

GUIDANCE NOTES: Application for a licence to place tables and chairs on the highway.

1 Introduction

- 1.1 Many premises across the Borough wish to make use of the pavement for tables and chairs for their customers.
- 1.2 Tables and chairs on highway land can be a vital part of the life and character of an area; however, if they are not carefully controlled pedestrians may be put in danger. People with impaired vision, in wheelchairs or with prams can be particularly disadvantaged. In some places, people eating or drinking outdoors can also cause considerable noise nuisance for residents and impede access for emergency vehicles.
- 1.3 Town centre areas have much to offer and the authorities, whose functions are to facilitate developments as well as regulate, have worked together to strike a balance between these often conflicting issues. This guide explains how to make an application to the Council to place tables and chairs on the highway. It also gives details on how the applications will be dealt with.
- 1.4 Where an applicant wishes to use an area of highway for tables and chairs or other purposes, formal consent in the form of a highway license, planning consent and authorisation under the Licensing Act 2003 may be required.
- 1.5 These guidance notes provide information about making an application and set out the conditions likely to be imposed by the licensing authority if they are mindful to grant consent. Contact details are also provided should you require any further information or assistance.

2 Requirement and Standards

- 2.1 Before any amenity use on the highway is proposed or established, the following issues need to be considered:
 - Space - Is there room for the use as proposed?
 - Environment - Is the quality of air and the immediate environment suitable for the use proposed?
 - Other needs - What other highway uses and users need to be considered?
 - Neighbours - How will the proposed use affect the neighbouring properties?
 - Regulations - Does the proposal meet the various criteria outlined in legislation and this guide?
- 2.2 Space
 - 2.2.1 The extent of the seating area will be agreed in each individual case, but an overriding principle is that it must not unduly impede public or private access within the street and to and from buildings.
 - 2.2.2 The width of an outdoor seating area will normally be no greater than the frontage of the premises from which it is served. The appropriate depth will be determined by its location on the highway; however the depth of an outdoor seating area should not normally exceed 5m from the elevation of the building. The clearance around bins, light columns and other street furniture, will be agreed in each individual case.

2.2.3 In all cases:

- a minimum width of unobstructed highway of 1.8 metres must be provided for safe and convenient pedestrian movement. This allows wheelchairs and prams to pass comfortably and provides a reliable, safe route for visually impaired pedestrians; however, in some cases additional width will be required in streets where there is a high level of pedestrian activity or permanent obstructions such as street furniture.
- entrances/exits to/from the seating area should be at least 0.9m wide, direct and level, to provide a safe fire exit and to allow access for wheel chair users.
- a minimum distance of 0.75 metres from the face of the building is required to satisfactorily accommodate a customer in a chair. Tables and chairs should normally be placed adjacent to premises, at the back of the footway. In special areas this requirement may be waived. The positioning of tables and chairs should never discourage pedestrians from using the footway.
- The available route for pedestrians must be obvious and unobstructed; it should not pass through the area used by the tables and chairs.

2.2.4 There may be areas within the Borough where, as part of an overall environmental scheme, alternative arrangements for tables and chairs on the public highway might be considered.

2.2.5 There may be instances where, for reasons of particularly high pedestrian and/or traffic flow, the positioning of tables and chairs will need especially careful consideration. The Council will treat each case on its own merits and may wish to impose additional measures of control in such locations.

2.2.6 In locations such as Market Place, Basingstoke, conditions will be imposed on a license to ensure that outdoor seating areas do not conflict with stalls, pedestrian routes and emergency access on market days.

Enclosures

2.2.7 The extent of the outdoor seating area must be clearly defined. This will ensure that a clear movement zone is retained for all users and emergency vehicles and that the pavement cafes do not expand.

2.2.8 The detailed design of any form of enclosure will be considered on their merits, but in all cases they must be of a temporary nature, able to be erected and demounted easily. Posts and chains/ropes and railings should not create a hazard for visually impaired people. Where screens are used, solid panels should not extend above 0.9m in height from the ground. Whatever is used to enclose an area there should be a tonal contrast with the background but should not be too visually dominant. The external corners should provide some form of visual contrast for easy identification by partially sighted people. A low level-tapping rail should be incorporated into the enclosure.

2.2.9 The means of enclosing seating area will be a retractable socket system installed in the highway. It is essential that any enclosure is sufficiently lightweight in construction to enable it to be dismantled and removed if necessary; nevertheless the enclosure should not be so light that it is moved by the wind.

2.2.10 A removable enclosure permanently defines the extent of the seating area and removes the need for free-standing base plates on the surface, which could be a trip hazard. The sockets must be robust enough for highway use, have a hinged



and lockable lid in black to provide cover when not in use, and accommodate a square post of no more than 100mm x 100mm. Any work on the highway area to install such sockets must not commence without prior permission from the Highway authority to undertake works on that part of the Highway.

2.2.11 Within Conservation Areas, the design, colours and materials used must preserve or enhance the historic and architectural character or appearance of the area. Plastic materials, therefore, are unlikely to be acceptable. Appropriate materials will include aluminium, cast iron, hardwood and joinery quality softwood.

2.2.12 Advertising within an outdoor seating area is not permitted without prior approval from the licensing department. Requirements for this approval include the submission of photographs or brochures to identify the material, colour and design whether it is to be sited on a banner, poster, flag, umbrella or other structure.

The purpose of pre-approval is to secure the visual amenity of the area and to ensure any advertising is acceptable.

Furniture

2.2.13 Tables and chairs should be separate to allow for a variety of configurations and must be high quality and robust; and be of a design to allow use by wheelchair users. Proposals will be considered individually on their merits in terms of design, materials and colour. Plastic garden furniture and wooden picnic benches will not normally be considered to be appropriate.

2.2.14 Planting in containers is acceptable where this does not extend beyond the defined area, does not stain the paving, and are free standing so they can be removed if required.

2.2.15 Parasols should not project outside the licensed area and their lowest point should be at least 2.1m from the ground. An alternative may be to mount a traditional retractable blind (awning) on the building subject to the necessary consents.

2.2.16 Details of any outdoor heaters for use in the winter only must be included within the drawings at the time of application.

2.3 Environment

2.3.1 In some areas the quality of air may be to a standard which would not be conducive to sitting/eating/drinking out in. It is advisable to consider traffic volumes and the nearness of bus stops, taxi ranks and other areas where air quality may not be of a high enough standard.

2.3.2 The provision of toilet facilities is required for all pavement cafés seating in excess of 6 people. Where there is already internal seating associated with the building, additional toilet facilities may be required if overall occupancy figures are increased.

2.3.3 The approved licensed area will be kept clean and litter free; and every effort should be made to ensure that litter does not stray onto neighbouring areas.

2.3.4 External public address systems or amplified music will not be allowed within the licensed area. External lighting as part of any enclosure may not be appropriate due to the visual appearance of the lighting units and the night-time effect.

2.3.5 Non furniture items (e.g. menu boards) also need approval, and in any event must be included within the defined pavement areas, as well as signs advising wheelchair users of the absence of accessible toilets on the premises.



2.4 Other Needs/Neighbours

- 2.4.1 It is vitally important that the needs of adjoining properties, nearby residents, pavement users and delivery/emergency services are fully considered when proposing a use on the highway. These needs will be examined closely by the authorities that are dealing with the formal applications made under the current legislation. It may be helpful if you have consulted with neighbours, support groups or service providers to enclose any letters of support for the proposal. The hours and days of use of the tables and chairs may be restricted for reasons of prevention of crime and disorder and to prevent nuisance to local residents and businesses.
- 2.4.2 There must be no hindrance of access and egress for utility companies needing access to the area subject to the licence. Manholes covers and other access points for water and drains must be left uncovered. Other utility points such as BT etc must be easily accessible at all times.

3 Consents required and Consultation

3.1 Highway License

- 3.1.1 The Council may license the use of an area of the public highway for the positioning of tables and chairs under the provisions of Section 115E of the Highways Act 1980. In considering an application the Council must ensure that sufficient footway width is retained for pedestrians to move about safely and will require indemnity against liability for injury to third parties caused by the presence of the tables, chairs and related items.
- 3.1.2 The Highways Authority will be consulted on each application.
- 3.1.3 A license will cover the period of one year from the date of issue.
- 3.1.4 Public liability insurance of £10 million is required for the enclosed area of highway.

3.2 Planning Consent

- 3.2.1 Generally, planning consent is required for the change of use of a highway area into a pavement seating area; however, upon receipt of a highway license application the Council will consult with the Planning Authority.
- 3.2.2 If the Planning Authority consider that all the necessary planning requirements have been taken into account when granting a highway license, it will not usually demand that a separate planning application is made
- 3.2.3 The placing of tables and chairs on a private forecourt which is within the business boundary, does not normally require planning permission, although if the public has enjoyed access over the forecourt for a number of years it is possible that the area has become "deemed highway". This is especially likely where the public highway is too narrow to accommodate pedestrian activity. In such instances, the applicant is advised to contact the Planning Authority for further guidance.
- 3.2.4 A separate Listed Building Consent may be required where tables/enclosures are proposed to be attached to a Listed Building. Again, the applicant is advised to contact the Planning Authority for further guidance.

3.3 Premises License (Licensing Act 2003)



- 3.3.1 Any premises licence in force at the premise will require amendment to reflect the additional areas outside to be used for consumption of alcohol. Licensees are advised to discuss any proposed changes with the Licensing Team at the Council prior to submitting an application to put tables and chairs outside their premise. Applications to place tables and chairs outside licensed premise will be referred to the Licensing Police for consultation.

4 Information required when submitting an application

- 4.1 In submitting your application for a highway license, you are required to submit the following:
- A completed application form
 - The application fee
 - A Location plan at 1:1250 scale plan showing location of premises.
 - A Site plan at 1:50 showing boundary, kerb and building lines, points of access and street furniture, including the property, key dimensions, seating and other furniture layout.
 - Elevation plans at 1:50 or 1:20 with supporting detail if required to show the means of enclosing the highway.
 - Photos and/or brochures showing types of furniture, umbrellas, etc to be placed on the highway.
 - A written specification describing details, materials and colours (these could be notes on drawing).
 - In addition the applicant must prominently display a Public Notice at the premises for a period of 28 days commencing on the date that a valid application is submitted to the Council.

5 If Permission Is Granted

- 5.1 Highway licenses are renewable annually and if the premises conducts its business within the terms of the conditions of use the renewal would normally be granted; however, the granting of a license does not give an automatic right of renewal in subsequent years.
- 5.2 The highway license will limit the hours during which the tables and chairs may be used on the highway and may require that outside of these hours all furniture is removed and the highway cleaned or if appropriate washed down. The responsibility for removing tables, chairs and other obstructions from the highway rests with the owner/operator of the premises.
- 5.3 Special additional conditions may be added to the license or permission as and when necessary.
- 5.4 Tables and chairs placed outside require extra care on the part of management and staff to ensure that amenities of the area are not adversely affected. It will be the responsibility of the licensee to ensure that the conditions of the highways licence, planning permission and alcohol licence are adhered to. The licensee will be responsible for the behaviour of and actions by his customers whilst in the licensed area.
- 5.5 The Borough Council will require the licensee to contain his and his customers' activities to within the licensed area. In particular, the licensee will agree not to



provide refreshments for consumption elsewhere on the highway or on any land, which is open or accessible to the public.

- 5.6 The Borough Council, under the terms of Section 115K of the Highways Act 1980 has powers to ensure compliance with the terms and conditions imposed on a license and to recover any expenses in so doing.
- 5.7 The applicant should be aware that Hampshire Police, as part of the coordinated consultation process, may stipulate that toughened/non-glass drinking devices be used within the enclosed area of the highway; bottles will not be permitted within the enclosed area; and/or, supervisors patrol the enclosed area when it is in use or existing CCTV extended to monitor persons using the designated area.
- 5.8 Applicants must ensure that any areas where smoking is permitted comply with the smoke free legislation (From 1st July 2007).

6 If an application is refused

- 6.1 There is no right of appeal against a refusal of an application.

7 Contact details

- 7.1 Enquiries relating to the Planning Authority should be made to the Council's Planning team:

Tel: 01256 844844

email: development.control@basingstoke.gov.uk

- 7.2 All other enquiries should be made to the Council's Licensing Team

Tel: 01256 844844

email: licensing@basingstoke.gov.uk

Alternatively, you can write to:

The Licensing Team
Basingstoke & Deane Borough Council
Civic Offices
London Road
Basingstoke
Hampshire
RG21 4AH