

Minutes

Licensing Committee

26th May 2021



Present:

Councillors	Present	Councillors	Present
J Baugh (Chairman)	Yes	Mrs J Pell	Yes
Mrs J Beavis	Yes	S Rehman	Apologies
Mrs M Cunningham	Yes	B Rose (Vice-Chairman)	Yes
P Euesden	Yes	P Schwier	Yes
A Hensman	Yes	R van Dulken	Yes
S Hicks	Apologies	Mrs L Walters	Yes
H Johnson	Yes	B Wright	Yes

At the commencement of the meeting, Councillor J Baugh, the Chairman of the Licensing Committee was pleased to welcome everyone to the first 'face to face' meeting of the Committee following a series of 'virtual' meetings. Councillor Baugh was also pleased to welcome Councillor Mrs M Cunningham, who had recently been appointed as a Member of the Committee.

1 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:

Councillor Mrs J Beavis declared a non-pecuniary interest in Agenda Item 5 – 'Street Trading Consent Application - Church Street, Bocking' as the owner of Bocking Social Club, which was referred to during the consideration of the Item was known to her.

Councillor Mrs J Pell declared a non-pecuniary interest in Agenda Item 5 – 'Street Trading Consent Application - Church Street, Bocking'; Agenda Item 6 – 'Street Trading Consent Application - High Street, Braintree'; and Agenda Item 7 – 'Street Trading Consent Application – Second Avenue, Bluebridge Industrial Estate, Halstead' as Essex County Council Highways had been consulted about the applications. In particular, Ms O Porter who had submitted representations on behalf of Essex County Council Highways regarding Agenda Items 5 and 6 was known to her.

Councillor Mrs Pell declared a non-pecuniary interest also in Agenda Item 7 – 'Street Trading Consent Application – Second Avenue, Bluebridge Industrial Estate, Halstead' as the objector was known to her.

Councillor P Schwier declared a non-pecuniary interest in Agenda Item 5 – ‘Street Trading Consent Application - Church Street, Bocking’; Agenda Item 6 – ‘Street Trading Consent Application - High Street, Braintree’; and Agenda Item 7 – ‘Street Trading Consent Application – Second Avenue, Bluebridge Industrial Estate, Halstead’ as he was an elected Member of Essex County Council and Essex County Council Highways was referred to in the Agenda reports for each Item.

In accordance with the Code of Conduct, Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the Items were considered.

2 **MINUTES**

DECISION: That the Minutes of the meeting of the Licensing Committee held on 24th March 2021 be approved as a correct record and signed by the Chairman.

3 **QUESTION TIME**

INFORMATION: There were no questions asked or statements made during Question Time.

Mr L Rich, the applicant, attended the meeting and he made a statement and answered questions put to him by Members of the Committee during the consideration of Item 6 – ‘Street Trading Consent Application – High Street, Braintree’.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

4 **STREET TRADING CONSENT APPLICATION – CHURCH STREET, BOCKING**

INFORMATION: Consideration was given to an application for a street trading consent submitted by Mr Ian Birch. Mr Birch wished to sell hot food including burgers and hotdogs, pre-packed food items and hot and cold drinks from a van parked adjacent to St Mary’s Church Hall on an unnamed road at Church Street, Bocking. Mr Birch wished to trade on Saturdays between the hours of 9.00am and 4.00pm. The application was attached at Appendix 1 to the Agenda report.

Following consultation, the licensee of The Retreat Pub and Restaurant which was located opposite the proposed street trading site had submitted an objection to the application. The objection was attached at Appendix 2 to the Agenda report. The objector had stated, that in response to restrictions imposed by the Covid-19 pandemic he had invested in a takeaway food service, which he proposed to continue. The objector had stated also that he had invested in a commercial pizza oven and that he proposed to expand his business, which would include the provision of food at lunchtime on Saturdays. However, the objector considered that the granting of the street trading consent application would have an adverse effect on his trade. The objector had made reference also to a pizza van, which

had been parked on the road opposite his Pub and Restaurant on a monthly basis on a Saturday evening; and he had expressed concern about car parking in the vicinity.

A representation had also been submitted by Essex County Council Highways and this was attached at Appendix 3 to the Agenda report. The County Council had stated that the road on which the van was to be parked did not appear to form part of the public highway. The County Council had also expressed concern that there were no footways; that customers would have to use a verge to gain access to the van's hatch and that the verge could become slippery in wet weather; and that some people, such as those with disabilities and wheel-chair users, would not be able to gain access to the van, which was discriminatory. The objection and representation were considered by Members of the Licensing Committee. In accordance with the Council's Street Trading Policy, where representations are received, the application must be referred to the Licensing Committee for determination.

In considering this application Members of the Committee were informed that the pizza van referred to by the objector had subsequently relocated to the car park at Bocking Social Club, Church Street, Bocking to serve the Club's patrons. A street trading consent was not required for this use.

Members of the Committee were advised that street trading was controlled in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and that following adoption of this Schedule by the Council all streets within the Braintree District had been designated as consent streets. As such, anyone wishing to trade on a street, highway, or other area to which the public had access without payment must hold a street trading consent. Where a person wished to trade from private land, he/she must enquire whether planning permission was required and seek the landowner's permission to trade.

In accordance with Braintree District Council's Street Trading Policy, the Council could grant a street trading consent subject to reasonable conditions being imposed to prevent nuisance or annoyance and that where the imposition of conditions was not adequate to control potential problems, applications would be refused.

Members of the Committee were advised that there was no right of appeal against a refusal to issue a consent, but that an applicant had the option to seek a Judicial Review of the decision. If an application was refused, the application fee would be refunded to the applicant.

DECISION: That the application submitted by Mr I Birch for a street trading consent to sell hot food including burgers and hotdogs, pre-packed food items and hot and cold drinks from a van parked adjacent to St Mary's Church Hall on an unnamed road at Church Street, Bocking be granted for Saturdays between the hours of 9.00am and 4.00pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.

STREET TRADING CONSENT APPLICATION – HIGH STREET, BRAINTREE

INFORMATION: Consideration was given to an application for a street trading consent submitted by Mr Laine Rich. Mr Rich wished to sell ice-cream, ice lollies, cold drinks and sweets from a van parked adjacent to HSBC, High Street, Braintree. Mr Rich wished to trade on Mondays, Tuesdays, Thursdays, Fridays and Sundays between the hours of 9.00am and 5.30pm. The application and location plan were attached at Appendix 1 and Appendix 2 to the Agenda report. Mr Rich had purchased the van from Mr R Green, who had held a street trading consent for a site located at the junction of Bank Street and High Street, Braintree adjacent to David Connolly Jewellers since 2008.

It was reported that the proposed location for the van was different to previous applications due to the pedestrianisation of High Street, Braintree and that Mr Rich had discussed the revised site with the Town Centre Management Team. The site would be available for use once the pedestrianisation scheme had been completed, which was expected to be by the end of Summer 2021. The proposed location was the same as that allocated separately to the applicant for trading on Wednesday and Saturday market days.

Following consultation, Essex County Council Highways had submitted a representation about the application and this was attached at Appendix 3 to the Agenda report. The County Council had stated that the van would be parked on a footway and that it would narrow the width of the footway in an area for pedestrians; that the van would have to enter the public highway via an official crossing point; that it would have to be driven and face the wrong way in a one-way system; and that it would have to be reversed out of the area facing the wrong way. The County Council's representation had made reference to a photograph submitted with the application, which showed the van positioned at its former location adjacent to David Connolly Jewellers. Whilst the County Council had been advised that the photograph sought to determine the suitability of the vehicle and not to identify its trading location, the County Council had confirmed that its comments were applicable to the revised location. The representation was considered by Members of the Licensing Committee. In accordance with the Council's Street Trading Policy, where representations are received, the application must be referred to the Licensing Committee for determination.

Mr Rich attended the meeting, presented his application and answered questions put to him by Members of the Committee. Mr Rich stated that the vehicle had been converted to be powered by electricity and that a compatible electricity connection would be available at the new trading position.

In discussing the application, Members of the Committee were advised that Street Trading was controlled in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and that following adoption of this Schedule by the Council all streets within the Braintree District had been designated as consent streets. As such, anyone wishing to trade on a street, highway, or other

area to which the public had access without payment must hold a street trading consent. Where a person wished to trade from private land, he/she must enquire whether planning permission was required and seek the landowner's permission to trade.

In accordance with Braintree District Council's Street Trading Policy, the Council could grant a street trading consent subject to reasonable conditions being imposed to prevent nuisance or annoyance and that where the imposition of conditions was not adequate to control potential problems, applications would be refused.

Members of the Committee were advised that there was no right of appeal against a refusal to issue a consent, but that an applicant had the option to seek a Judicial Review of the decision. If an application was refused, the application fee would be refunded to the applicant.

DECISION: That the application submitted by Mr L Rich for a street trading consent to sell ice-cream, ice lollies, cold drinks and sweets from a van parked adjacent to HSBC, High Street, Braintree be granted for Mondays, Tuesdays, Thursdays, Fridays and Sundays between the hours of 9.00am and 5.30pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.

6 **STREET TRADING CONSENT APPLICATION – SECOND AVENUE, BLUEBRIDGE INDUSTRIAL ESTATE, HALSTEAD**

INFORMATION: Consideration was given to an application for a street trading consent submitted by Mr Christos Bantounas. Mr Bantounas wished to sell hot and cold food from a van parked on the highway at Second Avenue, Bluebridge Industrial Estate, Halstead. Mr Bantounas wished to trade on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays between the hours of 7.00am and 3.00pm. The application was attached at Appendix 1 to the Agenda report.

It was reported that a previous application by Mr Bantounas for the same location had been granted by a Licensing Officer in accordance with the Council's scheme of delegation for the year prior to the current application as no objections had been received following consultation. However, when Mr Bantounas had commenced trading the Council had received correspondence from another street trader located at Third Avenue, Bluebridge Industrial Estate. This trader explained that he had purchased the street trading business from Mr Bantounas and that Mr Bantounas was trading in close proximity to his own site. As the other street trader was selling similar commodities he should have been consulted about the original application. The other trader had been consulted about the current application and he had submitted an objection on the basis that Mr Bantounas was operating in close proximity to his own business and that the same food and drink produce was being sold. The objection was attached at Appendix 2 to the Agenda report and it was considered by Members of the Licensing Committee. In accordance with the Council's Street Trading Policy, where representations are

received, the application must be referred to the Licensing Committee for determination.

In discussing the application, Members of the Committee were advised that street trading was controlled in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and that following adoption of this Schedule by the Council all streets within the Braintree District had been designated as consent streets. As such, anyone wishing to trade on a street, highway, or other area to which the public had access without payment must hold a street trading consent. Where a person wished to trade from private land, he/she must enquire whether planning permission was required and seek the landowner's permission to trade.

In accordance with Braintree District Council's Street Trading Policy, the Council could grant a street trading consent subject to reasonable conditions being imposed to prevent nuisance or annoyance and that where the imposition of conditions was not adequate to control potential problems, applications would be refused.

Members of the Committee were advised that there was no right of appeal against a refusal to issue a consent, but that an applicant had the option to seek a Judicial Review of the decision. If an application was refused, the application fee would be refunded to the applicant.

DECISION: That the application submitted by Mr C Bantounas for a street trading consent to sell hot and cold food from a van parked on the highway at Second Avenue, Bluebridge Industrial Estate, Halstead be granted for Mondays, Tuesdays, Wednesdays, Thursdays and Fridays between the hours of 7.00am and 3.00pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.

7 **STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS – STATUTORY GUIDANCE POST CONSULTATION**

INFORMATION: Consideration was given to a further report on Statutory Guidance issued by the Department for Transport ('DfT') regarding the licensing of taxi and private hire vehicles, drivers and operators. The 'Statutory Taxi and Private Hire Vehicle Standards' had been published on 21st July 2020. The report set out how the Council, as the Licensing Authority, should comply with these standards and it provided information about the response which had been received to recent public consultation.

The 'DfT' had acknowledged that common core minimum standards were required to better regulate the taxi and private hire vehicle sector. Furthermore, the recommendations contained in the Guidance were the result of detailed discussion with the 'taxi' trade, regulators and safety campaign groups. The 'DfT' expected Licensing Authorities to implement the recommendations in the Guidance unless there was a compelling local reason not to do so.

In response to the Statutory Guidance the Council was reviewing its 'taxi' licensing policies and standards so that, as a minimum, they would meet the standards recommended, but also be appropriate for the Braintree District. In particular, it was proposed that the Council should publish a 'taxi licensing policy' as a single point of reference, which would include all information relevant to private hire and taxi licensing.

The differences between the recommendations contained in the Guidance and the Council's current policies and procedures were set out in Appendix 1 to the Agenda report.

The 'DfT' had advised Licensing Authorities to carry out public consultation on any proposed changes to their licensing rules that might have a significant impact on passengers and/or the 'taxi' trade. The Council had conducted a public consultation exercise to seek the views of the 'taxi' trade, the public and a wide range of partner agencies and stakeholders on the adoption of the new Standards. The consultation had taken place over an extended period of ten weeks ending on 9th May 2021. The consultation document had included information on the Council's 'Hackney Carriage and Private Hire Drivers' Criminal Convictions Policy.' This policy had been reviewed to incorporate the Institute of Licensing's recommended guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire trades. However, despite Licensing Officers engaging with consultees during the consultation period no responses had been submitted.

As the next step, the Council's Officers would prepare a work plan setting out how the Council would comply with the new vehicle standards and the timescale for doing so. This process would include further consultation with the 'taxi' trade and another report would be submitted to the Licensing Committee.

DECISION: That the report on the 'Statutory Taxi and Private Hire Vehicle Standards' and the proposed work plan for achieving compliance with Statutory Guidance be noted.

The meeting closed at 8.34pm.

Councillor J Baugh
(Chairman)