

**ADOPTION OF BRAINTREE DISTRICT COUNCIL PAVEMENT PERMIT POLICY**

**Agenda Item 5**

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**Background Papers:-** Appendix 1 - Braintree District Council Draft Pavement Permit Policy  
Appendix 2 – Letter of Response by Sylvia Thorogood – Hedingham Models & Collectables  
Appendix 3 – Letter of Response by Cllr. Peter Turner  
Appendix 4 - Letter of Response by Essex County Council Highways and Transportation

**Financial Implications:-** None

**Equalities Implications:-** None

**Legal Implications:-** None

**Options:** 1.To approve the adoption of the Pavement Permit policy with amendments deemed appropriate by Members.

2.To refuse to adopt the Pavement Permit policy.

**Risks:** Failure to adopt a policy will result in the council not able to administer application made for pavement permits.

**EXECUTIVE SUMMARY**

To consider the adoption of the Braintree District Council Pavement Permit Policy for the provision of table and chairs to be placed on the Highway in respect of consultation which took place between October and December 2006. To consider all valid responses that have been received during the consultation and to approve any changes to the revised Policy that are necessary in response to these responses.

## **DECISION**

Members are requested to adopt the Braintree District Council Pavement Permit Policy for recommendation of Full Council.

### **1.BACKGROUND**

- 1.1 Under the Highways Act 1980 (Part VIIA), Braintree District Council may grant a permit for the use of tables, chairs and associated furniture on the public highway for the purpose of providing refreshments.
- 1.2 A Draft, Pavement Permit Policy, has been completed and was presented to members on the 14<sup>th</sup> September 2006 for consideration and was issued for consultation to members and the public with local additions. The first draft of the Braintree District Pavement Permit Policy was issued for consultation on 9<sup>th</sup> October 2006.
- 1.3 It was agreed that an adopted policy must be in place prior to accepting any applications, this helping business understand where street cafes might be encouraged and the general conditions which would apply in all cases. In addition the policy would aid officers and members in the decision making process.

### **2.CONSULTATIONS/RESPONSE**

- 2.1 During the period from 9<sup>th</sup> October and 31<sup>st</sup> December 2006 the Pavement Permit Policy was made available for public consultation.
- 2.2 Letters advising of the consultation were sent to Members, Local Trade Associations, existing permit holders and other persons who would have an interest in the Policy.
- 2.3 The Policy was made available for viewing via the Council's website.
- 2.4 A number of Responses have been received from different sources (Appendix 2), (Appendix 3), (Appendix 4), which have been reviewed and considered.
- 2.5 Members are requested to consider the above and amended the policy where members may feel appropriate.



## **DRAFT POLICY – PAVEMENT PERMITS**

Braintree District Council supports and encourages the provision of street cafés in the town centres of Witham, Braintree & Halstead and the larger villages within the district, as they make a positive contribution by adding vitality, colour, life and interest to the street scene. They can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live and work in the district.

This policy is intended to help businesses understand where street cafes might be encouraged and whilst the provision of street cafes is encouraged, it is important that they are properly administered and managed to ensure that they meet the legal requirements and the high standards expected by the Council.

Anyone wishing to apply for a Pavement Permit should read this policy and the associated guidance and detailed conditions to check that their proposal meets all the criteria.

Although each application will be considered on its merits this policy contains key points that must be considered in every case.

### **General Criteria**

1. The area for which a pavement permit is sought must be highway as defined by S115A Highways Act 1980, namely:-

- a highway in relation to which a pedestrian planning order is in force;
- a restricted byway;
- a bridleway;
- a footpath (including a walkway as defined in section 35(2) of the Highways Act 1980);
- a footway;
- a subway constructed under section 69 of the Highways Act 1980;
- a footbridge constructed under section 70 of the Highways Act 1980;
- a highway whose use by vehicular traffic is prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order; and
- to a local Act walkway.

Applicants for pavement permits are required to confirm with Essex County Council (Highway Records) the highways status of the application site before making their application.

2. Before considering a pavement permit Braintree District Council must carry out consultations and publish a Notice in accordance with the Highway Act 1980. The Council must take into consideration all representations made to them when considering an application for a pavement permit. The Council is also required by the Highways Act 1980 to obtain the consent of the Highway Authority, frontagers with an interest and if appropriate obtained walkway consent.
3. The Council will not permit any objects to be placed on the highway, which will cause a hazard or an obstruction to the free flow of pedestrians, prevent the normal access to premises adjoining the highway, access by emergency or service vehicles or to prevent statutory undertakers and operators of electronic communications code network having access to any apparatus in, on or over the highway.
4. Pavement Permits will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises and employ sufficient staff to provide table service to the outside area and have sufficient provision of sanitary conveniences for use by the public.
5. In considering such applications the Council will give particular consideration to Section 17 of the Crime and Disorder Act 1998 therefore prior to granting any consent for tables and chairs within the highway, the Council will pay particular regard to any potential for crime or disorder arising either directly or indirectly from the consent and will give significant weight to the views of the local police.
6. The Council will ensure before issuing a pavement permit that Health & Safety, Food Hygiene and other Environmental legislation are not compromised.
7. To protect the attractiveness of the streets, the council will require:-
  - The appearance of the tables and chairs must ideally enhance, or at least not be detrimental to the street scene.
  - The tables and chairs and their associated activity must not cause environmental problems or detract from the amenities of adjacent retailers/occupiers. For example, there must be no litter problem, smells from food sales, or noise, so as to cause nuisance or annoyance.
8. The Council will ensure that the layout of the furniture will provide adequate access and circulation space for all customers including wheelchair users and those with push chairs, buggies, and members of the public with mobility problems etc.
9. The Council will generally apply hours of operation between 9am and 6pm from Monday to Sunday for all consents. Applications for pavement permits will be accepted beyond 18:00 hours and up to 22:00 hours. The Licensing

Committee in approving such applications will have regard to an applicant's previous track record of compliance with the conditions attached to any previous consent or compliance with other associated conditions controlling their trade.

10. The Council will require that all glasses, crockery and other ancillary items used in the permitted area, are made of a toughened material. All glass-bottled drinks, including alcoholic drinks must be served in toughened drinking glasses. Glass bottles are not allowed in the permitted area.
11. The Council will not permit music to be broadcast on to the permitted area.
12. The Council will not accept an application unless the following have been provided:
  - A completed application form
  - Correct fee
  - Plans
  - Confirmation from the Highway Records of the status of the application site
  - Evidence of public liability insurance
  - Other associated permissions i.e. Planning and any appropriate licences under the Licensing Act 2003.
13. The Council's standard conditions will be applied to all "Pavement Permits". In addition to the standard conditions the Council may also impose special conditions on individual pavement permits.

## **Enforcement**

Tables and chairs placed on the highway without permission are an obstruction of the Highway. Any person who has placed tables and chairs on the highway without a valid pavement permit issued by Braintree District Council will be referred to Essex County Council as Highway Authority for enforcement action.