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## Chelmsford City Council Regulatory Committee

7<sup>th</sup> September 2023

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

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Report by: Director of Public Places

### Officer Contact:

Daniel Winter, Lead Licensing Officer, [Daniel.winter@chelmsford.gov.uk](mailto:Daniel.winter@chelmsford.gov.uk), 01245 606317

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### Purpose

The Committee is requested to consider an application to review the decision that the licensing authority made in relation to the revocation 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 revoke the licence.
  2. Overturn the decision of the licensing authority to revoke the licence (thereby reinstating the pavement licence).
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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 7- day period of public consultation followed by a 7-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 7-day determination period, the licence is deemed granted.
- 1.2 Radio City Social applied for a tables and chairs licence to place furniture outside of their premises on Victoria Road, the licence was granted but following a consultation response from Essex County Council Highways the licence was revoked.
- 1.3 Radio City Social wished to appeal the revocation but as detailed in the guidance, there is no statutory appeal process for these decisions, however, councils may wish to consider the scope for an internal review process, for example permitting appeals to their Regulatory Committee.
- 1.4 This matter is being presented to Regulatory Committee for them to review the decision to revoke the tables and chairs licence.

## 2. Background

- 2.1 Viaduct Road is a one-way road that leads off from Parkway which is one of the main carriageways running through Chelmsford. The road runs adjacent to the railway line and leads into Chelmsford main Bus Station on Duke Street. The road provides access to the businesses within the railway arches, a railway car park, the car park for the residential Kings Tower and a taxi rank situated at the top (north end) of Viaduct Road near the bus station. The road is prone to significant congestion at certain periods of the day especially from 5:30pm onwards as Commuters' travelling back from London will often seek a Taxi at the top of the road. Please refer to the attached document containing an aerial perspective of Viaduct Road, along with several CCTV camera images highlighting the daily occurrences on the road involving pedestrians and vehicles. **APPENDIX A**
- 2.2 Dominating the upper section of the road is a traffic restriction order (TRO), commonly referred to as a Taxi Rank, exclusively designated for taxis. This area accommodates 3-4 taxi vehicles simultaneously. Additional taxis awaiting

their turn to join the rank line up along Viaduct Road, filling any available gaps before integrating into the designated area.

- 2.3 Nestled on Viaduct Road lies Radio City Social. This establishment occupies a space within the arches beneath the railway line, known as the Viaduct arch. The lease for the premises on Viaduct Road is held by Network Rail, who sublet the property to Radio City Social.
- 2.4 Parking bays extend along Viaduct Road, positioned directly outside the Viaduct arches where Radio City Central is situated. These parking bays are managed by Essex County Council Highways.
- 2.5 Controlled by traffic regulations orders, Viaduct Road features timed parking restrictions. These restrictions are in effect from 8 am to 6 pm on Mondays through Saturdays, limiting parking to one hour with a three-hour no-return rule. Beyond these hours, unrestricted parking is permitted at these locations.

### 3. Application

- 3.1 On the 16<sup>th</sup> of June 2023, 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 B**.
- 3.2 Consultation was sent out to all responsible authorities on the 16<sup>th</sup> of June 2023 with a closing date of 23<sup>rd</sup> June 2023. Unfortunately, the consultation email that went out to Essex Highways was rejected and a delivery failure notification was sent back. (This was due to the consultation email being sent to an incorrect email address) The operator processing the application overlooked this failed delivery notification and was therefore unaware that Essex Highways had not received the consultation notification and assumed they had no representations to make and proceeded accordingly. Please see attached as **APPENDIX C**.

### 4. Representation and consideration

- 4.1 There were no representations from the South Essex Parking Partnership nor Planning Services. Please see attached at **APPENDIX D** their comments.
- 4.2 There were no objections from any other responsible authority at that time.
- 4.3 Under section 3(9) of the Business and Planning Act 2020 if the local authority does not determine an application (pursuant to subsection (3)) by the end of the 'determination period', the licence which has been applied for is deemed to be granted by the authority to the applicant. The 'determination period' means the period of 7 days beginning with the first day after the public consultation period.

- 4.4 The Licensing department had not received any representations to the application and allowed the application to run its course. This meant that on expiry of the determination period, the licence was, by virtue of section 3(9) of the 2002 Act (see paragraph 4.3 above) deemed to have been granted. It is important to note, however, that the Licensing authority was unaware at the time that the consultation email to Essex Highways had not been delivered. The Licensing department proceeded to inform the applicant on the 28<sup>th</sup> of June that the licence was granted and that the licence would be provided once produced.
- 4.5 The licensing officer felt that it was unusual that they had not heard back from Essex Highways, so they rechecked their emails and found the email delivery fail notification to Essex Highways. As detailed in **Appendix C**.
- 4.6 On the 29<sup>th</sup> of June the licensing department sent an email directly to Olive Porter, who works within the Highways team at ECC (Essex County Council), asking for confirmation that the email used initially to her department was correct. As per **APPENDIX E**.
- 4.7 Olive Porter emailed the licensing department the following day with a rejection notification letter. See **APPENDIX F**.
- 4.8 On the 3<sup>rd</sup> of July the licensing authority sent a letter to the applicant rejecting their application for a pavement licence detailing the reasons why. Please see attached at **APPENDIX G**. (It should be noted that the licensing authority's reference in the letter to rejecting (i.e. refusing) the application was incorrect, as because of the deemed grant provisions (see paragraphs 4.12 & 4.4) the licence was already in existence.)
- 4.9 Chelmsford City council received a letter of appeal, on the 7<sup>th</sup> of July, in relation to the refusal of the application for a pavement licence. Please see attached at **APPENDIX H**.
- 4.10 On the 10<sup>th</sup> of July, the licensing department provided the Public Health and Protection Service Manager with a collection of photographs detailing the usage of parking bays outside Radio City Central. These images were sourced from residents and the Chelmsford CCTV system. See attached at **APPENDIX I**.
- 4.11 An additional reply was obtained from ECC Highways, offering a more comprehensive explanation for the rejection of the application. This detailed response has been included as **APPENDIX J**.
- 4.12 On the 12<sup>th</sup> of July the licensing Authority considered that they were no longer able to refuse the application, as a licence had, by virtue of section 3 (9) of the 2002 Act, already been automatically granted. The licensing authority accordingly decided to revoke the licence as per s.6 (3) (b) (i) of the 2020 Act because of a risk to public health or safety. A copy of the revocation letter has been included as **APPENDIX K**.
- 4.13 Radio City Social have formally confirmed that they are asking the Committee to review this decision to revoke the licence.

List of appendices:

- Appendix A – Plans and CCTV images of Viaduct Road
- Appendix B – Application
- Appendix C - Failed delivery notification
- Appendix D – No objections
- Appendix E – ECC consultation email
- Appendix F – ECC rejection letter
- Appendix G – Radio City Central pavement application
- Appendix H – Letter of Appeal
- Appendix I – Photos of premise
- Appendix J – Full response from ECC
- Appendix K – Letter of revocation

Background papers: Business and planning Act 2020

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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.

(For new or revised policies or procedures has an equalities impact assessment been carried out? If not, explain why)

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

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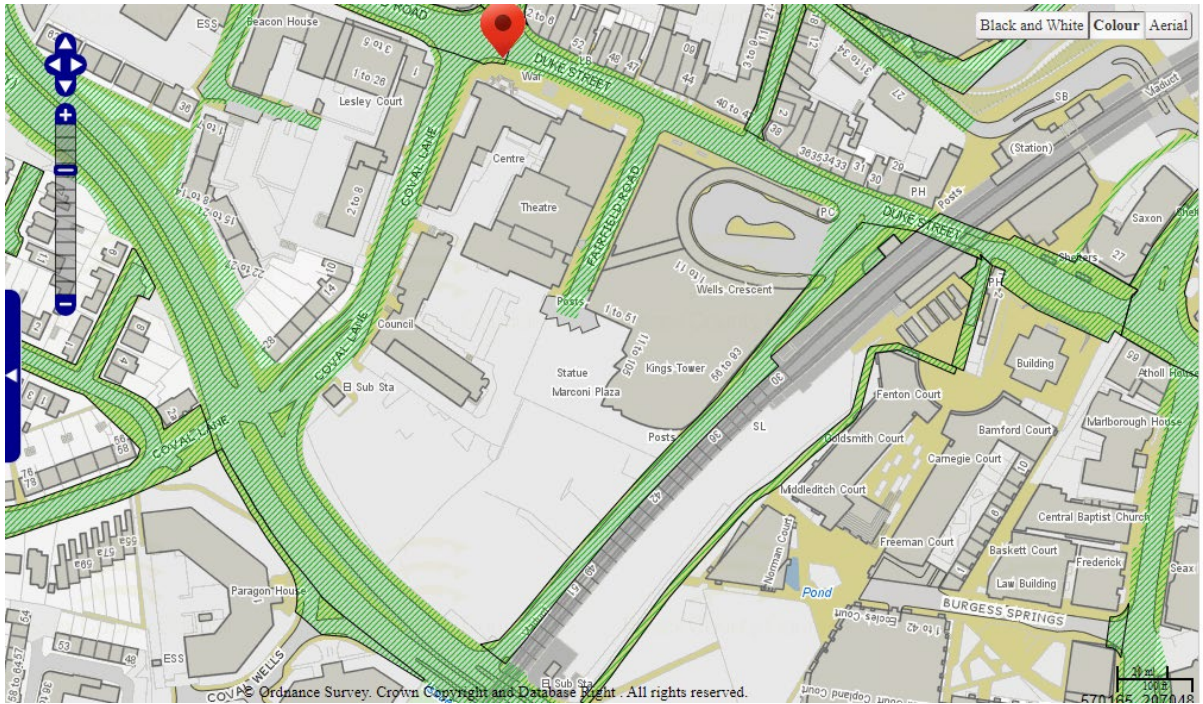
**Consultees:** Legal, Democratic Services

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**Relevant Policies and Strategies:** Business and planning Act 2020

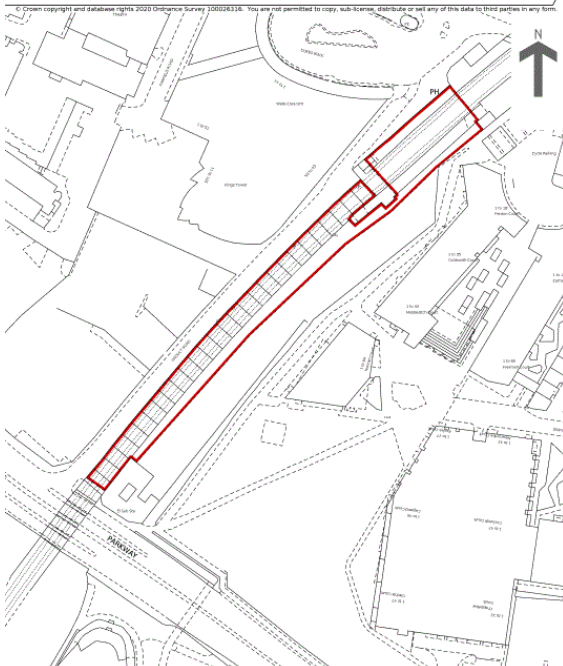
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# APPENDIX A - Plans and CCTV images



HM Land Registry  
Official copy of  
title plan

Title number **EX986429**  
Ordnance Survey map reference **TL7006NW**  
Scale **1:1250**  
Administrative area **Essex : Chelmsford**





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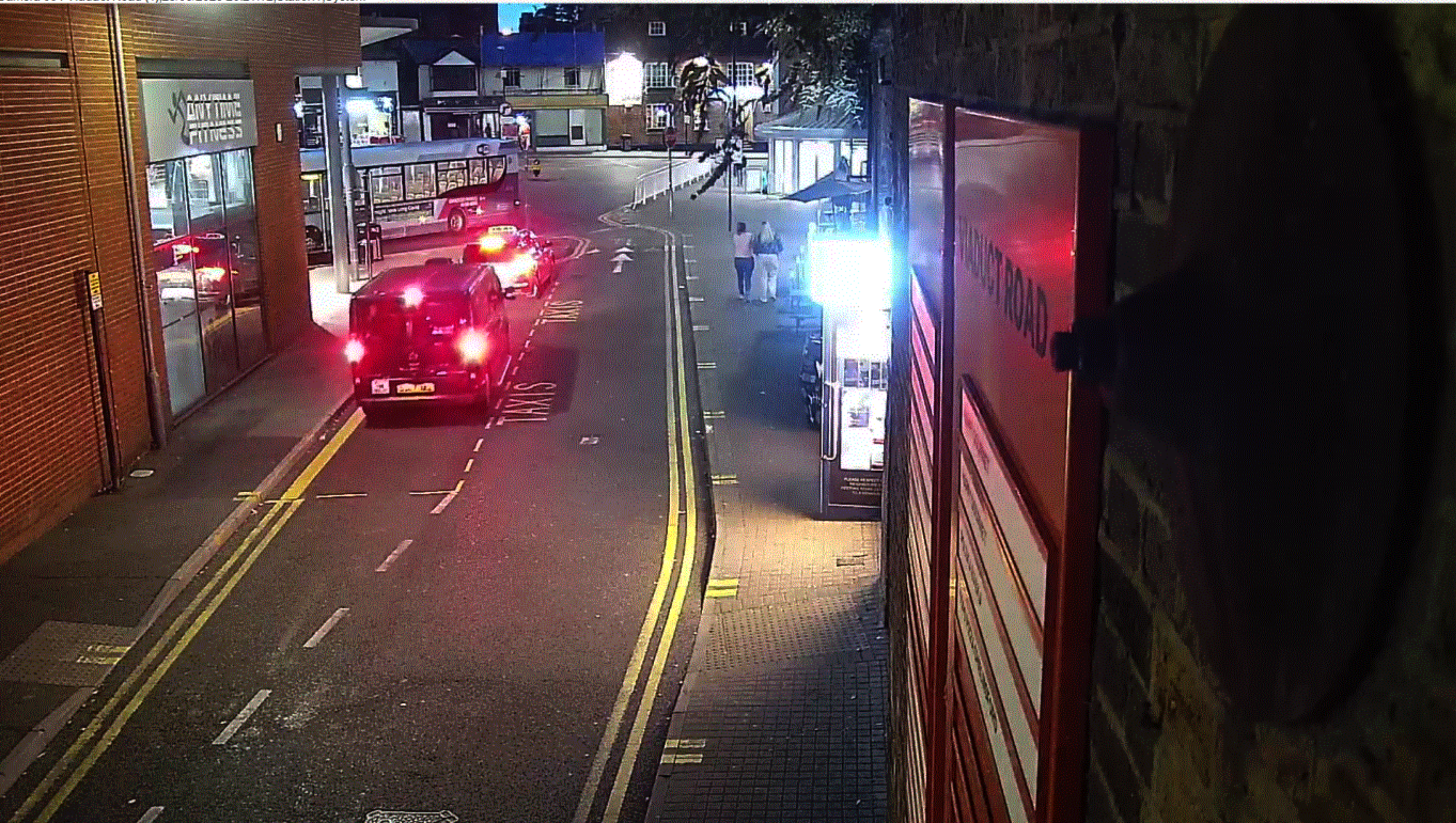
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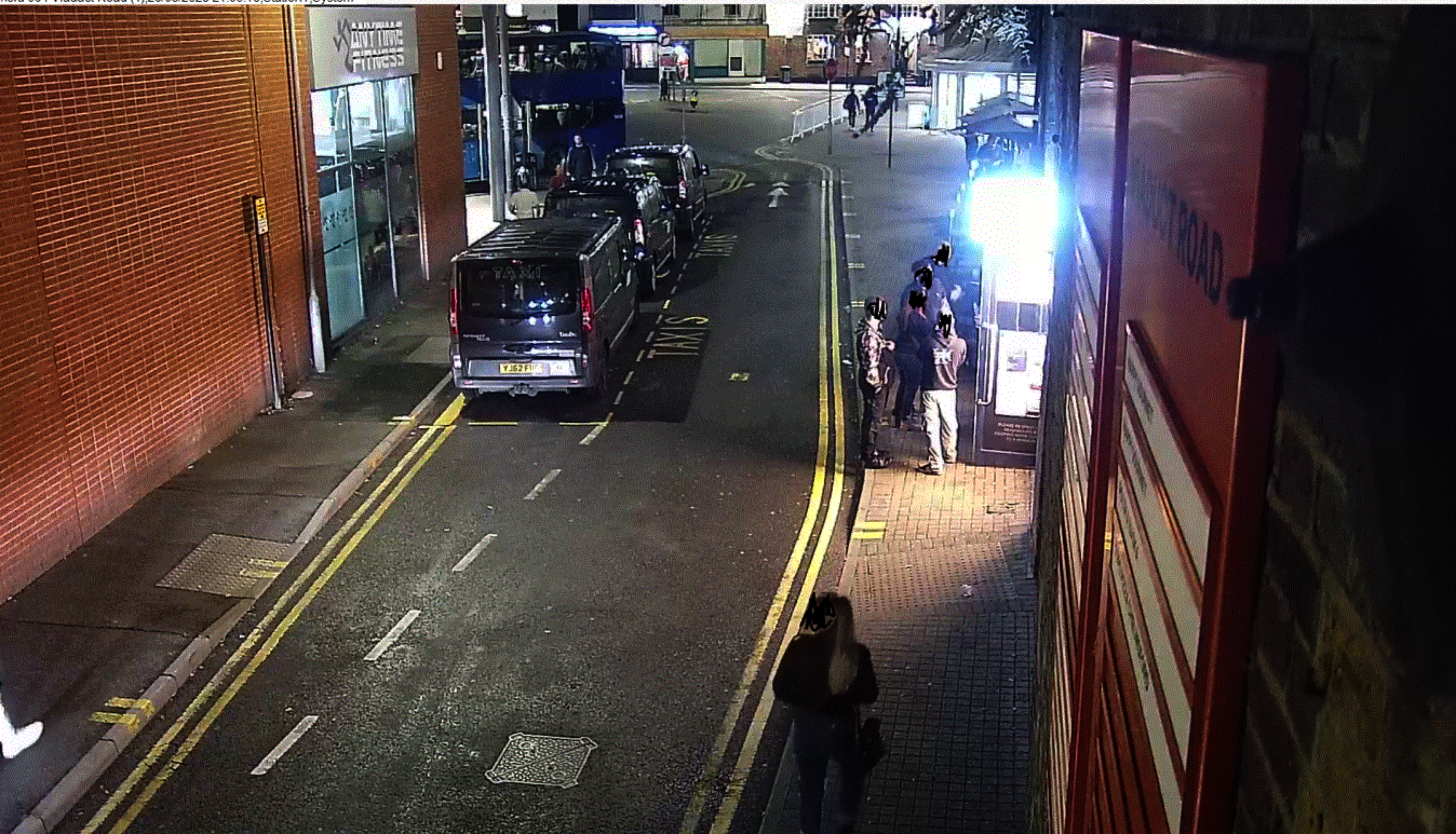
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Other use for the sale of food or drink for consumption on or off the premises

Chelmsford

Both of the above uses

Yes

**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)

We would like to use the parking bays that reside outside our premises as an outdoor seating area for our customers on a permanent basis during our trading hours.

We feel placing some semi-permanent infrastructure in place outside the premises would not only protect customers that wish to sit outside and drink, but also customers who by law are required to smoke outside the premises, and customers that are entering or leaving our premises are currently walking out into the road where cars often speed past or swing into the parking spaces.

The parking bays are currently a 1 hour no-return bay between 8am-6pm. Our exit does not feature yellow hash markings like our entrance does, and despite the markings existing, cars and taxi's often park over the marking, blocking the entrance and exit of our business, and putting our customers at risk. With this application granted, we would be utilising a total of two parking spaces. as well as the entrance/exit of the bar where cars cannot and should not be parking already. Our premises is situated between the Viaduct Road NCP Car Park with 135 spaces, and the Fairfield Road car park with 307 spaces where parking from 5pm is just £2.

**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

Yes

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

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	11:00 to 23:00	Fridays	11:00 to 02:00
Tuesdays	11:00 to 23:00	Saturdays	11:00 to 02:00
Wednesdays	11:00 to 23:00	Sundays	11:00 to 23:00
Thursdays	11:00 to 23:00		

**FURNITURE TO BE PLACED ON THE HIGHWAY**

Please provide a description 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)

Seating with tables would be our initial desire for outside furnishing. A place for our customers to sit and enjoy a beer with their friends.

If permitted, we would like to put moveable planters out around the area to protect our customers and potentially protective screens too to make the seating area more secure so that the area could be a feature for the winter months to enable us to continue to trade as a larger capacity, securing our future as a small independent business in Chelmsford.

**Checklist:**

- I have paid the fee of £100
- 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.

Rec/Ref

9. 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.
10. 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.
11. 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.
12. No alcohol shall be consumed on the permitted area unless a licence authorising the sale of alcohol has been issued by the Council.
13. The Licensee shall be responsible for any rates, taxes and other outgoings which may be charged arising from the exercise of this licence.
14. 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.
15. 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.
16. No regulated entertainment shall be permitted within the licensed area unless authorised.
17. The Licensee shall keep the furniture clean and tidy and the tables cleared regularly, ensuring that they do not obstruct entrance or egress from the premises.
18. No furniture is to be placed or kept on the permitted area when [premises] is not open or trading.
19. The furniture is to be used only by customers of [premises], Chelmsford for the consumption of food and drink supplied from within those premises.
20. The Licensee shall not cause or permit any nuisance or annoyance to users of the highway, to which the public will remain at all times entitled to exercise their right of passage over.
21. The Licensee shall not place furniture on the highway outside the authorised area of use.
22. 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.
23. Glasses supplied for the consumption of drinks on the authorised area shall be made of toughened glass or plastic only.
24. All barriers erected to enclose the area will be of high visibility and with a low tapping rail for the visually impaired.
25. 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.
26. 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.
26. 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.
28. 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

- 29 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.
- 30 This consent is a consent issued under s 3 (3)(a) of Part1 Business and Planning Act 2020
- 31 No form of decking/flooring will be permitted under any circumstances.
- 32 The Licensee is responsible for ensuring that no statutory undertakers' apparatus is affected by the exercise of this consent.
- 33 Customer toilet and associated hand-washing facilities is to be provided in accordance with the Council's Guidance on Toilet Provision.
- 34 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:

- 1 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

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.

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.

- 2 Smoke free seating – Where placement of furniture is provided for the purpose of the consumption of food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted.

Guidance on the effect of this condition

The local authority will have regard to any current guidance issued by the Secretary of State in determining whether or not this condition has been met.

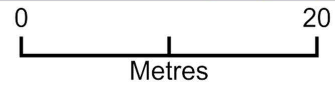
#### **Part 1 Business and Planning Act 2020**

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.

# Radio City Social



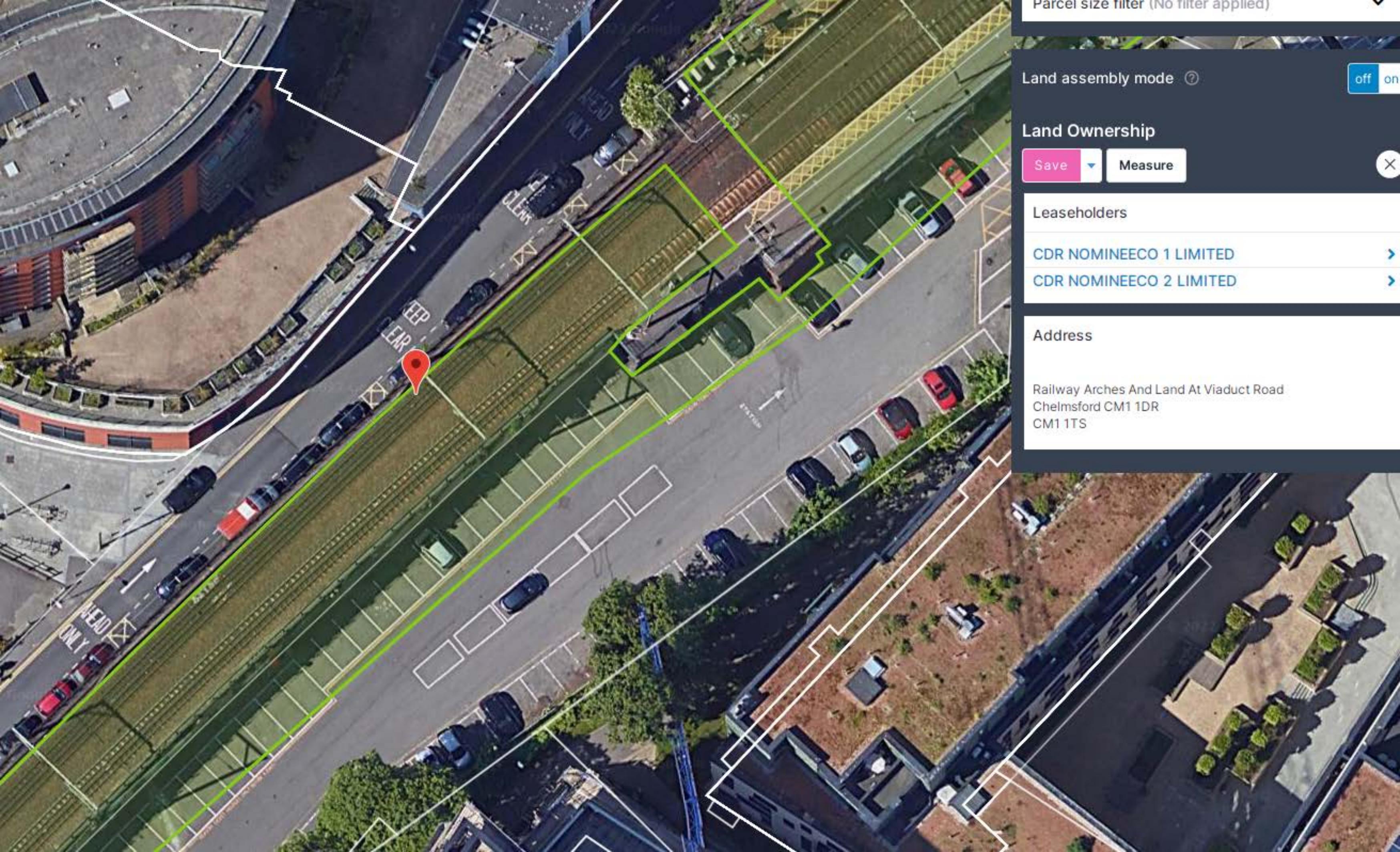
Plan Produced for: Daniel Harvey

Date Produced: 19 Nov 2021

Plan Reference Number: TQRQM21323141415167

Scale: 1:500 @ A4

© Crown copyright and database rights 2021 OS 100042766



Parcel size filter (No filter applied)

Land assembly mode ?  off  on

### Land Ownership

#### Leaseholders

- [CDR NOMINEECO 1 LIMITED](#) ➤
- [CDR NOMINEECO 2 LIMITED](#) ➤

#### Address

Railway Arches And Land At Viaduct Road  
Chelmsford CM1 1DR  
CM1 1TS





## PUBLIC NOTICE

for display by an applicant for a Pavement Licence  
s.2 of the Business and Planning Act 2020

I/We (1), Daniel Harvey

do hereby give notice that on (2) 14.06.2023

[[I/we] have applied to Chelmsford City Council for a 'Pavement Licence' at: (3)

Radio City Social, 35-36 Viaduct Road, Chelmsford, CM1 1T5

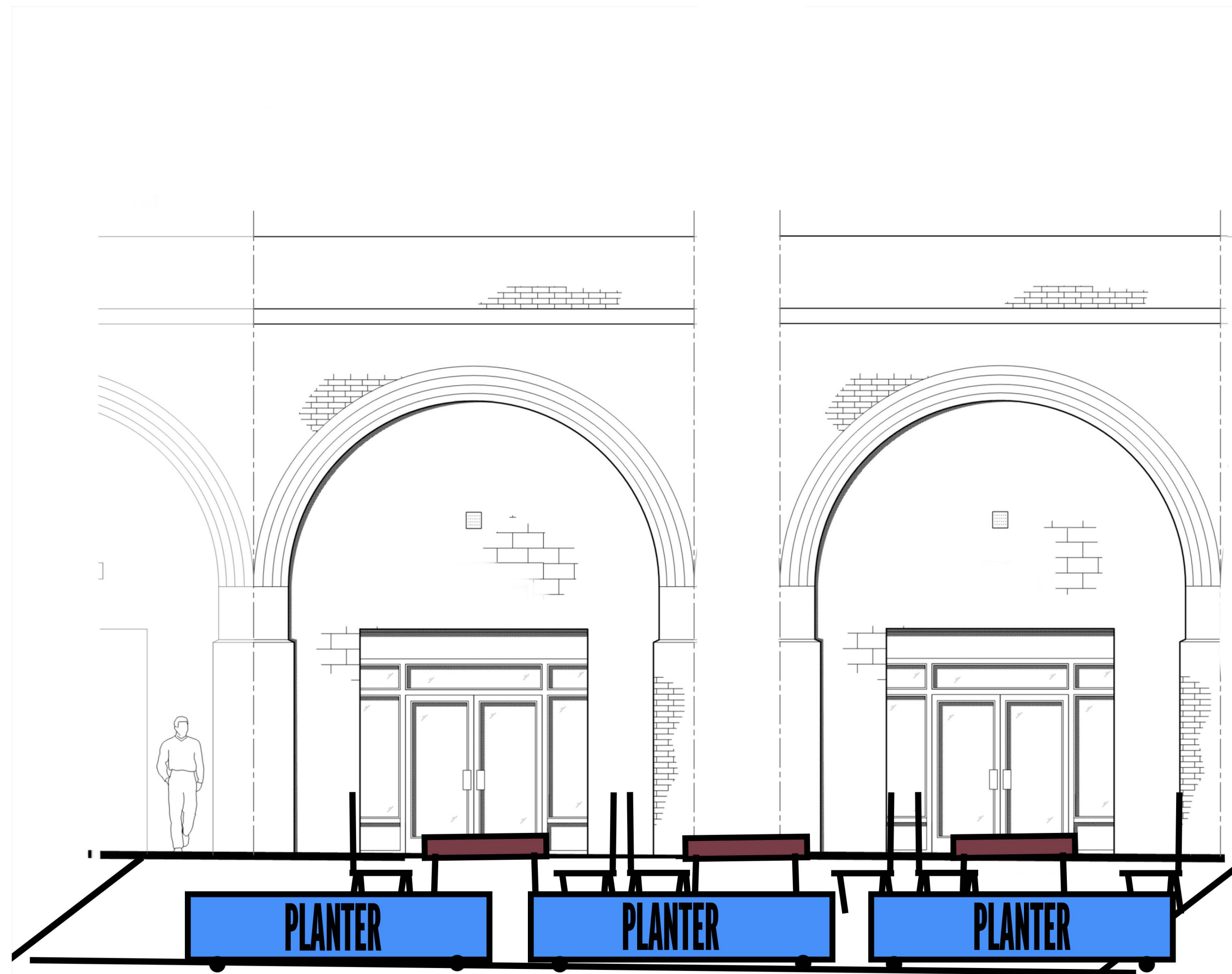
known as (4) Radio City Social

The application is for: (5) outdoor seating to the front of the premises to allow our customers to sit and drink, and to protect our customers with protective planters around the area during trading hours

Any person wishing to make representations to this application may do so by writing to Chelmsford City Council, Licensing department, Civic Offices, Duke Street, Chelmsford CM1 1JE or (preferred) by email : [licensing@chelmsford.gov.uk](mailto:licensing@chelmsford.gov.uk) by: (6) 214.06.2023

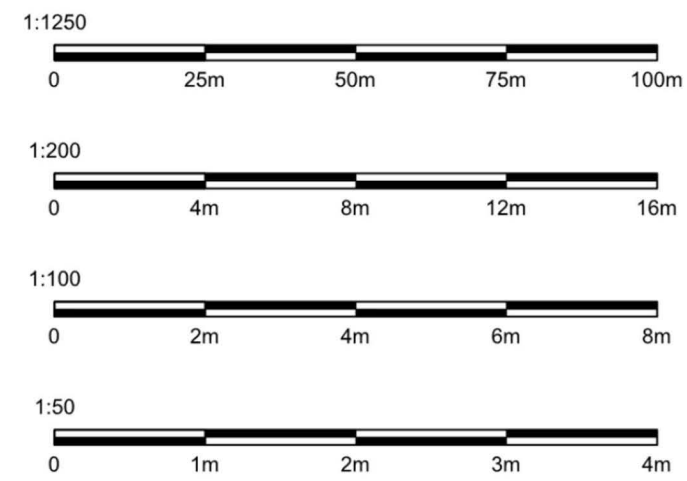
The application and information submitted with it can be viewed on the Council's website: [www.chelmsford.gov.uk](http://www.chelmsford.gov.uk)





35 Viaduct Road  
NORTH WEST ELEVATION  
SCALE: 1:50

36 Viaduct Road  
NORTH WEST ELEVATION  
SCALE: 1:50



## APPENDIX C – Failed delivery Notification

### Delivery has failed to these recipients or groups:

#### [Highways](#)

Your message was rejected by the recipient email server. Please check the recipient's email address and try resending your message, or contact the recipient directly. For more tips to help resolve this issue, see [DSN code 5.1.0 in Exchange Online - Office 365](#). If the problem continues, contact your email admin.



#### Diagnostic information for administrators:

Generating server: SA2PR16MB4057.namprd16.prod.outlook.com

#### [trafficmanagment@highways.org](mailto:trafficmanagment@highways.org)

Remote server returned '554 5.1.0 < #5.1.10 smtp;550 5.1.10 RESOLVER.ADR.RecipientNotFound; Recipient [trafficmanagment@highways.org](mailto:trafficmanagment@highways.org) not found by SMTP address lookup>'

#### Original message headers:

```
ARC-Seal: i=2; a=rsa-sha256; s=arcselector9901; d=microsoft.com; cv=pass;
b=bZakUEG0lyIa4im0K8fw5x8i9Acwu0n1LDQvi2Q5cAozhP5odbzjpZVCWk4Z8E4QaB7C1Jt9I
ARC-Message-Signature: i=2; a=rsa-sha256; c=relaxed/relaxed;
d=microsoft.com;
s=arcselector9901;
h=From:Date:Subject:Message-ID:Content-Type:MIME-Version:X-MS-Exchange-
AntiSpam-MessageData-ChunkCount:X-MS-Exchange-AntiSpam-MessageData-0:X-MS-
Exchange-AntiSpam-MessageData-1;
bh=FzWjg3uqdaLA0e/K/wFo6jCwLk9LXWOU6zuT8ikgEeY=;
b=ORGw/gXxYFG5YJ3qgZ1EFKRLJF9+8jbYF2MkjeSUy0IHrJ/AUnICKhJwSSE2mzIGtbAsfpXDy
ARC-Authentication-Results: i=2; mx.microsoft.com 1; spf=pass (sender ip
is
```

## APPENDIX D

### No objections from SEPP or Planning.

No comments from me.

I did check with SEPP as it's a parking bay, hence the comment below.

Thanks  
Jamie

**From:** Russell PANTER <[Russell.PANTER@chelmsford.gov.uk](mailto:Russell.PANTER@chelmsford.gov.uk)>  
**Sent:** 19 June 2023 11:16  
**To:** Jamie COLE <[Jamie.Cole@chelmsford.gov.uk](mailto:Jamie.Cole@chelmsford.gov.uk)>  
**Subject:** RE: Application for a pavement licence - Tap Rooms - Viaduct Road

Hi Jamie,

I suppose all it is for us is ensuing the free-flow of traffic and so I can't see any issues with this.

As long as pedestrian safety is accounted for.

Kind regards,

Russell Panter  
Enforcement Operations Manager  
South Essex Parking Partnership

Sustainable Communities  
Chelmsford City Council  
Civic Centre  
Duke Street  
Chelmsford  
Essex, CM1 1JE

**M:** 07713 090230  
**E:** [russell.panter@chelmsford.gov.uk](mailto:russell.panter@chelmsford.gov.uk)  
**W:** <https://www.chelmsford.gov.uk>

**From:** Jamie COLE <[Jamie.Cole@chelmsford.gov.uk](mailto:Jamie.Cole@chelmsford.gov.uk)>  
**Sent:** 16 June 2023 13:45  
**To:** Russell PANTER <[Russell.PANTER@chelmsford.gov.uk](mailto:Russell.PANTER@chelmsford.gov.uk)>  
**Subject:** FW: Application for a pavement licence - Tap Rooms - Viaduct Road

Hi Russell

I am forwarding to you in case you have any interest, use of parking bay for tables and chairs.

No comments from me, if you have any comments please send to Licencing.

Thanks  
Jamie

## APPENDIX E – Consultation to Essex Highways



Hello Olive.

I hope you are well.

We sent this consultation for a pavement licence on Viaduct road out to responsible authorities including [Trafficmanagment@highways.org](mailto:Trafficmanagment@highways.org) that has now finished. I didn't realise that after sending this consultation out was later bounced back from that email saying that it was undelivered. Also as attached.

Please can you confirm that the email is correct and secondly pass this information on to them for consideration. Even though the consultation period is over I am still mindful of public safety and would appreciate the thoughts and concerns from Highways.

Thanks

*Kind Regards*

**Daniel Winter MLO,**  
**Licensing Lead Officer,**  
**Public Health and Protection Services,**  
**Chelmsford City Council & Maldon District Council.**

Tel: 01245606727

Email: [Daniel.winter@chelmsford.gov.uk](mailto:Daniel.winter@chelmsford.gov.uk)

Email: [Daniel.winter@maldon.gov.uk](mailto:Daniel.winter@maldon.gov.uk)

Office Email: [Licensing@chelmsford.gov.uk](mailto:Licensing@chelmsford.gov.uk)



Essex Highways  
Seax House 2<sup>nd</sup> Floor  
Victoria Road South  
Chelmsford  
Essex CM1 1QH

Daniel WINTER  
[Daniel.WINTER@chelmsford.gov.uk](mailto:Daniel.WINTER@chelmsford.gov.uk)  
[Licensing@chelmsford.gov.uk](mailto:Licensing@chelmsford.gov.uk)

Date: 30 June 2023  
Our Ref: OP/300623

Dear Daniel

**TABLE, BENCHES AND PLANTERS – TAP ROOMS (RADIO CITY SOCIAL), 35-36 VIADUCT ROAD, CHELMSFORD, ESSEX, CM1 1TS**

I am writing to inform you that the request for Tables, Benches and Planters at Tap Rooms (Radio City Social), 35-36 Viaduct Road, Chelmsford, Essex, CM1 1TS has been rejected on the following grounds:-

- There currently is a parking allowed outside these premises and until this matter has been addressed the application cannot be considered.
- This application would conflict with the parking order
- That in the application, there was no mention of quantity of tables, benches, planters

Yours sincerely



Olive Porter  
Network Assurance - Senior Engineer

# APPENDIX G

PUBLIC PLACES

Director: Keith Nicholson



Radio City Social,  
35-36 Viaduct Road  
Chelmsford,  
Essex  
CM1 1TS

Civic Centre, Duke Street,  
Chelmsford, Essex CM1 1JE

DX123305 Chelmsford 7  
Telephone: 01245 606204  
Facsimile :01245 606681  
Email: [licensing@chelmsford.gov.uk](mailto:licensing@chelmsford.gov.uk)

Our Ref: 23/00460/PAVLI  
Officer: Daniel Winter  
Direct Dial: 01245 606204  
Date: 3<sup>rd</sup> July 2023

Dear Sirs,

**Application for a pavement licence under the Business and Planning Act 2020 – Radio City Social, 35-36 Viaduct Road. Chelmsford, Essex, CM1 1TS**

I am writing to inform you that the licensing authority has thoroughly reviewed your application for a Tables and Chairs permit for outside Radio City Social located on Viaduct Road in Chelmsford. After careful consideration of all relevant factors, including input from responsible authorities, notably Essex County Council Highways, we regret to inform you that your application has been rejected. The decision is based on the following reasons:

- **Ownership and Concerns of Essex Highways:** Viaduct Road is owned and managed by Essex Highways. It is essential to take their concerns regarding the usage and placement of items on the highway into account. Their expertise and considerations are crucial to maintaining safety and proper use of the road.
- **Safety and Driver Behaviour:** Placing tables and chairs on the road or near it is not permissible without the establishment of officially recognized shared space. Such shared spaces require careful consideration of pedestrian safety, potential hazards, and the inclusion of appropriate physical protections like curbs or barriers. This ensures that driver behaviour aligns with the presence of pedestrians and other potential obstacles.
- **Conflict with Parking Orders:** The area you have proposed for tables and chairs is designated for parking purposes. These parking spaces are specifically allocated for road users and are not intended for the placement of tables and chairs. Allowing tables and chairs in this area would directly conflict with existing parking orders, causing inconvenience and problems for those seeking to park in the designated bays.



## PUBLIC PLACES

Director: Keith Nicholson

We understand that this decision may be disappointing, especially as it was thought that the licence would be granted, but it is essential to prioritize the safety and proper use of public spaces. We encourage you to explore alternative options that comply with the established regulations and consider the concerns raised by Essex Highways and other responsible authorities.

Failing to comply with this refusal notice could result in the remove of the items obstructing the Highway and or legal proceedings. We remind you that there is no right of appeal in relation to this notice.

Should you have any further inquiries or require clarification regarding this decision, please do not hesitate to contact our office. We are here to assist you in understanding the rationale behind this determination and exploring potential alternatives for outdoor seating arrangements.

Thank you for your understanding and cooperation in this matter.

As previously advised, the application fee is none refundable.

If you have any questions, please do not hesitate to contact me or any of the licensing team.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D. Winter', with a small dot above the 'i'.

Daniel Winter  
Principal Licensing Officer  
Chelmsford City Council

# APPENDIX H

Radio City Social  
35-36 Viaduct Road  
Chelmsford  
CM1 1TS

Dear Sirs,

Application for a pavement licence under the Business and Planning Act 2020 – Radio City Social, 35-36 Viaduct Road. Chelmsford, Essex, CM1 1TS

Please note that the applicant understands that there is no appeal process as stated in the refusal letter. However, Section 5.7 [Guidance: pavement licences \(outdoor seating\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/pavement-licences-outdoor-seating) cites **'Is there a route to appeal a decision?'**

'There is no statutory appeal process for these decisions, however, councils may wish to consider the scope for an internal review process, for example permitting appeals to their Licencing committee'

The applicant therefore seeks an appeal to the Licencing committee on the following grounds:

The application was granted on 28<sup>th</sup> June 2023 and then subsequently refused on 3<sup>rd</sup> July 2023. The initial granting of the licence prompted the applicant to purchase a number of tables and chairs as outlined in the provided plans to Chelmsford Council and barriers for this shared space so in addition to the disappointment of the refusal this small business has incurred unnecessary costs.

In addition, the applicant states that there was a lack of 'careful consideration' by either the Director of Public Places and/or the Highways Agency in relation to this application. The applicant wants to point out that this relates to two parking spaces (just) that are located between the two arches which form Radio City Social which offers 1 hour parking only no return within 3 hours between 08:00 and 18:00.

Furthermore, there are four pillars on which this matter should be judged:

1. The applicant believes that the subsequent refusal was OUT OF TIME and that the Local Authority and Highways Agency have not applied due diligence in terms of conducting comprehensive risk assessments prior to refusal.

Section 1.3 further states that If the local authority does not determine the application before the end of the determination period (which is 7 days beginning with the first day after the end of the public consultation period, excluding public holidays), the licence is deemed to have been granted for a year (or if shorter, until 30 September 2023) and the business can place the proposed furniture within the area set out in the application for the purpose or purposes proposed.

The initial granting of the pavement licence then the subsequent refusal breached the above time limitations, quoting an *'it appears that the commonly used email address has been changed. As a result, we received a delayed response from Outlook stating that the consultation email was not received.'* I believe this is highly unlikely, as having worked in an office environment for over a decade, I know Outlook to be a reliable tool and any change to email address would provide an out of office, undeliverable or automated forward immediately.

The correspondence states that the refusal it has been predicated on the expertise and consideration of Essex Highways and any concerns that may have arisen. The stated concerns allegedly included:-

*Safety and Driver Behaviour: Placing tables and chairs on the road or near it is not permissible without the establishment of officially recognized shared space. Such shared spaces require careful consideration of pedestrian safety, potential hazards, and the inclusion of appropriate physical protections like curbs or barriers. This ensures that driver behaviour aligns with the presence of pedestrians and other potential obstacles.*

The application made by Radio City Social quite clearly stated that this 'shared space' (two car parking bays) and any potential hazards have been considered by the applicant and addressed by the presence of physical barriers in the form of planters. Said barriers would ensure that driver behaviour aligns with the presence of pedestrians or as is the case here customers who wish to use the outside space to smoke or take air

Furthermore, the refusal was predicated on a 'conflict with Parking Orders' and stated that the conflict of allowing the use of the outside space for hospitality would 'cause inconvenience and problems for those seeking to park in designated bays'. Again, the applicant reminds you that this is two, one hour no return parking bays and there are hundreds of parking bays within an extremely short distance of this parking space.

The response is sadly lacking in a comprehensive consideration and/or risk assessment which should have taken into account the risk of NOT granting the pavement licence; customers routinely enter and leave the premises, manoeuvring around a parked car and standing outside the premises to smoke or chat. The applicant states that this creates a more dangerous situation for both pedestrians and drivers as customers currently use the shared space WITHOUT BARRIERS. The actual presence of a parked car in the vicinity of the business entrance creates an even greater risk as customers manoeuvre around it. Having these barriers in place will provide more visibility of our customers as they enter and exit our premises as currently large vehicles including Vans and Taxi's regularly park here, completely blocking the view of our entrance, and customers are not visible remotely as they leave our premises.

Therefore the applicants states that the Highways Agency has not balanced the risk between the two options but simply stated that the application conflicts with Parking Orders.

Within 10-50 meters of this requested area there are thousands of car parking spaces available to drivers; Townfield St., Fairfield Road, NCP 56 Viaduct Rd, Railway St., West End car park and the Train Station car park. The applicant contends that this fact was NOT given due regard by the Highways Agency prior to refusal.

2. The UK Government itself as states in [Guidance: pavement licences \(outdoor seating\) - GOV.UK \(www.gov.uk\)](#) under 1.2 of the Guidance; pavement licences (outdoor seating) 26 July 2022 that consideration should be given to 'providing much needed income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs'

The use of this outdoor space is pivotal to the success of Radio City Social and its survival.

3. Given that the Arches in Viaduct Road are often left unoccupied for years because of the limitations of using these spaces, this depletes the aspiration of conserving and enhancing this heritage asset.

SPS3. Strategic Policy S3 Conserving & Enhancing the Historic Environment - When assessing applications for development, the Council will place great weight on the preservation and enhancement of designated heritage assets and their setting.

It seems to the applicant that the above policies were not taken into consideration when assessing the application for a pavement licence. Current pressure on small businesses is extremely grave at this point in time and authorities should be doing everything possible to support local businesses.

Radio City Social is currently providing income for 4 households in Chelmsford, with a growing Brewery business alongside it, Radio City Beer Works, which as it expands will create more local jobs and employment a new part of the hospitality industry that Chelmsford has lacked for years, and is part of the growing national Craft Micro Brewery space. We have built a wonderful community around

Radio City Social, are a safe and inclusive space for all, and have no issues with anti-social behaviour. We are asking that you support us with this in order to protect our business from the ever growing pressures on the hospitality industry.

Please can this all be taken into account, and our application reassessed.

Thank you,

Director

Radio City Social

# APPENDIX I

## Radio City Social

Please see attached photos which clearly show that the venue has ignored our response regarding the refusal of the pavement licence. For consideration.



Camera 004 Viaduct Road (4),08/07/2023 22:57:27, Station1, System



Camera 004 Viaduct Road (4),08/07/2023 22:57:54, Station1, System















# APPENDIX J

Good evening

Thank you for your letter and email, my name is Olive and I look after all the licence requests on behalf of Essex County Council and looked at your application and now your email and letter.

I can confirm that Essex County Council's response was one day after receiving your application from Chelmsford City Council. A copy of your application was received on Thursday 29 June 2023 at 16.30 from them and the reply was sent back to them on Friday 30 June at 8.51.

As you are aware there are timed parking restrictions on the carriageway where you are proposing to place your tables and chairs. The timed restrictions are between 8am – 6pm Monday to Saturday for 1 hour no return in 3 hours. Outside of those times anybody may park at these locations at any time. It is appreciated that there are other areas to park nearby but they are not being discussed and should not be taken into account with regards to your application. The fact remains there is actually parking outside the premises in question which has a Traffic Regulation Order to support it.

Consent cannot be given to tables and chairs being placed on the public highway which (1) can be parked on 24/7 (2) where there is a live section of carriageway next to the proposed location and parking area (3) where they cannot be placed at a safe location. Please bear in mind that the area being discussed falls under the jurisdiction of the public highway, which Essex County Council are caretakers of.

Whilst planters have been mentioned you do not have a licence for them and nor would they be given one as (1) you cannot place anything on a live section of carriageway (2) you cannot block off any areas where members of public may park legally (3) all street furniture placed on the public highway must be a minimum distance of 0.450 metres back from the carriageway edge. In this particular case the highway boundary (carriageway) goes right up to the property.

Viaduct Road, is used by many vehicles for various reasons taxi's, members of public dropping off at the bus/train station, members of public picking up from bus/train station, members of public using the businesses in this area, members of public using the train station car park, members of public accessing the underground car park to their properties, deliveries.

This application has been looked at in great detail and allowing tables and chairs in the public highway where there is live traffic is a major safety concern, and one we would not consider changing our minds on, therefore, I am very sorry but we cannot agree to consent being given at this location for tables/chairs/planters.

Providing an outside area, could encourage further members of public visiting your establishment to come out and stand around which may cause a conflict between your customers and vehicles using Viaduct Road.

If a licence for the planters/tables/chairs was to be given and an incident occurred the Council who issued those licences could be held responsible, however should members of public put themselves in any situation it is their own decision and not one that has been made on their behalf. Unfortunately, if a vehicle should strike a planter, it would not only be a car that might cause damage property/persons it would be fragments from the planter itself that could cause damage making a bad situation even worse.

Consent for tables and chairs are given at safe locations and establishments encouraged to apply and Council's accommodate wherever possible, but consent would never be given where there was any concerns on safety matters. There is a footway on the other side of the road to the premises in question, this should be walked on by the customers, they would then cross the road and use the marked pedestrian area in to the establishment. This would not be seen as a risk, encouraging any customers to stand outside would be seen as a risk.

All risks were looked at in great detail on both occasions (upon application and the receipt of the email and letter) and an Essex Safety Engineer spoken to on this matter who I can confirm supports the decision made for the reasons given.

Whilst there are other establishments in the area with tables and chairs, they are at the back of a footway adjacent to their building and , members of public can still safely walk on the footway in front of them, there is no live traffic near the tables and chairs and the there is an upstanding kerb denoting the live carriageway and footway.

All details on the application were considered carefully before a response was sent out, and whilst it is appreciated that it may not have been the answer you were hoping to receive, I believe the above explains and clarifies the reasons why this application was not given consent from a highway prospective.

I am sorry that I have not been able to assist you further on this occasion.

Regards

**Olive Porter CIHT, IHE | Network Assurance – Senior Engineer  
Highways**



**SAFER / GREENER / HEALTHIER**

Telephone 07548 775739

[Olive.Porter@essexhighways.org](mailto:Olive.Porter@essexhighways.org)

[Chat with me on Teams](#)

[www.essex.gov.uk/highways](http://www.essex.gov.uk/highways)

# APPENDIX K

## PUBLIC PLACES

Director: Keith Nicholson



Chelmsford, Essex CM1 1JE

DX123305 Chelmsford 7  
Telephone: 01245 606606  
Facsimile :01245 606681  
Email:[licensing@chelmsford.gov.uk](mailto:licensing@chelmsford.gov.uk)

Radio City Social  
35-36 Viaduct Road  
Chelmsford  
Essex  
CM1 1TS

Our Ref: 23/00460/PAVLI  
Officer: Daniel Winter  
Direct Dial: 01245606317  
Date: 12/07/2023

Dear Sirs,

I am writing to clarify the recent developments regarding the pavement licence application for Radio City Social, located at 35-36 Viaduct Road, Chelmsford, Essex, CM1 1TS. Following consultation on your application where no objections were received the licence was granted. However, a late objection by Essex Highways resulted in Chelmsford City Council reviewing the decision and determining that due to public safety concerns the licence should not be issued. As the licence has been issued the Council is now revoking the licence.

The decision to revoke the licence is based on feedback received from Essex Highways regarding parking concerns, and as well as the Council's primary concerns of public safety. The presence of tables and chairs on Viaduct Road cannot be equated to having them placed in the middle of Chelmsford High Street, where effectively a recognized Shared Space is in place. The Council has thoroughly evaluated these factors and have concluded that the licence be revoked.

As the applicant you have requested an appeal to the initial refusal of the licence be heard by members of the Council's Regulatory Committee. I assume you would be requesting that the Committee consider an appeal against the revocation of the licence. Please let me know if you do wish to appeal. There is no statutory right of appeal, but the decision can be reviewed by members. the next meeting of the Regulatory Committee is scheduled for 7th September 2023.

As a result of the licence revocation, it is essential to emphasize that there is no longer permission to place tables and chairs on the highway. We kindly request you refrain from placing any furniture on the highway until the matter has been addressed and a decision has been reached at the Regulatory Committee meeting.

We appreciate your understanding and cooperation in this matter. The safety of the public and adherence to parking regulations are of utmost importance to us.

Please do not hesitate to contact me if you require any further clarification or information. We will keep you informed of any updates regarding the appeal process and the resolution of this matter. Thank you for your attention to this important issue.

Yours sincerely

PUBLIC PLACES  
Director: Keith Nicholson

A handwritten signature in black ink, appearing to read 'D. Winter', with a small dot at the end.

Daniel Winter  
Licensing Lead Officer