

Business and Planning Act 2020 – Pavement Licences		Agenda No: 5
<p>Portfolio Environment and Place</p> <p>Corporate Outcome: A sustainable environment and a great place to live, work and play A high performing organisation that delivers excellent and value for money services Delivering better outcomes for residents and businesses and reducing costs to taxpayers</p> <p>Report presented by: Daniel Mellini, Environmental Health Manager (Food, Health & Safety and Licensing)</p> <p>Report prepared by: Daniel Mellini, Environmental Health Manager (Food, Health & Safety and Licensing)</p>		
<p>Background Papers:</p> <ol style="list-style-type: none"> 1. Business and Planning Act 2020 2. Guidance: pavement licences (outdoor seating proposal) 3. Making transport accessible for passengers and pedestrians - Inclusive Mobility December 2005 		<p>Public Report</p> <p>Key Decision: No</p>
<p>Executive Summary:</p> <p>Legislation has been introduced to help businesses adjust to new ways of working as the Country recovers from disruption caused by Covid-19. The provisions within the Business and Planning Act 2020 support the transition from immediate crisis response and lockdown into recovery and getting the economy moving again.</p> <p>One such measure is the arrangements with respect to pavement licences. A pavement licence is a licence which can be granted by the Council and allows the licence-holder to place removable furniture over certain highways adjacent to a premises in relation to which the application was made, for certain purposes.</p> <p>This report sets out the Council's powers to issue licence under the Business and Planning Act 2020 (the Act), explains the processes necessary to issue licences, including a scheme of delegation to officers.</p> <p>The Council is also required to set a fee for applications under the Act and to determine the duration of a licence.</p>		

Recommended Decisions:

1. To set the fee for Pavement Licences at £100.
2. Determine that all Pavement Licences where approved will expire on 30th September 2021.
3. Agree the Standard Conditions to be attached to all approved pavement licences as set out in Appendix 1 to the report.
4. Agree the Officer Scheme of Delegation with respect to pavement licences as set out in this report.

Purpose of Decision:

1. Setting the licence fee at £100 is the maximum fee that can be applied with respect to a pavement licence under the Act. An exercise to assess the costs of processing and management of an issued pavement licence determined that the cost is in excess of this capped fee. As a result the fee should be set at the maximum possible, however the Committee can choose to set the fee below the maximum should it chose to do so.
2. To provide a clear time frame as to how long licences will last.
3. The Council is required to set out the procedures for how a licensing framework is to be governed and agree clear roles through a scheme of delegation.
4. A set of standard conditions will be attached to a licence which will be published by the Council in advance. Site specific conditions can also be attached to a licence should the need arise. The Act requires the Council to include two conditions which relate to the provision of unrestricted access by the disabled and the creation of a smoke free zone within the pavement licence area.

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

Financial:	<p>Section 2(1)(c) of the Act enables the Council to set a fee to accompany the licence applications. This fee is subject to a statutory cap of £100.</p> <p>The Council has discretion to set the fee, however it may not exceed the statutory cap. When setting the fee the Council will need to take into account any costs attributed to the administration and management of pavement licences issued above the income received through the collection of application fees.</p> <p>In the case of an application being reused, the fee will not be returned the applicant.</p>
Legal:	<p>In exercising its functions under Part 1 of the Act, the Council must have regard to any guidance issued by the Secretary of State.</p> <p>By virtue of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, this is a function of Full Council. In accordance with Article 9 of the Constitution the Licensing Committee is to act for Council in respect of licensing, therefore the Licencing Committee is able to determine this matter including the setting of the fee.</p> <p>Should the Council take enforcement action which may include the Council taking steps to remove any unauthorised furniture from the Highway, the Council will become an involuntary bailee and will be responsible for the care of any furniture removed by officers.</p>
Safeguarding:	No matters arising from this report.
Equalities/Diversity:	<p>Section 149 of The Equality Act 2010 places a duty on local authorities, to have due regard to: the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who don't and foster or encourage good relations between people who share a protected characteristic and those who don't).</p> <p>An Equality Impact Assessment has been undertaken and is published on the Council's website.</p> <p>Everyday access rights by the disabled are considered within the Equality Impact Assessment and set out in paragraphs 5.4 to 5.9 of this report.</p>

	<p>The Council must have regard in particular to two specific matters when deciding whether furniture on the pavement is, or would be an obstruction including the needs of disabled people, and the recommended distances required for access by disabled people as set out in Guidance issued by the Secretary of State.</p> <p>The Council must also have regard to these matters when considering whether to grant a licence and whether to use its enforcement powers.</p> <p>Section 3.1 of Inclusive Mobility, guidance of December 2005 provided by the department of transport sets out a range of recommended widths which would be required, depending on the needs of particular pavement users.</p> <p>This requirement is to be reflected within the proposed conditions attached to a licence.</p>
Customer Impact:	<p>The process will enable the Council to receive applications in accordance with the Business and Planning Act 2020</p> <p>The Business and Planning Act 2020 (the Act) has been introduced to help businesses adjust to new ways of working as the Country recovers from disruption caused by Covid-19. The provisions within the Act support the transition from initial response and lockdown into recovery and getting the economy moving again.</p> <p>Fee – Potential impact of the Fee of those business who have had financial difficulties are a result of the lockdown</p>
Environment and Climate Change:	No matters arising from this report
Consultation/Community Engagement:	<p>The Council sent a letter to all relevant businesses on 25th June 2020 to introduce the provisions within the Act. A further letter was sent to the same businesses on 24th July 2020 explaining that the Act is now in force.</p> <p>There is a statutory public consultation requirement on each application for a licence. The Council must take into account any representation made during the consultation period when determining an application.</p>
Risks:	<p>Furniture placed on the Highway without a Licence (or pavement permit granted under the Highways Act 1980) are an unlawful obstruction for which the Highway Authority has a duty to take enforcement proceedings.</p> <p>Should furniture be placed on the highway without proper consideration this could put pedestrians and users of the</p>

	<p>highway at risk of injury or placing them in a dangerous situation likely to cause an accident.</p> <p>The Council must have appropriate procedures in place to consult on an application and to attach condition on the Licence to safeguard users of the Highway, including pedestrians. Applications which have not been determined within the statutory period are automatically granted.</p>
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1. Background

- 1.1 The Act has been introduced to help businesses adjust to new ways of working as the Country recovers from disruption caused by Covid-19. The measures support the transition from immediate crisis response and lockdown into recovery and getting the economy moving again.
- 1.2 The Act came into force on 22nd July 2020.
- 1.3 A key part of the Act includes the temporary measure to allow businesses to apply for a licence to be able to place tables and chairs and other furniture on the highway through the implementation of a new fast track procedure. This measure will enable businesses to maximise their seated capacity whilst adhering to social distancing guidelines.

2. Pavement Permits - Highways Act 1980

- 2.1 Businesses selling food and drink such as cafes, pubs, and restaurants can already apply to the Council for a pavement permit under Part 7A of the Highways Act 1980. This process has not been amended in any way and businesses that wish to submit an application in accordance with the following process can continue to do so.
- 2.2 The process requires businesses wishing to place furniture on the highway to first determine whether the area in question is in fact highways land in accordance with the definition within the Highways Act 1980 and then seek planning permission as a change of use of the land. Planning permission can take at least eight weeks to obtain.
- 2.3 Once the status of the land and planning permission have been obtained an application for a pavement permit can be submitted to the Council. The current fee for a pavement permit is £327 and in normal circumstances will last for a period of 12 months.
- 2.4 The Council will open a 28 day consultation period with a number of key bodies/parties, including the district ward Councillors for the area where the application relates, Essex Police, Essex County Fire and Rescue Service, Braintree District Council Environmental Health and Planning departments.
- 2.5 The Council will seek consent from the Highways authority which has to be obtained before a licence can be granted. The Council will then arrange for a public notice to be placed at the premises in question and identify and consult with any parties considered to be a 'Frontager with an interest' or any other party that could be 'materially affected' by the application as defined by the Highways Act 1980.
- 2.6 Should any objections be received during the consultation period or should the application fall outside the scope of the Council's current pavement permit policy, the application will be required to be determined by the Council's Licensing Committee. Licensing Committees are normally held every six to eight weeks.

- 2.7 An example of where an application could fall outside of scope of the Council's current pavement policy could be where the applicant wishes to place furniture on the highway before 09:00 or beyond 18:00 as an example.
- 2.8 At best and assuming the process runs smoothly the time taken between the submission of an application for planning permission and obtaining a pavement permit could be in excess of five to six months.

3. Pavement Licence (New procedure)

- 3.1 The Act allows businesses which include public houses, wine bars or other drinking establishments and businesses that sell food or drink for consumption on or off the premises to apply for a pavement licence to place removable furniture on part of a relevant highway adjacent to their premises in accordance with Part 1 of the Act.
- 3.2 The definition of a Relevant highway is set out in Part 7a of the Highway Act 1980 which is limited to:
- a highway in relation to which a pedestrian planning order is in force;
 - a restricted byway; to a bridleway;
 - a footpath (including a walkway as defined in Section 35(2) of Highway Act 1980;
 - a footway;
 - a subway constructed under section 69 above;
 - a footbridge constructed under section 70 above; to a highway of a description not mentioned in any of the preceding paragraphs of this definition whose use by vehicular traffic is prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order; and
 - a local Act walkway.
- 3.3 This process does not relate to private land which would include land connected or owned by the business such as gardens, car parks, and even land that appears to be highways land but is not designated as such.
- 3.4 The definition of Furniture is classified by the Act as:
- counters or stalls for selling or serving food or drink,
 - tables, counters or shelves on which food or drink can be placed,
 - chairs, benches or other forms of seating, and
 - umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

Application Process:

- 3.5 An application for a Pavement Licence must be made in writing and in such form as the Council may specify and sent to the Council by electronic means. The application will need to be accompanied by a fee. (See Section 4 below for fee setting).

- 3.6 The Council already has a process for the submission of applications via the Council's website which also enables the payment of the application fee. It is proposed that applications for Pavement Licences are made using this existing function to meet the requirements of the Act.
- 3.7 The application is made on the day on which it is submitted to the Council. This includes those applications made on weekends and bank holidays.
- 3.8 An applicant may not submit multiple applications for the same premises and may only submit a further application once the determination period for their first application has ended.
- 3.9 An application must:
- specify the premises, the part of the relevant highway and the purpose or purposes for which the application relates;
 - specify the days of the week on which, and times of the day between which it is proposed to put furniture on the highway;
 - describe the type of furniture to which the application relates;
 - specify the date on which the application is made;
 - evidence of public liability insurance in respect of anything to be done by the licence-holder pursuant to the licence as the Council may require;
 - contain or be accompanied by such other information or material as the council require.
- 3.10 It is proposed that the Council will require the premises to have public liability insurance set at a level in excess of £5 million and that this covers the pavement licence area and not just the premises itself. This is the same requirement for applications for pavement permits under the Highways Act 1980 and will ensure that there is consistency on the Council's approach for public liability insurance for use of the highway for removable furniture.
- 3.11 The Council will require the application to be supported by a suitable scale plan/drawing which shows the proposed licensable area in relation to the premises and other relevant features. The plan must show the dimensions of the licensable area and other relevant measurements such as distance between the licensable area and any road and/or the amount of space available for pedestrians to pass the licensable area.
- 3.12 The Council will also require photographs/drawing of the furniture to be used to be included within the application.

4. Fee

- 4.1 A fee may be charged for the application. The Act states that the fee may not exceed £100, and therefore subject to a statutory cap. The Council may determine the level of fee payable up to this statutory cap.
- 4.2 When setting a fee, the Council must have regard to the EU Services Directive, incorporated into UK law as the Provision of Services Regulations 2009.

- 4.3 The Council also had regard to a number of sources of guidance. This included “Open for business: Local Government Association (LGA) guidance on locally set licence fees which sets out the steps that must be taken to set fair and reasonable fees. The Council also had regard to Department for Business, Energy & Industrial Strategy (BEIS) guidance for Business on the Provision of Services Regulations. The Regulators code applicable to all regulatory functions applies when setting fees and refers to ‘reasonable anticipated costs.
- 4.4 To give context, for pavement permits the Council’s application fee is £327 which far exceeds the capped fee for the pavement licence. This fee reflects the time taken to process and determine an application and the additional costs of hearing an application at a Licensing Committee.
- 4.5 An assessment of the costs of processing and management of an issued pavement licence in accordance with the provisions with the Act are in excess of the capped fee.
- 4.6 It is therefore proposed the Council charge the maximum fee of £100 due to the costs of administering the process and the short timescales involved in processing and determining an application.
- 4.7 The Committee can however decide to set the fee below the maximum should it chose to do so. If this option is considered it is important that any additional costs incurred in addition to the cap are not absorbed by other licensing regimes.

Application – Notice and Consultation

- 4.8 The Act gives the Council the discretion to decide how applications are published and how to give notice during the statutory consultation period.
- 4.9 Accordingly, the Council will publish details of an application on its website and invite representations and state when the consultation period will end.
- 4.10 The statutory consultation period of seven days commences from the calendar day after the application is submitted, which includes weekends. For example the consultation period for an application which is submitted on a Friday will commence on the Saturday and application submitted on a Saturday will commence on the Sunday. This does create issues for the Council, but there is no discretion for the Council to amend the consultation period on a correctly submitted application.
- 4.11 The Applicant will be required to fix a Notice of application to the premises so that the notice is readily visible to, and can be read easily by the public and ensure that it remains in place until the end of the statutory public consultation period. The Notice must be displayed from the day the application is submitted to the Council.

- 4.12 The Council will direct applicants to a template notice which can be downloaded from the [Gov.uk website](#). The Template will help applicants meet the requirement of the Act, which require the notice to include:
- That an application has been made and the date upon which it was made
 - That representation may be made to Braintree District Council with the consultation period dates;
 - and any other information which the Council may require
- 4.13 In addition to the public consultation via the Applicant's public notice, the Act requires the Council to consult with the Highway Authority and such persons the Council considers appropriate.
- 4.14 It is proposed that the Council will consult in a similar way for pavement permits, this will ensure consistency in the Council's approach for removable furniture on the highway. The Council therefore proposes to consult with the following during the consultation period:
- Braintree District Council Ward Members for the area which the application relates
 - Braintree District Council – Economic Development
 - Braintree District Council – Town Centre & Public Realm Manager
 - Braintree District Council – Environmental Health (Noise)
 - Braintree District Council – Environmental Health (Food, Health & Safety)
 - Braintree District Council – Development Control
 - Essex Police
 - Essex County Fire and Rescue Service
 - The relevant Parish or Town Council
- 4.15 The Council does not intend to consult more widely due to the short statutory consultation period of seven days and the public notice requirements already in place.

Determination of the Application:

- 4.16 When determining the application the Council must take into account any representation made during the statutory consultation period. The Council has seven days from the closure of the consultation period in which to determine the application. There is no discretion for the Council to extend this period. Should the Council fail to determine an application within the seven day period that application is deemed granted (subject to the Council's published conditions).
- 4.17 Upon determination the Council can grant or reject an application.
- 4.18 When granting an application the Council may only do so if the Council considers that, taking into account any conditions it proposes to grant the licence, nothing done by the applicant pursuant to the licence would have an effect of:
- a) preventing traffic, other than vehicular traffic, from

- (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
 - (ii) passing along the relevant highway, or
 - (iii) having normal access to premises adjoining the relevant highway,
 - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
 - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
 - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
- 4.19 Where the Council is considering whether furniture put on a relevant highway has or would have the effect of preventing traffic (as set out in a(i) to (iii) above) the Council must have regard in particular to the needs of disabled people, and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.
- 4.20 Furthermore, having regard to representations, the Council may determine how much of the space the licence will cover and may limit the purposes for which the licences has been applied for.

Duration of Licence

- 4.21 The Council can decide, when granting a licence, how long the licence should remain in place. A Licence may not be granted for a period of less than three months. The Council may leave it open ended, in which case a licence will automatically expire at the end of 30th September 2021 in accordance with Section 4(2)(b) of the Act.
- 4.22 Licences which are automatically granted have a fixed duration of one year starting on the day following the expiry of the determination period. However, should one year period extend beyond 30th September 2021, the licence will also expire on 30th September 2021.
- 4.23 It is proposed that where the Council determines the application within the statutory timeframe, the licence will not have a limit on its duration and will automatically expire at the end of 30th September 2021.

5. Conditions

- 5.1 A pavement Licence may be granted by the Council 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.

- 5.2 While conditions must be reasonable, it is commonly accepted that any conditions placed on a licence regardless of the regime should be:
- appropriate, necessary and proportionate
 - precise, clear and unambiguous
 - practical, realistic and enforceable
 - non-duplicative
- 5.3 The proposed standard conditions to be attached to a licence can be found in Appendix 1 to the report.

Disabled Access

- 5.4 The Council must have regard in particular to two specific matters when deciding whether furniture on the pavement is, or would be an obstruction.
- 5.5 Those are the needs of disabled people, and the recommended distances required for access by disabled people as set out in guidance issued by the secretary of state ([‘Inclusive Mobility’ 2005](#)).
- 5.6 The Council must have regard to these matters when considering whether to grant a licence and whether to use its enforcement powers.
- 5.7 Section 3.1 of Inclusive Mobility, guidance of December 2005 provided by the department of transport sets out a range of recommended widths which would be required, depending on the needs of particular pavement users.
- 5.8 The Council will have regard to the guidance taking into account the specific set of circumstances within the application and site conditions.
- 5.9 It is important that a pavement licence area is clearly defined and separated from the rest of the walk way so that the visually impaired can navigate around the furniture. Where possible applications should include a colour contrast and a tap rail for long cane users.

Smoke free seating

- 5.10 The Act places a requirement that a licence-holder who places seating on the highway for the purpose of the consumption of food or drink must make reasonable provision for seating where smoking is not permitted.
- 5.11 In addition, the Council would have to have regard to guidance issued by the Secretary of State when considering whether reasonable provision has been made for seating where smoking is not permitted for the purposes of their functions in relation to the grant of licences and enforcement.

Hours of operation

- 5.12 It is proposed the Council add a standard condition on all pavement licences which ensures that furniture will not be placed on the highway before 09:00 and after 22:00 Monday to Sunday. This condition will help minimise the potential impacts of public nuisance especially in areas that include residential

dwelling and reduce the risk of crime and disorder especially in a town centre setting. This will provide for consistency with the standard hours for pavement permits granted under the Highway Act 1980.

6. Enforcement

- 6.1 The Act allows the Council to take action against a licence should a condition of licence be breached. The Council may either revoke a licence or require steps to be taken to remedy the breach.
- 6.2 Where steps are required to remedy a breach, the Council can serve a notice on the licence-holder requiring the breach to be remedied as specified in the notice within a set period of time.
- 6.3 Should the notice not be complied with the Council can choose to take the steps itself and recover the costs of doing so from the licence holder.
- 6.4 The Council can revoke a licence or part of a licence where the furniture is giving rise to public health and safety concerns, anti-social behaviour, public nuisance, or where the highway is being obstructed.
- 6.5 The licence can also be revoked where the applicant did not put up a notice to publicise the application as required or where parts of the application was false or misleading.
- 6.6 It is important to note that whilst powers of enforcement exist under the procedure, should a business place furniture on the highway without a licence, the responsibility of enforcement lies with the Highway Authority. There should be an expectation that enforcement is considered to be a priority in these cases and will ensure the integrity of the licensing regime.
- 6.7 Should the Council take action and removes furniture from the highway, it will become an involuntary bailiee for the items removed.

7. Effect of a Pavement Licence

- 7.1 A pavement licence authorises the restriction of public access to the part of the relevant highway to which the licence relates, by the placing of furniture on the highway.
- 7.2 A pavement licence constitutes deemed planning permission for anything done by the licence-holder pursuant to the licence— (a) which is development requiring planning permission under Part 3 of the Town and Country Planning Act 1990, and (b) for which there would otherwise not be planning permission or deemed planning permission. Therefore the applicant for a pavement licence does not need to seek planning permission to place furniture on the highway.
- 7.3 Anything done by the licence-holder pursuant to a pavement licence is not street trading, therefore there is no need for an applicant to seek a street traders consent for activities associated with the use of the licence.

8. Scheme of Delegation

- 8.1 Due to the statutory periods for determining applications of seven days, which commences immediately after the seven day consultation period it is not practicable to refer these application to the Licensing Committee for determination. For example to call a meeting of the Licensing Committee the Council must give 5 clear working days' notice of the meeting. To call a meeting to deal with an application officers would need to be considering calling a meeting of the licensing Committee upon the submission of each application, which would require considerable resources not only from the Council's licensing Team but also from the Governance Service.
- 8.2 Therefore it is considered appropriate that functions and decisions relating to application for Pavement Licences should be delegated to Officers to discharge on behalf of the Council.
- 8.3 The proposed Scheme of Officer Delegation is set out below.
- 8.4 To delegate to the Corporate Director, (with the responsibility for Licensing) or their nominated representative, in consultation with the Chairman of the Licensing Committee (or in their absence, the Vice-Chairman) the following functions:
- 8.4.1 To grant an application for a pavement licence as applied for.
 - 8.4.2 To grant an application with amendments including (but not limited to) the addition of conditions, amendments to the area subject to the licence or purposes.
 - 8.4.3 To refuse an application for a pavement licence
 - 8.4.4 To take enforcement action, including the revocation of a pavement licence in accordance with the provisions of the Business and Planning Act 1990.
- 8.5 Upon the exercising of the delegated authority each decision will be supported by a written report and a record of decision.

9. Review process

- 9.1 There is no right of appeal against the Council's decision to refuse an application, for the imposition of conditions or any reduction on the size or purposes of the application.
- 9.2 Applicants who are aggrieved with a decision can request a review which will be conducted by an 'internal review panel' which the Council will arrange should the need arise. 'The internal review panel' will consist of the Chairman of the Licensing Committee or their representative and the Environmental Health Manager responsible for Licensing or there representative.
- 9.3 The panel will review the grievance against the original decision made and determine whether the original decision should be upheld, returned to the Corporate Director for reconsideration.

- 9.4 Any other persons aggrieved by a decision to grant a licence may make a complaint in accordance with the Council's complaint procedure.

Standard conditions to be added to a Pavement Licence issued under Business and Planning Act 2020

1. Neither the barriers or tables and chairs must obstruct the entrance into or out of the establishment.
2. A safe pathway for pedestrians of a minimum of 2 metres or 2.5 metres in busy locations of footway must be maintained at all times.
3. The Licensee shall attach no fixtures to or make excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
4. The Licensee shall make no claim or charge against the Braintree District or Essex County Council in the event of the furniture or other objects being lost, stolen or damaged in any way from whatever cause.
5. The Licensee shall indemnify Braintree District or Essex County Council as Highway Authority against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred arising out of the grant of this permission and for this purpose must take out at the Licensee's expense a policy of public liability insurance in the sum of at least five million pounds in respect of any one event.
6. The Licensee shall not place furniture on the highway outside the permitted area of use.
7. Permission to operate a Pavement Licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that Braintree District Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause. This may mean that the pavement licence will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
8. The Licensee shall remove from the highway the barriers, posts, tables and chairs to permit work in or the use of the highway by Essex County Council, Police, Fire and Ambulance Services, any statutory undertaker or telecommunications code operator and shall make no claim against the Braintree District or Essex County Council for any loss of revenue.
9. No furniture is to be placed or kept on the permitted area when the premises is not open or trading, nor placed on the highway other than in the layout shown on the approved plan.
10. The permitted area shall be used solely for the purpose of consuming refreshments by persons seated at the tables provided within the permitted area.
11. No charge shall be made by the Licensee for the use of the furniture.

12. The authorised area shall be supervised by competent staff or the Licensee at all times during the exercise of this consent who shall take all reasonable steps to ensure compliance with these terms and conditions.
13. Waste from the Licensee's operations shall not be disposed of in the permanent litter bins situated on the highway for use by the general public provided by the Braintree District Council.
14. Refuse and litter deposited on the highway in the vicinity of the chairs and tables must be collected and removed each day by the Licensee at the Licensee's expense at not less than hourly intervals, at close of business or at more frequent intervals as may be required by or under the Environmental Protection Act 1990 and the Licensee shall comply with all requirements of any public health legislation for the time being in force.
15. The Licensee shall not permit or suffer the removal of any glassware used for the supply of the refreshment provided by the public from the permitted area. Glasses supplied for the consumption of drinks on the permitted area shall be made of toughened glass or plastic only.
16. The Licensee shall make good, to Essex County Council's satisfaction, any damage caused to the highway caused by the exercise of this licence and indemnify and keep indemnified Essex County Council from and against any claims, demands or proceedings in any way arising in regard thereto.
17. Despite this consent, the authorised area shall always remain part of the public highway and users of the highway are still entitled to exercise their right of passage over them.
18. The Licensee is responsible for ensuring that no statutory undertakers' apparatus is affected by the exercise of this consent.
19. Without prejudice to the ability of the Braintree District Council or Essex County Council to remove the tables & 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 2021.
20. There must be an area provided within the pavement licensable area where smoking is not permitted.
21. No smoking signage is to be displayed in the designated smoke free zones in accordance with Smoke-free (signs) Regulations 2012.
22. No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
23. Provide 2 metres distance between non-smoking and non-smoking areas.
24. 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.

25. Licensees must adopt a suitable system for the collection of relevant customer information to be provided to the relevant Government Agency in the event of a Covid-19 outbreak or incident connected to the premises or other nearby premises. The information to be collected is to be limited to staff, customer and visitor details including the lead party member’s name, telephone number, and date and time of arrival and departure. The information must be kept in accordance with Data Protection Principles and disposed of in a suitable manner after 21 days.