

LICENSING COMMITTEE AGENDA

Wednesday, 14 September 2022 at 7.15pm

Council Chamber, Braintree District Council, Causeway House, Bocking End,
Braintree, CM7 9HB.

THIS MEETING IS OPEN TO THE PUBLIC

(Please note this meeting will be webcast, audio recorded and broadcast via the Council's
YouTube Channel) <http://www.braintree.gov.uk/youtube>

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

Councillor J Baugh (Chairman)	Councillor Mrs I Parker
Councillor Mrs J Beavis	Councillor Mrs J Pell
Councillor Mrs M Cunningham	Councillor S Rehman
Councillor P Euesden	Councillor B Rose (Vice Chairman)
Councillor S Hicks	Councillor P Schwier
Councillor H Johnson	Councillor Mrs L Walters
Councillor T McArdle	Councillor B Wright

Substitutes: Councillor J Coleridge, Councillor Mrs J Sandum, Councillor A Munday,
Councillor D White, x 2 Vacancies

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

Any Member who is unable to attend a meeting is able to appoint a
Substitute. Written notice must be given to the Governance and Members
Team no later than one hour before the start of the meeting.

S BENNETT
Corporate Director

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

Declarations of Disclosable Pecuniary Interest (DPI), Other Pecuniary Interest (OPI) or Non- Pecuniary Interest (NPI)

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

Public Question Time – Registration to Speak:

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday). The Council reserves the right to decline any requests to register to speak if they are received after this time.

Members of the public may speak on any matter listed on the Agenda for this meeting. Registered speakers will be invited to speak immediately prior to the relevant item. All registered speakers will have up to three minutes each to make a statement.

The Chairman of the Licensing Committee has discretion to extend the time allocated to registered speakers and the order in which they may speak.

Public Attendance at Meeting: The Council has reviewed its arrangements for this meeting of the Licensing Committee in light of the Covid pandemic. In order to protect the safety of people attending the meeting, Councillors and Officers will be in attendance at Causeway House, Bocking End, Braintree. Members of the public may also attend the meeting 'in person', but priority will be given to those people who have registered to speak during Public Question Time. Members of the public will be able to view and listen to the meeting either as a live broadcast, or as a recording following the meeting, via the Council's YouTube channel at <http://www.braintree.gov.uk/youtube>

Health and Safety/Covid: Causeway House is a Covid secure building and arrangements are in place to ensure that all visitors are kept safe. Visitors are requested to follow all instructions displayed around the building or given by Officers during the course of their attendance. All visitors will be required to wear a face covering, unless an exemption applies.

Visitors are asked to make themselves aware of the nearest available fire exit. In the event of an alarm sounding visitors must evacuate the building immediately and follow all instructions provided by staff. Visitors will be directed to the nearest designated assembly point where they should stay until they are advised that it is safe to return to the building.

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

WiFi: Public Wi-Fi (called BDC Visitor) is available in the Council Chamber at Causeway House; users are required to register when connecting.

Substitute Members: Only the named Substitutes on this Agenda may be appointed by a Member of the Committee to attend in their absence. The appointed Substitute becomes a full Member of the Committee with participation and voting rights.

Documents: Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy:

https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

Webcast and Audio Recording: Please note that this meeting will be webcast and audio recorded. You may view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-i.tv/core/portal/home>. The meeting will also be broadcast via the Council's YouTube Channel.

Comments and Suggestions: We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended you may send these to governance@braintree.gov.uk

PUBLIC SESSION

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1 Apologies for Absence

2 Minutes of the Previous Meeting

To approve as a correct record the minutes of the meeting of the Licensing Committee held on 20th July 2022 (copy previously circulated).

3 Public Question Time

(See paragraph above)

4 Declarations of Interest

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

5 Pavement Licences

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6 Licensing Committee Update

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PRIVATE SESSION

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Report Title: Pavement Licences - Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022	
Report to: Licensing Committee	
Date: 14th September 2022	For: Decision
Key Decision: No	Decision Planner Ref No: <i>not applicable</i>
Report Presented by: John Meddings, Principal Licensing Officer	
Enquiries to: John Meddings, Principal Licensing Officer	

1. Purpose of the Report

- 1.1 The purpose of this report is to brief the Licensing Committee with respect to the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022, which extend the provision to grant a Pavement Licence to 30th September 2023.
- 1.2 Pavement Licences granted before the commencement date of the new Regulations are not affected by the amendments and will expire on 30th September 2022. Licences granted after 22nd July 2022 (the commencement of the Regulations) will expire on 30th September 2023.
- 1.3 This report also seeks approval for amendments to the standard conditions attached to Pavement Licences granted by the Council in accordance with the provisions of the Business and Planning Act 2020.

2. Recommendation

- 2.1 To note that the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022 extend the duration of Pavement Licences to 30th September 2023.
- 2.2 To approve the amendments to the standard conditions for Pavement Licences, as set out in section 4 of this report. The amended standard conditions will only apply to applications received after the approval of the conditions.

3. Summary of Issues

- 3.1 In response to the coronavirus pandemic, the Business and Planning Act 2020 ('the Act') made temporary provision for a fast-track process to allow businesses selling food or drink to obtain authorisation from the Council for the placement of furniture, such as tables and chairs, on the highway adjacent to their premises (a 'Pavement Licence').
- 3.2 Section 4 of the Act provides a duration for all Pavement Licences granted by the Council. All Pavement Licences granted could not be for a period of less

than 3 months, but could not extend beyond 30th September 2021. This provision was amended by the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021, which extended the statutory expiry date to 30th September 2022.

- 3.3 Section 4 of the Act has been subject to a further amendment by the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022, which extends the statutory expiry date for all applications made on or after 22nd July 2022 to 30th September 2023.
- 3.4 Any application made before 22nd July 2022 would not have the benefit of this latest amendment and the Pavement Licence granted as a result would expire on 30th September 2022. The Council cannot extend the expiry date for these Pavement Licences to the amended date; to do so would be ultra vires. Businesses that wish to extend their current Pavement Licence beyond this date will be required to apply for a new licence.
- 3.5 This report seeks to provide a further update with respect to the licensing regime and to detail further amendments to the standard Pavement Licence conditions.

4. Conditions

- 4.1 Section 5 of the Act enables the Council to grant a Pavement Licence subject to conditions which it considers reasonable. The Council must publish those standard conditions it wishes to add to a licence in advance so that applicants can have sight of what will be expected of them. It is expected that the Council may also be required to add additional conditions to a specific licence in certain circumstances due to the nature of an application, or as a result of specific site conditions. Applicants that wish to add conditions to a licence should also be allowed to do so, as long as those conditions are relevant.
- 4.2 The Council has published a set of standard conditions on its website. After a review of the latest set of standard conditions, the following amendments are to be made.
- 4.3 The following condition is to be removed:

'To prevent the spread of Covid-19 licensees must follow the guidance titled 'Working safely during coronavirus - Restaurants, pubs, bars and takeaway services' issued by the Department for Business, Energy & Industrial Strategy and Department for Digital Culture, Media & Sport'.
- 4.4 The guidance referred to in the condition is no longer available and it has not been replaced with guidance which is relevant to the use of outdoor seating areas.
- 4.5 The following condition is to be amended to reflect the Regulations amending the licence expiry date for Pavement Licences granted after 22nd July 2022 from 30th September 2022 to 30th September 2023.

'Without prejudice to the ability of the Braintree District Council or Essex County Council to remove the tables and chairs, barriers and posts by reason of Statute, common law, and/or for breach of any of the terms and conditions of this consent, this consent shall remain in force until 30th September 2022'.

4.6 The condition will now read:

'Without prejudice to the ability of the Braintree District Council or Essex County Council to remove the tables and chairs, barriers, and posts by reason of Statute, common law, and/or for breach of any of the terms and conditions of this consent, this consent shall remain in force until 30th September 2023'.

4.7 It is proposed to add two further conditions to the Council's published standard conditions. These conditions will only apply to those applications granted following the approval of the conditions.

4.7.1 *'The Council reserves the right to request the removal of some, or all, of the street furniture in the case of events which are organised by, or on behalf of, Braintree District Council. The licence holder will be informed in writing of any such request 7 days prior to any event date'.*

4.7.2 This condition is to be added and will allow the Council to require street furniture to be removed from a location where the presence of an organised event may conflict with the use of the Pavement Licence area for a particular period.

4.7.3 *'The Licence holder must not obstruct any fire hydrants or signage indicating their whereabouts, nor should any means of escape doors or escape routes be obstructed'.*

4.7.4 This condition is to be added and will ensure that Pavement Licence holders consider their duties in the event of a fire and ensure that fire safety apparatus is not obscured, or difficult to reach in the event of a fire.

5. Options

5.1 There are no options being considered within this report. The Regulations do not affect the Council's arrangements and Scheme of Delegation for Pavement Licences.

5.2 The Council is proposing amendments to its current standard conditions. The Committee may decline to amend the conditions as set out in section 4 above.

6. Financial Implications

6.1 The Council has to date determined 27 applications for Pavement Licences in accordance with the legislation. The Regulations may result in further applications for Pavement Licences and therefore will increase the Council's costs in administering the applications.

- 6.2 The Council cannot increase the fee for a Pavement Licence to cover the costs of dealing with applications. Section 2(1)(c) of the Business and Planning Act 2020 allows the Council to determine a fee, subject to a statutory maximum of £100. The Council's application fee has been set at the maximum amount of £100 as permitted by the Act. Consequently, any additional costs will be met from existing budgets.

7. Legal Implications

- 7.1 The Regulations do not affect the Council's arrangements or Officer Scheme of Delegation for dealing with Pavement Licence applications. The Regulations extend the duration of Pavement Licences to 30th September 2023.
- 7.2 Section 5 of the Act permits the Council to grant a Pavement Licence subject to such conditions as it considers reasonable. Where a Pavement Licence is deemed to be granted by a Local Authority under Section 3(9), it is deemed to be granted subject to any conditions which are published by the Council before the day on which the application for the licence was made.

8. Other Implications

- 8.1 No other implications have been identified.

9. Equality and Diversity Implications

- 9.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 9.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 9.3 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

10. Background Papers

- 10.1 The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022
- 10.2 Standard Conditions for Pavement Licences
- 10.3 Licensing Committee Report and Minutes 14th August 2020.
<https://braintree.cmis.uk.com/braintree/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/983/Committee/7/Default.aspx>
- 10.4 Licensing Committee Report and Minutes 28th July 2021
<https://braintree.cmis.uk.com/braintree/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/1090/Committee/7/Default.aspx>

Report Title: Licensing Committee Update	
Report to: Licensing Committee	
Date: 14th September 2022	For: Noting
Key Decision: No	Decision Planner Ref No: N/A
Report Presented by: John Meddings, Principal Licensing Officer	
Enquiries to: John Meddings, Principal Licensing Officer	

1. Purpose of the Report

- 1.1 Members have requested regular updates on applications determined at Licensing Sub-Committee and Drivers' Panel meetings. This report summarises all applications determined since the last report submitted to the Committee on 20th July 2022.
- 1.2 The report will also highlight other significant issues relevant to licensing.

2. Recommendations

- 2.1 The report is for information only and Members are only required to note the content.

3. Council Policies - Updates

3.1 Statement of Gambling Policy - Gambling Act 2005

The Council's updated Statement of Gambling Policy is now live and came into effect on 1st August 2022.

3.2 Sex Establishment Policy

The Council's draft Sex Establishment Policy 2022 will be subject to public consultation from 12th September 2022. The consultation will run for a period of 12 weeks and the document will be available to view, and for the submission of comments, on the Council's website. The consultation will conclude on 4th December 2022 and the responses will be collated and reported to the Licensing Committee for consideration.

3.3 Taxi and Private Hire Vehicle Policy

The Licensing Team are continuing to review the Taxi and Private Hire Vehicle policy with a view to producing a first working draft. However, the Authority is aware that the Department for Transport produced the [Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England](#) in March 2022 as a consultation document. The consultation period has closed and the guidance is likely to be introduced at

some point in 2023. The Authority will need to consider this guidance as part of the process, which may delay the outcome of the policy review.

4 Applications Under the Gambling Act 2005 and Licensing Act 2003

- 4.1 An application for the District's first Bingo Premises Licence (Merkur Slots UK Ltd) was due to be determined on 20th September 2022 following representations from Essex Police and a District Councillor. The applicant voluntarily proposed several conditions in addition to those proposed in the application and those set down in legislation to address the concerns raised by the objectors. Following mediation and the submission of the proposed conditions, both objectors agreed to withdraw their representations. In accordance with the legislation, the application was subsequently granted.
- 4.2 A Premises Licence application (Cressing Sports and Social Club) attracted a representation regarding public nuisance and it was due to be determined by a Licensing Sub-Committee. However, mediation occurred between the two parties and the representation was withdrawn after several conditions had been agreed in addition to those offered as part of the application process. In accordance with the legislation, the application was subsequently granted. During the application process additional conditions had also been agreed by the applicant following issues which had been raised by Essex Police and Environmental Health.
- 4.3 A Club Premises Certificate application (Toppesfield Cricket Club) attracted a representation regarding public nuisance and it was due to be determined by a Licensing Sub-Committee. However, mediation occurred between the two parties and the representation was withdrawn after several conditions had been agreed in addition to those offered as part of the application process. In accordance with the legislation, the application was subsequently granted.

5 Taxis

5.1 The National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3)

The National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3) policy for Braintree District Council has been produced and it will be published on the Council's website. The webpage will include an on-line form for other Councils to make requests for further information on positive checks relevant to information uploaded to the NR3 database. The Department for Transport is actively encouraging all Licensing Authorities to adopt use of the NR3 database.

5.2 Hackney Carriage and Private Hire Drivers' Application Forms

New application forms for Hackney Carriage and Private Hire drivers' licences are expected to be live prior to this meeting of the Licensing Committee. These forms will include the necessary statutory declarations and the additional information required for the administration of NR3.

6 Alcohol and Entertainment

- 6.1 The Licensing Team has attended 'Pub Watches' in Braintree, Witham and Halstead. These regular meetings allow communication between the licensed trade, the Council and the Police.

7 Proactive Enforcement

- 7.1 Licensing Officers with Essex Police undertook proactive roadside checks of Hackney Carriage and Private Hire vehicles on 12th August 2022. Checks of licensed premises will also be taking place. The Licensing Team continue to work with the licensed vehicle trades and Premises Licence holders to help them comply with the terms of their respective licences. There are no significant issues to detail at the time of writing this report.

8 Legislation Updates and Forthcoming Licensing Regimes

8.1 Pavement Licences

The Government has extended the period during which the fast track Pavement Licence provisions continue to apply until 30th September 2023, by virtue of the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022.

Regulation 5 applies only where an application for a Pavement Licence is made on or after the date the Regulations come into force. The previous expiry date of 30th September 2022 will continue to apply in relation to any Pavement Licence applied for before the Regulations come into force, although the holder of such a Licence may be able to apply for a further Licence.

Regulation 6 extends the expiry of sections 1-9 of the 2020 Act to 30th September 2023.

The guidance has been updated to reflect the changes referred to above.

8.2 Non-surgical Cosmetic Procedures

Parliament's Health and Social Care Committee has recommended that a licensing regime for non-surgical cosmetic procedures should be introduced as 'a priority':-

'The risk of exploitation of vulnerable groups seeking non-surgical cosmetic procedures is too great and we recommend that to prevent further exploitation, the Department immediately draws up a clear timeframe for the consultation process. We urge the Government to make this a priority and to introduce the licensing regime for non-surgical cosmetic procedures by July 2023'.

The suggested timeline of July 2023 is ambitious as it is still unclear where the responsibility for this regime will be.