

## **Tables and Chairs on the Highway**

### **A Guidance Note for Applicants**

#### **1. Introduction**

1.1 We support and encourages the provision of external tables and chairs outside cafes and restaurants, as they make a positive contribution by adding vitality, colour, life and interest to the street scene. They can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live, and work in the Borough.

1.2 Whilst the provision of external seated areas is encouraged, it is important that they are properly administered and managed to ensure that they meet the high standards expected in Eastleigh Town Centre. They should not obstruct the highway or create a hazard for pedestrians, especially for blind, partially sighted and other disabled people.

1.3 This guide is intended to help businesses understand where the provision of tables and chairs might be encouraged, the permissions needed from the Council and others and how applications will be assessed. Although each application will be considered on its merits this guide contains key points which must be considered in every case.

1.4 Should you wish to establish and operate seating outside your premises please read this guide thoroughly to check that your proposal meets all the criteria. Council officers will also be pleased to offer advice with your application.

1.5 Table and chair licences will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises and employ sufficient staff to provide table service to the outside area.

#### **2. Legal Situation**

2.1 Before agreeing to licence furniture, the Council must ensure that the public's rights to use the highway are not detrimentally affected.

2.2 The Council's standards also need to be complied with for health, safety and environmental reasons.

2.3 This guide relates only to the possible establishment of an area for tables and chairs on a highway. You should check to establish the status of the land in question.

Land which you consider to be private may in fact have become highway if the public have enjoyed access over it for at least twenty years or if the Council have formally adopted the land.

2.4 Before proceeding it would be wise to check with the Council's Transportation and Engineering unit to establish if any permissions are necessary.

### 3. Permissions Required

3.1 Permissions to use the highway for external seated areas are granted by the issue of licences by the Eastleigh Borough Council as agent for the Highway Authority under Section 115E of the Highways Act 1980.

**Tables and chairs placed on the highway without permission are an illegal obstruction and Hampshire County Council as Highway Authority will take enforcement action in such cases.**

3.2 A proposal to extend area beyond the width of your own frontage also needs the express consent of any other interested frontager who is affected by the proposal.

3.3 If you wish to serve alcohol in the area you may need a Licence under the Licensing Act 2003. Further advice on this can be obtained from [liquor.licence@eastleigh.gov.uk](mailto:liquor.licence@eastleigh.gov.uk). or telephone 02380 834209.

### 4. Design

4.1 To a large extent the allowable size and layout will depend upon the characteristics of the site outside your premises, the space available, the street furniture, the type of premises, etc. Ideally it should be seen as an integral part of the main premises rather than an unrelated after-thought. There are however a few fundamental principles to follow.

4.2 The tables and chairs should generally occupy an area directly in front of and be visible from your existing premises.

4.3 The needs of other users of the highway should be taken into account e.g. pedestrians, trades people, adjacent businesses etc. Be a good neighbour!

4.4 A clear pedestrian route must be maintained for those walking past the premises. This must not be less than 1.5 metres wide. Two kinds of siting will be considered. On normal street pavements or narrow footways the tables and chairs should be placed against the building. The presence of tables and chairs should never discourage pedestrians from using the footway.

4.5 Emergency exit routes from your own and adjacent buildings should not be obstructed by the street café and emergency service vehicles must have access along all streets at all times, even in pedestrianised streets.

4.6 It is not appropriate to set a standard size for layouts. Each application will be evaluated on its merits taking account of the site characteristics, the space available and the proposed layout.

4.7 The layout and means of enclosure must provide adequate access and circulation space for all customers including wheelchair users and those with push chairs, buggies, etc.

4.8 Tables and chairs should not be located where they will impede drivers' sight lines or obscure highway signs.

4.9 When designing the layout you should consider whether your existing toilet and washing facilities are adequate to accommodate increased customer numbers.

4.10 The area should not adversely affect the architectural or historic character of a listed building or its setting or the conservation area in which it is located.

4.11 If it is intended to use the area during the hours of darkness the applicant should consider the level of lighting in the proposed café area. Whilst this may be perfectly adequate for a highway it may need supplementing to allow your café to operate safely. If it is proposed to attach the lighting to the building, consent may be needed if the building is listed.

### **Boundaries**

4.12 Once the size and layout is agreed it is important that it is adhered to at all times. All activities associated with the café must be contained within the agreed boundary including all tables, chairs, parasols, planters, barriers/fencing etc.

4.13 In all instances, unless it is inappropriate or impracticable, you will have to provide a portable means of enclosure for the area such as barriers or planters. These should be stable and sturdy, not contain protruding parts and have a tapping rail. Limited advertising may be permitted on the enclosures but will be restricted to the name of the café only. They must not be used to advertise services or products sold and proposed details should be provided with the application.

4.14 When the area has been agreed a definitive plan showing boundaries and the dimensions will be attached to, and form part of, the license. **A copy of the Licence and plan must be kept on the premises at all times and be available for inspection.**

### **Furniture**

4.15 This guide does not wish to define a standard style of furniture, but **the furniture should be of a high quality and uniform style.** Only furniture approved by the Council may be used. The Council reserves the right to reject applications where inappropriate furniture is proposed.

4.16 When choosing your furniture you should have regard to the highway surface on which it will stand. Uneven or sloping surfaces may require more sturdy styles of furniture and tables and chairs with narrow or thin legs may cause damage to certain paving.

4.17 All furniture should be manufactured from quality materials preferably metal or wood. It may be advisable to discuss this at an early stage and certainly before any furniture is purchased. Full details, including metric dimensions, materials and colours, of proposed furniture, ideally accompanied by photographs, illustrations or drawings, will be required as part of the application.

4.18 At least one children's high chair should be available for customers to use within the area.

4.19 If you propose to use planters to make your seating area visually appealing, good quality plastic or glass fibre may be permitted as a means of reducing their weight to maintain portability.

**Please Note: If planters are to be used within your permitted area, these MUST be well maintained with a vibrant array of bedding plants/flowers. If planters are noted poorly maintained, without plants, or contain litter, cigarette stubs, glass products, the Highway Authority will request their removal with immediate effect.**

4.20 The colour of furniture should be attractive but not too bright, garish or overly reflective. The colour and design should take account of the needs of people with a visual impairment and ideally provide a contrast with the background.

4.21 If you intend to use parasols their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan. Parasols, when opened, should be safely secured and contained entirely within the proposed boundaries to ensure they do not cause an obstruction or present a danger to customers or any other users of the highway.

4.22 The design and colour of parasols will not be restricted to a particular type but they should be made of high quality materials and fabric and be of a uniform design and colour.

4.23 Canopies, awnings, blinds barriers etc. which are to be attached to the building may require advertisement consent or planning permission. Advice should be sought from the Development Control Unit.

4.24 If you intend to use space heaters their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

4.25 You will also be required to submit a formal risk assessment as required by the Management of Health and Safety at Work Regulations 1999 in support of your application. This should be carried out by a competent person (someone who has knowledge of the law, British Standards, and Health and Safety Executive Codes of Practice and Guidance).

4.26 In considering an application, the Council will have regard to the inherent safety of the equipment, its location, storage of Liquid Petroleum Gas cylinders, maintenance and training arrangements.

4.27 The Council will consider the adequacy of the risk assessment which must:

Identify the hazards e.g. fire, explosion, burns, impact from falling equipment/cylinders.

Decide who may be harmed and how.

Evaluate the risks and decide whether proposed precautions will be adequate or whether more could be done.

Record findings

Review assessment and revise

## 5. Managing the Area

5.1 Waiter/waitress service must be provided at all times. Customers should not be expected or encouraged to use the normal premises to order or collect food or drinks.

5.2 The crockery and cutlery used in street cafes should be of good quality and a uniform style. Menus should be readily available either at the tables or on request.

5.3 Customers are able to should be able to purchase **both food and drink** at street cafes at all times. This is intended to create a relaxed and sociable European style of eating and drinking that will appeal to a wide range of customers.

**Applications for the sale of drinks only, particularly for the exclusive sale of alcoholic drinks, will not be allowed.**

## Hygiene

5.4 The areas are to be used only for the service and consumption of food and drink. Food and drink must not be stored or prepared outside the normal premises as there may be difficulties with temperature control and a risk of contamination. It is imperative that good food hygiene practices are followed at all times.

5.5 The use of barbecues, rotisseries, ice cream machines, drinks machines or any other equipment for the preparation and / or sale of food and drink for consumption off the premises will not be permitted.

5.6 All the food and drink which is consumed within the street café area should be ordered and purchased there.

**5.7 All tables must be promptly cleared of all uneaten food, used crockery, cutlery etc. and properly cleaned of any spillage immediately they are vacated by customers.**

**5.8 Any food spilt on the highway must be removed immediately and the area washed at the earliest opportunity. This will minimise the likelihood of birds scavenging in the area.**

5.9 If birds roost on buildings or in trees adjacent to the site, applicants should consider providing parasols or some other form of cover in order to minimise the risk of food contamination.

### **Site Cleanliness**

5.10 The licensee will be responsible for the cleanliness of the area at all times. Care should also be taken to ensure that litter does not stray or get blown further a field. An area of approximately five metres around the site should be kept clear of any stray or wind blown litter.

5.11 The area should be swept when necessary to keep it clear of litter and refuse. Spillages and breakages, especially of glass and crockery, should be cleared up immediately. Care must be taken to avoid nuisance to customers and to ensure that hazards are not created during this work. **The area should be thoroughly washed at the end of each trading day.**

5.12 At least one suitable litter bin must be provided at all times of operation. Wheelie bins are not suitable for this purpose.

5.13 If the area is “substantially enclosed” smoking may not be allowed. Further information on this is available from [eh@eastleigh.gov.uk](mailto:eh@eastleigh.gov.uk) or telephone 02380 688462. If smoking is not permitted a “No Smoking” sign should be placed on each table.

5.14 If smoking is permitted each table should be provided with an ashtray which should be emptied each time the table is cleared. Smoking related litter bins free standing to be taken in at the end of the day. **At the end of each day all discarded cigarette stubs must be cleared.**

5.15 All tables and chairs and other equipment must be properly maintained and kept in a clean, tidy and safe condition at all times.

**5.16 Failure to comply with the cleaning requirements will jeopardise renewal of the licence. Failure to comply with them at the end of the day may result in the Council carrying out the work for which the licensee will be charged.**

### **Good Citizenship**

5.17 It will be the responsibility of the licensee to ensure that the area is operated in accordance with these guidelines and the conditions of the licence. The area should be managed and maintained to the same standards as the interior of the premises.

5.18 The site must be operated in a safe and efficient manner ensuring that there is no safety risk or nuisance caused to other users of the highway or nearby premises.

5.19 The area should be kept under supervision at all times of its operation and all patrons/customers should be seated at all times. Patrons/customers are not permitted to drink whilst standing in the café area.

5.20 The Council will not permit any fixtures to or any excavation of any kind to the surface of the highway.

5.21 Every effort should be made to avoid causing damage to the highway or adjacent property. The cost of rectifying any damage to the highway surface or to street furniture caused by any activity connected with operation may be recharged to the licensee.

5.22 The Police will be consulted on all applications.

5.23 The licensee is responsible for the satisfactory conduct of people within the street café. Rowdy or unruly behaviour may lead to the suspension or termination of the licence.

5.24 Sound levels of any music, whether amplified or not, must be reasonable and must not cause a nuisance to any residents or businesses in the vicinity or to any other users of the highway.

5.25 The licensee will be required to indemnify the Council against all actions, demands, costs, charges or expenses arising from using the highway under the permission granted.

5.26 The Council will, therefore, require the licensee to take out third party public liability insurance in the sum of at least £5,000,000 with an insurance company of repute to be approved by the Council. Details of the third party liability insurance should be enclosed with the licence application.

5.27 Granting a licence does not imply an exclusive right to the area. The operator should be aware that the Council reserves the right to gain access to the area for cleaning, repairing and maintaining the highway or street furniture. Other organisations, such as statutory undertakers, may also require access for maintenance and repair of their equipment. The Council therefore reserves the right to suspend the licence temporarily if, for any reason, it becomes necessary.

5.28 The Council will not permit any wheeled refuse containers, beer kegs, bottle crates, A-boards or advertising signs or any other unsightly or unapproved items to be placed on or adjacent to the street café area.

The Council will need to be satisfied that applicants have made satisfactory arrangements for the storage and collection of all refuse associated with their business.

5.29 The Council reserves the right to refuse a licence to any applicant who has not made suitable arrangements for the internal storage and collection of refuse and to withdraw the licence if the approved arrangements are not adhered to.

### **Hours of Operation**

5.30 The Council does not wish to be too prescriptive on the hours of operation. However, the area will not be permitted to remain open later than 11.00 pm. The proposed hours of operation will need to be included on your application. **All furniture, etc. is to be removed and the street café area swept and washed within 30 minutes of closing.**

5.31 In certain pedestrianised areas the highway remains open to vehicular traffic during part of the working day, if the presence of tables and chairs on such highways would obstruct the free flow of traffic it may be necessary to restrict the opening

hours of cafes to between these times. In any case, the Council reserve the right to stipulate the hours between which the street café can operate.

## **6. Getting The Permissions Needed**

### **Your neighbours**

6.1 If you propose to extend the area beyond the width of your own frontage the Council will need to be certain that agreement has been reached with any neighbour whose frontage is affected by the proposal before it can approve your application. Although agreement cannot be unreasonably withheld we cannot force anyone to agree. Letters confirming these agreements should be forwarded with your application.

### **Highway Permission**

6.2 It is recommended that you seek advice before you submit your application. Council officers will be pleased to provide advice on specific cases before the formal application is made. This does not guarantee approval of permissions being sought but it may help to minimise expenditure on preparing an application and save expenditure in cases where an application would be turned down. We are here to help.

6.3 To apply for your permission to use the highway for the siting of tables and chairs you will need to complete an application form for a licence.

6.4 You should enclose with your application details of the furniture, parasols and the means of enclosure to be used. These details should include their metric dimensions, colours, materials, etc., as well as drawings, photos or pictures of the proposed items.

## **7. How Long Will It Take?**

7.1 Under the terms of the Highways Act 1980 the Council has to ensure that applications for licences are advertised for not less than 28 days by posting notices in the vicinity of the proposed street cafe. These notices set out details of the proposals and invite representations to be made by people who may be affected. The notice is reproduced with the application form.

7.2 As each application is different, then the time taken to process them will inevitably vary. In general, it is estimated that it will take approximately two months to

process an application from its receipt to issuing a licence. The application process will be expedited if your proposal complies with the good practice procedures contained in these guidelines, and your application is accompanied by all the required supporting information.

## 8. What Will It Cost?

8.1 The fee for processing an application is £200 for a licence which covers the administrative and legal costs incurred in the preparation and issue. The licence will need to be renewed annually. The annual renewal fee is £120.

## 9. The street café in operation

9.1 Licences issued by Eastleigh Borough Council are not transferable and should not, therefore, be regarded as a transferable asset.

9.2 Licences are normally granted for a maximum of one year and are renewable annually at the discretion of the County Council.

9.3 The licence will include a number of terms and conditions based on these guidelines that must be complied with.

**The Council will carry out periodic inspections to make sure that all the terms and conditions of the licence are being adhered to. These guidance notes MUST be kept on your premises at all times.**

9.4 The Council may suspend or terminate a licence if any of the conditions of the licence are breached.