



Chelmsford City Council Regulatory Committee

11th July 2024

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

Report by: Director of Public Places

Officer Contact:

Simon Parnham, Licensing Officer, simon.parnham@chelmsford.gov.uk 01245 606406

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.

1. To uphold the decision to refuse the licence.
 2. Grant the licence for some or all of the part of the highway specified in the application and impose conditions.
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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 Biriyani Boy have applied for a tables and chairs licence to place furniture outside of their premises on Baddow Road, the licence was refused in accordance with Chelmsford City Councils Pavement licence policy and specifically section 2 where the proposed area is not adjacent to the premises. This is attached as **Appendix I**.
- 1.3 Biriyani Boy wished to appeal the revocation but as detailed in the guidance, there is no statutory appeal process for these decisions, however, councils can undertake an internal review process, for example, by permitting appeals to their Regulatory Committee.
- 1.4 This matter is being presented to Regulatory Committee for them to review the decision of the tables and chairs application.

2. Background

- 2.1 Baddow Road is a one-way road that has a taxi rank. The road is prone to significant congestion at certain periods of the day especially from 6pm onwards as delivery drivers will often seek a place to stop to pick up orders as well as the taxi rank becoming live between the hours of 6pm until 8am.

3. Application

- 3.1 On the 10th of May 2024, an application was properly made 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 A** and proposed plans as **APPENDIX B**.
- 3.2 Consultation was sent out to all responsible authorities on the 10th of May 2024 with a closing date of 23rd May 2024.

4. Representation and consideration

- 4.1 There were comments made from Planning Services. Please see attached at **APPENDIX C** also from Chelmsford City Council Public Protection Manager Spencer Clarke please see attached as **APPENDIX D**, in addition to this we received comments from Essex Highways, please see attached as **APPENDIX E**
- 4.2 Chelmsford City Council sent a letter of refusal and reasons why to Biriyani Boy on Thursday 23rd of May 2024. see attached as **APPENDIX F**

- 4.3 Chelmsford City Council received a letter of appeal on the 9th of June, in relation to the refusal of the application for a pavement licence. Please see attached at **APPENDIX G** and this was submitted with a letter from the business next to Biryani Boy stating that he has no objections to the land adjacent to his shop being used by Biryani Boy, see attached as **APPENDIX H**.

Before concluding this report, members are advised that when determining this matter, the following options are available

1. To uphold the decision to refuse the licence.
2. Overturn the decision of the licensing authority to refuse the licence (thereby authorising the grant of the pavement licence, for some or all of the part of the highway specified in the application and impose conditions.)

List of appendices:

- Appendix A –Application
- Appendix B – Plans
- Appendix C –Comments from Planning
- Appendix D – Comments from Public Protection Manager
- Appendix E – Comments from Essex Highways
- Appendix F – Refusal Letter
- Appendix G – Appeal Letter
- Appendix H – Appeal Support Letter
- Appendix I – Pavement Policy

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.

COVID-19 Precautions: In light of the ongoing COVID-19 pandemic, the council should consider any additional health and safety precautions that might be necessary to prevent the spread of the virus in outdoor commercial activities.

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:

Relevant Policies and Strategies: Business and planning Act 2020

APPLICATION FOR THE GRANT 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: Mr	First name(s):	Surname:
Postal Address:		
Post Town: Chelmsford	Post Code:	
Phone (Home): N/A	Phone (Mobile):	
e-mail address:		
Date of Birth:	NI number:	

BUSINESS PREMISES DETAILS	
Trading Name: Biriyani Boy	
Postal Address: Biriyani Boy , 4 Baddow Road Chelmsford Essex, CM2 0DG	
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	Y
Both of the above uses	

AREA OF HIGHWAY PROPOSED TO BE USED

Please provide a description of the part of the highway to which this application relates:
 (Please note you are required to submit a scale plan of this area together with your application)

This is on the Pavement on 4 Baddow Road next to the statue

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	Y
Both of the above purposes	

DAYS AND TIMES

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

Mondays	to	Fridays	14:00- 22:00 to 14:00- 22:00
Tuesdays	14:00- 22:00 to 14:00- 22:00	Saturdays	12:00- 22:00 to 12:00- 22:00
Wednesdays	14:00- 22:00 to 14:00- 22:00	Sundays	12:00- 22:00 to 12:00- 22:00
Thursdays	14:00- 22:00 to 14:00- 22:00		

FURNITURE TO BE PLACED ON THE HIGHWAY

Please provide a description and the quantity of the furniture you propose to place on the highway and outline any applicable and additional toilet provision.
 (Please note you are required to provide photographs or brochures of the proposed furniture with your application. Continue on a separate schedule if necessary)

Esszimmerstuhl (By GRANDSOLEIL) Plastic Garden Dinning Armchairs and Tables - 10 chairs and 5 Tables

The Restaurant has a toilet inside.

Checklist:

- I have paid the fee of £100 Rec. Ref
- I have attached photographic evidence of the public notice
- I have enclosed a plan showing the extent of the area and layout of furniture
- Copy of public liability insurance.
- 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.

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 £5million.


I understand my application will not be considered to be complete until all the required documents and information have been provided and the application fee of £100 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 declare that the information given above is true to the best of my knowledge and that I have not willfully omitted any necessary material. I understand that if there are any willful 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: (Date of application)	28/03/2024	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

For your guidance, below are our standard conditions that should be taken into account when making application. As our 'published conditions' these will be attached to every licence including any that might be 'deemed granted'.

Standard Conditions

1. This permission is personal to the Licensee and not be capable of being transferred.
2. The Licensee shall make no fixtures to or excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
3. The Licensee shall make no claim or charge against either Chelmsford City Council (The Council) or Essex County Council in the event of the furniture or other objects being lost, stolen or damaged in any way from whatever cause.
4. The Licensee shall indemnify both the Council and the 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 approved by the Council in the sum of at least five million pounds in respect of any one event and must produce to the Council on request the current receipts of premium payments and confirmation of the annual renewals of the policy.
5. The authorised area shall be used solely for the purpose of consuming food or drink and only by persons seated at the tables and chairs provided within the authorised area.
6. No charge shall be made by the Licensee for the use of the tables and chairs.
7. 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 Council.
8. 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.
9. The Licensee shall remove from the highway the barriers, posts, tables and chairs to permit works in or the use of the highway by the Council, the County Council, the police, fire and ambulance services, any statutory undertaker or telecommunications code operator and shall make no claim against the Council or County Council for any loss of revenue or for refund or permission fee as a result thereof. When such temporary removal is required to enable authorised special events to take place, the Council will provide reasonable prior notice of such events.
10. No alcohol shall be consumed on the permitted area unless a licence authorising the sale of alcohol has been issued by the Council.
11. The Licensee shall be responsible for any rates, taxes and other outgoings which may be charged arising from the exercise of this licence.
12. The Licensee shall at its own expense obtain any necessary statutory consents and approvals required in connection with the exercise of a refreshment facility on the highway and comply with the provisions of all such consents and approvals and all statutes and other obligations imposed by law with regards to the provision, maintenance and operation of the refreshment facility.
13. The Licensee shall at the written request of the Council's Director of Public Places remove from and shall not replace any furniture on the permitted area which is not maintained to a standard satisfactory to the said Director.
14. No regulated entertainment shall be permitted within the licensed area unless authorised.
15. The Licensee shall keep the furniture clean and tidy and the tables cleared regularly.
16. No furniture is to be placed or kept on the permitted area when [premises] is not open or trading.
17. The furniture is to be used only by customers of [premises], Chelmsford for the consumption of food and drink supplied from within those premises.
18. The Licensee shall not cause or permit any nuisance or annoyance to users of the highway.
19. The Licensee shall not place furniture on the highway outside the authorised area of use.
20. 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 authorised area.
21. Glasses supplied for the consumption of drinks on the authorised area shall be made of toughened glass or plastic only.
22. All barriers erected to enclose the area will be of high visibility and with a low tapping rail for the visually impaired.
23. The authorised area shall be supervised by competent staff of 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.
24. Any heaters used in the permitted area must conform to BS EN 60529:1992 (electric heaters) and BS EN 14543:2005 (gas heaters). The Licensee shall restrict access to the controls/ pipe cylinders on the heaters to authorized employees of the premises only.
25. This permission may be suspended or revoked:

(a) by either party giving to the other not less than one months notice in writing to expire at any time or

(b) in the event of the Licensee failing to comply with any of the above conditions the Council may revoke the licence by giving 24 hours notice in writing to the Licensee and in this event all consideration money previously paid shall be without prejudice to any right or action which the Council may have for breach of terms of this permission damages or otherwise.

26. Any notice to be served in connection with this permission will be sent by email to the email address of the licence holder provided within the application and shall be deemed to be served upon the Council if sent via email to licensing@chelmsford.gov.uk or addressed to Director of Public Places c/o The Licensing Team, Civic Centre, Duke Street, Chelmsford CM1 1JE.
27. The Licensee shall remove all furniture from the authorised area when the premises are closed for trading. For further clarification, no furniture is to be placed or kept on the authorised area when the premises are not open or trading, nor placed on the highway other than in the layout shown on the approved plan.
28. This consent is a consent issued under s.3 (3)(a) of Part1 Business and Planning Act 2020
29. No form of decking/flooring will be permitted under any circumstances.
30. Customer toilet and associated hand-washing facilities is to be provided in accordance with the Council's Guidance on Toilet Provision.
31. A copy of page 1 of this licence shall be placed in a prominent position adjacent to the area in respect of which this permission has been granted so as it can be clearly seen by authorised officials without need to enter the premises.

The Licensee's attention is drawn to The Chelmsford City Council Public Spaces Protection Order (Chelmsford City Centre and Surrounding Area) 2019 made in accordance with the Anti-social Behaviour, Crime and Policing Act 2014

Mandatory Conditions (National)

The Secretary of State publishes this condition in exercise of his powers under [clause 5(6)] of the Business and Planning Act 2020:

Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#).

Guidance on the effect of this condition

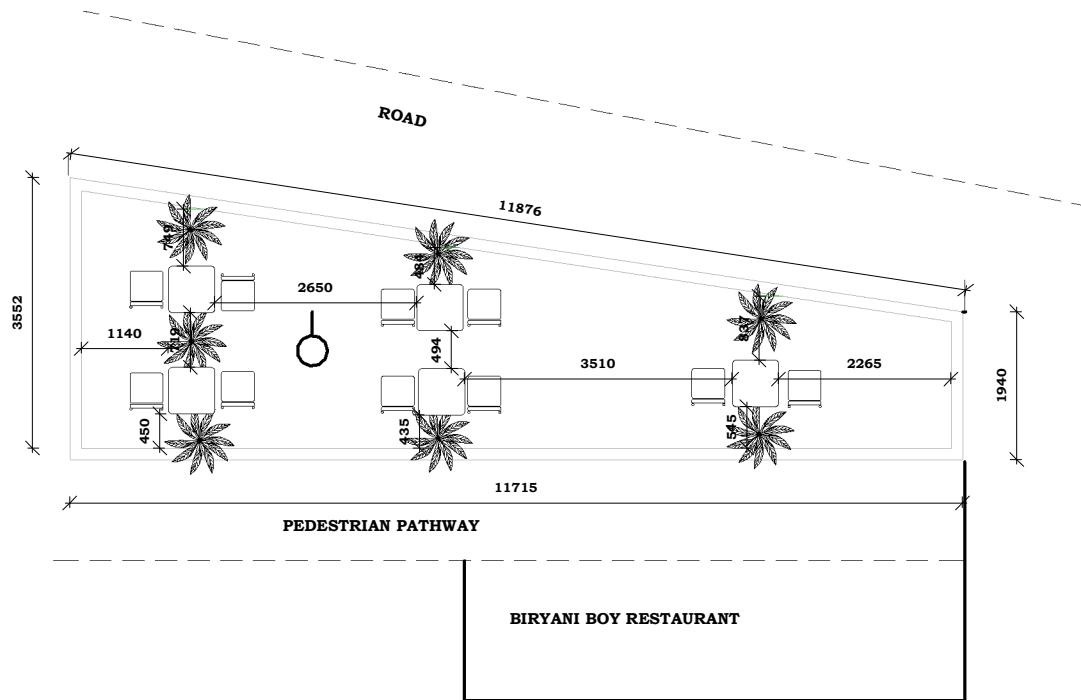
1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

Part 1 Business and Planning Act 2020

1. If it appears to a local authority that a person to whom they have granted or deemed to be granted permission under Section s.3 (3)(a) of Part1 Business and Planning Act 2020 has committed any breach of any condition of the licence they may revoke the licence, or serve a notice requiring them to take such steps to remedy the breach as are specified in the notice within such time as it is so specified.
2. If a person on whom a notice is served under subsection 6(1)(b) above fails to comply with the notice, the council may revoke the licence or take the steps themselves and in doing so may recover any costs from the licence holder.
3. A local authority may also revoke a pavement licence if it considers that (a) some or all of the part of the relevant highway has become unsuitable for any purpose in relation to which the licence was granted and (b) as a result there is a risk to public safety, anti-social behaviour or public nuisance is being caused or the highway is being obstructed (other than that permitted in pursuant of the licence) or (c) it is later found that the applicant was misleading or gave false information in their application or (d) the licence holder failed to comply with the duty in s. 2(5) in respect of failure to properly display the public notice.

Effect

1. The effect of granting this licence negates the need to apply for any planning permission or street trading consent, in connection with only the purposes for which this licence has been issued.



DRG.TITLE

OUTSIDE SITTING LAYOUT

ALL DIMENSIONS ARE IN MILLIMETER

No.	Description	Date
1	DPC	
	1:60	

PROJECT.

**SITTING LAYOUT FOR
BIRYANI BOY CHELMSORD**

Unnamed

Project number	Project Number	
Date	04-APRIL-2024	
Drawn by	Author	
Checked by	Ans	Scale 1:60

Hello

The principle of tables & chairs on the build-out area is fine, however before approving the proposal needs some refinement.

The plan and the photo included with the application gives a guide to what's proposed, however more information is needed.

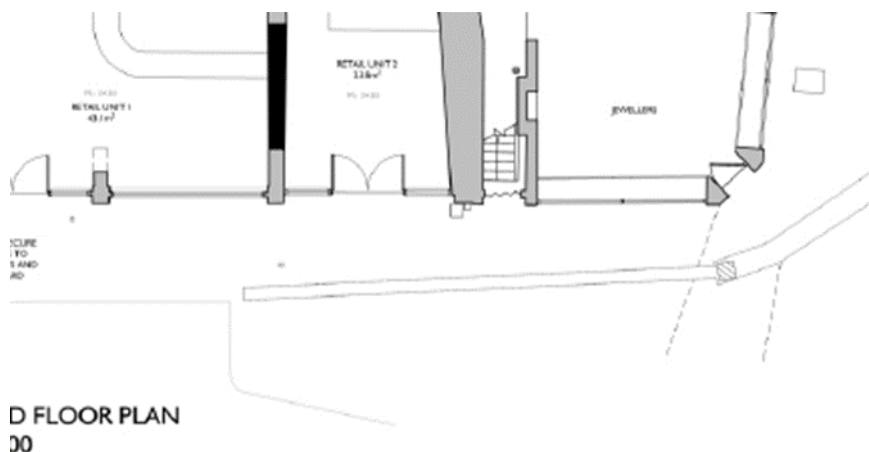
The application mentions 10 chairs and 5 tables, there is no mention of any other furniture, such as the planters shown in the photo included in the application.

Their plan is misleading as it shows Biryani Boy shop front facing half of the tables & chairs area. The plan (below) shows the shop face ends where the tables and chairs area would start. If taken literally, having tables & chairs opposite their shop front would mean using the loading bay, hence their plan is not clear.

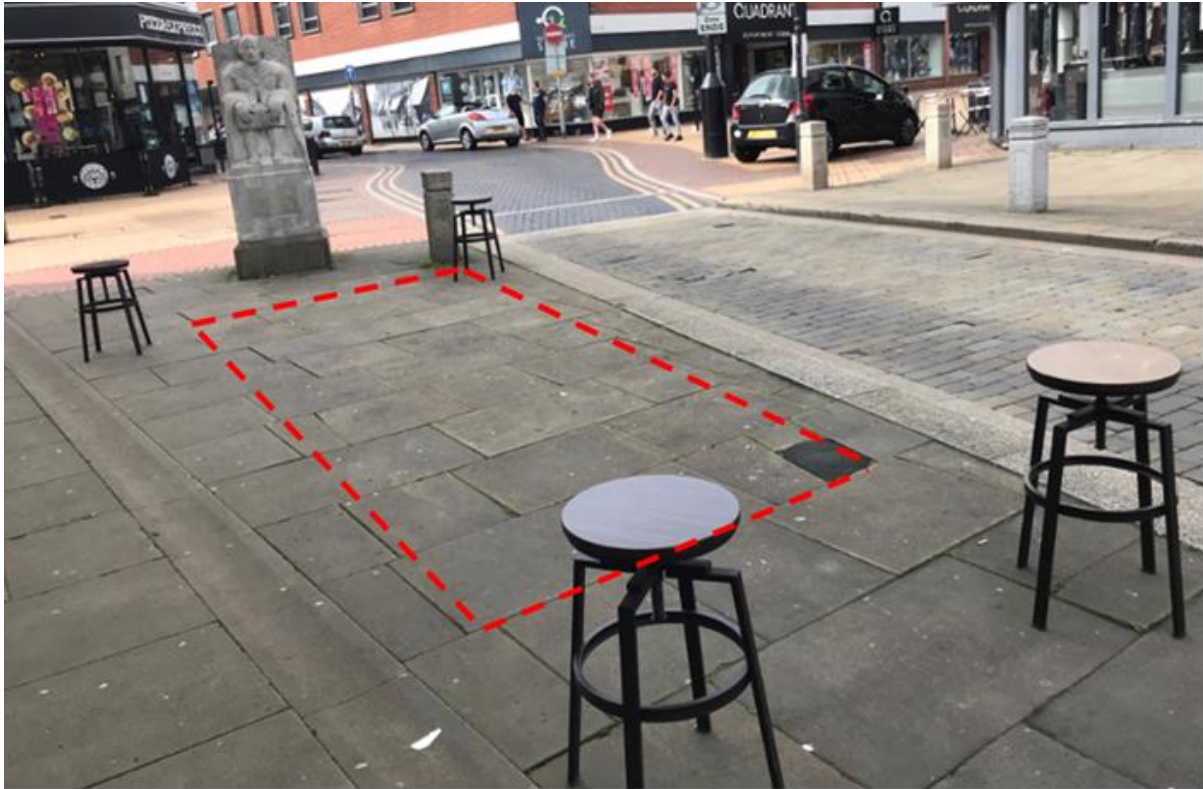
The plan needs to make clear:

the dimension between the building and the start of the tables & chairs area, the dimension back from the carriageway kerb edge to the tables & chairs area, the existing street furniture and drainage channel. If the applicant shows these this would help them in plotting their area correctly.

A key existing streetscape element is the drainage channel. It runs from the continuous Baddow Road kerb line to the drain cover at the Moulsham Street corner and appears to be what the applicant is using as their marker for the start of the table & chairs area. This channel line is not parallel to the building line and gradually gets closer to the building line before it reaches the drain at the corner to Moulsham Street (see image below from the planning file which illustrates this). The drainage channel at the most eastern point is 2m from the building face. As this drainage channel moves west towards Moulsham Street it creeps closer to the building. If this drainage channel is relied on it will create a pinch-point on the footway at the corner to Moulsham Street, which will not be acceptable.



If you are minded to allow a Pavement Licence for table & chairs at this location the area I suggest the area that would be more suitable is a smaller area as shown within the red hatched area below. The applicant should draw this up on a scaled plan for you to attach the licence to:



A clear gap of 1.2m must be maintained to the closest point of the statue.

ECC Highways engineering I believe have a dimension to keep items clear of the carriageway kerb edge, as a guide do not go any closer than the bollard in the photo above.

Please also be aware, the black top infill seen in the photo is where a Granite bollard was damaged by vehicle impact and I understand Essex Highways are looking to replace this.

This part of Baddow Road will see a change in vehicle movement patterns as the new TRO (coming into play from this summer) for the pedestrianised area will see servicing vehicles entering from Baddow Road turning right into Moulsham Street at the permitted times.

As with other Pavement Licences, please make it clear this is simply for the temporary period as prescribed by government, and this is no guarantee that the tables & chairs area will be permitted thereafter.

Kind regards

Jamie Cole

Planning Officer (Public Realm and Design)

Economic Development and Implementation, Sustainable Communities

Simon,

My only comment is that this area is used for taxi marshals, but this service does not commence until 23.00hrs so if the tables, chairs and planters are moved in by this time it should be fine.

Regards

Spencer

Spencer Clarke

Public Protection Manager

Public Health and Protection Services, Public Places

Chelmsford City Council

Simon.PARNHAM@chelmsford.gov.uk

Dear Simon

Business and Planning Act 2020
Application for a Pavement Licence - Biriyani Boy, 4 Baddow Road Chelmsford
Essex, CM2 0DG

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 Abubakar Mashud for pavement licence in respect of the premises above.

In reviewing the application and supporting documents, we would not support this application or consent to any furniture being placed on the highway in the area identified by the location plan, please see below our reasons.

The area specified on the applicant's location plan would not be suitable for two reasons.

1. The area proposed by the applicant for the provision of furniture is not immediately adjacent to the business/premises and would interfere with the other business in the immediate area.
2. The area adjacent to the business, I have measured the widest area of footway and measure this to be approx. 1.86 meters, based on these measurements, the applicant would fail to meet the minimum 2 meters unobstructed footway (no-obstruction condition) with placement of the proposed furniture and fail to consider the needs of disabled people using the footway, as set out in the national guidance.

Yours sincerely



Mrs Rachel Crouch
Network Assurance
Senior Traffic Regulation & Licencing Officer

Supporting Documents – Application for Pavement Licence

Street View Image

Biriyani Boy, 4 Baddow Road Chelmsford Essex, CM2 0DG

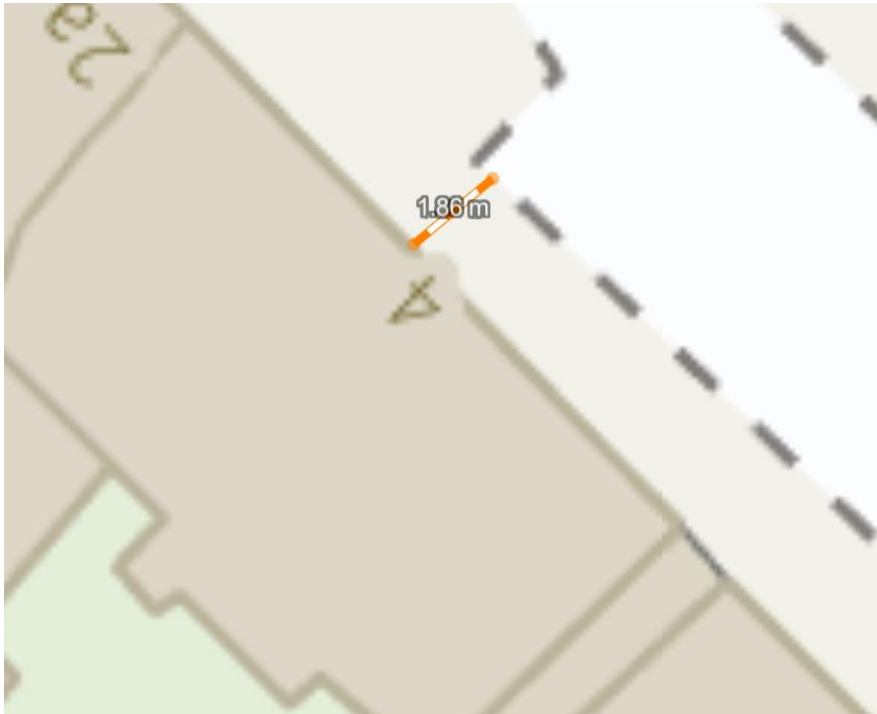


Highway Record Location Plan 1

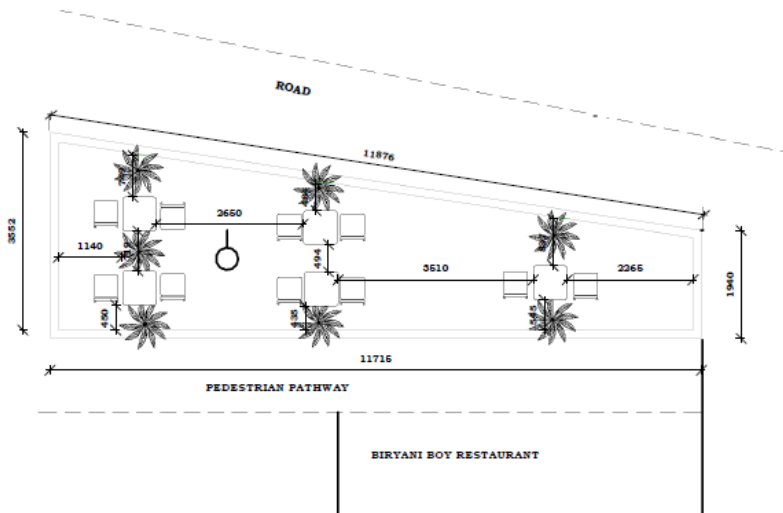
Biriyani Boy, 4 Baddow Road Chelmsford Essex, CM2 0DG



Highway Record Location Plan 1 – Footway Measurement
Biryani Boy, 4 Baddow Road Chelmsford Essex, CM2 0DG



Highway Record Location Plan 1 – Application Layout Plan
Biryani Boy, 4 Baddow Road Chelmsford Essex, CM2 0DG



Chelmsford, Essex CM1 1JE

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

Our Ref: 24/00305/PAVLI
Officer: Daniel Winter
Direct Dial: 01245606317
Date: 23/05/2024

Subject: Pavement Licence Application for Biriyani Boy, 4 Baddow Road, Chelmsford, Essex, CM2 0DG
Decision date by: 24/05/2024

Dear

I hope this letter finds you well. I am writing to inform you that your application for a pavement licence, submitted on 7th May 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 because of the comments from Essex County Council, who are responsible for safeguarding the Highways. Their observations are as follows:

- The area proposed by the applicant for the provision of furniture is not immediately adjacent to the business/premises and would interfere with the other business in the immediate area.
- The area adjacent to the business, I have measured the widest area of footway and measure this to be approx. 1.86 meters, based on these measurements, the applicant would fail to meet the minimum 2 meters unobstructed footway (no-obstruction condition) with placement of the proposed furniture and fail to consider the needs of disabled people using the footway, as set out in the national guidance.

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

Please note that under the Levelling Up and Regeneration Act 2024, which took effect on March 31, 2024, local councils now have the authority to issue notices, remove furniture, and recover storage costs.

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

We welcome a new application from you after the redevelopment is complete and look forward to working with you to ensure the success of your business.

Yours sincerely

Daniel Winter
Licensing Lead Officer



Chelmsford City Council
Civic Centre
Duke Street
Chelmsford
CM1 1JE
09/06/2024

Dear Members of Chelmsford City Council,

I hope this letter finds you well. I am writing to express my deep concern regarding the recent refusal of our application for outside seating for our business, Biriyani Boy, located at 4 Baddow Road, CM2 0DG. This decision has a significant negative impact on our operations and the local business community, particularly as we are heavily reliant on the increased foot traffic and sales that the summer months bring.

As a business that thrives on providing a pleasant and inviting atmosphere for our customers, the ability to offer outside seating is crucial. During the summer, many customers prefer to enjoy their meals and beverages outdoors, and this preference directly influences our sales and customer satisfaction. The inability to provide this option severely limits our capacity to attract and retain customers, which in turn affects our revenue and profitability.

Moreover, the decision not only affects our business but also has a ripple effect on the surrounding businesses in the area. Increased foot traffic due to outside seating benefits neighboring establishments as well, creating a vibrant and bustling environment that attracts more visitors to our part of Chelmsford. This collective success fosters a thriving local economy and community spirit, which is now at risk due to the restriction on outside seating.

Additionally, the provision of outside seating allows us to create extra job opportunities for local people. The increased demand for service during the summer months necessitates hiring additional staff, which supports the local job market and provides valuable employment opportunities within the community. This not only benefits those directly employed by our business but also contributes to the broader economic health of Chelmsford.

We understand the need to balance various factors in urban planning and community management. However, we believe there are ways to address any concerns while still supporting local businesses. For example, we are willing to work closely with the council to ensure that our outside seating area complies with all safety regulations and community standards. This could include measures such as designated seating areas that do not obstruct pedestrian pathways, enhanced cleanliness protocols, and restricted hours of operation to minimise any potential disturbances.

We respectfully request that the council reconsider our application for outside seating, taking into account the substantial positive impact it has on our business, the surrounding community, and the local job market. By allowing us to provide this service, you would be supporting not just our business but the overall economic vitality and attractiveness of Chelmsford as a destination.

Thank you for your time and consideration. We look forward to the opportunity to discuss this matter further and to work together towards a solution that benefits everyone involved.

Yours sincerely,

- Operation Manager (Biryani Boy)

License Team
Chelmsford City Council
Civic Centre
Duke Street
Chelmsford
CM1 1JE
09/06/2024

Dear License Team

I am writing to provide formal permission for my next-door neighbour, Biriyani Boy, to use the portion of my pavement in front of my property for the placement of chairs and tables.

As the property owner of Home of Gadget, I am fully aware and approve of my neighbour's intention to utilize the mentioned area, and I confirm that it does not pose any inconvenience to me or our customer and the rest of the public. There is enough space for disable wheelchair users as well. This arrangement is amicable and mutually beneficial.

I kindly request that the license team grant my neighbour, Biriyani Boy, permission to proceed with using the agreed-upon section of my pavement for their intended purposes. This helped boost our business last year.

Thank you for your understanding and cooperation in this matter. If you require any additional information, please do not hesitate to contact me.

Sincerely,

(Home of Gadget)

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.

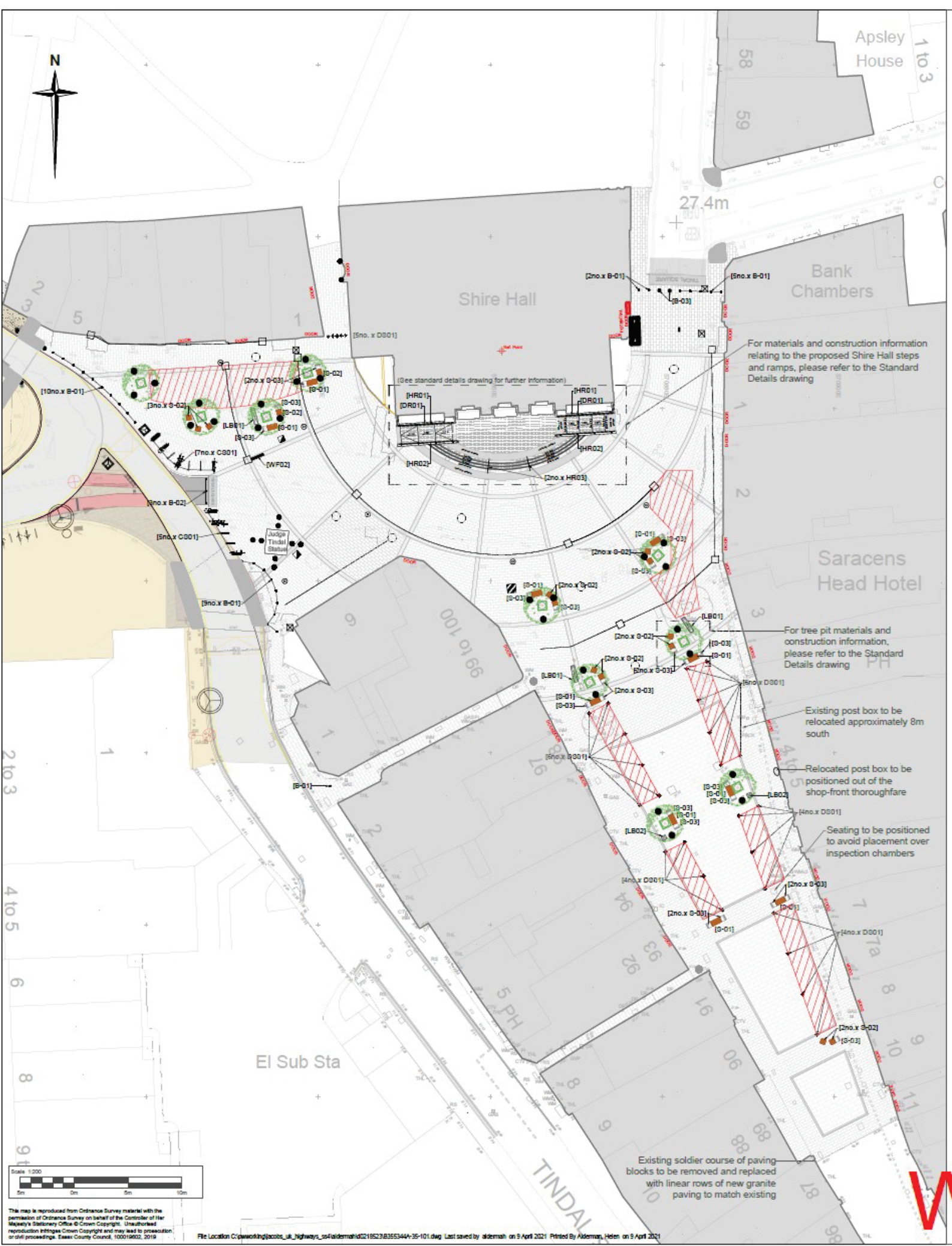
All licences are renewable every two years.

Appendices

Appendix 1

Map of Chelmsford City High Street with permitted areas for tables and chairs

Creation date	Version No.	Changes Approved:
June 2024	2	Policy updated to include legislative changes, adopt new and renewal fees and take into account decision of regulatory committee on 17/3/2022 to introduce specific restrictions in Chelmsford Town Centre



27.4m

Apsley House
1 to 3

58
59

Bank Chambers

Shire Hall

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

(See standard details drawing for further information)

Saracens Head Hotel

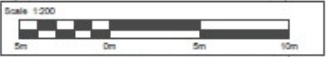
For tree pit materials and construction information, please refer to the Standard Details drawing

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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Baddow Rd

ce Bude Barbershop



Home of Gadgets
Mobile phone repair shop



Biriyani Boy

Baddow Rd

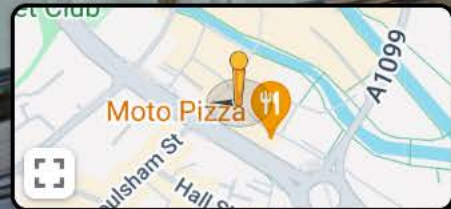


1 Baddow Rd

Chelmsford, England

Google Street View

Apr 2024 See more dates



Google



Moulsham St

Baddow Rd

Salon Central

Reece Bude Barbershop

Biriyani Boy

Baddow Rd

Strand

sford
Street

P
S