

## **Street Café Licence- Guidance for Applicants**

The County Council welcomes well designed and managed street cafés. This guidance is based on good practice and is designed to help those seeking permission from the Highway Authority for a Street Café Licence. Each application will be considered on its own merits taking into account its individual circumstances. The aim of the guidance is to ensure that street cafés are established in appropriate and safe locations, are well designed, and are managed so as to enhance the environment of town and city centres for the benefit of all whilst being mindful of others needs in order to lawfully use the highway.

### **1. Other Permissions**

Where premises are leasehold, check the details of the lease before making any formal applications. Many leases include restrictive covenants, preventing certain types of activity. Most leases also require the landlord's consent before carrying out work and it is a mandatory requirement of this process that the landowner is given official notification of the proposal and an opportunity to object. In some instances, the Local Council or Highway Authority will be the registered landowner.

A street café licence only provides permission for the creation of an area to place tables or chairs on the public highway. The granting of a street café licence does not imply that other necessary consents will be approved; separate permissions may be required for:

- Planning permission for change of use of the land (that part of the highway to be occupied by tables and chairs) will normally be required from the Local Planning Authority (LPA), the District Council (or National Park if applicable). It is the responsibility of Street Café Licence applicants to apply for planning permission if required. Where approval is granted, conditions may be imposed e.g. hours of use, number of tables, the stability and design of the furniture, the means of enclosure etc.
- If it is intended to serve alcohol OR play live or piped music within the street café area, it may be necessary to apply separately for a licence under the Licensing Act 2003 to the appropriate Licensing Authority (usually the local District Council, see details on page 17). In addition, if you currently have a licence issued by the District Council's Licensing Authority it will not include activities on the highway and you will need to ensure compliance with any conditions or restrictions therein.
- The local District Council may operate a system of streets which are prohibited from street trading and streets where consent is specifically required. Street Trading consent may be required from the District Council.

The granting of separate permissions by the Local Planning Authority, Licensing Authority or Police Authority does not imply that a Street Café Licence will be granted by the Highway Authority.

### **2. Hours of operation**

The hours of operation of the café must be agreed with the County Council and must be adhered to at all times.

- Consideration should be given to market days, annual fairs, Bank Holidays or other events which may result in greater than usual numbers of pedestrians. These and other days may be excluded from the licence as on those days the whole of the width of the pavement may be required.
- Hours are subject to approval and are dependent on the location of the café area. In some areas delivery vehicle access will mean the operation must be restricted to certain hours.
- Applicants note that all furniture or equipment forming part of the licensed area **MUST** be able to be stored within the curtilage of the building area during normal opening hours, as the street café licence hours of operation may be more limited than the general business hours. Street café furniture or equipment which is on the highway outside any time restriction (permitted hours) stated in the licence will result in revocation of the licence and may result in furniture being removed.

- The licence does not give exclusive rights to the area and others may have rights over it for events, maintenance, repairs etc. In particular utility providers have rights under the New Roads and Street Works Act to carry out work on their apparatus e.g. gas, water, and electricity companies. The County Council reserve the right to temporarily suspend the licence in such circumstances. In these circumstances the County Council may be unable to provide notice of utility works; however, the County Council will endeavour to give as much prior notice as possible. The County Council shall not be liable to pay compensation to the licensee in any such circumstances.

### **3. Access**

#### Space

- In no circumstances will a licence be issued where this would result in a remaining usable width of footway of less than 2 metres. This is to ensure that pedestrian and particularly those with visual and mobility impairment and pedestrians with double-buggies can maintain a suitable route. This 2 metre width must be clear of existing street furniture, signs, planters, litter bins, street lights, bollards etc.
- For safety a minimum of 2m should be left between the boundary of the seating area and any space regularly used by vehicles (adjacent carriageway or vehicular route).
- No permanent fixtures or obstructions associated with the operation of the Street Café should be left in the footway. The operator shall be liable for ensuring that all obstacles that may cause a trip or safety hazard are removed at the close of business.
- Emergency exits and vehicular access points from the premises or adjacent buildings must not be obstructed by the licensed area.

#### Position

- The Street Café should generally occupy an area directly in front of and be visible from the existing business premises and should not extend beyond the frontage of its own premises. A licence will not normally be granted if the street café is not directly adjoining the premises (i.e. a footway gap between the premises).
- The layout of tables and chairs must be such that the pedestrian route is obvious, clearly defined, and straight as possible and unobstructed at all times. The County Council, retain the right to demand the removal of any associated furniture that they consider to be problematic in this respect.
- Consideration will be given to the gradient and fall across the path upon which the Street Café is to be located. For accessibility and public safety, tables and chairs will not be permitted on footways with a gradient exceeding 1 in 20.

### **4. Design/ layout of the café area**

The design and location of the premises will be considered within the context of the city, town or village. The street café furniture must be of a good quality design especially in more historic areas. It should not adversely affect the architectural or historic character of a Listed Building or its setting or the Conservation Area in which it may lie and this will be a material consideration when making an application for Planning Consent.

#### Enclosure

The County Council require the boundary of the licensed area to be defined through a means of enclosure; the selected means must be stated in the application.

- Installation of a barrier, fence or planter may provide suitable means of enclosure. A series of metal studs will be fixed into the footway to define the maximum extent of the licensed area. Installing such studs can only be carried out by the County Council, but costs incurred in completing such works are the responsibility of the licensee.
- Both a hand and tapping rail must be provided to assist people with impaired vision to recognise the perimeter. This must be to an agreed standard and may be themed to match the rest of the café furniture. It must be maintained in a clean and tidy condition and should not be placed so as to obstruct any entrance or exit to buildings.

- The means of enclosure must be easily transportable as this will need to be removed from the licensed area outside of the operating times.
- The enclosure must be stable, sturdy and it must not have any protruding parts; it should be suitable for those that are visually impaired.

#### Furniture layout

- The position of the tables, chairs or other equipment should not obstruct the sightline of drivers, visibility at junctions, traffic signals, highway signs, fire hydrants etc or be near pedestrian crossings and dropped kerbs where access may be restricted.
- Furniture layout must not provide any obstruction or inconvenience to disabled customers and space should be left between tables for wheelchair access.
- The layout should consider the need for litter bins or similar receptacles for the deposit of cartons, wrappers, containers or similar and similar discarded items and ensure that where these are provided that they are emptied daily and more often when required. Waste from the holders operations must not be disposed of in the permanent litter bins provided by the District Council within the highway, but in bins provided by the applicant inside the licensed area.

#### Advertising

- The holder cannot display any signs, adverts or banners anywhere on the Highway or outside of the perimeter of the licensed area without permission of the County Council and necessary planning permission.

#### Suitability of supporting facilities

The suitability of the existing facilities of the proposed area should be considered:

- If toilet facilities do not meet the requirements necessary for wheelchair access, a sign should be displayed within the premises but visible from outside to ensure people are aware of this.

### 5. Furniture

- Reasonable quality seating and tables are expected.
  - All tables, chairs, benches etc should be fabricated from metal, wood or other high quality materials. Plastic (garden type) furniture will not be accepted.
  - Tables and chairs used need to be stable and suitable for the surface on which they are used.
  - A mixture of furniture is not recommended. The materials and colours should not be too bright, garish or overly reflective.
  - Tables should be of a design to permit wheelchair use (Picnic-type benches are not suitable for the mobility impaired).
  - The use of heaters or lights is not permitted.
  - Parasols/umbrellas are not permitted.
- The design, style and colour of the furniture should take into account the needs of those pedestrians with a visual impairment. Consideration must be given to the requirements of the Disability Discrimination Act 1995 and associated Codes of Practice.
- Wheelie bins, refuse sacks, beer kegs, cans, bottles and other unsightly items should not be kept on the street. All such items must be stored within the premises and not on the public highway.

### 6. Management

- The Street Café area should be used for the service and consumption of food and drink only. There should be no preparation or storage of food or drink outside the premises where there is a risk of contamination. The Street Café must not operate a 'Takeaway' facility. All food / drink consumed in the Street Café area should be ordered and purchased there.
- The approved café area must be kept clean and litter free by the operator who should ensure that litter does not stray onto neighbouring areas.
- The area should be swept regularly and at the end of each day to limit hazards. This should be completed whenever necessary and in a way that does not create a nuisance to other parties and neighbouring premises.

- The conduct of people within the cafe area is the responsibility of the operator – unruly, rowdy or intimidating behaviour may lead to the withdrawal or non-renewal of a licence. Any request from the Police for this action will be taken extremely seriously and acted upon. The Police may also request other conditions, for example the use of plastic containers, or increased supervision at their discretion.
- Third party Public Liability Insurance cover by the operator will be required for the street cafe area. The operator is required to indemnify the County Council against claims in respect of injury, damage or loss arising out of the grant of permission.
- Regular inspections will take place and if conditions of the licence are not met then the licence will be revoked and no refund will be made.

## 7. Costs

- Applicants are required to pay a fee (VAT non-payable) to cover the costs incurred by the County Council in preparing and administering the licence.
- The fees are based upon the number of tables (and size of licensed area). The fees for **new applications** and for **renewal of existing licences** can be found on the County Council website at [www.northyorks.gov.uk/highwayfees](http://www.northyorks.gov.uk/highwayfees)
- Applicants must be aware that a proportion of the fee will be non-refundable.
- The County Council will define and implement boundary points to the licensed area with brass studs, the cost of which will be charged to the licensee in addition to the licence fee.
- Any damage caused to the highway surface by an activity in connection with the operation of the licensed area will be repaired by the County Council and charged to the licensee.
- The licensee must indemnify the County Council against all action, proceedings, costs, claims, demands and liability arising from the use of the highway under the permission granted. The licensee must take out at their expense, Public Liability Insurance approved by the County Council in the sum of at least £5 million in respect of any one event and must present on request current receipts for premium payments and confirmation of annual renewals of the policy.
- As the County Council is indemnified by the licensee, it is a requirement that the licensee will ensure that their premises Health, Safety and Welfare procedures will include the operational area of the street café. The obligations of the Health & Safety at Work Act remain the responsibility of the licensee.
- The holder is responsible for any rates, taxes and other outgoings charged in connection with the license area.
- Licences are NOT transferable; however, they may be renewed at the renewal fee if the details of furniture, perimeter materials and times/ dates of licence remain the same.

## 8. Works

- Any work on the highway must be carried out by the County Council, and funded by the applicant.
- The holder must not make any excavations or indentations of any description in the surface of the highway or place or fix any equipment of any description in the surface, unless agreed with the County Council in writing.

## 9. Licence Refusal

- The County Council will consult with all stakeholders before arriving at any decision to grant a Street Café Licence or otherwise.
- If applicants are unhappy with a decision made by the County Council NOT to grant a Street Café Licence, although there is no Street Café Licence appeal process, applicants may contact the County Council through the complaints procedure which is available on the website at: [www.northyorks.gov.uk/complaints/](http://www.northyorks.gov.uk/complaints/)