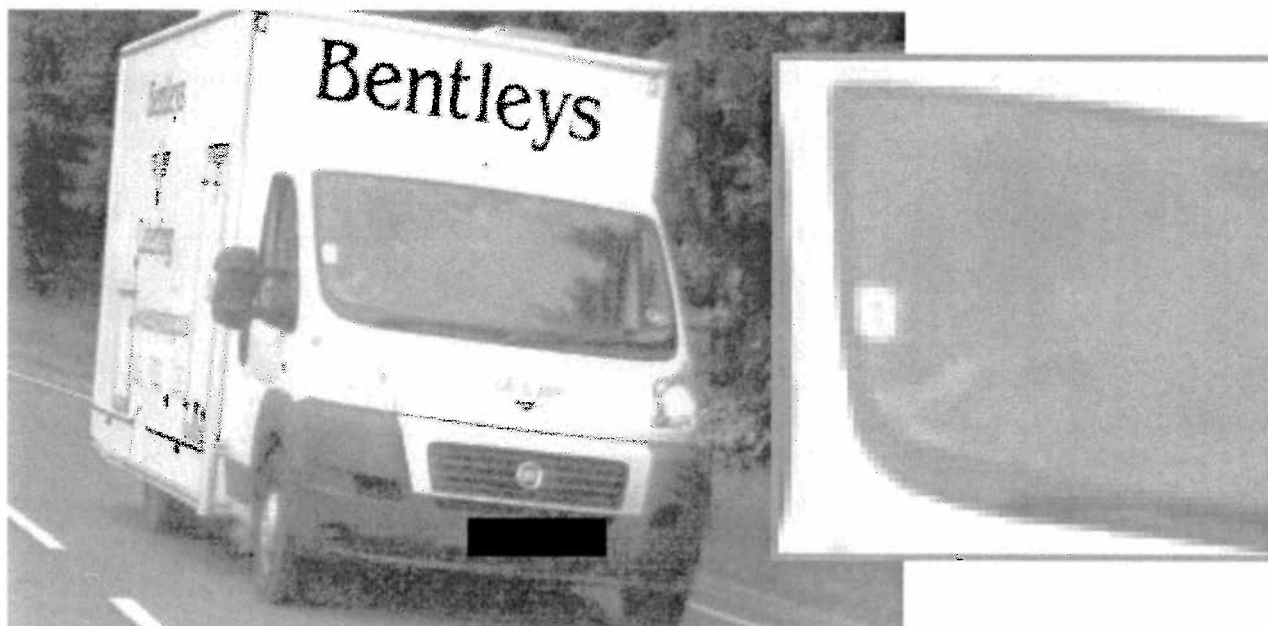
Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB

☎ 01376 552525 Ext. 2228 | www.braintree.gov.uk

Appendix 12 - Our wheelie bin, recently destroyed by a car losing control on this dangerous national speed limit blind bend. (Mr Bentley's van/trading location can be seen in the background). Also, a recent road traffic accident at this location, one of many (unreported) this year!



Appendix 13 – April - May 2014: Mr Bentley showing antisocial behaviour towards me. Clearly shown 'giving me the finger'.



Appendix 14 – May 15th 2014: Mr Bentley again erects street furniture for customers to use, despite having received a written warning about THIS VERY ISSUE in Autumn 2013!



The residents of Drawell Cottages

30th July 2014

Continued opposition to local mobile catering

To Whom It May Concern,

We the undersigned are still vehemently opposed to the issuing of a trading licence for this location next to our properties.
The cooking smells are at times unbearable and the regularity of traffic using our driveways to perform u-turns in is unacceptable.
Why should we, as local residents have to put up with this unwanted trade when we all unanimously oppose him being there?
Numerous times these past few months the vendor has been in breach of his licence agreement and the increase in familiarity of this location as a truck stop is ruining the peace and tranquillity of what should be a remote countryside location.
We ask that any meeting requiring representation from the residents be attended by our neighbour Mr Stephen Jales on our behalf, who has noted and represents the views and opinions of all residents.
We wrote outlining our key complaints and opposition last year, since then the situation has not changed and we ask that our opposition be again taken into consideration. It is simply not fair, to so dramatically adversely affect the lives of those neighbouring this trading location.
Should the licensing committee uphold our objections, we would also object to any future licence issuing at this location.

Yours truly,



The residents of Drawell Cottages

Our ref: 122
 Your Ref: 13/00829/STR
 Ask for: Daniel Mellini
 Phone: 01376 557790
 Ext: 2228
 Email: daniel.mellini@braintree.gov.uk
 Date: 9th October 2013



Mr Gary Bentley
 61 Hawkwood Road
 Sible Hedingham
 Halstead
 Essex
 CO9 3JR

Environmental Health

Causeway House Braintree
 Essex CM7 9HB

Tel: 01376 552525
 Fax: 01376 557767 - Environmental Services
 01376 557720 - Engineering

Dear Mr Bentley

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

Please find enclosed your Street Trading Consent, which must be displayed at all times. This consent is not transferable and will cease to be valid upon expiry, or upon sale of the business by the holder, whichever is the sooner. It is valid only as stated and not for any other site or times.

At the time of issue of any street trading consent, the Council will ask that before the commencement of trading, you have first obtained the permission of the landowner and should you wish to pursue the consent, you may need planning permission and you are therefore advised to contact the Council's Planning Department in connection with this matter.

You will no doubt be aware that the authority received a complaint from a local resident shortly after your original consent was granted on 26 June 2012. At the time you made your application to renew your consent on 15 May 2013 the authority had received during the consultation period a number of objections from local residents. At the Licensing Committee of 17th July 2013, after taking consideration of the objections received, Street Trading Consent was again granted to you for a period of 12 months. The current consent is due to expire on 17 July 2014.

Once the consent was issued, the authority continued to receive complaints with respect to the decision that was made by the Licensing Committee.

In order to try and resolve the matters that had been identified by the complainant and to try and ensure that your consent was not materially affected to an extent that would be detrimental to your business, the authority tried to mediate between both parties so an agreement could be reached. Unfortunately it was clear that at an early stage any agreement would not be forthcoming.

At the time of writing this letter, the authority has been made aware that an allegation has been made with regards the taking of pictures of the complainant and his wife by you. It was understood that the Police had been contacted and Mrs Bentley advised in a telephone conversation with Mrs Gorham on 8 October 2013 that the Police had visited the site where you trade to ascertain the legitimacy of the allegation. The authority has not been supplied with an independent account of the results of the investigation so is not in a position to agree or disagree with the claim. The complainant has however been informed in writing that should incidents of this nature occur in the future then a complaint should be made to both the Police and the Licensing Authority so an investigation can be undertaken.

The authority is now concerned that the street trading consent that was first issued on 26th June 2012, has been complied with. A review has been undertaken of the consents that have been issued to you which relate to the piece of land in question and I make the following points.

At the time you made your original application on 3rd May 2012, the application stated that you wished to trade on the A1124 at the layby near the old entrance of the railway, Yeldham Road, Sible Hedingham. The application was amended at that time to show the correct designation of the road which is in fact the A1017. You also supplied a plan of the location where you intended to trade. This location was at the far end of the piece of land in question. Consent was granted by the Licensing Committee of 25 June 2012 to trade at that location but at some point after the consent was issued you actually decided to trade at the opposite end of the land in question, in effect against the consent that was granted.

At the time you made your application to renew the street consent on 15 May 2013 you did not supply a plan of the location that you wish to trade from, which implies that the location that you wished to trade from was the same as the previous year's application.

The Council has also been made aware that a substantial sized picnic table and large flag was placed in the vicinity of where you currently trade from. You confirmed in a subsequent telephone conversation that you had placed this table on the land in question which remains there permanently and the flag is erected and removed on a daily basis whilst you are trading. The installation of the picnic table and flag was not highlighted at the time the applications you made in either 2012 or 2013 and consent has not been provided for either of these items.

As a result of reviewing this information, It has been determined that you are not trading in the correct location and you have never sought permission to change the location from one end of the piece of land in question to the other. It is also concluded that you did not declare that you intended to place a picnic table or flag on this land, do not have permission from the landowner or consent from the Licensing Authority to do so.

I however acknowledge that at the time of the Licensing Committee on 17th July 2013 the Committee accepted your reasons for trading in the current location but the Chairman of the Committee specifically asked Mrs Bentley to ensure that the picnic table and flag were removed. This has been subsequently confirmed by the Chairman of the Licensing Committee.

Despite the Committees agreement to allow you to trade in this location, I suggest that in order to improve the relationship with your neighbours, you either return to the location as per your original application or in the vicinity of the original location that allows access and egress by the Colne Valley Railway.

If you do not voluntarily move to the opposite end of the piece of land in question the Council will seek to ensure that any future consent that is granted is clearly marked to a specific location and as a result I would ask that when you submit your application to renew your consent in 2014 that you submit a plan of where exactly you want to trade.

In addition and in accordance with the Committee's wishes can you ensure that the picnic table and flag are removed within 7 days of receiving this letter?

Yours sincerely

Daniel Mellini
Environmental Health Manager (Food, Health & Safety and Licensing)

APPLICATION FOR STREET TRADING CONSENT – “BUSINESS PERMIT LOCATION” OUTSIDE WITHAM RAILWAY STATION, ALBERT ROAD, WITHAM		Agenda No: 6
<p>Corporate Priority: A better place – Keeping our district clean and tidy, Protecting our environment, Providing green space for everyone Building a prosperous district – Boost employment skills and support businesses, Promoting and improving our town centre, Securing appropriate infrastructure and housing growth</p> <p>Report presented by: John Meddings Report prepared by: John Meddings</p>		
<p>Background Papers:</p> <ol style="list-style-type: none"> 1. Application made by Suryakant Chhotalal Rao in respect to the “Business Permit Location” outside Witham Railway Station, Albert Road, Witham (Appendix 1). 2. Representations received during the consultation period (Appendix 2). 		Public Report
<p>Options:</p> <ol style="list-style-type: none"> 1. To GRANT the application for Street Trading Consent. 2. To GRANT the application for Street Trading Consent with amendments. 3. To GRANT the application for Street Trading Consent with additional conditions. 4. To REFUSE the application for Street Trading Consent. 		Key Decision: No
<p>Executive Summary:</p> <p>To consider an application by Suryakant Chhotalal Rao for a Street Trading Consent at the “Business Permit Location” outside Witham Railway Station, Albert Road, Witham. The Council’s Street Trading Policy specifies that if representations are received the application is required to be determined by the Licensing Committee.</p>		

Decision: To consider the following options:-

1. To **GRANT** the application for Street Trading Consent.
2. To **GRANT** the application for Street Trading Consent with amendments.
3. To **GRANT** the application for Street Trading Consent with additional conditions.
4. To **REFUSE** the application for Street Trading Consent.

Purpose of Decision:

Members of the Licensing Committee are requested to consider an application made by Suryakant Chhotalal Rao for the "Business Permit Location" outside Witham Railway Station, Albert Road, Witham.

Any Corporate implications in relation to the following should be explained in detail

Financial:	If the application is unsuccessful the fee will be returned to the applicant.
Legal:	There is no right of appeal given to the applicant.
Safeguarding	Not applicable
Equalities/Diversity	Not applicable
Customer Impact:	The decision made could have an impact on the applicant's business and that of surrounding businesses.
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Application subject to a 28 day public consultation period in accordance with Braintree District Council's Street Trading Policy.
Risks:	None
Officer Contact:	John Meddings
Designation:	Licensing Officer
Ext. No.	2213
E-mail:	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 18th July 2014 which was validated on 22nd July 2014.
- 1.2 The Licensing Authority had received an earlier application on 4th June 2014. However, this was invalidated as supporting documents were missing. The Street Trading application states that a plan/sketch of the location is required if the applicant does not already hold a consent for the location applied for.
- 1.3 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 a 500m radius of the proposed site
- 1.4 During the consultation period, the Authority received two representations from local traders selling similar commodities within a 500m radius of the proposed site (Appendix 2).
- 1.5 The Licensing Authority also received a representation from the Assets and Property Management Team, Braintree District Council (Appendix 2).
- 1.6 Street Trading Consents are only issued for one year, therefore an application for consent is required annually.
- 1.7 The hours that the applicant is proposing to trade are set out below:
- | | |
|-----------|----------------|
| Monday | 04:30 to 16:00 |
| Tuesday | 04:30 to 16:00 |
| Wednesday | 04:30 to 16:00 |
| Thursday | 04:30 to 16:00 |
| Friday | 04:30 to 16:00 |
| Saturday | 04:30 to 16:00 |
| Sunday | 04:30 to 16:00 |
- 1.8 The applicant proposes to sell Newspapers, Tobacco, Confectionary, Soft drinks, cut flowers and Indian hot drinks.
- 1.9 The applicant is currently issued with a parking permit by the Parking Partnership. This is issued on an annual basis and permits Mr Rao to park in this location.

- 1.10 There are no other existing Street Trading Consents in the immediate vicinity of this location.

2. History

- 2.1 The applicant has previously held a Street Trading Consent for this location, but this expired on 16th May 2014.
- 2.2 The previous application was also determined by the Licensing Committee on 15th May 2013, due to representation being received:-

‘Decision: That the application submitted by Mr Rao for a Street Trading Consent to sell newspapers, tobacco, confectionery, soft drinks, cut flowers, coffee and pre-packed sandwiches from a purpose-built vehicle positioned on Albert Road, Witham located immediately outside Witham Railway Station 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 coffee and pre-packed sandwiches being excluded from the Consent.

Reason for Decision: The grant of consent for the sale of coffee and pre-packed sandwiches would conflict with goods and services provided by nearby retailers.’

3. Enforcement

- 3.1 During the previous term of the Consent the Council received numerous complaints from local traders regarding the applicant continuing to sell hot drinks.
- 3.2 Evidence has been gathered by Licensing Enforcement Officers that the applicant had continued to sell hot drinks during the term of the previous Consent.
- 3.3 Signage is also clearly visible around the vehicle that coffee is for sale.
- 3.4 Further enforcement action was delayed until the outcome of this application was determined. However, if consent is granted the Licensing Authority may still determine that formal action may be necessary.

4. Policy

- 4.1 The Braintree District Council Street Trading 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:-

- (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 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.

4.2 In considering this application sections 1(d) and (h) of the Street Trading Policy may be considered relevant.

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

ENVIRONMENTAL

17 JUL 2014

HEALTH



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 CHHOTALAL RAOTIA ESSEX NEW
of "HOME ADDRESS" 8 GLENFIELD ROAD, HATFIELD ROBES
CHESHAM, Essex CM3 2HX

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)

AT "BUSINESS PERMIT LOCATION"
OUTSIDE WITHAM RAILWAY STATION
AUBERT ROAD
WITHAM - ESSEX

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 4.30 AM To 4.00 PM Friday: From 4.30 AM To 4.00 PM
Tuesday: From 4.30 AM To 4.00 PM Saturday: From 4.30 AM To 4.00 PM
Wednesday: From 4.30 AM To 4.00 PM Sunday: From 4.30 AM To 4.00 PM
Thursday: From 4.30 AM To 4.00 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:-

NEWSPAPERS, TEA/CO, CONFECTIONARY, SOFT DRINKS, CUT FLOWERS
INDIAN HOT DRINKS

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



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: 15/5/2014

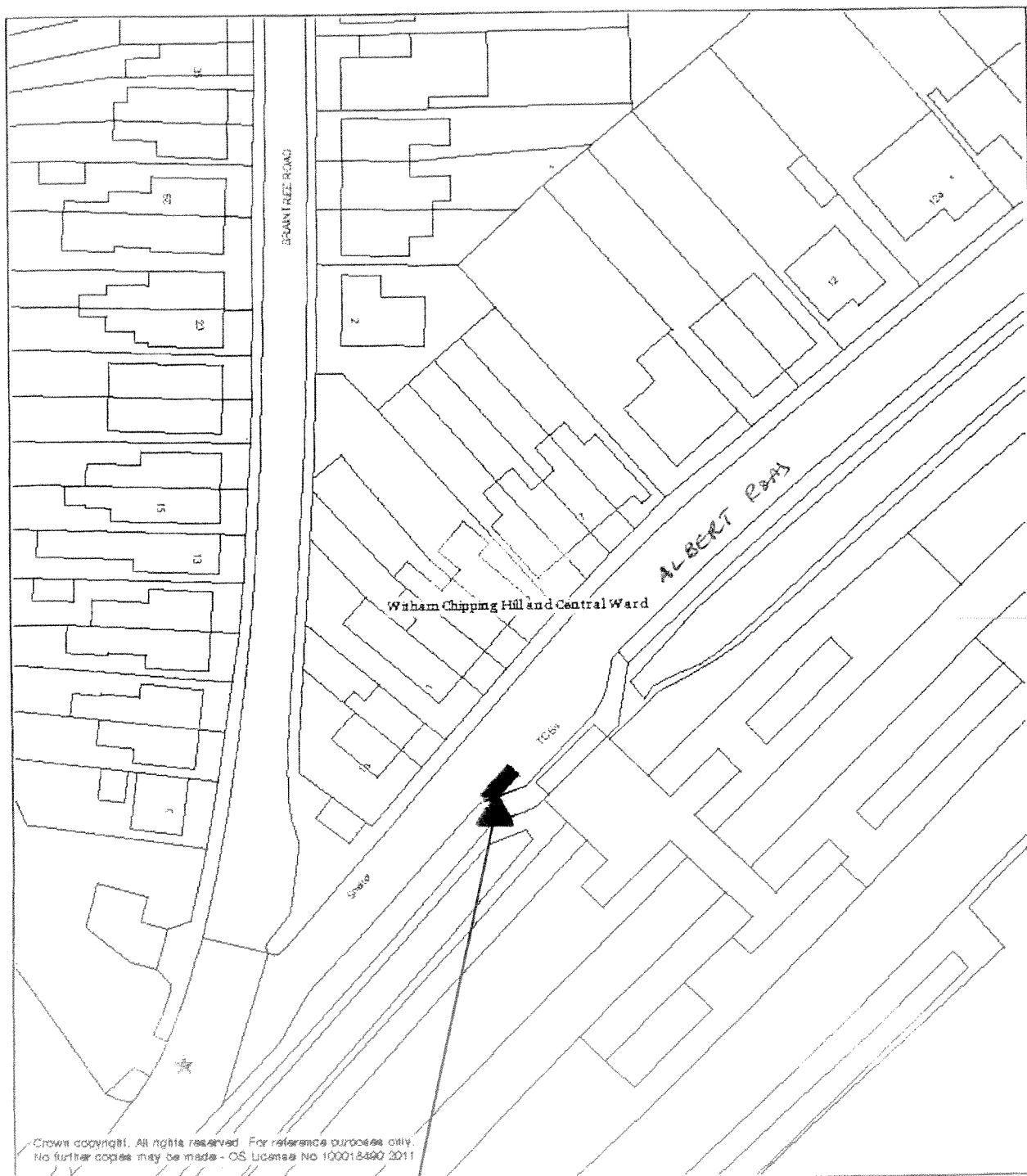
Please return this form to:-

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.



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Notes

Scale 1:625

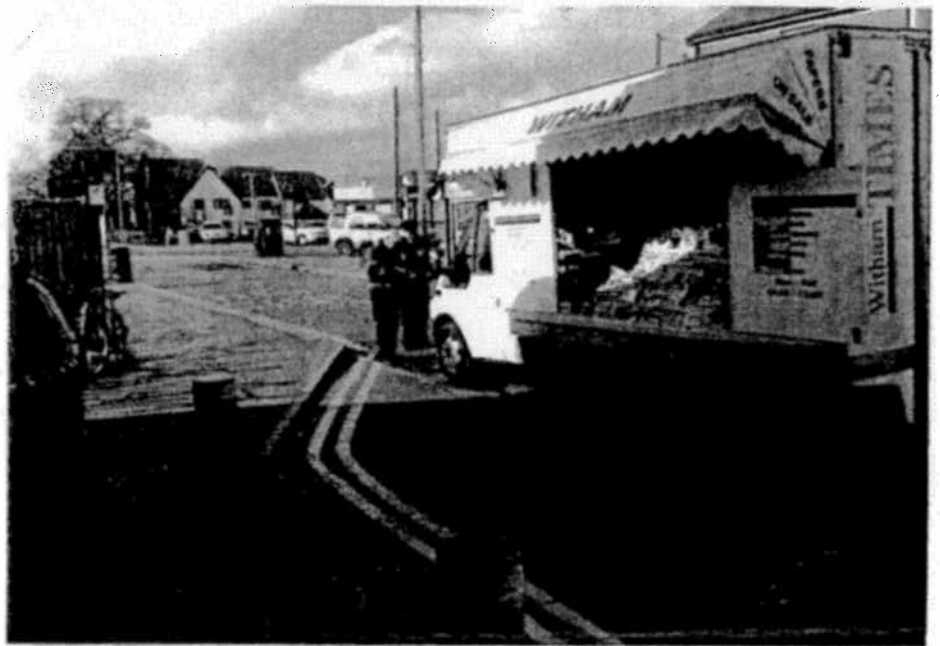
Department

MR S RAO - STREET CONSENT
WITHAM ROAD

Braintree
District Council



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

Monday 4th August 2014

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.

I am very disappointed that even though the committee ruled, in April 2013, that hot drinks could no longer be served by this trader, he has carried on to do so for a further fifteen or so months, without consequence.

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

Yours faithfully

Mark Murphy

Locoespresso Ltd
Platform 2 Albert Road
Witham
Essex
CM8 2BS

29th July 2014

FAO Licensing Department

I'm currently one of the directors from Locoexpresso Ltd.
We have been trading since April 2009 at Witham Railway Station.
We were approached by the former landlord to provide quality service and products, which we have done for the last 16 years at various stations.

I write formally to object to the gentleman trading externally at Witham Train Station for the following reasons:

- Conflict of products of what I'm offering
- Selling hot beverages that he denies any knowledge of
- He claims to be offering exclusive products, which is inaccurate
- Selling of products without any formal license
- Obstructive parking conditions
- There is not a need to have two business selling the same products and range, within the same proximity

I have recently won the contract to take on an additional unit at Witham Station (Tearooms located on platform 2,) which involves a substantial cost to my business. With the gentleman trading externally this has a detriment to my potential revenue, but also ensuring that the new business unit is financially sustainable and allowing employment security for local staff, especially when I will be taking on contractually a lease for a further six years.

Locoespresso's unique blend of fresh coffee that is roasted weekly from handpicked sources from around the world is just part of the offering.

We also offer an extensive range of approximately 20 different types of tea, again from round the world. With the new unit opening soon, we will be able to extend this range to offer award winning loose tea.

I would like to understand why trading has been allowed on certain products to date without the relevant licenses?

Yours sincerely,

Director of Locoexpresso Ltd

Webb, Alison

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 | ✉ janet.whyte@braintree.gov.uk

From: Licensing
Sent: 18 July 2014 4:59 PM
To: Community Safety and Development Team; ehlicensing; Essex Highways; Essex Police; Health Protection; Planning Enforcement; Whyte, Janet
Cc: Cllr.showell@braintree.gov.uk; 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 | wendy.baxter@braintree.gov.uk

THE LEGISLATIVE REFORM (ENTERTAINMENT LICENSING) ORDER 2014		Agenda No: 7
<p>Corporate Priority: People feel good – Promoting safe and healthy living, Encouraging flourishing communities Building a prosperous district – support businesses</p> <p>Report presented by: John Meddings</p> <p>Report prepared by: Daniel Mellini</p>		
<p>Background Papers:</p> <ol style="list-style-type: none"> 1. The Legislative Reform (Entertainment Licensing) Order 2014 (“the draft Order”) 2. The Legislative Reform (Entertainment Licensing) Order 2014 Explanatory Document 		Public Report
<p>Options:</p> <ol style="list-style-type: none"> 1. Members note this Report and its contents. 		Key Decision: No
<p>Executive Summary:</p> <p>The Legislative Reform (Entertainment Licensing) Order 2014 (“the draft Order”) will amend Schedule 1 and section 177A of the Licensing Act 2003. The Order intends to deregulate certain types of entertainment in defined circumstances highlighted in this report. Should the Order proceed, it is likely to come into force on the 6th April 2015.</p> <p>The Committee are asked to note the report and should the Order change significantly before it comes into force, a further report will be presented to the Committee for information.</p>		

Decision

1. Members note this report and its contents.

Purpose of Decision:

To inform the Licensing Committee of The Legislative Reform (Entertainment Licensing) Order 2014 (“the draft Order”) with respect to the deregulation of certain types of regulated entertainment in defined circumstances.

Any Corporate implications in relation to the following should be explained in detail	
Financial:	None arising from this Report
Legal:	None arising from this Report
Safeguarding	None arising from this Report
Equalities/Diversity	None arising from this Report
Customer Impact:	None arising from this Report
Environment and Climate Change:	None arising from this Report
Consultation/Community Engagement:	None arising from this Report
Risks:	None arising from this Report
Officer Contact:	Daniel Mellini
Designation:	Environmental Health Manager (Food, Health & Safety and Licensing)
Ext. No.	2228
E-mail:	daniel.mellini@braintree.gov.uk

1. Background

- 1.1 The Legislative Reform (Entertainment Licensing) Order 2014 (“the draft Order”) will amend Schedule 1 and section 177A of the Licensing Act 2003. The Order intends to deregulate certain types of entertainment in defined circumstances highlighted in this report. Should the Order proceed, it will come into force on the 6th April 2015.

2. Cross-activity exemption: Local Authorities, Health Care providers and Schools

- 2.1 The Order introduces a new concept to Licensing of a “trusted provider” and will exempt the provision of Regulated Entertainment in the case of Local Authorities, Health Care providers and Schools on their own defined premises.

- 2.2 “Trusted Providers” will be exempted from licensing requirements between 08:00 – 23:00 and there will be no limitations on audience size and without further condition.

- 2.3 All entertainment activities described in paragraph 2 of Schedule 1 to the Licensing Act 2003 would be included in the exemption. The activities are:

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance
- Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

- 2.4 In cases where the sale or supply of alcohol applies, a licence would be required and the relevant controls in place would remain. The controls in place related to adult entertainment would remain.

3. Live Music in Relevant Alcohol Licensed Premises and Workplaces

- 3.1 The Order increases the audience limit set out by the Live Music Act 2012 from 200 to 500 for premises that hold a licence to supply or sell alcohol and workplaces.

- 3.2 The Live Music Act 2012 removed the requirement for unamplified live music taking place between 08:00 – 23:00 in all venues.

- 3.2.1 The Act also removed the licensing requirement for amplified live music taking place between 08:00 – 23:00 before audiences of no more than 200 persons on relevant licensed premises authorised to supply alcohol for consumption on the premises.

- 3.2.2 The Act removed the licensing requirement for amplified live music taking place between 08:00 – 23:00 before audiences of no more than 200 persons in workplaces.

4. Recorded Music in Relevant Alcohol Licensed Premises and Workplaces

- 4.1 The Order removes the licensing requirement for the playing of recorded music between 08:00-23:00, before audiences of no more than 500 on relevant premises authorised to be used for the supply of alcohol.

5. Live and Recorded Music in Local Authority, Hospital, School and Community Premises

- 5.1 The Order will exempt live and recorded music held on Local Authority, Hospital, School and Community Premises, before audiences of no more than 500 people. This means the aforementioned will determine whether to allow third parties to perform live music or play recorded music on defined premises for which they are responsible.
- 5.2 The exemption will apply to live or recorded music taking place between 08:00 – 23:00.
- 5.3 With regards community premises, the Order will exempt live and recorded music activities at community premises between 08:00 – 23:00 and before audiences of no more than 500 people but only if those premises are not authorised by a premises licence to be used for the supply of alcohol on the premises.

The definition of community premises is set out in Section 193 of the Licensing Act 2003 and states:

“premises that are or form part of (a) church hall, chapel hall or other similar building or (b) a village, parish hall, community hall or other similar building.”

6. Circuses

- 6.1 The Order will exempt travelling circuses from entertainment licensing for: a performance of live or recorded music, the performance of a play or a dance, or an indoor sporting event, in each case with no audience size restriction.

7. Greco Roman and Freestyle Wrestling

- 7.1 The Order will remove the licensing requirement for two Olympic sports overseen by British Wrestling, the national governing body, by exempting the Greco-Roman and Freestyle Wrestling disciplines from licensing as a boxing or wrestling entertainment.

8. Incidental Film

- 8.1 The exhibition of a film (defined as including any exhibition of moving pictures) is incidental film under the draft Order and will be exempt where it is incidental to another activity, which is not a description of entertainment such as a play, an indoor sporting event or live or recorded music etc.

8.2 Examples of incidental film could include:

- A 'moving picture' segment within a performance of dance or a performance of a play, where the play or dance is not licensable as a result of the 2013 Order.
- Screen images in a karaoke booth.
- An animated sequence during 'clowning' in a circus.
- A 'home movie' of a past celebration shown as part of a community street party.
- A download of racing images for a 'race night' raising money for charity.

9. Conclusions

- 9.1 The report details proposed changes to the Licensing Act 2003 through the introduction of the Legislative Reform Order 2014, with respect to certain aspects of Regulated Entertainment.
- 9.2 Should the Order proceed, it is likely to come into force on the 6th April 2015.
- 9.3 In the case that the Order changes significantly before it comes into force, a further report will be presented to the Committee for information.

