

Guidance Notes on Applications and Terms and Conditions relating to Pavement Cafes on the Highway

Permission from the Council is required to operate a pavement café on the highway. When permission is granted, the permission holder must comply with any conditions imposed and adhere to the terms and conditions as set out in the licence and this guide.

Fees

The current fees will be shown on the application form. Please note that the first year application fee of £210 for Pavement Café's is non refundable should your application be refused.

Granting of Permission

Permission will only be granted if there will be a suitable footway width remaining after the items are placed on the highway. If the Council grant permission it will contain specific limitations and conditions in addition to the standard conditions below that must be complied with. Permission is granted for a period of 12 months and may be reviewed at any time. Any breach of the licence conditions may result in the permission being revoked.

Application Form

To apply for permission, you will need to complete an application form. This can be done online via the Council website at www.wirral.gov.uk. Forms are also available by calling Streetscene on 0151 606 2004, or directly from the Regeneration & Environment, Cheshire Lines Building, Canning Street, Birkenhead, CH41 1ND. The Council will confirm receipt of your completed application normally within 10 working days but your application will take approximately 8 weeks to process due to the consultation period.

You will be required to provide proof of adequate Public Liability Insurance, usually a minimum of £5,000,000 (five million pounds) before a licence will be issued. You will also be required to confirm that your Public liability Insurance covers items that you have placed on the highway. This is to ensure you are adequately covered for any claims, damages or losses arising from the placement of your items or from your business within the highway. You must not place tables and chairs on the highway prior to permission being granted.

Planning Permission

For Pavement Cafes, proof of planning approval must be provided before permission will be granted. Advice on obtaining planning permission can be obtained by calling Streetscene on 0151 606 2004. The production of a valid planning approval does not guarantee that the Highway Authority will grant a licence, as different criteria and legislation applies to each process.

Permission

Permission will normally be valid for a period of 12 months but may be reviewed at any time. If an application to renew permission is received 8 weeks prior to the permission expiry date and this is approved, permission will be extended for a further period of 12 months. A decision to approve the renewed permission will depend on a number of factors including continued compliance with any terms and conditions and the advice contained within this guidance note. A breach of the terms and condition of permission at any time could result in formal enforcement action, and permission being revoked and may affect any future decision.

Standard Conditions

The following standard conditions will apply to any permission; additional conditions may also be applied.

1. Permission is issued for use of the highway including the placement of item(s) within it, provided such items are displayed and sited exactly as defined in this permission and in accordance with these conditions;
2. All items placed on the highway must be fit for purpose, must be stable, robust and maintained in good repair and condition;
3. The permission document be kept on the premises at all times and be available for inspection by an authorised officer;
4. No items are authorised to be attached or affixed to any highway structure, street furniture, post or column;
5. The footway fronting the whole premises including but not limited to the permitted area and extending to the kerb edge, must be regularly inspected and ALL litter removed so the area is maintained in a clean and tidy state. This includes smoking related litter and any other litter, even if it is not directly related to the business. Litter must be correctly disposed of;
6. The granting of Permission does not imply any permission to excavate, mark, alter or damage the highway in any way. The Permission holder will be liable for the costs of any repairs undertaken by the Council as a result of any damage arising from the use of the licensed area;
7. All items must be immediately removed from the permitted area if the Highway Authority, a statutory undertaker or other authorised organisation have need to undertake works on, under or adjacent to the highway, at any time and for any period without the Council being liable for any losses claims demands costs or expenses whatsoever;
8. All items must be removed from the permitted area at any time the business is not open for trading, (or outside of the permitted times or days, if stipulated) and the permitted area left in a clean and tidy state;
9. The permission holder shall be liable for and shall indemnify and keep indemnified the Council against any liability losses claims demands proceedings damages costs charges and expenses whatsoever arising under any statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to any property whatsoever which arises out of or is connected with this Permission;
10. The Permission Holder shall at all times maintain in force such policies of insurance as shall fully insure and indemnify the Council against his liability under Condition 10 in the sum of at least £5,000,000 (five million) in respect of any one occurrence or series of occurrences arising out of one event. A copy of such policy of insurance must be available for inspection as and when required by the Council;
11. Permission holders are required to advise the Council when the pavement café is no longer being displayed on the highway.
12. Permission is personal to the Permission Holder and cannot be assigned to another;
13. Permission may be revoked if the holder breaches or fails to observe or perform in accordance with any of the conditions. This is in addition to any actions that the Council may take by virtue of statute or legislation. In the event that permission is terminated the Council will not be liable for any losses claims demands or expenses whatsoever;
14. Both the Permission Holder and the Council hereby agrees to be bound by the provisions of this Agreement.

Additional Important Information

- 1** Permission to locate pavement cafes remotely from the business premises will not be granted;
- 2** The Council will not grant permission where it is considers that the location of the item may constitute a danger on the highway. In addition to checking for obstruction of the footway, the Council will also consider the effects on visibility and sight lines and access from the adjacent carriageway for loading and boarding/alighting from vehicles. Items will not normally be permitted in locations at or very near to junctions, traffic signals or pedestrian crossing points. In all cases the through route for pedestrians must be directly in the line of the main pedestrian flow and not involve kinks, detours or sharp changes of direction to pass the display item;