

**APPLICATION FOR A PAVEMENT PERMIT THE FLEECE 27 WEST STREET  
COGGESHALL**

Agenda Item ..

**Contact Details:-** Rachel Smith  
**Designation:-** Licensing Officer  
**Ext. No:-** 2647  
**E Mail Address:-** [racsm@braintree.gov.uk](mailto:racsm@braintree.gov.uk)

**Background Papers:-** Braintree District Council Pavement Permit Policy (Annex 1)  
Application made by Mr and Mrs Tofts (Annex 2)  
Plan of proposed site (Annex 3)  
Letters of Representation (Annex 4, 5 and 6)

**Financial Implications:-** None  
**Equalities Implications:-** None  
**Legal Implications:-** None  
**Options:** Please see options in decision  
**Risks:** None

### **EXECUTIVE SUMMARY**

To consider the application made by Mr and Mrs Tofts for a Pavement Permit for the use of the pavement area outside The Fleece Public House, 27 West Street, Coggeshall.

### **DECISION**

1. To GRANT the application for a Pavement Permit to Mr and Mrs Tofts for the hours detailed at 1.3 with condition proposed 2.1.
2. To GRANT the application for a Pavement Permit to Mr and Mrs Tofts for reduced hours than those detailed in 1.3.
3. To GRANT the application for a Pavement Permit to Mr and Mrs Tofts with additional conditions deemed necessary.
4. To REFUSE the application for a Pavement Permit for Mr and Mrs Tofts.

# APPLICATION FOR A PAVEMENT PERMIT THE FLEECE 27 WEST STREET COGGESHALL

## BACKGROUND

- 1.1 In February 2003 Members adopted the provisions under Section 115E(1)(a) and (b) of Highways Act 1980 which empowers a Council to grant permission to local businesses that wish to use objects or structures on, in or over a highway to which this part of this Act applies-
- (I) for a purpose which will result in the production of income;
  - (II) for the purpose of providing a centre for advice or information ; or
  - (III) for the purpose of advertising
- 1.2 This effectively enables the Council to grant a permit for the use of tables and chairs on the public highway.
- 1.3 The Council's Pavement Permit policy states that the hours of normal operation are between 9:00 and 18:00 from Monday to Sunday for all consents. Applications for a pavement permit beyond 18:00 hours and up to 22:00 hours will be referred to the Licensing Committee for determination. In addition any application that receives representations will once again be determined by committee.
- 1.3 An application was received and validated on the 13<sup>th</sup> July 2007 from Mr and Mrs Tofts of The Fleece Public House, 27 West Street, Coggeshall, Essex for a one year Pavement Permit for the following days and hours (**Annex 1**);
- Monday to Sunday 11:00 am to **10:00 pm**
- 1.4 A plan of the area accompanies this report with the area covered by the application cross-hatched (Annex 3).
- 1.6 As part of the regulatory procedure, the Council must prepare a notice and arrange for it to be displayed on site. The Licensing Enforcement Officer visited the premises and can confirm that the appropriate notice was displayed in a prominent position on the premises. In addition notices were also served on "frontagers with an interest", and owner and occupiers of any premises likely to be materially affected by the application.

## CONSULTATION

- 2.0 As part of the consultation process the Council must seek consent of the Highway Authority (Essex County Council), frontagers with an interest, and the Local Planning Authority (Braintree District Council).
- 2.1 Essex County Council have given consent providing the following condition is attached to the permit:
- 1. 1.8 meters of footway must remain at all times.

2.2 The Pavement Permit policy also requires additional consultation to be carried out with the following bodies:

Forward Plans	<b>No response received</b>
Development Control	<b>No response received</b>
Environmental Health	
- Health & Safety -	<b>No Objection (response received)</b>
- Pollution	
Ward Members	<b>No response received</b>
Essex Police -	<b>No Objection (response received)</b>
Essex Fire and Rescue	<b>No response received</b>

### **REPRESENTATIONS**

- 3.1 Representations to this application have been received from local residents. Copies of their letters are attached (Annex 4, Annex 5 and Annex 6).
- 3.2 No other representations have been received.

## PAVEMENT PERMIT POLICY

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 above Act;*
  - *a footway;*
  - *a subway constructed under section 69 of the above Act;*
  - *a footbridge constructed under section 70 of the above 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. The expectation is that all customers will be seated and waited upon.
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.

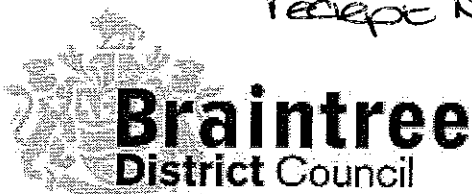
10. The Council will require that all glasses, crockery and other ancillary items (including ashtrays) used in the permitted area, are made of a toughened material. All glass-bottled drinks, including alcoholic drinks must be served in toughened drinking glasses. Glass bottles are not allowed in the permitted area.
11. The Council will not permit music to be broadcast on to the permitted area.
12. The Council will not permit the use of patio or outdoor space heaters in the permitted area.
13. 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.
14. 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.
15. All justified complaints relating to a pavement permit will be considered by the Council's Licensing Committee with the view to revoking the permit.

## **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.

Payment paid  
9/7/09 DD

Receipt No: 0108304505

Council Use PPI  
Application ref: 07/01240/PP

The Licensing Section  
Causeway House  
Bocking End  
Braintree  
Essex  
CM7 9HB

**Application for PAVEMENT PERMIT**  
**Under the Highways Act 1980 – Part VIIA**

**IMPORTANT – Notes to Applicant**

Please read the guidance provided with this application before completing this form.  
Failure to supply any information requested may delay your application.

**1. Applicant details**

Name (including name of business if applicable):

MR. J. H. TOFTS & MRS B TOFTS (THE FLEECE)

Full Postal Address:

27 WEST STREET  
COGGESHALL  
ESSEX  
CO6 1NS

Daytime contact telephone number:

01376 561412

Mobile number:

E-mail address:

**2. Details of Application Site**

Name of Establishment/Business:

THE "FLEECE"

Address of Application Site:

27 WEST STREET  
COGGESHALL  
ESSEX  
CO6 1NS

Telephone Number:

01376 561412

E-mail address:

Premises Licence Number if applicable:

**3. Days and Hours during which the tables and chairs will be on the street. (See note 2e)**

Day	From	To
Monday	11-0AM	10 PM
Tuesday	"	"
Wednesday	"	"
Thursday	"	"
Friday	"	"
Saturday	"	"
Sunday	"	"

**4. Place of Storage**

(Please specify the place of storage of the tables and chairs and other items when not on the highway)

CARPARK 27 WEST STREET.

5. Number of tables applied for

3 BENCHES

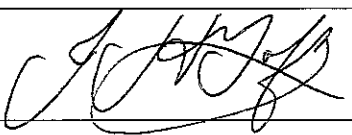
6. Number of persons to be seated

12 PEOPLE

7. Dimensions of area of street to be used (in metric)	8 METRS X 1.8 METRS.
8. Please give number and details of table and chairs and all other items of furniture including fencing, umbrellas, barriers etc.	3 BENCHES 3 UMBRELLAS

<b>Checklist</b>	
<ul style="list-style-type: none"> <li>I have made or enclosed payment of the fee £80.00</li> <li>I have enclosed a copy of an Ordnance Survey site plan Scale 1:1250 showing the location of the tables, chairs and other items to be placed on the highway.</li> <li>Confirmation from the Highways Records if the status of the application site</li> <li>Evidence of public liability insurance</li> <li>Other associated permissions i.e Planning and any appropriate licences under the Licensing Act 2003</li> </ul>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>

**5. Licence Fee Payable - £80 for 12 month permit**

Signature of Applicant	
Please print name	J. H. TOFTS
Name of Company (if applicable)	FLEECE
Position in company (if applicable)	LANDLORD

Insured  
Mr J & Mrs B Tofts  
The Fleece  
Reference  
05-TFML-LT/A

Date  
24 January 2006

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### SECTION 3: - OTHER CONTINGENCIES Continued ...

Goods in Transit	£2,500
Chilled and Refrigerated Stock (£1,000 any one cabinet)	£3,000

### SECTION 4: - PERSONAL ACCIDENT FOLLOWING ASSAULT

Injury (which must result within 12 months of the Assault)

(a)	Death or loss of one or more limbs or permanent and total loss of sight in one or both eyes, or permanent disablement from engaging in any occupation	£25,000
(b)	Temporary total disablement to engage in any occupation (per week up to 104 weeks payable at 4 weekly intervals in arrears)	£100
(c)	Loss or damage to clothing and personal effects (per person)	£250
	Limit of indemnity (any one person)	£25,000

### SECTION 5: - PUBLIC AND EMPLOYERS LIABILITY

A	Public and Products Liability - Limit of Indemnity	£2,000,000
B	Employers Liability - Limit of Indemnity	£10,000,000
C	Contingent Liability for Employees' Vehicles - Limit of Indemnity	£2,000,000

### SECTION 6: - LOSS OF LICENCE

Loss of Licence	£100,000
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### SECTION 7: - LOSS OF REVENUE/BOOK DEBTS

12 months Loss of Revenue	£500,000
Loss of Book Debts	£1,000

*Continued ...*



mouchelparkman

Ms Barbara Tofts  
The Fleece  
27 West Street  
Coggeshall  
CO16 1NS

Contact Mr Paul Stalley  
Tel 01245 247089  
Fax 01245 247001  
E-mail paul.stalley@mouchelparkman.com

26 June 2007

Our Ref RECORDS/PS/54323/L.3C

Dear Ms Tofts

**THE FLEECE, 27 WEST STREET, COGGESHALL**

I refer to your letter dated 16 June 2007.

I attach a plan showing coloured yellow what is considered to be the extent of publicly maintainable highway at the location in question.

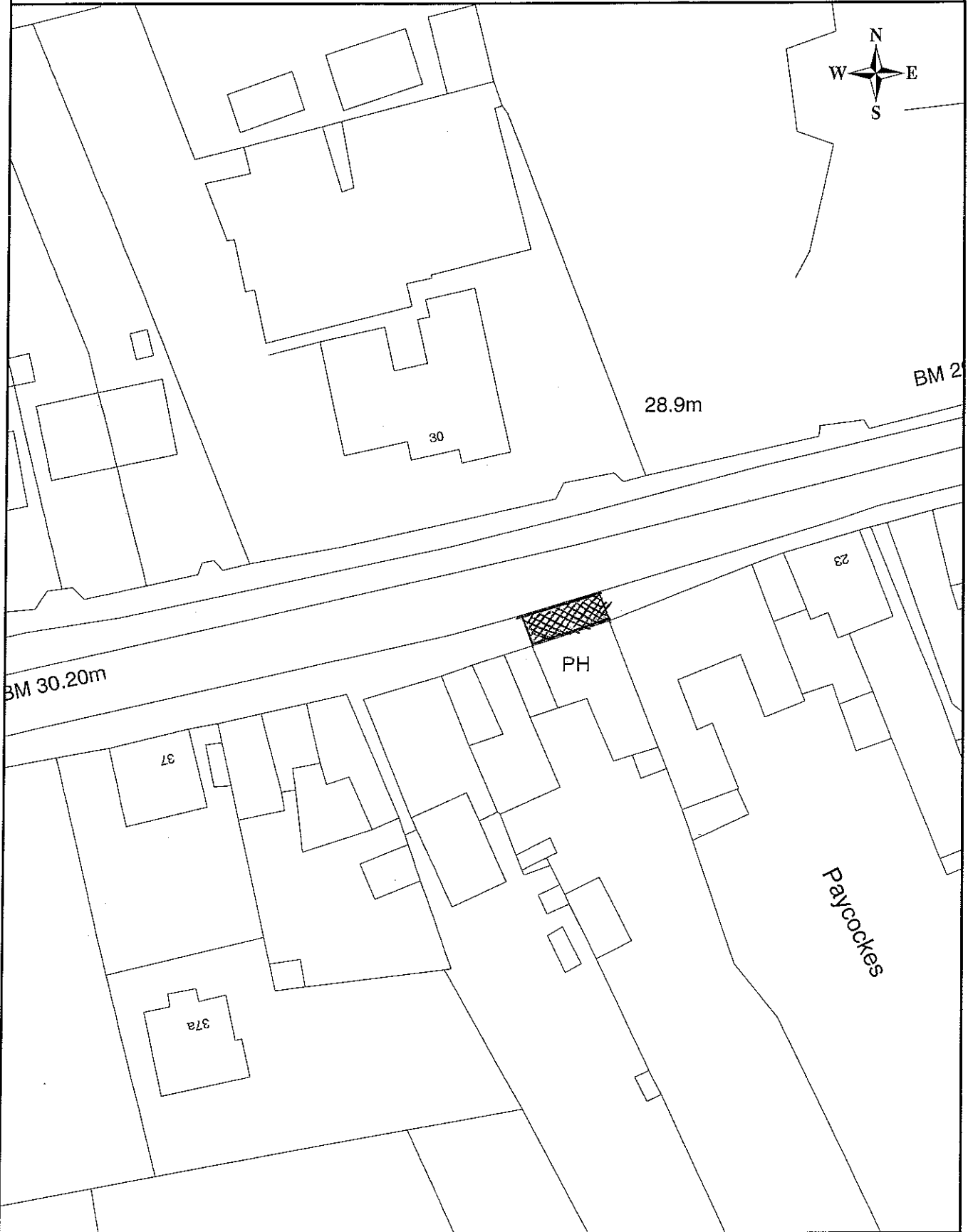
Mouchel Parkman is an appointed agent of Essex County Council for replies to enquiries made of the Highway Records Service within Essex and the County Council has undertaken to treat such replies as replies made by the County Council.

I trust this is of assistance.

Yours sincerely

Paul Stalley  
Highway Records Assistant  
*For and on behalf of Mouchel Parkman*

Location Map



	<b>Details</b>			<b>Rev No.</b>		<small>© Crown copyright. All rights reserved 100015602                  This copy has been made by or with the authority of the Director of Environmental Services of Essex County Council pursuant to Section 47 of the Copyright, Designs and Patents Act 1988 (the Act) Unless the Act provides a relevant exception to copyright the copy must not be copied without the prior permission of the copyright owner.</small>	
	Plotting in MapInfo made easier						
	Drawn by PStalley	Scale 1:500	Date 26/06/2007				
File Pathname / Project / Drawing No.						Mouchel Parkman Waterloo Chambers Waterloo Lane, Chelmsford Essex CM1 1BD	<a href="http://www.mouchelparkman.com">www.mouchelparkman.com</a>

2 METRES

2 METRES

9 METRES

WEST STREET

8 METRES

BENCH SEATS

1.8 METRES

1.25M

1.07M

3.6 METRES

FLOWER POT

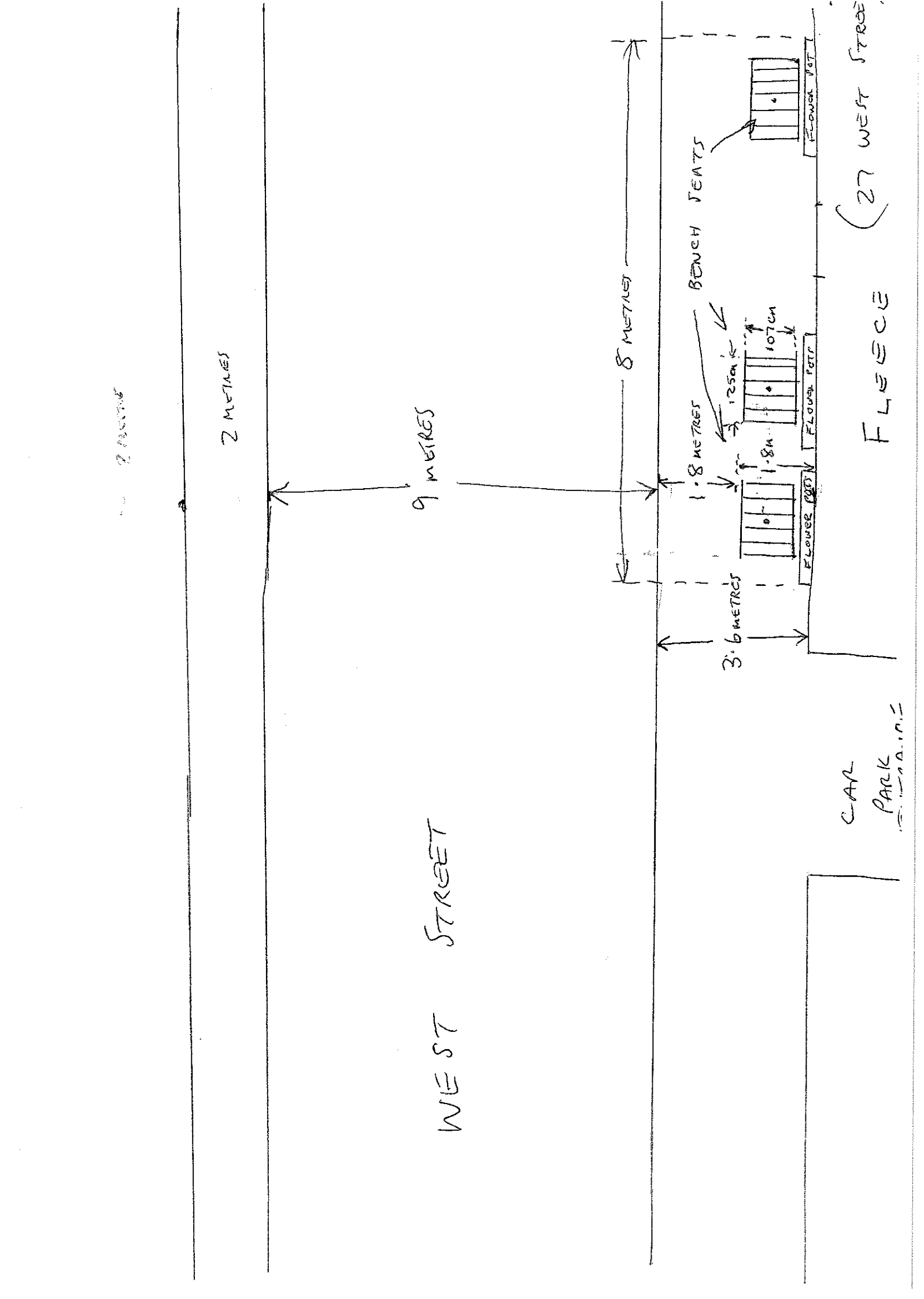
FLOWER POT

FLOWER POT

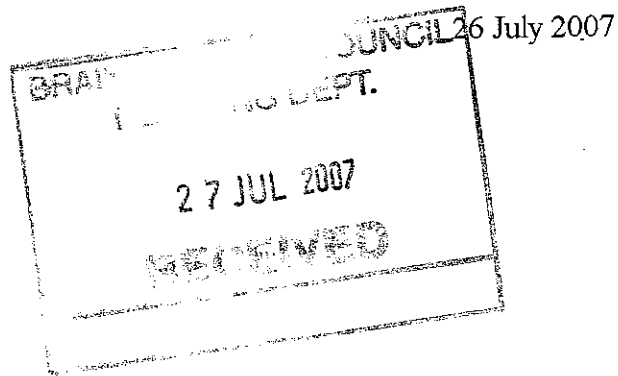
CAR  
PARK

FLEECE

(27 WEST STREET



Attention of Ms Rachel Smith  
Braintree District Council  
Licensing Department  
Causeway House  
Bocking End  
Braintree  
CM7 9HB



Your ref: 07/01240/PP

Dear Sir/Madam

Re: Pavement Permit – The Fleece, 27 West Street, Coggeshall

Further to the above application for the placement of three benches and three umbrellas on the pavement outside The Fleece public house, we, as residents living close to this area, would like to lodge our objection to the proposal.

This is a public pavement and benches would obstruct pedestrians' right of way as well as adding to noise levels during the evening. The Fleece is fortunate enough to have large outdoor facilities to the rear of the building.

We hope you will appreciate our wish to remain anonymous due to our house being within 50 yards of The Fleece as well as being occasional customers of this public house and trust that our objection might carry some weight.

Yours faithfully

2 residents of West Street

Application from Mr and Mrs Tofts

(re: Pavement permit - The Fleece, 27 West Street, Coggeshall)

3 benches and 3 umbrellas on the pavement outside The Fleece from Mon-Sun (11am - 10 pm)

I live in a house which is within 50 feet of The Fleece pub and re: the above proposal I have a number of concerns leading to my strongly objecting the above proposal:

1. **Obstruction.** Placing 3 benches and 3 umbrellas on the pavement outside The Fleece during the above times would cause a great obstruction to pedestrians wishing to pass through whilst walking down West Street.

2. **Disturbance.** There is already considerable disturbance every Saturday night during karaoke (from within the pub), and the presence of patrons **outside** the pub would further increase the disturbance already caused to nearby residents. I can often hear drunk patrons carousing outside my house until about 2 am on Friday and Saturday nights.

3. **Already large beer garden.** The Fleece already has a substantial beer garden at the back of their pub with plenty of seating for patrons (up to c.100 patrons), I don't understand why there is a need for further seating at the front of the property on the pavement.

4. **Concerns over public parking space in front of pub.** There is a public parking space in front of the pub (where the proposed benches would be), by having patrons sitting at the benches with beer glasses, there would be concern over the viability of the parking space. Also, proximity of broken glass would be a safety concern to those who have parked their car here.

5. **Litter and mess.** Having drinkers smoking and drinking in front of the pub bears the risk of litter and mess being brought to an otherwise litter-free pavement. Broken glass on the pavement brings further safety concerns to the public.

6. **Proximity of Paycokes (National Trust property and Grade 1 listed).** The Fleece is next door to Paycokes (a medieval Grade 1 listed property in care of the National Trust.) By patrons sitting outside drinking and smoking, the ambience of the immediate area is destroyed, and the impression given by visitors to Paycokes is not favourable or in keeping with the immediate surroundings.

Coggeshall is a beautiful and historic village, bejewelled by Grade 1 and Grade 11 listed properties. As a resident I am proud of our peaceful village and wish to see this peace and ambience maintained. I believe the above proposal would lower the tone, aesthetic appeal of our street and create an impression at odds with our historical legacy.

I wish to remain anonymous.

10/08/2007

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1]

Attn Ms Rachel Smith  
Licensing Officer  
Braintree District Council  
By email 19 July 2007

Your reference 07/01240/PP  
The Fleece 27 West Street, Coggeshall

Dear Ms Smith,

As owners and occupiers of \_\_\_\_\_ we thank you for the opportunity to comment on the application by the Fleece public house at 27 West Street to extend its activities onto the street.

We consider the success of this application would be seriously detrimental to the street and the immediate environment, which is as you are undoubtedly aware is a conservation area and includes the National Trust property Paycockes. The risk of increase in the sometimes already high noise levels, probable additional smokers detritus plus the obstruction to the pathway would be totally unacceptable. The Fleece already has very significant outdoor facilities at the rear of the building which should be more than adequate for their purposes.

We would be most grateful if you could keep us advised on the progress of this application and if necessary what avenues are available to us to appeal a positive decision. We would appreciate also your acknowledgement of this communication and assume that our comments will be treated as confidential within your office.

Thank you very much.

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knows. Try it now.