



Basingstoke
and Deane

BASINGSTOKE AND DEANE BOROUGH COUNCIL

**POLICY FOR THE LICENSING OF TABLES AND CHAIRS
ON THE HIGHWAY**



Index

		Page
1	<u>Introduction</u>	3
2	<u>Assessing the proposed location</u>	4
	Space	4
	Enclosures	5
	Conservation Area	6
	Furniture	6
	Environment	6
	Other needs/ neighbours	7
3	<u>Consents required and Consultation</u>	
	Highway Licence	7
	Planning Consent	8
	Premises Licence (Licensing Act 2003)	8
4	The application process	8
	Supporting documents	8
5	<u>If permission is granted</u>	9
6	<u>If an application is refused</u>	10
7	<u>Contact details at the council</u>	10

1 Introduction

- 1.1 Many premises across the borough wish to make use of the pavement for tables and chairs for their customers. The provision of furniture or other objects on the public highway is regulated under section 115(E) of the Highways Act 1980
- 1.2 Basingstoke and Deane Borough Council (the council) is of the opinion that tables and chairs on highway land outside business premises can be an integral element of the culture and character of an area. They add character and space to premises and provide opportunities for improved trade and an enhanced customer experience, particularly during the summer months.
- 1.3 The council also accepts that if these areas are not carefully regulated there can be a detrimental impact or risk of harm for pedestrians using the highway. This can also have an adverse effect on the charm and characteristics of a particular location.
- 1.4 People with impaired vision, those who use mobility aids, or those with prams and pushchairs can be particularly disadvantaged by the possible obstruction from tables and chairs. In some places, people eating or drinking outdoors can also cause considerable noise nuisance for residents and impede access for emergency vehicles.
- 1.5 Town centre areas have much to offer and the council, whose function it is to facilitate and regulate developments, has worked together to strike a balance between these often conflicting issues.
- 1.6 This policy document provides information about making an application and sets 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.
- 1.7 Where an applicant wishes to use an area of the 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.
- 1.8 To avoid duplication, where an application is made in accordance with this policy and all criteria are satisfied in respect of design, size and layout, it is likely that applicants will not need to seek additional approval through planning consent.

2 Assessing the proposed location

2.1 The council would expect applicants to undertake a detailed site appraisal before making an application for a licence. The following matters must 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?
- Is the location within a Conservation Area?
- Will the proposed use impact on neighbouring business trade?
- Will the proposed use include consumption of alcohol?
- Is the proposed use suitable for the times proposed having regard to the daytime and night time economy?

2.2 Space

2.2.1 The extent of the seating area will be agreed in each individual case, but an over-riding principle is that it must not unduly impede public or private access within the street or to and from buildings.

The width of an outdoor seating area will 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.

2.2.2 In all cases:

- a minimum width of unobstructed highway of 3.1 metres from the front boundary of the proposed seating area must be provided for safe and convenient pedestrian movement and for emergency vehicles to pass.. This also 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 must not discourage or prevent pedestrians from using the footway.

- The available route for pedestrians must be obvious and unobstructed; it must not pass through the area used by the tables and chairs.

- 2.2.3 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. The council reserves the right to consider other arrangements on a case by case basis.
- 2.2.4 There may be instances where, for reasons of particularly high pedestrian and/or traffic flow, the positioning of tables and chairs will need careful consideration. The council will treat each case on its own merits and may wish to impose additional measures of control in such locations. The council may consider high pedestrian or vehicular traffic as a reason for rejection.
- 2.2.5 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. This will mean that some premises will not be permitted to use their outdoor furniture on Market days or when special outdoor events are organised.

2.3 Enclosures

- 2.3.1 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 beyond the area applied for.
- 2.3.2 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 removed 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 barrier 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 must be incorporated into the enclosure.
- 2.3.3 The means of enclosing the seating area will be a retractable socket system or acceptable similar method, 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. The enclosure should not be so light that it is moved by the wind.
- 2.3.4 A removable enclosure permanently defines the extent of the seating area and removes the need for free-standing base plates on the highway, which could be a trip hazard. The sockets must be robust enough for use on the highway, 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 square. Any work undertaken on the highway area to install such sockets must not commence without prior permission from the Highway authority.

2.4 Conservation Area - specific requirements

2.4.1 The Top of the Town falls within the Basingstoke town centre Conservation Area, where outdoor seating must preserve or enhance the historic and architectural character or appearance of the area. The detailed design of any form of enclosure will be considered on its merits. Outdoor seating barriers shall be:

- Of a temporary nature, able to be erected and demounted easily;
- Suitably secured by purpose designed post and rail system with weighted bases to prevent being knocked down or blown over;
- Of a suitable height, approximately 900mm;
- Manufactured from suitable materials for the banner and stainless steel, chrome plated or black powder coated posts and rails;
- Of one barrier design, in colour scheme to match the café's name or brand logo provided that letters, figures, symbols or similar features are no more than 300mm in height.
- The colour scheme for banners and external corners should form a visual/tonal contrast for partially sighted people and a low level tapping rail should be incorporated into the enclosure.

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

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

2.4.4 Only the name of the premises will be permitted on banners in the Conservation Areas. The provision of pictures or other unsympathetic graphics will not be permitted

2.4.5 The purpose of pre-approval is to secure the visual amenity of the area and to ensure any advertising is acceptable. The council expects applicants for licences within the Conservation Area to seek advice from the council's conservation officer prior to making an application.

2.5 Furniture

- 2.5.1 Tables and chairs should be separate to allow for a variety of configurations and must be high quality and robust. They must be of a design to allow use by persons in wheelchairs. Proposals will be considered individually on their merits in terms of design, materials and colour. Plastic garden furniture and wooden picnic benches will not be considered to be appropriate.
- 2.5.2 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.
- 2.5.3 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.
- 2.5.4 Details of any outdoor heaters for use in the winter must be included within the drawings at the time of application.

2.6 Environment

- 2.6.1 In some areas the quality of air may not be to a standard which would be conducive to sitting/eating/drinking outside and may in fact be potentially harmful or unpleasant. Applicants are expected to consider traffic volumes and the proximity of bus stops, taxi ranks and other areas before making an application.
- 2.6.2 When the area is to be used for eating, smoking must not be allowed in the area and a separate area must be allocated for smokers away from the tables and chairs. No smoking signs must be erected during periods where food is being served to protect all diners.
- 2.6.3 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.
- 2.6.4 The approved licensed area must be kept clean and litter free; and every effort should be made to ensure that litter does not stray onto neighbouring areas. Any litter that does stray must be collected by staff at the premises where the tables and chairs are located.
- 2.6.5 External public address systems or amplified music will not be permitted within the licensed area. External lighting as part of any enclosure will be considered on a case by case basis to ensure it is appropriate and does not impact on the visual impact of the street and location.

2.6.6 Non furniture items (e.g. menu boards) must be included within the defined pavement areas, as well as signs advising wheelchair users if there is an absence of accessible toilets on the premises.

2.7 Other Needs/Neighbours

2.7.1 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. Those needs will be examined closely by the authorities that are dealing with the formal applications made under the current legislation. Applicants are encouraged to consult with neighbours, support groups or service providers and to enclose any letters of support for the proposal prior to submitting an application.

2.7.2 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.

2.7.3 There must be no hindrance to 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 unobstructed and accessible at all time. Other utility points must be easily accessible at all times.

2.8 Where a utility company requires access to the highway, the tables and chairs must be removed for the duration of the works to prevent hindrance or obstruction.

3 Consents required and Consultation

3.1 Highway Licence

3.1.1 The council will consult with all or some of the following bodies when considering an application. Then council reserves the right to consult with any other party who may have an interest in an application.

- The Highways Authority
- The Environmental Health Team
- The Police
- Neighbouring residents and other businesses likely to be affected by an application
- Council's property Services team
- The council's planning authority
- Ward members in whose ward the premises is located
- The relevant Parish council

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 routinely consult with the Planning Authority.
- 3.2.2 If the Planning Authority considers 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. The council expects applicants 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 a licensed premise will be referred to the Licensing Police for consultation.

4 The application process

4.1 Supporting documents

- 4.1.1 The following supporting documentation is required at the time of a new application:
- 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 confirmed as received by the council's licensing team.
- 4.2 For renewals where there is no change, only the application form and fee is required.

5 If Permission Is Granted

- 5.1 Highway licenses are renewable annually. If the premises conduct its business within the terms of the conditions of use, the renewal application would normally be granted. The granting of a license does not give an automatic right of renewal in subsequent years. The council expects applicants to submit their renewal application at least 1 month before the expiry of the licence to ensure continuity of authorisation.
- 5.2 The council will in most cases consult only with the highways authority, the ward member and the police on renewal applications, but reserves the right to consult other parties on a case by case basis.
- 5.3 The highway licence will limit the hours during which the tables and chairs may be used on the highway and may in some cases 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.
- 5.4 Special additional conditions may be added to the licence as and when necessary on grant or renewal and in particular when the area is used for alcohol consumption during the late night economy period.
- 5.5 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; and/or 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.
- 5.6 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. The licensee will be responsible for the behaviour and actions of customers whilst they are in the licensed area.
- 5.7 The council will require that the activities of the licensee and the customers must be contained 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.

- 5.8 The 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.
- 5.9 In addition to the smoking restrictions listed in paragraph 2.8.2, applicants must ensure that any areas where smoking is permitted comply with the smoke free legislation introduced on 1st July 2007.
- 5.10 Where licences are refused or not renewed the council will inform the highway authority who will exercise their power to remove the unlicensed furniture and other items from the highway.

6 If an application is refused

- 6.1 Where an application is refused the council will provide reasons for refusal in writing. There is no right of appeal against a refusal of an application or against conditions that are added to a licence. However, aggrieved applicants may write to the Head of Commissioning and Governance to request an informal review of the application and the decision.

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