

# Development Services

## Pavement Cafes – A Guide for Business



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## **Introduction**

This guidance document is intended for use by businesses wishing to establish a pavement cafe. It outlines some general guidelines that business owners should consider when designing the cafe and furniture, establishing boundaries and the overall management and operational arrangements.

Following the steps in the Council's policy and this guidance does not guarantee permission will be granted but it will assist in minimising the risk of an application being refused.

**Each application will still be considered on its own merits.**

## 1. Designing a Pavement Cafe

- 1.1 The area to be used must take into account other needs in the immediate vicinity e.g. kerbside space, parking, bus stops and pedestrian crossings. Pedestrians' needs must remain paramount. A pavement cafe must not conflict with any access or dropped paving or crossing required for free passage of normal road users. Barriers and tapping rails should be positioned and maintained to the satisfaction of the Council and should be totally removed outside the permitted hours of operation of the cafe.
- 1.2 If the pavement cafe is proposed to be laid out so as to have a pedestrian route passing through it then that route should be as straight and obvious to users as possible. The positioning of tables and chairs should never discourage pedestrians from using the footway.
- 1.3 In general all parts of the highway may be used for pavement cafes, assuming all safety and non-obstruction requirements are met. The exemptions to this are;
  - Any carriageway or 'shared use surface'
  - Any highway verge
  - Where the width of the pavement makes it impossible to be free from obstruction.
- 1.4 Licences will not normally be granted where;
  - A significant effect on road safety would arise either from the siting of the tables and chairs or from customers visiting or leaving the licensable area, or
  - Where there are concerns over the recorded level of personal injury accidents in the street or in the proximity to where the tables and chairs will be sited, or
  - There would be significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odours or fumes, or
  - There is a conflict with Traffic Orders such as waiting restrictions, or
  - The site obstructs either pedestrians or vehicular access or traffic flows or places pedestrians in danger when in use, or
  - The tables and chairs obstruct the safe passage of users on the footway or carriageway, or
  - The area to be licensed interferes with sight lines for any road users such as at road junctions or pedestrian crossing facilities, or
  - The site does not allow the licence holder, staff or customers to park in a safe manner, or

- The Council is not satisfied that the applicant has made satisfactory arrangements for the storage and collection of all refuse that may result from use of the highway associated with their business, or
  - The Council is not satisfied that the applicant has made satisfactory arrangements for the storage of all tables and chairs off the highway without impeding any access to or egress from their premises.
- 1.5 In considering the above matters the standard guidance will be that a licence will only be issued if an unimpaired pedestrian route can be maintained at all times. The route shall ensure that all pedestrians and particularly those with disabilities can maintain their normal path where feasible.
  - 1.6 The Council will carry out periodic inspections to make sure that all terms and conditions of the licence are being observed.
  - 1.7 Pre licensing visits will be made to each premise upon receipt of an application for the grant, renewal or variation of a pavement cafe licence. The Council will discuss the application process, the proposed operation of the cafe and anything else associated with the application deemed necessary to provide advice and information associated with the application.
  - 1.8 Following the grant of a licence further visits may be made to the premises upon receipt of complaints or for other operational enforcement needs.
  - 1.9 In certain areas due to the increased vehicular movement it may be inappropriate to site a pavement cafe. Applicants should consider proximity to bus stops and taxi ranks and avoid locations near to known traffic congestion hotspots.

## **2. Creating a Boundary**

- 2.1 Once the size and layout of the pavement cafe has been agreed then it must be adhered to at all times. The operator/licensee will need to define the boundary of their pavement cafe with a barrier. A plan with details of the barrier and layout must be included with the application.
- 2.2 The barrier must be approximately 1 metre in height and specific in design to guide people with disabilities safely around the boundary of the pavement cafe.
- 2.3 Posts, chains and rope barriers are potential hazards to pedestrians particularly the visually impaired so their use needs to be carefully considered.

- 2.4 Structures must be sturdy enough to prevent collapse if accidentally walked or stumbled into.
- 2.5 Details of the boundary structure should be submitted as part of the application. Those details will then form part of the licence conditions.
- 2.6 All activities and furniture associated with the pavement cafe must be contained within the appropriate boundary including all tables, chairs and menu boards. All such items must be removed at the terminal hour stipulated on the licence.
- 2.7 Once the pavement cafe area has been agreed and permissions granted the Council will issue a licence including a plan of the area licensed showing the boundary of the pavement cafe. A copy of this licence and plan must be kept on the premises at all times and be available for inspection by a Council Officer or a Police Officer upon request.

### **3. Furniture**

- 3.1 The Policy does not define a type or style of furniture to be used in the pavement cafe. The Council however wishes to create high standard pavement cafes using quality furniture. The Council may reject an application if furniture proposed for use is not appropriate or may withdraw an existing licence if the furniture used is not appropriate.
- 3.2 All tables, chairs or benches should be constructed out of quality materials, preferably wood or metal. Most plastic furniture, such as garden type furniture, will not be accepted and a mixture of styles will not generally be acceptable. Tables should generally be of a height to accommodate wheelchairs. A photograph of the type of furniture proposed for the pavement cafe is required with the application.
- 3.3 The colour of furniture should not be too bright or garish or overly reflective. However the design and colour of the furniture should take into account the needs of those pedestrians with visual impairments, use of grey colours should therefore be avoided.
- 3.4 If parasols are to be used details should be included with the application, together with photographs, including their colour and material. Bright garish colours should generally be avoided.
- 3.5 Parasols must not overhang beyond the licensed area and be positioned so that they do not cause danger to any user of the pavement cafe or any passing pedestrians. They must be removed along with all other furniture when the pavement cafe is not in operation. If in exceptional circumstances it is necessary to leave parasols in place over night or during periods of non-trading this will need to be specifically requested.

- 3.6 Advertising of the premises is permitted on the parasols and barriers provided it is not too dominant and should be sympathetic to the building, the premises and its surroundings.
- 3.7 Any patio heaters must be specified as part of the application and their proposed location shown on the site layout plan.

#### **4. Management and Operation of the Pavement Cafe**

##### ***Service***

- 4.1 Where the pavement cafe does not adjoin the frontage of the main building, a health and safety risk assessment covering the operation of the area in question must be submitted with the application. The same assessment must be submitted in the case of a renewal application if not previously provided.
- 4.2 The type of drinking vessels and drinking containers taken into or served within the pavement cafe area shall be at the discretion of the Council in association with any existing premise licence conditions imposed by virtue of the Licensing Act 2003. Different requirements may therefore be applied to individual premises on a case by case basis.
- 4.3 A single menu board or 'A' board can be used provided they are within the agreed curtilage of the designated cafe area and are of an acceptable size and sympathetic to the overall character of the pavement cafe and building.
- 4.4 Pavement cafe areas are not for the exclusive use of customers who wish to smoke and operators should manage this accordingly.

##### ***Food Hygiene and Facilities***

- 4.5 Under normal circumstances there should be no preparation or storage of food and drink outside of the normal premises due to the risks of contamination and potential difficulties with temperature control. This requirement may be varied with the prior written consent of the Council in consultation with the Environmental Health Service.
- 4.6 Good food hygiene practices must be adhered to at all times to minimise attraction from any pests all tables should be cleared once the customers have finished their meal/food and have left the table.
- 4.7 Before submitting an application for a pavement cafe licence or for planning consent for a pavement cafe you are advised to speak to an Officer from the Council's Environmental Health Service about toilet provisions at your premises. The proposal to introduce, provide or increase seating at your premises as a result of the issue of a pavement

cafe licence may have an impact on the required toilet facilities at your premises.

### ***Litter and Cleaning***

- 4.8 The licensee will be fully responsible for the operation of the pavement cafe in accordance with the conditions and permissions and in particular;
- Suitable litter/refuse bin(s) must be provided within the pavement cafe area at all times when the pavement cafe is operating.
  - The area must be regularly swept avoiding nuisance to customers and kept clear of all litter/refuse
  - The operator must ensure that the area is promptly cleaned following spillages.
  - At the end of every operating period the pavement cafe area must be washed down.
  - Failure to comply with the cleaning requirements may result in a notice of compliance being served. Failure to comply with the notice may result in refusal to renew or withdrawal of the licence.

### ***Hours of Operation***

- 4.9 Generally pavement cafe licences can now be issued to operate between 8.00am and 8.00pm. The Council may permit operating times to run until 9.00pm during the summer months (the beginning of April until the end of September). Should you require operating times of later than 8.00pm then you should speak to the Police representative identified in the contacts list at the end of this Policy before submitting your application.
- 4.10 When requesting finishing hours later than 8.00pm, you will need to have due regard to your surroundings in particular whether you are in a residential area and any relevant highway issues. This may mean that later operating times may not be suitable for all applications.

### ***Sales of Alcohol***

- 4.11 If you wish to sell alcohol from the premises or cafe area you will need a premises licence under the Licensing Act 2003. This is a separate application process and you should contact the Council's Licensing Service.

### ***Being a Good Neighbour***

- 4.12 Being a good neighbour is an important responsibility for operators of pavement cafes. Complaints about noise, anti-social behaviour and issues surrounding access to the highway as a result of the operation of



the pavement cafe or the behaviour of customers using the area can lead to the withdrawal of the licence. It is therefore important that business owners ensure effective management arrangements are in place.

4.13 The following steps will assist a licensee to be a good neighbour and may reduce the likelihood of attracting complaints or attention to the business;

- Ensuring that there is no risk or nuisance to customers and users of the public highway or nearby premises.
- Ensure that the pavement cafe area is kept under supervision at all times of operation.
- Ensure that all users of the pavement cafe must be seated at all times.
- Ensure that all tables, chairs, parasols etc. are removed from the pavement cafe area outside of the hours of operation and stored off the public highway.
- As the operator you must take responsibility for the conduct of people within the pavement cafe area (as the licensee). Unruly or rowdy behaviour may lead to withdrawal of the licence or refusal to renew the licence.
- The playing of amplified music is not permitted within the pavement cafe area or outside of the building.
- Third Party Liability insurance must be in force to the value of £5,000,000 to cover the pavement cafe area and indemnify against claims of injury, damage or loss arising from incidents as a result of the pavement cafe licence being in place.

4.14 Utility providers (electricity, telephone, gas etc.) have rights which may require a pavement cafe to cease operation for a period if maintenance or repairs to their apparatus is needed.

4.15 Access by the Council, the emergency services and utilities companies must be available at all times. If the operator is requested to move any tables and chairs or other items within the designated area by any of the above the operator shall immediately comply with that request.

4.16. It should be noted that the Council will not be held responsible for any loss of trade and/or income from the cafe as a result of such activity.

4.17 Access to the designated area shall be provided at all reasonable times to authorised representatives of the Council for the purpose of inspection.

4.18 Every effort should be taken to avoid damage to the highway or adjoining property. Any damage caused by any activity in connection with the pavement cafe operation will be recharged to the licensee.

Further information and assistance can be obtained by emailing [licensing@southtyneside.gov.uk](mailto:licensing@southtyneside.gov.uk)