



Chelmsford City Council Regulatory Committee

5th September 2024

Business and Planning Act 2020 – Application to appeal the decision of a pavement licence.

Report by: Director of Public Places

Officer Contact:

Kate KOBER, Licensing Officer, Katherine.kober@chelmsford.gov.uk 01245 606446

Purpose

The Committee is requested to consider an application to review the decision that the licensing authority made in relation to the refusal of a pavement licence.

Options

Members are advised that they have the following options when determining this application.

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1. To uphold the decision to refuse the licence.
 2. To grant the licence as applied for
 3. To grant the licence with specific conditions or modifications.
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1. Introduction

- 1.1 Pavement licences were introduced under the Business and Planning Act 2020 ('the 2020 Act') and allows someone who has a business premises for the sale of food and/or drink to apply for a licence to place removable furniture on a highway. The furniture can be used for the sale or service of food or by the business's customers. On receipt of an application, there is a 14- day period of

public consultation followed by a 14-day period of determination. Before determining an application, the local authority must consider any representations received during the consultation period and must consult the Highways Authority. If a local authority does not make a determination within the 14-day determination period, the licence is deemed granted.

- 1.2 Chelmsford City Council's Policy permits furniture placement only in specific areas at the top of the High Street, as detailed (hatched red) on the attached plans, due to the redevelopment of the area. A copy of our policy including plan is attached as **Appendix A**
- 1.3 Legislation does not provide a statutory right to appeal for these decisions. However, councils may consider granting an informal review process to their Regulatory Committee.

2. Background

- 2.1 The premises is situated at 90 High Street, Chelmsford, towards the top of the high street and is surrounded by businesses and other restaurants. A google map image showing the location of the premises in satellite is attached **APPENDIX B**.
- 2.2 Queenies is adjacent to Costa Coffee who already have a pavement licence for furniture, including tables and chairs, situated outside of their premises.

3. Application

- 3.1 On the 25th June 2024, a complete application was received from Queenies located at 90 High Street Chelmsford Essex CM1 1DX, in accordance with section 2(1) & (2) of the Business and Planning Act 2020 using the Council's application form and procedures. Please see attached as **APPENDIX C**.
- 3.2 Queenies provided a detailed plan and photographs of the proposed furniture and planters which is attached as **APPENDIX D**
- 3.3 Consultation was sent out to all responsible authorities on the 25th June 2024 with a closing date of 9th July 2024.

4. Representation and consideration

- 4.1 During the course of the application, four representations were made during the consultation period from Chelmsford City Council's Town Centre Management and planning department, Essex County Council and Environmental services. These are attached as **APPENDIX E**

- 4.2 The Licensing Authority in accordance with Chelmsford City Councils policy, refused the application and a letter of refusal and reasons why was sent to Queenies via email on 15th July 2024 as well as a hand delivered copy of the letter on 19th July 2024. This is attached as **APPENDIX F**
- 4.3 Chelmsford City council received a letter of appeal, on 23rd July 2024, in relation to the refusal of the application for a pavement licence. Please see attached at **APPENDIX G**.
- 4.4 Chelmsford City Council issued a letter of warning on 26th July 2024 requesting that the existing furniture, which was unauthorised, be removed no later than 29th July 2024. This is attached as **APPENDIX H**
- 4.5 On the 1st August 2024, Chelmsford City Council issued an unauthorised street furniture removal notice due to non-compliance with the previous warning letter, which was also ignored. The Licensing Authority then arranged the safe removal of the furniture and placed it into storage. A copy of this notice is attached as **APPENDIX I**
5. **Conclusion**
- 5.1 In conclusion, while upholding the decision to refuse the licence aligns with existing policies and regulations, alternative options could be to grant the licence as applied for, or grant with specific conditions or modifications, thereby addressing concerns while supporting local business operations.

List of appendices:

- Appendix A – Policy & Plans
- Appendix B - Google image of premise
- Appendix C – Application
- Appendix D – plans and photograph of proposed furniture.
- Appendix E – objections from consultees
- Appendix F – CCC refusal letter
- Appendix G – Applicants letter of appeal.
- Appendix H – CCC warning letter for unauthorised furniture.
- Appendix I – Unauthorised Street furniture removal notice

Background papers: Business and planning Act 2020

Corporate Implications

Legal/Constitutional: The local council must ensure that the appeal process follows principles of procedural fairness. This means providing the appellant with a fair and transparent opportunity to present their case, access to relevant information, and a chance to respond to any evidence against them.

Financial: Damages and Compensation: In some cases, if the council's initial decision to revoke the licence is found to be unjust or based on flawed reasoning, they might be required to pay damages or compensation to the appellant.

Potential impact on climate change and the environment: If the pavement licence allows for outdoor seating or other activities that attract customers, it could lead to increased foot and vehicular traffic in the area. This could result in higher emissions from vehicles and contribute to air pollution, counteracting efforts to reduce greenhouse gas emissions.

Outdoor commercial activities associated with pavement licences can lead to increased noise levels and waste generation. This might have negative impacts on the local environment, affecting both residents and ecosystems.

Pavement licences often involve food and beverage service, which can generate additional waste. If proper waste management practices are not in place, it could lead to increased littering and improper disposal, harming the local environment.

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: Legal Expertise, Regulatory Compliance, Stakeholder Engagement, Financial Planning, Environmental Assessment, Urban Planning, Policy Development.

Risk Management: Legal and Regulatory Risks, Reputation Risks, Financial Risks, Operational Risks, Environmental Risks, Social and Community Risks, Litigation Risks, Compliance Risks: Economic Impact, Climate and Sustainability Risks.

Equality and Diversity: Equal Treatment, Community Impact, Community Engagement, Accessibility, Language and Cultural Sensitivity, Economic and Social Equity, Public Consultations, Diverse Representation, Mitigating Displacement, Community Benefits.

Health and Safety: Public Safety: The council must prioritize public safety in all decisions related to pavement licences. The appeal outcome should not compromise the safety of pedestrians, customers, or residents in the area.

Emergency Access: The council should ensure that the appeal decision does not obstruct emergency access routes, such as sidewalks, fire lanes, or entrances to buildings.

Fire Safety: If the appeal allows for outdoor seating or other activities, fire safety measures should be in place to prevent fire hazards and ensure safe evacuation routes.

Crowd Management: If the appeal outcome leads to increased foot traffic or gatherings in the area, the council should consider measures to manage crowds and prevent overcrowding, especially during events or peak hours.

Accessibility: Outdoor activities associated with pavement licenses should not impede accessibility for individuals with disabilities. Proper pathways and clear access routes should be maintained.

Noise Control: The appeal outcome might involve outdoor activities that generate noise. The council should establish noise control regulations to ensure that noise levels do not negatively impact nearby residents or businesses.

Food Safety: If the appeal allows for food and beverage service, businesses should adhere to food safety regulations to prevent contamination and ensure the health of customers.

Lighting and Visibility: Proper lighting should be provided for outdoor activities that continue after dark to ensure visibility and safety for both pedestrians and drivers.

Waste Management: The council should set guidelines for waste management to prevent littering and maintain a clean and safe environment in the area.

Weather Considerations: If the appeal outcome leads to outdoor activities, the council should consider weather conditions and establish guidelines for dealing with adverse weather, such as rain, wind, or extreme temperatures.

Inspections and Enforcement: The council should have a mechanism in place to regularly inspect and enforce compliance with health and safety regulations related to the appeal outcome.

Digital: Electronic Records: Maintain electronic records of all communications, decisions, and documents related to the appeal process. This helps in maintaining a clear audit trail and can be valuable in case of disputes.

Data Security: Any digital platforms used to store and share sensitive information related to the appeal must adhere to strict data security and privacy standards to prevent unauthorized access or data breaches.

Other: None

Consultees: Legal, Democratic Services

Relevant Policies and Strategies: Business and planning Act 2020

Pavement Licensing Policy

1. Introduction

The Business and Planning Act 2020 (as amended) was introduced as temporary legislation to assist businesses and remove existing bureaucracy around what were known as Tables and Chairs Licences under the Highways Act. The Business and Planning Act 2020 has now been amended by the Levelling Up and Regeneration Act 2023 which makes the Pavement Licence regime permanent.

The Act allows Chelmsford City Council to permit specified furniture to be placed on the highway (mostly footpaths and pedestrianised areas) although where applicable, businesses may still need the activity to be licensed, for example, sale of alcohol.

2. Definition of ‘pavement licence’

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, and for certain purposes.

3. Eligible Businesses

A person (which includes a body corporate) which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, ice cream parlours or similar.

A licence permits the business to use furniture placed on the highway in order to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

A pavement licence does not licence the activity, only the placing of the furnishings. The pavement licence is issued to a person or incorporated body. Where there is a change to that person or incorporated body then the licence will lapse, and a further application will need to be made by any new person.

4. Eligible Locations

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

This policy is applicable throughout the Chelmsford City Council district, although its main impact is within the city centre as other areas with demand for tables and chairs tend to be on privately owned land.

From 8 High Street northwards to the top of the High Street tables and chairs are only permitted in the hatched areas of the plan at Appendix 1. There must be a minimum width of 3 metres between the business façade and the tables and chairs, and a minimum 5 metre clear route along the centre of the street. The maximum depth of the area licensed for tables and chairs to be 2.5 metres.

To the south of 8 High Street, including Springfield Road and Moulsham Street, tables and chairs to be placed abutting the façade. The maximum depth of the area licensed for tables and chairs is to be 2.5 metres. Maximum depth of 2.5 metres does not apply to Exchange Square or Backnang Square.

Tables and chairs can only be placed in front of the façade the licence holder is responsible for.

Tables and Chairs will not be permitted where they would restrict any pedestrianised public highway to less than 2.5 metres in width or impede any designated cycle route.

Any application for tables and chairs in front of Shire Hall must be considered by the Council's Regulatory Committee.

5. Type of furniture permitted

Seating, tables and, if required, umbrellas and heaters (together with a secure base) as well as any proposed barriers to enclose the seating area are permitted.

The furniture must be fit for purpose and designed specifically for commercial outdoor use (and comply with all relevant BS standards). It must be kept in good order; damaged or faded items must be replaced.

This furniture is required to be removable, meaning that it is not a permanent fixed structure, and is able to be moved easily, and should be stored away when the premises are closed for activity.

There is an expectation that the type and style of furniture would be 'in keeping' with the local area.

Picnic benches and plastic tables and chairs designed for domestic use (e.g. white plastic furniture) are not permitted.

Any form of gazebo or enclosed shelter with one or more sides is not permitted.

6. Barriers

When tables and chairs are in place a standard barrier consisting of a fabric banner and associated post/rail system shall be used. The function of the barriers is to demarcate and contain the tables and chairs but also to give a clear warning particularly to people with visual impairments.

The barriers shall be secured by a purpose designed post and rail system with weighted post bases to prevent being knocked or blown over and be of a height range of 800mm to 1000mm so to not visually obstruct views down the street or be an obstructing hazard

Street café barriers should be of a design to complement the character of the surrounding area. Banners should be of one design, in a plain style and can incorporate the business name or brand logo. Posts and rails should be stainless steel, chrome plated or powder coated.

7. Times of Operation

The tables and chairs can be placed on the highway only when the premises are open for business and in any event not before 6.00 am and normally until the close of business.

Where nuisance is likely to be caused to residents e.g. late at night, businesses may be required to remove the tables and chairs before the close of business.

8. Planning Permission

Once a licence is granted the applicant will also benefit from deemed planning permission to use the land for anything done only pursuant to the licence while the licence is valid, but not for any other purpose.

9. Consultation

Applications are consulted upon for 14 days, starting with the day after that on which the application is made to the Council (an application will not be considered to have been properly made unless each requirement has been met).

The Council will publish details of the application on its website at www.chelmsford.gov.uk/business/licensing/find-a-licence/pavement-licence

The Council is required by law to consult with the Essex County Council Highways Authority. In addition, to ensure that there are no detrimental effects in granting such a licence the Council will also consult with:

- Chelmsford City Council Environmental Health Service
- Chelmsford City Council Planning Department
- Essex Police
- The appropriate Local Ward Councillor(s)
- The appropriate Parish or Town Council

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider in their determination of the application.

10. **Cost**

There is an application fee and a renewal fee payable every two years. Details can be found on the application form and Chelmsford City Council website.

11. **Insurance**

Operators must indemnify both Chelmsford City Council and Essex County Council in respect of injury, damage or loss arising out of the grant of permission (unless such claims arise out of the Councils' negligence). All operators must have public liability insurance in the sum of £10,000,000 in respect of any one event. A copy of this insurance must be produced to the Council before a licence will be issued.

The Licence holder shall make no claim or charge against the Council in the event of the furniture or other objects being lost, stolen or damaged in any way.

12. **Litter**

Refuse and litter deposited on the highway in the vicinity of the chairs and tables must be collected at not less than hourly intervals (or more frequent intervals if required under the Environmental Protection Act 1990).

Litter is not to be placed in the litter bins situated on the highway for use by the general public, but in the trade refuse bins.

All tables must be cleared as soon as practicable after being vacated by customers to avoid litter being deposited unnecessarily on the highway.

13. **Miscellaneous Conditions**

The Licence holder must remove any furniture if required to do so to permit works in or the use of the highway by the Council, the County Council, the emergency services any statutory undertaker or telecommunications code operator or where the Licence holder has been notified of a special event taking place.

No charge can be made by the Licence holder for the use of the furniture.

All licences are renewable every two years.



27.4m

Shire Hall

Bank Chambers

Saracens Head Hotel

El Sub Sta

TINDAL

Apsley House
1 to 3

58
59

For materials and construction information relating to the proposed Shire Hall steps and ramps, please refer to the Standard Details drawing

For tree pit materials and construction information, please refer to the Standard Details drawing

Existing post box to be relocated approximately 8m south

Relocated post box to be positioned out of the shop-front thoroughfare

Seating to be positioned to avoid placement over inspection chambers

Existing soldier course of paving blocks to be removed and replaced with linear rows of new granite paving to match existing



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APPENDIX B





APPENDIX C

BUSINESS AND PLANNING ACT 2020
Levelling Up and Regeneration Act 2023
Schedule 22



APPLICATION FOR THE GRANT/RENEWAL OF A PAVEMENT LICENCE

Before completing this application please read any associated guidance that can be found on our website at www.chelmsford.gov.uk. If you need to provide additional information please do so on a separate appendix to this application and submit with all required documentation as requested

APPLICANT DETAILS		
Title:	First name(s):	Surname:
Postal Address:		
Post Town:	Post Code:	
Phone (Home):	Phone (Mobile):	
e-mail address:		
Date of Birth:	NI number:	

BUSINESS PREMISES DETAILS	
Trading Name:	Queenies
Postal Address:	90 High Street Chelmsford Essex CM1 1DX
Purpose for which the business premises are used? (please tick one of the following options)	
Use as a public house, wine bar or other drinking establishment	
Other use for the sale of food or drink for consumption on or off the premises	
Both of the above uses	X

AREA OF HIGHWAY PROPOSED TO BE USED

Please provide a description of the area of the highway to which this application relates:
 (Please note you are required to submit a scale plan of this area with your application)
 The area we are applying for is located directly outside the name premises, 90 High Street, Chelmsford, Essex, CM1 1DX.

This area is 6.7meters in width, the total depth is 2.4 meters. These outside seating will leave a 6.3 meter gap between Queenies and Costa Coffee's external seating.

RELEVANT PURPOSE THE APPLICATION RELATES TO:

Which of the following relevant purposes do you wish to put furniture on the highway for?
 (please tick one of the following options)

To sell or serve food or drink supplied from, or in connection with relevant use of, the premises	
For the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises	X
Both of the above purposes	

DAYS AND TIMES

During what times do you propose to place furniture on the highway on each of the following days:
 Please use the 24hr clock.

Mondays	0730 to 2300	Fridays	0730 to 2300
Tuesdays	0730 to 2300	Saturdays	0730 to 2300
Wednesdays	0730 to 2300	Sundays	0730 to 2200
Thursdays	0730 to 2300		

FURNITURE TO BE PLACED ON THE HIGHWAY

Please provide a description and quantity of the furniture you propose to place on the highway.

(Please note you are required to provide photographs or brochures of the proposed furniture with your application)

The furniture comprises of;

4 x Light weight tables (700mm x 700mm), These tables feature compression moulded ISOTOP tabletops which have a seamless usage surface. The material properties result in a robust, durable, and long-lasting product, perfect for busy restaurants, bars, and cafes that handle food, drink, and the wear of everyday life.

16 x Chairs. An aluminium frame with a durable powder-coated finish, Waterproof, Lightweight and stackable, UV stabilised, Nylon foot protectors (H: 86cm, W: 39cm, D: 45cm)

2 x Planters. Planters dimensions 2.4m Length, 0.4m Width, 1m Height). The planters are constructed from marine ply, C24 timbers. These have been finished in undercoat and an oil based long lasting gloss finish. Both planters have been composted and filled with seasonal plants. Each plater consists of 4 heavy duty lockable caster wheels.

Checklist:

- I have paid the fee of £500 for a new grant or £350 for a renewal application
- I have attached photographic evidence of the public notice
- I have enclosed a plan showing the extent of the area and layout of furniture
- I understand that I must now advertise my application.
- I understand that if I do not provide information requested that my application will be rejected.
- I understand that there is no assumed right of permission unless not determined within the required period. Where council refuse permission I understand that fees will not be refunded.

Rec. Ref



DECLARATIONS BY APPLICANT

I understand that I am required to give notice of my application in accordance with the requirements of the Business and Planning Act 2020 and that failing to do so will lead to the revocation of any licence granted.

I understand I must hold and maintain public liability insurance up to a value of £10million.

I understand my application will not be considered until all the required documents and information have been provided and the application fee of £500 has been paid.

I understand that the application fee paid is non-refundable if my application is refused or if any licence granted is subsequently surrendered or revoked.

I understand that the Authority is under a duty to protect the public funds it administers, and to this end may use the information I have provided on this form for the prevention and detection of fraud. I understand that it may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

I understand that should my application be granted I will adhere to the conditions on the licence and that if conditions are breached then the licence could be revoked.

I understand that failing to remove furniture following a revocation of the licence could mean that the council can recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until costs have been paid.

I understand that failing to pay the recovery costs to the council within 3 months, the council may dispose of the furniture by sale or other means and retain the proceeds.

I declare that the information given above is true to the best of my knowledge and that I have not wilfully omitted any necessary material. I understand that if there are any wilful omissions, or incorrect statements made, my application may be refused without further consideration or, if a licence has been issued, it may be liable to revocation.

I understand that the Authority is collecting my data for the purposes described on this form and will not be used for any other purpose, or passed on to any other body, except as required by law, without my consent.

Date Submitted: 21/06/2024

Signed:

Print Name:

Please return this form with all relevant documents and proof that the application fee has been paid to:

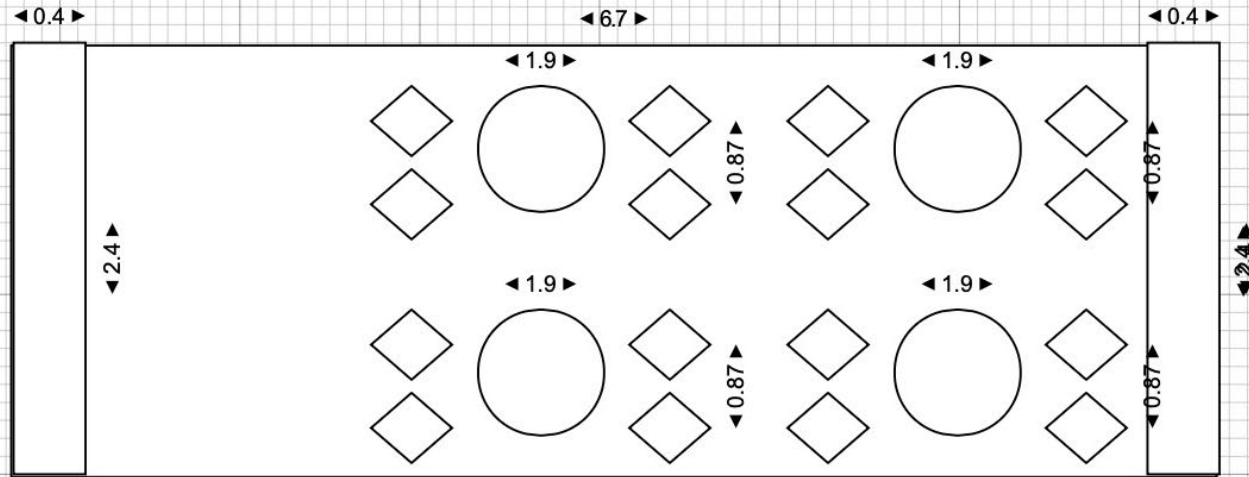
licensing@chelmsford.gov.uk

GUIDANCE NOTES

What should accompany the form?

Deemed licences?

APPENDIX D



Site:	90 High Street	Drawing:	801506	Project:	0000416	Drawn:	Name	Notes:	90 High Street Chelmsford Essex CM1 1DX
Title:	Queenies Outside plan	Scale:	1:50	Date:	21/06/24	Rev:	A		

APPENDIX D



APPENDIX E

Representation 1

Thanks for sending this over.

My concern is around the narrowing of the space approval would cause due to the fact Wendy's would also wish to have a similar area creating a pinch point.

My personal preference would be to reject this application, with a view that this would placate Wendy's who I believe also had a rejection.

Phil Chittock

City Centre and Tourism Manager

Marketing and Communications Team, Connected Chelmsford
Chelmsford City Council

Representation 2

Queenies new premises 90 High Street lies within the Central Conservation Area and the street area is part of the newly created public realm of the City Council led-scheme Tindal Square.

The applicants proposal is a double row of tables and chairs in an area extending 2.4m out from the building face.

This is made clear on the application form and photograph included showing the tables and chairs area abutting the building. However looking at the plan alone it would not be clear where on the street the area being applied for is.

The opposite side of the High Street is Costa Coffee, and there is a tables & chairs zone away from the building line which is framed at the southern end by the public (Granite) seats. This is the narrowest point across the street. From the public seats to the tables & chairs area Queenies seek is a gap of 5m (the application form quotes 6.3m).

The proposed area alongside the building face of 90 High Street would severely obstruct the walking route along the west side of the High Street. It would in-effect close off any walking route along the west of the High Street. This is against policy for this part of the High Street.

The proposal is fundamentally against the principle of the street design and the approach to tables & chairs in this part of the high street (the Tindal Square project area), as agreed by the City Council cross-department public realm working group. The tables & chairs policy was amended accordingly in the revised Pavement Licencing Policy of 2022 [regulatory-committee-17322-agenda-pack.pdf](https://www.chelmsford.gov.uk/regulatory-committee-17322-agenda-pack.pdf) ([chelmsford.gov.uk](https://www.chelmsford.gov.uk)) which includes the map, and has stood ever since.

Key stakeholders were consulted to ensure that placement of seating and any furniture is arranged to make the High Street more accessible; this involved making sure the seating has a distance from doorways and building lines which helps people with visual impairments and neurodiverse conditions navigate the High Street.

The reason the designed area does not show tables and chairs outside 90 High Street is not only because of the principle of having a clear area for walking alongside the building to the start of a tables & chairs area, whilst allowing a clear area along the centre of the High Street for servicing vehicles, it is also the wider extent of the street make up is very relevant. In this exact location the east side of the High Street opposite has had a long-term presence of cafes and restaurants, and formed an important consideration in the scheme design. The scheme design enables a zone each side of the street making it clear where tables and chairs could be satisfactorily considered for future occupation of neighbouring premises. The positioning of public benches is deliberate helping to define tables and chairs areas.

Further to this, the application area would give the effect of splitting the north part of the high street from Half Moon Square, the design of the public realm scheme for Tindal Square as well as the Half Moon Square scheme (constructed in 2016) carefully managed bringing the elements of the high street together. We must avoid undermining the success of City Council invested public realm schemes.

Please keep to the plan (attached) as included with the tables & chairs policy, which shows no tables and chairs outside 90 High Street and, to clarify, for the west side of the street the public bench outside No's.92-93 marks the starting point for the tables & chairs furniture zone heading north.

Also, you might note Pret A Manger, 13-14 High Street has tables & chairs against the building, this is a significant enough distance away (16 meters +), and not part of the Tindal Square public realm area, unlike Costa Coffee immediately opposite Queenies.

Kind regards

Jamie Cole

Planning Officer (Public Realm and Design)

Economic Development and Implementation, Sustainable Communities
Chelmsford City Council

Appendix E – Representation 3

The application for a pavement licence has not been made in accordance Chelmsford City Council's Pavement Licence Policy. The policy is clear about where tables and chairs are permitted to be placed in the area of Tindal Square and the top part of the High Street. The policy specifies that a clear space of 3m width should be maintained to the front of premises facades on both sides of the High Street from numbers 8 & 90 up to Shire Hall. The proposed seating area for Queenies does not meet these requirements. Furthermore, if seating was to be placed 3m away from the façade of 90 High Street this would significantly restrict the emergency and servicing access down the middle of the High Street below the minimum 5m required. For this reason, tables and chairs are not permitted in this area to the front of 90 High Street

Regards,

Lewis Mould

Public Health and Protection Services Manager

Public Health and Protection Services, Public Places
Chelmsford City Council

APPENDIX E



Essex Highways
Seax House 2nd Floor
Victoria Road South
Chelmsford
Essex CM1 1QH

Date: 8th July 2024
Our Ref: TC/ RC/019

Daniel.WINTER@chelmsford.gov.uk

Dear Chelmsford City Council

Business and Planning Act 2020
Application for a Pavement Licence – Queenies, 90 High Street, Chelmsford, Essex

I refer to your correspondence to the County Council's Highways Department, and consultation in respect of your Council exercising its powers to grant permission to for pavement licence in respect of the premises above.

In reviewing the application and supporting documents, we have considered the impact the furniture will have to all users of the highway and at this time, we cannot support this application to allow the furniture described, to be placed on the highway in the area identified by the location plan. In coming to this decision, we have considered that.

Eligible Location and Chelmsford City Council Pavement Licence Policy

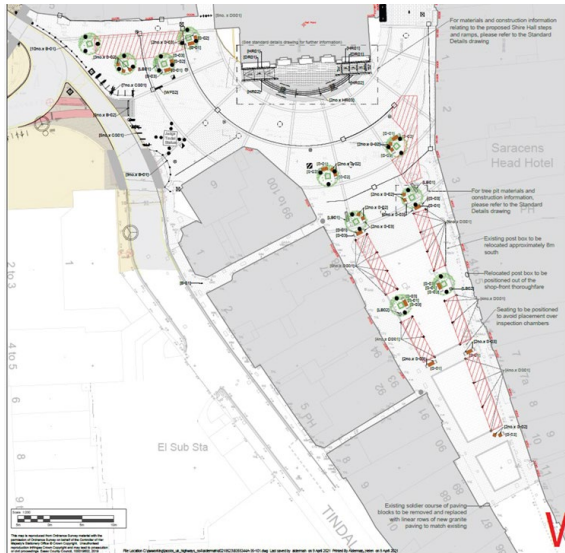
Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited.

High Street, Chelmsford is designated Pedestrian Zone by way of traffic order, No waiting 9am to 6 pm and No loading at any time except Good Vehicles 6pm to 9am.

Chelmsford City Council's Pavement Licence Policy/Conditions prevents the City Council from granting such application on the basis that.

From 8 High Street northwards to the top of the High Street tables and chairs are only permitted in the hatched areas of the plan (below). There must be a minimum width of 3 metres between the business façade and the tables and chairs, and a minimum 5 metre clear route along the centre of the street. The maximum depth of the area licensed for tables and chairs to be 2.5 metres.





To the south of 8 High Street, including Springfield Road and Moulsham Street, tables and chairs to be placed abutting the façade. The maximum depth of the area licensed for tables and chairs is to be 2.5 metres. Maximum depth of 2.5 metres does not apply to Exchange Square or Backnang Square.

Tables and chairs can only be placed in front of the façade the licence holder is responsible for. Tables and Chairs will not be permitted where they would restrict any pedestrianised public highway to less than 2.5 metres in width or impede any designated cycle route.

Interest of Public Safety/Highway Obstruction

The furniture proposed will restrict the area of footway designated to allow access for emergency vehicles and pedestrians in the High Street, presenting a bottle neck situation, causing conflict between customers of Queenies', pedestrians and all highway users and vehicle access (goods vehicles and emergency vehicles).

The business owner would not be able to accommodate and place furniture to meet the minimum unobstructed width of 3 meters between the business façade and the tables and chairs, and a minimum of 5 meters clear route along the centre of the street.

The positioning of tables and chairs should never discourage persons from using the footway. The available route past must be straight, obvious and unobstructed; it should not pass through the area used by the tables and chairs.

The furniture should be placed so as not to obstruct drivers' sightlines or obstruct highway signs. Emergency routes from adjacent buildings and business must not be obstructed by the licensed area.

When considering applications for pavement licence the Council should have regard to the Government Guidance, which sets out a national conditions. <https://www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance>

Provisions require that local authorities consider the needs of disabled people. To do this, authorities should consider the following matters when setting conditions, determining applications.

- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs.*
- Section 3.2 of [Inclusive Mobility](#) - gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of [Inclusive Mobility](#) sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.*
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway. Advertising boards are not included in the definition of furniture within the pavement licensing regime, therefore, should not be used as a barrier;*

Section 3 of the Business and Planning Act 2020 authorises your Council to grant a person permission only if the authority considers that, taking into account any conditions subject to which it proposes to grant the licence, nothing done by the licence holder pursuant to the licence would have an affect specified in subsection 6.

We appreciate that this is disappointing, but we hope you appreciate that we must consider the impact on all users of the highway.

Yours sincerely
Rachel Crouch
Network Assurance
Senior Traffic Regulation & Licencing Officer

APPENDIX F

Civic Centre, Duke Street
Chelmsford, Essex CM1 1

DX123305 Chelmsford 7
Telephone: 01245 606606
Facsimile :01245 606681
Email:licensing@chelmsford.gov.uk

Queenies
90 High Street
Chelmsford
Essex
CM1 1DX

Subject: Pavement Licence Application for Queenies, 90 High Street, Chelmsford, CM1 1DX.

Dear

I hope this letter finds you well. I am writing to inform you that your application for a pavement licence, submitted on 24th June 2024 has been carefully reviewed by the relevant authorities. Regrettably, we must inform you that your application has been refused, and we would like to outline the reasons for this decision.

The main reason for rejecting your application is that the proposed furniture and plans go against Chelmsford City Council's Pavement policy.

Furthermore, we have received comments from other responsible authorities who were consulted with. Their observations are as follows:

- Highway obstruction – In reviewing the application and Chelmsford City Council policy, we would consider this application to conflict with the use of the highway and fail to meet the national conditions, therefore cause an obstruction.
- Queenies' proposal to place tables and chairs outside 90 High Street, part of the Tindal Square public realm scheme, conflicts with city policies that maintain clear pedestrian pathways. The plan would obstruct the walking route on the west side of the street, which is against the revised Pavement Licensing Policy of 2022. The design of the area, emphasizing accessibility and clear zones for seating, was created to help all pedestrians navigate the High Street effectively. The designated area outside 90 High Street should remain a clear walkway, not a seating zone.
- The application for a pavement licence has not been made in accordance Chelmsford City Council's Pavement Licence Policy. The policy is clear about where tables and chairs are permitted to be placed in the area of Tindal Square and the top part of the High Street. The policy specifies that a clear space of 3m width should be maintained to the front of premises facades on both sides of the High Street from numbers 8 & 90 up to Shire Hall. The proposed seating area for Queenies does not meet these requirements. Furthermore, if seating was to be placed 3m away from the façade of 90 High Street this would significantly restrict the emergency and servicing access down the middle of the High Street below the minimum 5m

PUBLIC PLACES

Director: Keith Nicholson

required. For this reason, tables and chairs are not permitted in this area to the front of 90 High Street.

In light of these considerations, we find it necessary to refuse your application for a pavement licence.

Please be advised that local authorities can give notice requiring the business to remove furniture, where an application was refused or never applied for before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

Please arrange for the safe removal and storage of the furniture by **Monday 22nd July 2024**. If furniture continues to be placed on the highway, in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

We would like to express our appreciation for your understanding in this matter.

Should you have any further questions or wish to discuss this decision in more detail, please do not hesitate to contact our office.

While there is no formal appeal process, we welcome any objections regarding this decision that promote diplomacy, fairness, and democratic principles. Should an objection to this decision be made it will be addressed at a future regulatory committee meeting.

Yours sincerely



Daniel Winter
Licensing Lead Officer

Mr Daniel Winter
Licensing Lead Officer
Chelmsford City Council
Civic Centre
Duke Street
CHELMSFORD
Essex CM1 1JE

Our Ref: dd/cw/BAK4-5/1963

23rd July 2024

By email only: licensing@chelmsford.gov.uk

Dear Mr Winter

Queenies, 90 High Street, Chelmsford, Essex CM1 1DX
Pavement Licence Application
Your Ref : 24/00443/PAVLI

We write with reference to the above and further to your letter dated 15th July 2024.

We seek an informal appeal against the decision of Chelmsford City Council to refuse to grant a pavement licence at Queenies, 90 High Street, Chelmsford, Essex CM1 1DX.

We understand that there is no informal appeal process but would ask that we are given the opportunity to present to the Licensing Sub-Committee the arguments why the application should be granted. Whilst we may amplify this letter at a later stage, at this point we wish to make the following observations:

- 1) There is no obstruction to the highway and we understand there have been no complaints from users of the highway, ie, the public or public services. We do not accept in any event given that there is a clear passage and opportunities for the public to navigate the High Street safely and that it is fully accessible.
- 2) We understand there is no formal objection from Essex County Council Highway Authority but if we are incorrect on this point, please provide us with a copy of their objection.
- 3) Our proposal is reasonable in the sense of visual impact and amenity. The tables, chairs and ancillary planters are visually pleasing and are of a high standard. Our client believes that they actually add positively to the street scene.

Dadds Solicitors

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- 4) Each application should be decided on its own merits and we ask Chelmsford City Council not to apply its pavement licensing policy strictly and without consideration of each application on its own merits. It appears on the face of the decision that it is one of policy and not of safety. All emergency services can use the High Street to pass and repass, the public can pass and repass and we see no practical reason at this stage why the furniture should be removed. We hasten to point out that Chelmsford City Council has allowed on multiple occasions the use of the High Street between numbers 8-90 up to the Shire Hall for various purposes and the whole of that area has been obstructed by marquees, stages, exhibitors, traders and stalls on multiple occasions and it therefore appears to be at odds with the licensing policy and does not allow for emergency vehicles to pass, notwithstanding most obstructions, as described above, can be moved.

Whilst writing, could we please request that you forward to us copies of all correspondence or communication from any responsible authority or third party regarding our client's application. This is to include all communication as well as any formal objection. We are content at this stage for any personal or private information to be redacted accordingly.

We thank Chelmsford City Council in anticipation that they will consider this informal appeal and place this matter before the Licensing Sub-Committee at the earliest opportunity.

Yours sincerely

Dadds

DADDS LLP

APPENDIX H



Business & Planning Act 2020

(Levelling-up and Regeneration Act 2023)

Pavement Licence Number:

N/A

Address:

Queenies, 90 High Street, Chelmsford, Essex, CM1 1DX

Pursuant to Section 13 of the Levelling Up and Regeneration Act 2023 and the relevant provisions of the Business and Planning Act 2020, this notice is hereby served to address unauthorized placement of removable furniture on a relevant highway.

As per Section 7A of the Levelling Up and Regeneration Act 2023, it has been observed as on, dated, 26th July 2024 that removable furniture has been placed on the public highway without proper authorisation nor licence.

The Local Authority hereby requires the individual(s) responsible for placing the furniture to take the following actions:

- Remove all unauthorised furniture being placed on the High Street
- Refrain from placing any furniture on the High Street unless authorised to do so.

The individual responsible is directed to take all actions outlined above by: **29th July 2024**

In the event of non-compliance with this notice the local authority reserves the right to:

- remove and store the furniture.

The individual(s) or organisation responsible shall be liable to reimburse the reasonable costs incurred by the authority in removing and storing the furniture and the furniture will not be returned until the incurred costs are settled.

APPENDIX I



Business & Planning Act 2020

(Levelling-up and Regeneration Act 2023)

Unauthorised Street Furniture Removal Notice

This is reference to the furniture removed from **Queenies, 90 High Street, Chelmsford, Essex, CM1 1DX**. As the previous Compliance Notice, issued on 26th July 2024, explained, failure to comply with its requirements could result in the removal and storage of the furniture.

As a result of the non-compliance of the Notice, in that the authorised furniture remained on the High Street from 29th July 2024, the local authority will remove all unauthorised street furniture in accordance with the Business & Planning Act 2020 (Levelling-up and Regeneration Act 2023).

Items removed and description:

Tables	4
Chairs	16
Planters	2
Parasols/Umbrellas	0
Heaters	0

Barriers	<input type="checkbox"/>
Other furniture related to outdoor consumption of food and drink	<input type="checkbox"/>
Authorised officer:	SIMON PARHAM. 

Chelmsford City Council reserve the right to recover the cost of removal and storage of unauthorised street furniture and may seek to recover these costs. An invoice may be issued in due course.

Chelmsford City Council will endeavour to ensure that no damage is caused to the property removed but cannot be held responsible should any claim be made for damages.

If any fees incurred are not settled 3 months from the date of service of the Compliance Notice, the items removed may be disposed of in any manner the local authority sees fit.

If any fees incurred are settled within 3 months then the items will be returned and/or made available for collection at an appropriate time for both parties.

Date: 1/8/24

