



Bromsgrove District Council

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BROMSGROVE DISTRICT COUNCIL

STREET AMENITY CONSENT (CONTROL OF STREET FURNITURE)

POLICY, PROCESS AND CONDITIONS

PART 1 - Policy

1. Bromsgrove High Street has benefitted from a major reconstruction in high quality natural materials helping to establish it as a unique and striking destination of character. At the heart of the design is ease of movement along the High Street and the principle of equality of access for all.
2. The High Street uses contrasting and complementary materials and lighting to create visually different ambient zones throughout its length. Bromsgrove District Council wishes to further support this transformation of the High Street by establishing and encouraging the creation of street café areas along its length.
3. The aim of this policy is to enable, weather permitting, good quality pavement cafes, pubs and restaurants which can enhance the ambience of the High Street and contribute to a relaxed and sociable style of eating and drinking. This policy applies to the main pedestrian thoroughfare of the High Street not including Chapel Walk, Mill Lane and Church Street. For ease of reference the area covered by the policy is shown on the plan attached at Appendix 1
4. The purpose of this policy is twofold:
 - To highlight the requirements and standards expected of pavement cafés, pub and restaurant operations in the town centre
 - To guide those wishing to establish and/or operate pavement cafes, pubs and restaurants, through the Consent process
5. The Council authorises street cafes which are not situated on privately owned land, by the granting of a Street Amenity Consent (“Consent”). The Consent is renewable annually. Although previously consents for street cafes were issued by Worcestershire County Council, from May 2015 any new applications for consents in the High Street will be decided by the District

Council under this policy. The District Council will be relying on the powers set out in Section 115E of the Highways Act 1980. For premises that are not situated on the High Street, applications will still need to be made to Worcestershire County Council.

6. The following fees will be charged by the Council to process preliminary applications and annual renewals. Fees will be reviewed annually by the Council as part of its review of fees and charges

First application	£200
Annual renewal	£55

7. The Consent application process involves specific procedures following the guidance in this policy. There is an application form which needs to be completed by all applicants.
8. It will not normally be necessary to obtain planning permission for outdoor street cafes on the public highway, provided that the main existing premises have the appropriate planning permission and all facilities are portable. However, planning permission will be necessary if there is some form of permanent development associated with the pavement café. Further advice on specific applications will be available from the Planning Department who can be contacted on 01527 881288.
9. Upon receipt of an application, it will normally take two months for the application to be determined.
10. Some areas along Bromsgrove High Street have been specifically designed as Street Café areas and other areas may not be suitable. However each application is considered on its own merits using the criteria set out in this document.
11. The Council therefore reserves the right to refuse applications if they are considered to be inappropriate.
12. The Consent will relate purely to the use of the public adopted Highway land in relation to the premises that is the subject of the Consent. It does not relate to the use of any other external areas which may be within the ownership and / or control of the Consent holder.
13. Any Consent that is issued is subject to the general provisions and conditions set out in this Policy and may also have separate, premises specific, conditions attached to it by the Council.

The Criteria for Considering Applications

Size and Layout

14. Ancillary street furniture will only be allowed in an appropriate location outside of, adjacent to, or very near the premises or business with which it is associated. Consideration will be given to the operational requirements of neighbouring premises and their views will be sought on any applications made.
15. The layout must not conflict with or impede the safe passage of pedestrians (including the partially sighted and those using wheelchairs or mobility scooters) along the High Street. The main pedestrian only routes run parallel to the central granite thoroughfare along the length of the High Street in front of the shops and are defined in buff coloured 'moselden' york stone setts.
16. The proximity of the shop front to the main pedestrian-only route varies and so the application must be accompanied by a scaled plan showing the area of highway included in the proposal and distance from and any impact on the main pedestrian route. The scaled plan must include the layout and maximum number of seats and perimeter treatment, and illustrations and dimensions of the furniture to be used.
17. Where layouts may impinge on the main pedestrian-only routes, it may be possible instead to place tables and chairs in a clearly defined area near to, but not immediately adjacent to, the building or business. Alternatively if the proposed layout would result in pedestrians being diverted onto the granite thoroughfare the use of conditions to restrict the days/hours of operation may be considered. In all cases, as referred to above, the overriding objective of the policy is to ensure safe access to the High Street by all users including pedestrians and emergency vehicles.
18. The layout of furniture and means of enclosure will only be approved if provision has been made for customers with disabilities.
19. Street furniture must not be positioned as to block access to any existing fire exits, or to obstruct the emergency vehicular access route along the High Street.

Furniture

20. The furniture should be of a high quality and uniform style within the designated Consent area, appropriate for outdoor use. Plastic and/or picnic tables will not be approved.
21. Applicants should consider providing umbrellas or canopies in order to minimise the risk of food contamination from birds that may roost on trees and buildings along the High Street.
22. Any umbrella or canopy must not overhang the boundary of the pavement café. Use of umbrellas along with their location, materials and colour must be specified as part of the design. Umbrellas must remain unopened in high winds.

23. Canopies, awnings and blinds which attach to the building and pull over the seating area can be a positive addition to the appearance of the High Street. In some cases, however, they may require advertisement consent or planning permission.
24. Non–furniture items such as menu boards, signs and portable gas heaters, also need to be approved as part of the designated Consent area. The Council may require the removal of items it deems to be ‘unacceptable clutter’ or which intrude into sight lines.
25. All items need to be portable enough to be brought in at the end of the permitted period of each working day, for street cleansing purposes, or in the event of an emergency.

Environmental and Other Requirements

26. All pavement café operations must comply with the relevant food safety requirements. Applicants will also need to ensure that the necessary permissions under the Licensing Act in relation to the sale and consumption of alcohol are in place. Further information in relation to food safety and the sale/ consumption of alcohol can be obtained from Worcestershire Regulatory Services tel: 01905 822799.
27. Litter bins, of an approved type, for the deposit of cartons, wrappers, containers and similar discarded items, shall be provided in sufficient numbers to ensure the area is kept clean and tidy at all times.
28. Litter bins will be emptied, by the Consent holder, at least daily and more often when required.
29. It shall be the duty of the Consent holder to clean the section of the highway designated under the Consent.
30. All litter, breakages, grease or spillages must be removed immediately and further, the whole area must be thoroughly cleaned at the end of each working day to a standard to be determined by the Head of Environment Services. The cost of dealing with any drainage blockages resulting from the disposal of effluent or solid waste shall be the responsibility of the Consent holder.
31. If the consent holder allows smoking in the outside area covered by the policy, suitable receptacles must be made available and maintained by the consent holder.
32. Tables and chairs and other associated equipment, must be maintained in a presentable, clean, hygienic, tidy and safe condition at all times.

33. Suitable, sufficient and safe means of storage must be provided for those items to be removed from the highway outside operating hours. Further, safe means of erection, removal, lifting and transport of the street furniture must be provided.

Means of Enclosure

34. The applicant will need to include details of means of enclosure of the proposed pavement café area. This is required to demarcate the designated area which contains the tables and chairs and to make it distinguishable from other pavement users, and particularly to assist blind and visually impaired pedestrians.
35. Consent holder's should ensure that, where food and drink is sold for consumption on the premises, that the consumption of such food and drink remains within the boundary of the pavement café.
36. In some specially designed areas of the High Street means of enclosure will be provided by the Council. This is achieved via specially designed columns which are removable from a special housing set into the pavement. The columns are connected via solid bars from which café screens can be hung. The Council will provide the columns in these locations and the applicant will be expected to provide the café screens.
37. In other areas the design of the barrier should complement the character of the surrounding area and, in any event, must have solid bars/elements at around 100mm and 1000mm above ground level. Barriers must be readily identifiable by the partially sighted. Solid barriers are preferred. Rope barriers will be considered but may be rejected if it is felt that they are not suitably robust in design or would not be readily identifiable by the partially sighted. Small, moveable and properly maintained planters which create a neat 'hedge' when in place may be considered.

General

38. The granting of a Consent applies only to the named Consent holder in respect of the premises authorised and is outside of, and in addition to, any other licence or consent that may be required. Consent holders must ensure that any Premises Licence or other licence or consent held by them allows them to serve or otherwise provide food and/or drink for consumption in the area designated in the Highways Amenity Consent.
39. The list of standard conditions which will attach to all consents is set out in Part 3 of this document. In addition to the standard conditions, officers or the Licensing Sub-Committee may decide to attach individual conditions if necessary to reflect the particular location or lay out of the seating area.

Failure to comply with the Consent conditions may lead to the withdrawal of the Consent or refusal to renew the Consent in future years.

40. The provision of street furniture must be primarily in connection with the service of food and/or drink from the premises with which it is associated and shall not be solely for the use of smokers.
41. Any changes to any part of the pavement café operations (including furniture, other items, area or operating hours) must be agreed in writing with the Council and may need to be the subject of a new or revised Consent.
42. If there is a change in ownership of a food business which holds a licence then a new application will be required.
43. The hours of operation of the Consent will not exceed the hours of operation of the food business. The Council will not grant consents to food businesses to commence before 9 am or to finish later than 11pm. In certain areas there may be reductions placed on operating days and times due to specific local highway requirements.
44. Public Liability Insurance cover to £5m will be required for the designated Consent area and evidence of this must be provided to the Council upon first application and subsequent annual renewals and at such other times as the Council may request.
45. If the criteria in the policy are met and there are no objections officers will grant the consent. In the event that the criteria are met but there are objections then the decision whether or not to grant the consent will be referred to the Council's Licensing Sub-Committee who will provide a final determination of the application. The Licensing Sub-Committee's decision is final and there is no right of appeal.
46. All designated Consent areas are checked a minimum of once a year by the Council to ensure the street furniture is acceptable and that the Consent holder holds the required Public Liability Insurance.
47. The Council will take advice from the Police regarding the potential for anti-social behaviour at establishments and, if so advised, may require the use of plastic drinks containers for use in the designated Consent area.
48. Failure to comply with the conditions in this Policy and/or those specified on the Consent may result in the Consent holder being referred to a hearing before the Licensing Sub-Committee who may revoke, suspend or add additional conditions to, the Consent.
49. Consent holders must have regard to the requirements of section 115K of the Highways Act 1980, the provisions of which take precedence over all other conditions mentioned in this Policy or which appear on the Consent.

50. When undertaking enforcement activities, WRS will have due regard to the Regulators' Code and in particular will work with businesses to secure compliance with any formal action being a last resort.

PART 2 - Process

1. Applications must be made in writing and submitted to Bromsgrove District Council, The Council House, Burcot Lane, Bromsgrove B60 1AA
2. Applications must be accompanied by the following:-
 - Evidence of public liability insurance.
 - Scale plan showing proposed lay out of the seating area
 - Details of proposed street furniture, means of enclosure and any other items to be included within the enclosed area. (including description, photographs and supplier/technical details where appropriate)
3. The Applicant will be responsible for displaying a public notice at the premises to publicise the application for a period of no less than 21 days.
4. WRS will consult on the application on behalf of the Council with:-
 - The Town Centre Re-development Team
 - The Licensing Team
 - Community Environmental Health Team WRS
 - West Mercia police
 - Hereford and Worcester Fire and Rescue Service
 - Development Control
 - Conservation Officer
 - Environment Services/ Street cleansing
 - Ward councillors
 - Market Manager
5. WRS will in addition to the standard consultees listed above seek the views of neighbouring premises who will be notified in writing of the application.
6. Officers will consider all consultation responses and the criteria in the policy and the need for any additional conditions. Assuming that the criteria are met and there are no objections then the consent will be granted with additional conditions as may be appropriate. In the event that objections are received which cannot be resolved during the consultation period then the application will be referred to the Licensing Sub-Committee to be determined. The decision of the Licensing Sub-Committee will be final. There is no right of appeal.

PART 3 – Standard Conditions

1. The Holder(s) of this Consent shall not exercise privileges granted by this Consent otherwise than strictly in accordance with this Consent. It may be necessary for a temporary cessation of the Consent when events agreed by Bromsgrove District Council are being held.
2. The Holder shall produce this Consent on demand when so required by a Police Officer or a duly authorised officer of the Council.
3. The Holder(s) shall return this Consent to the Principal Licensing Officer immediately on revocation of this Consent.
4. The Holder(s) shall not cause any obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
5. The Holder(s) shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets whilst exercising privileges granted to this Consent unless otherwise agreed with the Council in writing.
6. The Holder(s) shall not make excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface unless otherwise agreed with the Council in writing.
7. The street café area permitted by the Consent must be used solely for the purpose of consuming refreshments and not for any other purpose.
8. The Holder(s) shall not take the issue of this Consent to exclude the requirement to obtain any other Consent, planning permission or consents which may be required to accommodate all of the proposals.
9. The Holder(s) shall make no claim or charge against the Council in the event of the chairs or tables or other objects being lost stolen or damaged in any way from whatever cause.
10. Notwithstanding the specific requirements of Condition 4, the Holder(s) shall not do or cause anything to be done in or on the highway which in the opinion of the Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the said Council or to the owners or occupiers of any adjacent premises or to members of the public.
11. The Holder(s) shall not assign, underlet or part with any privileges given by this Consent or any part thereof but the Holder(s) may surrender it at any time.
12. The Holder(s) shall observe and comply with any directions in relation to the use of the highway given by relevant officers of the Council.
13. The Holder(s) shall maintain the licensed area shown marked in red on the attached plan to the Consent, and the immediate adjacent area, in a clean and tidy condition during the Permitted hours and shall leave the same in clean and tidy condition and unobstructed, which will include (1) washing down the area, and (2) removing any refuse and litter on the highway in the vicinity of the tables and chairs. This will be carried out whenever necessary and in a way which does not create a nuisance to other parties and neighbouring premises.

14. Furniture must be of an agreed standard and may be themed to match the rest of the café, pub or restaurant furniture. It must be maintained in a clean and tidy condition and not placed so as to obstruct any entrance or exit to buildings, or be placed outside the allocated seating area.
15. The Holder(s) shall provide litter bins and similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items and ensure that the same are emptied daily and more often when required. The area should be clean and tidy at all times and waste from the holders operations must not be disposed of in litter bins provided by the Council.
16. The Holder(s) shall remove all furniture, equipment and litter bins placed on the highway at the end of each working day.
17. The Holder(s) shall indemnify the Council against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred in consequence of the use of the chairs and tables and other objects and for this purpose must take out at the Holder(s) expense public liability insurance in the sum of at least £5,000,000 in respect of any one event and must produce to the Council on request current receipts for premium payments and confirmation of annual renewals of the policy.
18. Nothing in this Consent shall be construed as the granting or purported granting by the Council of any tenancy under the Landlord and Tenant Act 1954 or any permission under the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof for the time being in force.
19. No alcohol shall be consumed on the highway unless a licence has been issued by the licensing Authority.
20. All food and drink should be served to the tables and customers discouraged from purchasing food away from the tables or standing while consuming food or drink. Signage must be displayed to this effect.
21. The Holder(s) shall be responsible for paying the annual renewal fee.
22. The Consent may be revoked for non-compliance with the above conditions and any additional conditions imposed, and the Council shall not in any circumstances be liable to pay compensation to the Holder(s) in respect of such revocation.
23. In certain circumstances the Holder(s) may be required to take immediate action to remove all facilities from the highway at the specific request of a Police Officer or duly authorised officer of the Council.

Appendices

Appendix 1 Area covered by the policy