



Agenda

Licensing/Appeals Sub-Committee

Monday, 16 November 2015 at 10.00 am
Council Chamber - Town Hall

Membership (Quorum – 10)

Cllrs McCheyne, Newberry and Wiles

Agenda Item	Item	Wards(s) Affected	Page No
1.	Appointment of Chair		
2.	Administrative Function Members are respectfully reminded that, in determining the matters listed below, they are exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter will be determined on the facts before the Sub-Committee and the rules of natural justice will apply.		
3.	Application for the Grant of a Street Trading Licence - Local Government (Miscellaneous Provisions) Act 1982	All Wards	5 - 26
4.	Consideration of the Suspension or Revocation of a Hackney Carriage/Private Hire Driver's Licence (Exempt Information, Paragraph 4 of Part 1 of 12A of the Local Government Act 1972).		27 - 28

P. L. 

Head of Paid Service

Town Hall
Brentwood, Essex
06.11.2015

Information for Members

Substitutes

The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Where substitution is permitted, substitutes for quasi judicial/regulatory committees must be drawn from Members who have received training in quasi- judicial/regulatory decision making. If a casual vacancy occurs on a quasi judicial/regulatory committee it will not be filled until the nominated member has been trained.

Rights to Attend and Speak

Any Members may attend any Committee to which these procedure rules apply.

A Member who is not a member of the Committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a Member will be allowed to speak on a ward matter.

Members requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting.

Point of Order/ Personal explanation/ Point of Information

Point of Order

A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the point of order will be final.

Personal Explanation

A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Chair on the admissibility of a personal explanation will be final.

Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Chair. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Chair gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Chair on the admissibility of a point of information or clarification will be final.

Information for Members of the Public

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Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings, these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

Private Session

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16 November 2015

Licensing and Appeals Committee

Application for the Grant of a Street Trading Licence - Local Government (Miscellaneous Provisions) Act 1982

Report of: Ashley Culverwell – Head of Borough Health, Safety & Localism

Wards Affected: All

This report is: Public

1. Executive Summary

- 1.1 Members are requested to determine an application for the grant of a Street Trading licence in respect of an E-Cigarette and Vaping supplies stall to permit it to trade at the Essex Farmers Market in the High Street Brentwood, weekly on both Friday and Saturday.

2. Recommendation

2.1 The following options are open to Members;

- a) To grant the application subject to standard conditions
- b) To grant the application subject to standard conditions and any additional conditions as determined appropriate in the individual circumstances of the application
- c) To refuse the application.

3. Introduction and Background

- 3.1 Brentwood Borough Council has adopted schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate Brentwood High Street from Wilsons Corner to its junction with Kings Road and Weald Road as a 'licence' Street for the purpose of Street Trading. This means that no trading may take place otherwise than in accordance with an authorisation from the Council.
- 3.2 This application has been submitted by Mr Matthew Connolly. Originally a licence was granted under delegated authority and Mr Connolly traded for a total of 4 trading days until concern was raised that the content of the stall may fall outside of the Council's current Street Trading and Market Policy (the Policy). A copy of the policy is attached at **Appendix A**. Mr Connolly immediately ceased trading pending determination of his application.

4. The Application

- 4.1 The original application was received on 23 October 2014 from the owner of an existing Company based in Brentwood, namely Matthew Connolly, trading as E-cig Shopper. There has been a delay in bringing the matter to committee partly due to the initial grant as highlighted in paragraph 3.2 and partly due to some personal issues.
- 4.2 Notwithstanding the right of an individual to make an application at anytime for consideration of that application on its individual merits, any decision in respect of this application would apply to any future dates that may be applied for. It is the intention of Mr Connolly that he would trade from the Essex Farmers Market on a weekly basis. Therefore, if granted, any future application would also be granted under delegated powers.
- 4.3 The Essex Farmers Market has received the appropriate planning permission for the siting of stalls between 39 and 51 High Street Brentwood at a distance of at least 2.5 metres from all shop fronts and a minimum of 2 metres from the carriageway.

5. Reasons for Recommendation

- 5.1 If granted, this applicant will be responsible for ensuring that he complies with the provisions as laid out in both 4.3 of this report, those as detailed in the Policy and any requirements of the independent Market provider, namely Essex Farmers Markets.
- 5.2 At paragraph 3.4 of the Street and Market Trading Policy it states: *"...it shall be the duty of the Council to grant an application for a Street Trading Licence or the renewal of such a Licence unless they consider that the application ought to be refused on one or more of the grounds specified the policy.*
- 5.3 Whilst delegated authority exists for this application to be determined by the Head of Borough Health, Safety & Localism there are some matters that are best considered formally to ensure that all relevant facts may be appropriately considered and a formalised decision is recorded.
- 5.4 The matters for consideration in paragraph 3.5 are laid out in paragraphs 5.2 and 5.4(b) of the market policy:

*5.2:- Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that Council's may refuse an application on the following grounds:-
That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade. (It is currently believed e-cigarettes are currently being sold in 'Boots' Pharmacy and 'Superdrug' in Brentwood High Street).*

5.4(b):- *'Products promoting the use of drugs or tobacco related products'. This condition was included as a public health measure from recognition of the harmful effects caused from smoking cigarettes.*

- 5.5 Whilst there is a duty for each application to be considered on its own merits and for policy to be diverted from if considered appropriate in the individual circumstances of the application, paragraph 5.4 of the Street and Market Trading Policy states:

The Council is likely to refuse such items in the current climate as legitimised by the Local Government (Miscellaneous Provisions) Act 1982.

- 5.6 One of the reasons for the establishment of a Farmers market was to increase the footfall to the High Street area, which it was considered would attract custom to existing shops and businesses but not to take trade away from the existing shops. **One of the key considerations in determination of this application therefore is whether e-cigarettes and associated products are far enough removed from the description of drugs and tobacco so as to fall outside of the policy, or, if they are considered to be drug or tobacco related, whether in the individual circumstances of this application there is reason to permit their sale as a diversion from the policy.**
- 5.7 Given that the effects of E-Cigarettes and opinion on them varies, an attempt has been made to try to provide a balanced report which has been taken from the Public Health England website. This is attached in summary form at **Appendix B**.

6. Consultation

- 6.1 Full consultations on the Farmers Market took place prior to permission being granted for it. The management of the Market comply fully with the terms and conditions of their agreement and the Street and Market Trading Policy. No further consultation is therefore required in respect of this application, which remains to be determined purely on the basis of the policy restrictions.
- 6.2 The stall has previously traded albeit for a short term with no complaints received. This area is a growing area as it is becoming a safer alternative to smoking.
- 6.3 On this basis there are no representations, although the applicants have been asked to attend in order that they may answer questions and state their case for consideration.

7. Conclusion

- 7.1 The key matters for consideration of this application are that the policy suggests that an additional application for the purpose sought, namely e-cigarettes, would normally be likely to be refused due to existing traders trading similar items. However, the policy is a guide as to how matters should normally be considered and may be diverted from should members be convinced that the individual facts merit such action.
- 7.2 Members are asked to consider the individual merits of the application with regard to the policy and any testimony from the applicants. Due to the hearings requirements and the right of the applicant to have the application determined on merit and without bias no recommendations can be made. The available options in respect of this application are highlighted in paragraph 2 of this report.
- 7.3 There is a right of appeal in relation to determination in respect of this application to the Magistrates Court.

Report writer details:

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Street & Market Trading Policy in Brentwood High Street

September 2012



Brentwood Borough Council has introduced Street Trading which creates a vibrant atmosphere in the town centre for residents, local businesses, visitors and shoppers. Street Trading will provide residents and shoppers with alternative products including specialist and niche items.

Objectives

- To support the local economy, businesses and retailers by increasing footfall to the High Street.
- To attract new visitors, residents and shoppers to the High Street.
- To create a welcoming atmosphere for visitors, residents and shoppers.
- To provide an opportunity to trade for local businesses.
- To complement existing retailers and businesses on the High Street.
- To provide a diverse and alternative offer of products to residents, visitors and shoppers.

Street Trading Designations

Brentwood Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate the following roads, including all forecourts, roads, footways or other areas adjacent to the roads listed for a distance of 10 metres to which the public have access without payment, be designated as License Streets for the purposes of Street Trading.

- The High Street, Brentwood, between Wilson's Corner and the junction with Kings Road/Weald Road.

The designation of the High Street allows street trading to be controlled so as to limit disturbance and obstruction that might otherwise be caused to local shoppers and

traders. Street Trading Licenses are issued with conditions which specify the date, time, location and type of stall.

Street trading in a designated License Street without the necessary Street Trading License is an offence which can result in a fine of up to £1000.

Further information about Street Trading Licenses can be obtained from the Licensing Section. Please call 01277 312508. Alternatively, email licensing@brentwood.gov.uk

Location

The markets will take place only on the street trading pitch locations indicated on the plan included as Appendix 1 of this policy and typically outside properties 39 – 51 High Street.

Planning Permission has been granted for markets to take place where stalls are situated at a minimum distance of 2.5metres from all shop fronts and a minimum of 2 metres from the carriageway.

On every occasion license holders must ensure that a sufficient gap is left between stalls/pitches and between stalls/pitches and street furniture to enable unrestricted and unfettered wheelchair, pushchair or pedestrian movement.

All individual pitches are for a maximum size of 3m x 3m and no double pitches will be allowed where street furniture or wheelchair, pushchair or pedestrian movement are impeded by the placement of a stall.

Should such an occasion arise the licence holder/stallholder will be required to reduce the size of their stall. Any failure to do so after having first been warned will result in the stallholder being required to leave the site or be liable for prosecution for having breached their licence conditions.

If the market should be located near to a turning circle, disabled bays and overrun areas, a minimum of 0.5 metres should be provided between these areas and the stalls.

Planning permission has not been granted for the turning circle on the High Street.

Street Trading Categories:

- 1. Brentwood Markets**
- 2. Street Trading**

1. Brentwood Markets

- 1.1 Planning Permission has been granted for markets to take place on designated areas of Brentwood High Street for 7 days per week. Markets are typically held on Fridays and Saturdays on sections of Brentwood High Street

and more specifically the large paved area from 39 - 51 High Street. The Council has the right to operate markets 7 days per week; however the Council will only issue street trading licenses to traders on designated market days and on one-off special occasions and events only.

- 1.2 Markets are operated by third party market operators instructed by Brentwood Borough Council. On designated market days, the Council will only grant street trading licenses to traders who are being managed via the third party market operator. Street Trading Licenses will be issued on a direct basis with the Council at the discretion of the Council.
- 1.3 Traders at Markets operated by third party market operators will need to meet the criteria of the market operator which can be obtained by the market operator. Traders will also require a Street Trading License issued by Brentwood Borough Council. Conditions of the License are described in the criteria set out below.
- 1.4 All applicants will be expected to provide name and address contact details and also land line and mobile telephone numbers and an e-mail contact address if this is held by the applicant. For further details about the application process see Section 3 of this policy document shown below.

Fees:

An application for a Street Trading License where a third party market operator has been instructed by Brentwood Borough Council to operate a market must be accompanied by the follow fees:

- £20 per day License Fee paid to Brentwood Borough Council.
- A service charge paid directly to the Market operator. Details of the service charges are provided by the third party market operator.

2. Individual Street Trading Stalls

- 2.1 From time to time Brentwood Borough Council may issue Licenses to individual traders at one-off special events throughout the year, but will consider applications in their own right and on their own merits at other times of the year.

Fees:

An application for a Street Trading License must be accompanied by the appropriate fee:

- Small food stalls (up to 1.5m x 2.15m) - £75.00 per day or part thereof.
- Large food stalls (over 1.5m x 2.15m) - charged at multiples of the small stall rate based on frontage.
- Additional support vehicles - charged at multiples of the small stall rate.
- Other small stalls (up to 1.5m x 2.15m) - £40.00 per day or part thereof.

- Other large stalls (over 1.5m x 2.15m) - charged at multiples of the small stall rate based on frontage.
- Additional support vehicles - charged at multiples of the small stall rate.
- 'Occasional' street trader £20.00 per day.

The above fees do not apply at the Lighting Up Brentwood Event. The Council reserves the right to host the Lighting Up Brentwood Event on any day of the week. Fees for this event will be subject to a separate fee structure. For further information contact the Council's Community Safety Team by e-mail at lightingup@brentwood.gov.uk

Payments

The Stall holder shall pay the full amount stipulated on the booking form in advance of the specified trading day/s. Unpaid sums will be recoverable by way of a common debt and subject to the Council's Debt Recovery policy. Failure to pay may lead to court action where stall holders could be asked to pay the Council's costs.

Exemption

The fruit stall which has been trading outside the location of 71-73 High Street Brentwood for a number of years. The stall holder currently has an existing agreement with Brentwood Borough Council in terms of location and fee agreed prior to the introduction of this policy; however these may be subject to change in the future.

Lighting Up Brentwood

There will be no market on the day of the Lighting Up Brentwood event. The Council reserves the right to host the Lighting Up Brentwood event on any day of the week. If possible the Council may offer an alternative day for the market. Individual stall holders may apply for a Street Trading License directly with Brentwood Borough Council for the Lighting Up Brentwood event and fees will be issued at the time of application and expression of interest.

Criteria for a Street Trading Licence

3. General Terms

- 3.1 An application for a Street Trading License or the renewal of such a License shall be made in writing to Brentwood Borough Council for individual Street Trading or to a market operator that has been instructed by Brentwood Borough Council to operate the markets in Brentwood.
- 3.2 The applicant shall state:
 - (a) His/her full name and address;
 - (b) The street in which, days on which and times between which the trader desires to trade;

- (c) The full description of articles in which the trader desires to trade and the description of any stall or container which the trader desires to use in connection with the trade in those articles;
 - (d) The applicant shall submit two photographs of themselves with their application.
- 3.3 A Street Trading License shall not be granted:
- (a) To a person under the age of 17 years; or
 - (b) For any trading in a highway in relation to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 (road-side sales) is in force, other than trading to which the control order does not apply.
- 3.4 Subject to sub-paragraph (3.3) above, it shall be the duty of the Council to grant an application for a Street Trading License or the renewal of such a License unless they consider that the application ought to be refused on one or more of the grounds specified in sub-paragraph (3.5) below.
- 3.5 The Council may refuse an application on any of the following grounds:
- (a) That there is not enough space in the street for the applicant to engage in the trading in which he/she desires to engage without causing undue interference or inconvenience to persons using the street;
 - (b) That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
 - (c) That the applicant is unsuitable to hold the License by reason of having been convicted of an offence or for any other reason;
 - (d) That the applicant has at any time been granted a Street Trading License 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 by them to him/her in his/her capacity as License-holder;
 - (e) That the applicant has at any time been granted a Street trading License or Consent by the Council and has persistently refused or neglected to pay fees due to them for it;
 - (f) Where the street trading may damage the structure or surface of the street;
 - (g) Where the appearance of the trading equipment or structure is in use is not compatible with the character of the area in which it is proposed to be situated.

- (h) 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.
 - (i) That the applicant has without reasonable excuse failed to avail him or herself to a reasonable extent of a previous Street Trading License.
 - (j) Where the applicant has at any time been granted a Street Trading Consent or License and has persistently contravened conditions of the policy.
- 3.6 A Street Trading License shall specify:
- (a) The street in which, days on which and times between which the License-holder is permitted to trade; and
 - (b) The description of articles in which he is permitted to trade.
- 3.7 If the Council determines that a License-holder is to confine his trading to a particular place in the street, his/her Street Trading License shall specify that place.
- 3.8 Matters that fall to be specified in a Street Trading License by virtue of sub-paragraph (3.6) or (3.7) above are referred to in this Schedule as the "principal terms" of the License.
- 3.9 When granting or renewing a Street Trading License, the Council may attach such further conditions (in this Schedule referred to as the "subsidiary terms" of the License) as appear to them to be reasonable.
- 3.10 Without prejudice to the generality of sub-paragraph (3.9) above, the subsidiary terms of a License may include conditions:
- (a) Specifying the size and type of any stall or container which the License-holder may use for trading.
 - (b) The items for sale could offend members of the public or businesses.
 - (c) The items for sale are not in keeping with the Council's policy and objectives for street trading, in providing quality specialist markets including the sale of alternative and niche products.
- 3.11 The Street Trading License requires:
- (a) That any stall or container so used shall carry the name of the License-holder or the number of his License or both; and
 - (b) Prohibiting the leaving of refuse by the License-holder.

- 3.12 A Street Trading License shall, unless previously revoked or surrendered, remain valid for a period of 12 months from the date on which it is granted or, if a shorter period is specified in the License, for that period.
- 3.13 If the Council resolve that the whole or part of a License Street shall be designated a Prohibited Street, then, on the designation taking effect, any Street Trading License issued for trading in that street shall cease to be valid so far as it relates to the prohibited street.
- 3.14 The Council may at any time revoke a Street Trading License if they consider:
- (a) That, owing to circumstances which have arisen since the grant or renewal of the License, there is not enough space in the street for the License-holder to engage in the trading permitted by the License without causing undue interference or inconvenience to persons using the street;
 - (b) That the License-holder is unsuitable to hold the License by reason of having been convicted of an offence or for any other reason;
 - (c) That, since the grant or renewal of the License, the License-holder has persistently refused or neglected to pay fees due to the Council for it or charges due to them for services rendered by them to him/her in his/her capacity as License-holder; or
 - (d) That, since the grant or renewal of the License, the License-holder has without reasonable excuse failed to avail him or herself of the License to a reasonable extent.
- 3.15 If the council consider that they have ground for revoking a License by virtue of sub-paragraph (3.14)(a) or (d) above, they may, instead of revoking it, vary its principal terms:
- (a) By reducing the number of days or the period in any one day during which the License-holder is permitted to trade; or
 - (b) By restricting the descriptions of goods in which he is permitted to trade.
- 3.16 A License-holder may at any time surrender his License to the council and it shall then cease to be valid.
- 3.17 The Council may charge such fees as they consider reasonable for the grant or renewal of a Street Trading License.
- 3.18 The Council may determine different fees for different types of License, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according:
- (a) By reducing the number of days or the period in any one day during which the License-holder is permitted to trade; or

- (b) By restricting the descriptions of goods in which he is permitted to trade.
 - (c) To the duration of the License.
 - (d) To the street in which it authorises trading; and
 - (e) To the descriptions of articles in which the holder is authorised to trade.
- 3.19 The Council may require that applications for the grant or renewal of Licenses shall be accompanied by so much of the fee as the Council may require, by way of a deposit to be repaid by the Council to the applicant if the application is refused.
- 3.20 The Council may recover from a License-holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as License-holder.
- 3.21 The Council reserves the right to use the License fees to advertise and promote the market as a reasonable cost incurred in providing the service for market stallholders.
- 3.22 The stall shall be kept in the space allocated by the Council from time to time and the stallholder must keep the avenues adjoining the stall clear and free from refuse and litter.
- 3.23 Traders will need to supply their own stall and will be given a pitch approximately 3m x 3m. Stalls must be of high quality and safety is paramount. Stalls must be robust and withstand winds and therefore stalls will require weights. The size and positioning of the stall must be such that it does not contravene the restrictions specified in these conditions. In respect of markets, all stalls need to be compatible in size, style and colour and the appearance of the market must be attractive and consistent in nature. The arbiter of this standard will be the Council at all times.

4. Stall Requirements

4.1 All stalls need to be:-

Provided in full compliance with the legal standards laid down by the Health and Safety at Work etc Act 1974 and all regulations made thereunder. Without prejudice to the generality of the foregoing, the following controls must be in place:

- a) Only placed on firm level ground.
- b) Erected by competent persons with experience of such, pitched and secured firmly in order to prevent any possibility of overturn.

- c) Where connected in any way to a generator, that generator to be sited externally along with any fuel supply and pipe work to it and to fully comply with all relevant provisions of electrical safety acts and regulations.
- d) Electrical cables and wires must be placed so as to prevent tripping hazards. In the first instance these should always be placed away from any pedestrian areas. It is not permissible to cover cables and wires even with a bespoke rubber mat or duck tape as these may also present a tripping hazard. Cables and wires may however be suspended and at a height of no less than 198 centimeters above the ground below so that pedestrians may walk safely beneath. Additional support via a 'catenary wire' must be provided where electrical cables are suspended so as to prevent electrical short circuit.
- e) All electrical circuitry must be weather resistant, and so placed and maintained to prevent electrical short circuit and danger from electrical shock.
- f) Where supported by guy ropes, those ropes and ground pegs to be positioned in such a way that they cannot be inadvertently tripped over and do not extend into any designated public walk-ways or traffic routes.
- g) Where used to contain any cooking apparatus that the apparatus is placed in such a way within the confines of the stall such that it will not catch fire nor produce a fire hazard as a consequence of any naked flame or heat producing surface.
- h) Where used to contain any heating apparatus that the apparatus is placed in such a way within the confines of the tent/marquee such that it will not catch fire nor produce a fire hazard as a consequence of any naked flame or heat producing surface.
- i) Provided where necessary with suitable apparatus to extinguish fire.
- j) To be pitched in such a way that the public may exit quickly through unimpeded and clear signed exits.
- k) Where containing any gas cylinders, that those cylinders are either laid down or tethered to a rigid supporting structure to prevent falling/overturn.
- l) Flame and fire retardant material must be used in the construction of the individual stalls. Stall holders are reminded that their stall will come under the requirements of the Regulatory Reform (Fire Safety) Order 2005 and the person/company/business responsible for the stall will be required under this order to undertake a fire risk assessment. The significant findings of that assessment are to be recorded. The completed assessment must be maintained available for inspection by the Fire & Rescue Service/Event Organiser or Council Officers at all times. The assessment will take into consideration amongst other issues most of those identified under Section 4.1 of the Policy for Market Stall and Street Trading activities.

- m) Residual Current Devices and Residual Current Circuit Breakers (RCD's/RCCB's) to be placed as appropriate within all mains electrical provision to prevent all exposed metal components from becoming electrically energised.
 - n) Where any gas system is provided that it complies with the Gas Safety (Installation and Use) Regulations 1998 Section 35 and has been certificated by an appropriately qualified Gas Safe Engineer.
 - o) No fire hydrant indicator plate or fire hydrant pavement cover shall be obstructed, or access to it restricted at anytime by the activities of the stall holder(s)
- 4.2 The Stall shall only be used for the sale of goods specified.
- 4.3 The Stall shall only be used by the Stallholder and his employees. The Stallholder shall not do or allow anything to be done which may cause or be a nuisance or annoyance to any member of the public or which may be detrimental to the efficient operation of the Market.
- 4.4 Traders must not set up before 7am Monday to Friday or before 8am on Saturday and Sunday. Traders must remove vehicles from the market site by 8am on Monday and Friday and by 9am on Saturday and Sunday. Traders must continue trading until 5pm on all market days and will not be able to begin loading before 5pm on market days.
- 4.5 Stallholders will be expected to treat their colleagues and all visitors and residents with respect.
- 4.6 No traders' vehicles will be placed on the Market site, other than for loading and unloading at the times permitted under paragraph 4.4 of this policy.
- 4.7 It is the Council's intention to ensure that the market is well presented and adequately stocked to be attractive to potential customers and in support of the town centre. A high quality standard is required of all traders' presentations and merchandising and in pursuit of this the Council will set quality standards. Poor presentation could lead to termination of the right to trade.
- 4.8 This Street Trading Licence does not convey any other approvals that may be necessary under the Food Hygiene regulations, Planning legislation or other appropriate legislation.
- 4.9 All food traders need:

Where the stall is used for the sale or offering of food, that it complies in full with all relevant provisions of the Food Safety Act, and EC Regulation 852/2004.

Without prejudice to the generality of the foregoing, the following controls must be in place:

- a) To have registered the business under food law with the local authority in which they reside overnight or trade.
 - b) A copy of the food registration certificate to be available for inspection.
 - c) The food business to be 'broadly compliant with food hygiene law relative to its last inspection (i.e. a score of no more than 10 with regard to any of the three compliance areas, namely: -hygiene, structure and management).
 - d) Food handlers to have received commensurate food hygiene training relative to their role within the business and this to be demonstrable in the form of certificates or records.
 - e) To have evidence of a demonstrable food safety management system on site. This may take the form of an SFBB manual or similar to show adequate records of opening and closing checks.
 - f) Traders selling hot and cold food will need to supply proof of the relevant food hygiene training certificate before you can apply for a License to sell food.
- 4.10 If you don't have a certificate you need to make your own arrangements to attend food hygiene training. You can find out more about training from Brentwood Environmental Health on 01277 312504. You'll also need to register your business with Environmental Health with you own local Council.
- 4.11 The Stall shall be kept in an orderly manner, clean and free from litter. No heating or lighting apparatus shall be installed without the permission of the Markets Manager.
- 4.12 No electrical connections must be made by stall holders to any public or utility equipment. Only generators or gas cylinder equipment that are compliant with paragraph 4.1 c), j), i) and m) are permissible.
- 4.13 Stalls, produce or products will only be allowed to be left out or stored overnight in the High Street town centre pavement area for markets lasting more than one day such as a continental or themed markets for example at the discretion of the Council and on the strict proviso that they are securely guarded all night and that they will not be left out in adverse or inappropriate conditions such as high winds etc. Ordinarily all stalls, produce or products must be removed and cleared away at the end of each trading day.
- 4.14 The Stallholder shall:
- (i) Indemnify the Council against all costs, demands, claims proceedings and actions incurred by the Council relating to or arising out of the use of the space allocated by the Council.

- (ii) Obtain and maintain Public Liability Insurance with a minimum indemnity limit of £5,000,000 (five million pounds) and shall produce to the Council evidence of such insurance with the application to trade.

5. Guidance on products

- 5.1 The Council operates a fair system and welcomes all applications.
- 5.2 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that Council's **may** refuse an application on the following grounds:
 - That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
- 5.3 Healthy competition is good for the town, however, the objective of the market is to compliment and enhance the offering provided by the shop traders in the town.
- 5.4 The Act allows the Council to attach such further conditions as appear to be reasonable. Each application will be considered in its own right and on its own individual merits. In this respect the Council has produced some guidance on the types of products which may be refused in order to be in keeping with the character of the Council and of the town centre and which as part of the Council's policy may also form part of the licence conditions. These are:
 - a) To allow one type of product to be sold by one trader.
 - b) To ordinarily refuse products not in keeping with the character of the High Street or the objectives of providing specialist and niche products which could include for example:
 - Products of a sexual content
 - Trailer vehicles
 - Cooked food of burgers, hotdogs, chips, pizza and fast food
 - Cleaning products
 - Products promoting the use of drugs or tobacco related products
 - Branded products found in local supermarkets and shops, including household items, make-up and health products
 - Funfair type products; donuts and candyfloss
 - Knives and other weaponry
 - Canned or branded drinks, chocolate, sweets and crisps
 - Mobile phone accessories
- 5.5 There are a sufficient amount of shop traders already selling cut flowers, plants, fruit and vegetables, hot drinks such as tea and coffee, therefore the

Council is likely to refuse such items in the current climate, as legitimised by the Local Government (Miscellaneous Provisions) Act 1982.

- 5.6 Each application will however be considered in its own right and on its own merits.

Car Parking Information for Traders

The height restriction for all car parks in Brentwood are as follows:

6M Length
2.1M High
2.3M Width

Blue badge holders may only park free of charge in Brentwood Borough Council surface car parks that are pay and display and do not have barrier access.

Season ticket holder only car parks are not to be used for casual parking and no vehicles are allowed to remain overnight in any of the car parks.

The nearest overnight camping ground is situated at Warren Lane Doddinghurst, Kelvedon Hatch, Brentwood CM15 OJG. The telephone number is 01277 372773. The site is open March to November and there are 90 pitches available. It is dog friendly and has electric hook –ups, hard standing, gas refills, disabled facilities, showers and toilet block, washing up facilities, laundry room, chemical disposal and internet access. This site is approximately two miles from Brentwood so it is convenient for traders.

Please note that this information is provided without prejudice to assist traders and is not intended to be an endorsement of the site or its services by Brentwood Borough Council and is only accurate to the time the information was included in the policy in August 2012. Brentwood Borough Council accepts no responsibility for any of the above information that might not be accurate in the future.

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Appendix B

The following are extracts taken from a 2014 Public Health England(PHE) publication which outline and are a guide to the benefits for and against the use of Electronic Cigarettes.

Electronic cigarettes (also known as e-cigarettes or electronic nicotine delivery systems (ENDS)) typically comprise of a re-chargeable lithium ion battery and a battery powered atomiser which produces vapour by heating a solution of nicotine. Drawing air through the e-cigarette triggers the heater to create vapour which contains nicotine and is inhaled by a smoker the same way as smoke from conventional cigarettes.

Producing nicotine vapour from a solution rather than by burning tobacco means that electronic cigarette vapour is free from almost all of the many toxic chemicals that accompany nicotine in cigarette smoke. Not all electronic cigarettes include nicotine; some simply produce vapour for inhalation. As nicotine is the addictive substance in tobacco cigarettes, nicotine delivery from ENDS is essential if these products are to be effective for smoking cessation or harm reduction.

The principal addictive component of tobacco smoke is nicotine. However, aside from minor and transient adverse effects at the point of absorption, nicotine is not a significant health hazard. Nicotine does not cause serious adverse health effects.

Cigarettes deliver nicotine in conjunction with a wide range of carcinogens and other toxins contained in tar, including nitrosamines, acetone, acetylene, DDT, lead, radioactive polonium, hydrogen cyanide, methanol, arsenic and cadmium, and vapour phase toxins such as carbon monoxide.

In contrast, electronic cigarettes do not burn tobacco, so any toxins in vapour arise either from constituents and contaminants of the nicotine solution, and products of heating to generate vapour. The principal component other than nicotine is usually propylene glycol, which is not known to have adverse effects on the lung but has not to our knowledge been tested in models that approximate the repeated inhalation, sustained over many years, that electronic cigarettes involve.

PHE are aware of two cases of lipoid pneumonia attributed to inhalation of electronic cigarette vapour. Despite some manufacturers' claims that electronic cigarettes are harmless there is some evidence that electronic cigarettes contain toxic substances, including small amounts of formaldehyde and acetaldehyde, which are carcinogenic to humans and that in some cases vapour contains traces of carcinogenic nitrosamines, and some toxic metals such as cadmium, nickel and lead. Although levels of these substances are much lower than those in conventional cigarettes, regular exposure over many years is likely to present some degree of health hazard, though the magnitude of this effect is difficult to estimate.

Electronic cigarettes offer nicotine delivery in a format that mimics smoking, have a socially acceptable non-medical image which enables users to retain their smoker identity but without the risk of smoke.

These are relatively inexpensive (start-up costs can be high, but running costs much lower than smoking), and despite (to date) nicotine delivery that is low relative to cigarettes, have

proved popular with the current minority of smokers who use them. Consumer support for the product is evident from the user sites that a brief internet search on electronic cigarettes or vaping generates.

Electronic cigarettes emerged on the UK market at around the time of the 2007 Royal College of Physicians report, which advocated making alternative sources of medicinal nicotine available to smokers as a competitive and non-medical alternative to tobacco. The rapid uptake of electronic cigarettes since then, despite uncertainties over their purity and performance, demonstrates that many smokers welcome the availability of choice in nicotine products, and if provided with products that are attractive, affordable and easily available, will use them either in conjunction with, or in the longer term instead of, tobacco cigarettes.

Electronic cigarettes also appeal to smokers by mimicking the sensation and appearance of smoking a cigarette, and by their market positioning as lifestyle rather than medical products.

As use of electronic cigarettes is a relatively recent phenomenon and evidence to date is scarce, there are still some major concerns about these products, however, potential hazards of electronic cigarettes relate primarily to the purity of nicotine emissions, and the effects of long-term exposure to vapour.

Notwithstanding this the hazards associated with use of products currently on the market is likely to be extremely low, and certainly much lower than smoking. Electronic cigarettes do not produce smoke so the well-documented effects of passive exposure of others to cigarette smoke are clearly not relevant.

Exposure of non-smokers to electronic cigarette vapour poses a concern, though laboratory work suggests that electronic cigarette use in an enclosed space exposes others to nicotine at levels about one tenth generated by a cigarette, but little else. The health risks of passive exposure to electronic cigarette vapour are also likely to be extremely low.

There have been some suggestions that among non-smokers, electronic cigarettes might be used as a gateway to smoking and promote smoking uptake and nicotine addiction, particularly among children and young people. However, to date there is no data supporting this claim.

It has been suggested that there is a risk of sustained dual use among smokers who might otherwise have quit smoking completely, representing missed opportunities to achieve complete cessation. Some argue that use of electronic cigarettes, which to a degree resembles cigarette smoking, in places where smoking is currently prohibited might re-normalize smoking and undermine tobacco control efforts. However, although similar in appearance, even cigalike products are easily distinguishable, both in appearance and smell, from tobacco cigarettes. Therefore, use of electronic cigarettes in smoke free places is more likely to lead to normalisation of nicotine devices than to smoking, and hence potential benefit as a support to existing smoke-free policies.

A potential greater concern over the similarity in appearance between the use of electronic and tobacco cigarettes relates to advertising, sponsorship, celebrity endorsement and portrayals in film and other media. In this area there is considerable scope for promotion of nicotine use to young people, representing a significant concern. Advertising will be controlled in future by developments in regulation of these products and the Committee of Advertising Practice is currently consulting on restricting the advertising of

electronic cigarettes.

Although originally developed and marketed independently from the tobacco industry all of the four transnational tobacco companies now own at least one electronic cigarette product, or has competitor products in development. In addition to sharing the commercial gains from electronic cigarettes, the tobacco industry is no doubt eager to exploit opportunities for advertising and promotion that might increase either electronic or tobacco cigarette use, and also, by becoming involved in the production of alternatives to smoking, circumventing current restrictions on engagement in policy imposed by the Framework Convention on Tobacco Control (FCTC).

Given the ethical record of tobacco industry activity in promoting and defending smoked tobacco, this is an obvious and significant potential threat, but also one that needs to be addressed across the board as all nicotine suppliers are driven primarily by commercial rather than public health interests. While those commercial and public health interests largely coincide in the promotion and sale of electronic cigarettes to smokers, they do not in the non-smoking population. This is a key argument for regulation to prevent abuse of the electronic cigarette market.

The potential benefits of electronic cigarettes lie in their role as a reduced-hazard competitor for cigarettes. The great majority of the more than one million users of electronic cigarettes in the UK are current or former smokers. Most users use them to either replace cigarettes in places where smoking is prohibited or discouraged, to cut down on smoking, to reduce harm from smoking, or to quit smoking. As the nicotine delivery kinetics of electronic cigarettes improves with technological developments, these products may prove to be more effective than conventional Nicotine Replacement Therapy (NRT) as a tobacco substitute as their physical and behavioural characteristics replace many of the co-stimulatory factors that contribute to nicotine addiction.

Availability in convenience stores, competitive pricing, non-medical image and social acceptability also contribute significantly to use. Prevalence of use is similar between genders and socio-economic groups, though higher in younger than in older smokers. According to the Smoking Toolkit Study, use of electronic cigarettes is much more common among heavier smokers and ex-smokers, and more recent ex-smokers report use of electronic cigarettes in preference to conventional NRT. The increase in electronic cigarette use over recent years appears to reflect this, at least in part. This is particularly true of smokers attempting to quit, among whom electronic cigarettes are now the first choice.

In this group, increasing use of electronic cigarettes has been associated with reductions in numbers using NHS stop smoking support, or buying over-the-counter NRT, but there has also been an increase in the total number of smokers using any form of support to quit.

The net result appears to be an increase in the proportion of smokers who have quit within the past year.

Evidence from clinical trials on the effectiveness of electronic cigarettes is limited, though results from observational and randomised trial data suggests that efficacy of first generation electronic cigarettes is similar to that of the transdermal NRT patches or the *Nicorette* NRT inhalator; findings that are consistent with the apparently low dose delivery and upper airway absorption of early generation products.

Electronic cigarettes are currently marketed in the UK under general product safety regulations which do not impose specific standards of purity or efficacy, and control advertising through voluntary codes of practice, which are now being reviewed, but deal with breaches reactively, in response to complaints, rather than proactively, through pre-screening.

In March 2014 the European Parliament and Council moved to end marketing under general product safety regulations under the terms of the new Tobacco Product Directive (TPD). Under this directive, advertising of nicotine-containing devices that are not licensed as medicines will be prohibited, products will be required to carry health warnings, meet purity and emissions standards that are yet to be defined, provide data on nicotine uptake, be subject to restrictions on total nicotine content, and suppliers will be required to bear full responsibility for quality and safety when used ‘under normal or reasonably foreseeable conditions’.

Dates for enactment are yet to be specified, but legislation is expected to be required in member states by 2016, and full compliance by 2017.

It is thus likely that by this time next year, health professionals will be able to prescribe, and patients will be asking them for, prescriptions of novel nicotine products. Some of those are likely to be produced by tobacco companies or wholly funded subsidiaries.

Smoking kills and millions of smokers alive today will die prematurely from their smoking unless they quit. This burden falls predominantly on the most disadvantaged in society. Preventing this death and disability requires measures that help as many of today’s smokers to quit as possible. The option of switching to electronic cigarettes as an alternative and much safer source of nicotine, as a personal lifestyle choice rather than medical service, has enormous potential to reach smokers currently refractory to existing approaches. The emergence of electronic cigarettes and the likely arrival of more effective nicotine-containing devices currently in development provides a radical alternative to tobacco, and evidence to date suggests that smokers are willing to use these products in substantial numbers.

Electronic cigarettes, and other nicotine devices, therefore offer vast potential health benefits, but maximising those benefits while minimising harms and risks to society requires appropriate regulation, careful monitoring, and risk management. However the opportunity to harness this potential into public health policy, complementing existing comprehensive tobacco control policies, should not be missed.

CONFIDENTIAL REPORT – NOT FOR PUBLICATION

**CONSIDERATION OF THE SUSPENSION OR REVOCATION OF A HACKNEY
CARRIAGE/PRIVATE HIRE DRIVERS LICENCE**

SECTION 61 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

(Exempt Information, Paragraph 4 of Part 1 of 12A of the Local Government Act 1972).

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Members Interests

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, of if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

Licensing Sub-Committees

To hear and determine applications that do not sit within the scope of delegation to officers, usually where representations have been received either by a third party against grant of a license, or from the applicant against intended refusal or revocation of a license/registration.

The Planning and Licensing Committee has delegated all functions other than relevant policies and fees setting to officers, with the exception of those other matters as indicated below, which are heard by licensing sub-committee unless otherwise indicated:

Licensing Act 2003 and Gambling Act 2005

- (a) Determination of any application type where a representation has been received in accordance with the legislation.
- (b) Determination of applications for review or expedited review.

Hackney Carriage vehicles and drivers (including enforcement of ranks) and Private Hire vehicles, drivers and operators, with the exception of:

- (a) Suspension or revocation of drivers' licenses (save for initial suspension under provision of Local Government (Miscellaneous Provisions) Act 1976 S61 (2B) if it appears that the interests of public safety require the suspension to have immediate effect).
- (b) Where representation has been submitted by the applicant/license holder against refusal of any application.
- (c) Where representation has been received from an applicant to vary a licensing or pre-licensing condition.

Scrap Metal Dealing

- (a) Determination of applications where representations have been received against refusal in accordance with legislative requirements; and
- (b) Consideration of revocation of a license where representations have been received in accordance with legislative requirements.

Street Collections and House to House Collections

- (a) Appeals against refusal to grant or renew a license

Licensing of sex establishments

- (a) Determination of all applications, revocations and appeals.

Street Trading

- (a) Determination of applications where representation(s) has been received.
- (b) Determination of applications that fall outside of current policy.
- (c) Determination of matters relating to revocation of a license.

Acupuncture, Tattooing, Skin and Ear Piercing and Electrolysis

- (a) Appeals against refusal to grant or renew a registration.
- (b) Revocation of a registration.

Animal Welfare and Security, except for the following:

- (a) Appeals against refusal to grant or renew a license.
- (b) Revocation of a license.

Exercise of Powers under Caravan Sites and Control of Development Act 1960, except for:

- (a) Refusal and revocation of licenses, (other than urgent refusals which are delegated to officers).

Mobile Homes

- (a) Appeals against revocation of a license and/or conditions attached to the grant of a license.