

**Meeting of:- LICENSING COMMITTEE**

**On:-Thursday 14<sup>th</sup> September 2006**

**Agenda Item No.:9-**

**Topic:- Draft Pavement Permits Policy**

**Type of Report:-** \*Recommendation to Council/Non-Key Decision

**Executive Summary:-**

At the last meeting of the Licensing committee, members instructed officers to provide guidance on the definition of local, regional and national importance, in respect of making decisions to permit a tables and chairs to remain outside a premises beyond 18:00hrs.

Following discussions with senior management and cabinet members it was agreed that a less exacting terminology should be used, as the council would like to be seen to be encouraging the provision of street cafes in the town centers of Witham, Braintree & Halstead. The reasoning being that they make a positive contribution to the vitality of a town and boost the local economy. It was also felt that the council required a criteria based policy covering pavement permits which would help businesses 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

Therefore the attached draft policy is for the committee's consideration, it includes revised criteria for the determination of extending the permitted hours beyond 18:00 hrs and the general conditions that will apply in all cases.

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**Options**

- 1. Recommend to Council to approve the policy**
- 2. Discuss the draft policy and make any necessary amendments.**
- 3. Instruct officers to redraft policy for further consideration by the committee.**

**Risks**

The principal behind introducing a policy is to minimise any risk of a judicial review from an aggrieved applicant.

**Recommendation[s]**

Review the draft policy, to make any necessary amendments, for approval by Council

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**Background Papers:-**

**Highways Act 1980**

**Financial Implications:**

**None**

**Equalities Implications:-**

**The policy takes in to account the needs of all members of the community**

**Legal Implications:-**

**The policy will minimise any counter claims against the council by an aggrieved applicant**

**For further details please contact:-**

**Mr. Lee Crabb Chief Environmental Health Officer**

## **BRAINTREE DISTRICT COUNCIL DRAFT POLICY – PAVEMENT PERMITS**

Braintree District Council supports and encourages the provision of street cafes in the town centres of Witham, Braintree & Halstead, 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 which must be considered in every case.

### **General Criteria**

1. 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, or access, by emergency or service vehicles.
2. 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.
3. 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.
4. The Council will ensure before issuing a pavement permit that Health & Safety, Food Hygiene and other Environmental legislation are not compromised.
5. Pavement Permits are granted by the Braintree District Council on behalf of the Highway Authority under Section 115E of the Highways Act 1980. **Tables and chairs placed on the highway without permission are an illegal obstruction and the Essex County**

**Council Highways Department will be responsible for taking any related enforcement action.**

6. 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.
7. The council will ensure that the layout of the furniture and means of enclosure 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.
8. 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.
9. The Council will require that all glasses and crockery used in the permitted area are made of a toughened material. Wine & other glass-bottled drinks must be poured; no glass bottles will be allowed in the permitted area.
10. The Council will not permit music to be broadcast on to the permitted area.
11. The Council will not accept an application unless the following have been provided:
  - A completed application form
  - Correct fee
  - Plans
  - Confirmation from the highway authority that a permit is required
  - Evidence of public liability insurance
  - Other associated permissions i.e. Planning
12. The Council's standard conditions will be applied to all "Pavement Permits" and the council reserves the right to impose special conditions on individual permits.