

WYRE FOREST DISTRICT COUNCIL
DRAFT PUBLIC REALM AND STREETSCENE
(CONTROL OF STREET FURNITURE) POLICY
AND
LICENCE CONDITIONS FOR HIGHWAYS
AMENITY LICENCES

POLICY

1. The Wyre Forest towns of Kidderminster, Stourport on Severn and Bewdley have much to offer by the way of creating an ambiance that makes the area attractive to visitors and residents alike.
2. It is the Council's aim to have, weather permitting, good quality pavement cafes, pubs and restaurants, contributing to a relaxed and sociable style of eating and drinking.
3. 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 licensing process
4. The Council licenses street cafes which are not situated on privately owned land, by the granting of a Highways Amenity Licence. The Licence is renewable annually.
5. A Licence Fee will be charged by the Council on an annual basis to include all inspections and monitoring. The fee will be set annually by the Council as part of its review of fees and charges.
6. The Licence application process involves specific procedures following the guidance in this policy. There is an application form which need to be completed by all applicants.
7. 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 either some form of permanent development associated with the pavement café, or if permanent barriers are proposed.

AGENDA ITEM NO. 5
APPENDIX 1

8. Upon receipt of an application, it should normally take two months for the application to be determined, using the process described in the diagram shown in the Appendix.
9. Some areas in the town centres of Kidderminster, Stourport on Severn, and Bewdley may be appropriate for street furniture, others may not; however each individual application has to be considered on its own merits using the criteria set out in this document.
10. The Council therefore reserves the right to refuse applications if they are considered to be inappropriate.
11. The Licence will relate purely to the use of the public adopted Highway land in relation to the premises that is the subject of the Licence. It specifically does not relate to the use of any other external areas which may be within the ownership and / or control of the Licence holder.

The Criteria for Considering Applications

Size and Layout

12. Ancillary street furniture will only be allowed outside the premises with which it is associated. Where the width of pavement outside the building is 2 metres or less, no furniture will be permitted. When the width of the pavement is greater than 2 metres, furniture will only be permitted when safe pedestrian access can be maintained. This will normally be a minimum of 2 metres clear, unimpeded access clear of the carriageway used by vehicular traffic
13. Furniture must not impede access and egress associated with other needs in the immediate vicinity e.g. kerbside parking, bus stops, taxi ranks and pedestrian crossings.
14. The layout of furniture and means of enclosure will only be approved if provision has been made for customers with disabilities.
15. All emergency exits and routes must be kept clear.
16. Furniture must be located directly outside the premises with which it is associated. Consideration must be given to the operational requirements of neighbouring premises and their view will be sought on any applications made.

Furniture

17. The furniture should be of a high quality and uniform style within the licensed area, appropriate for outdoor use. Plastic and/or picnic tables will not be approved.
18. Where umbrellas are used these must be fabric type (i.e. non reflective). Umbrellas are to be positioned so as to avoid overhanging outside the enclosure or impairing vehicle sight lines.

AGENDA ITEM NO. 5
APPENDIX 1

19. Non–furniture items such as menu boards, signs and portable gas heaters also need to be approved as part of the enclosed licensed area, and any unacceptable clutter or intrusion into sight lines will need to be removed if it is seen to be causing a problem.
20. All items need to be portable enough to be brought in at the end of the licensed period of each working day, for street cleansing purposes, or in the event of an emergency.

Environmental and Other Requirements

21. All pavement café operations must comply with the relevant food safety requirements. Enquiries to Foodhealthandsafety@wyreforestdc.gov.uk
22. Litterbins, of an approved type, for the deposit of cartons, wrappers, containers and similar discarded items, shall be provided to ensure the area is kept clean and tidy at all times.
23. The bins will be emptied, by the applicant, daily and more often when required.
24. It shall be the duty of the person to whom the permission is granted, to clean the section of the highway in respect of which permission is granted, to a standard to be determined by the Head of Property and Operational Services.

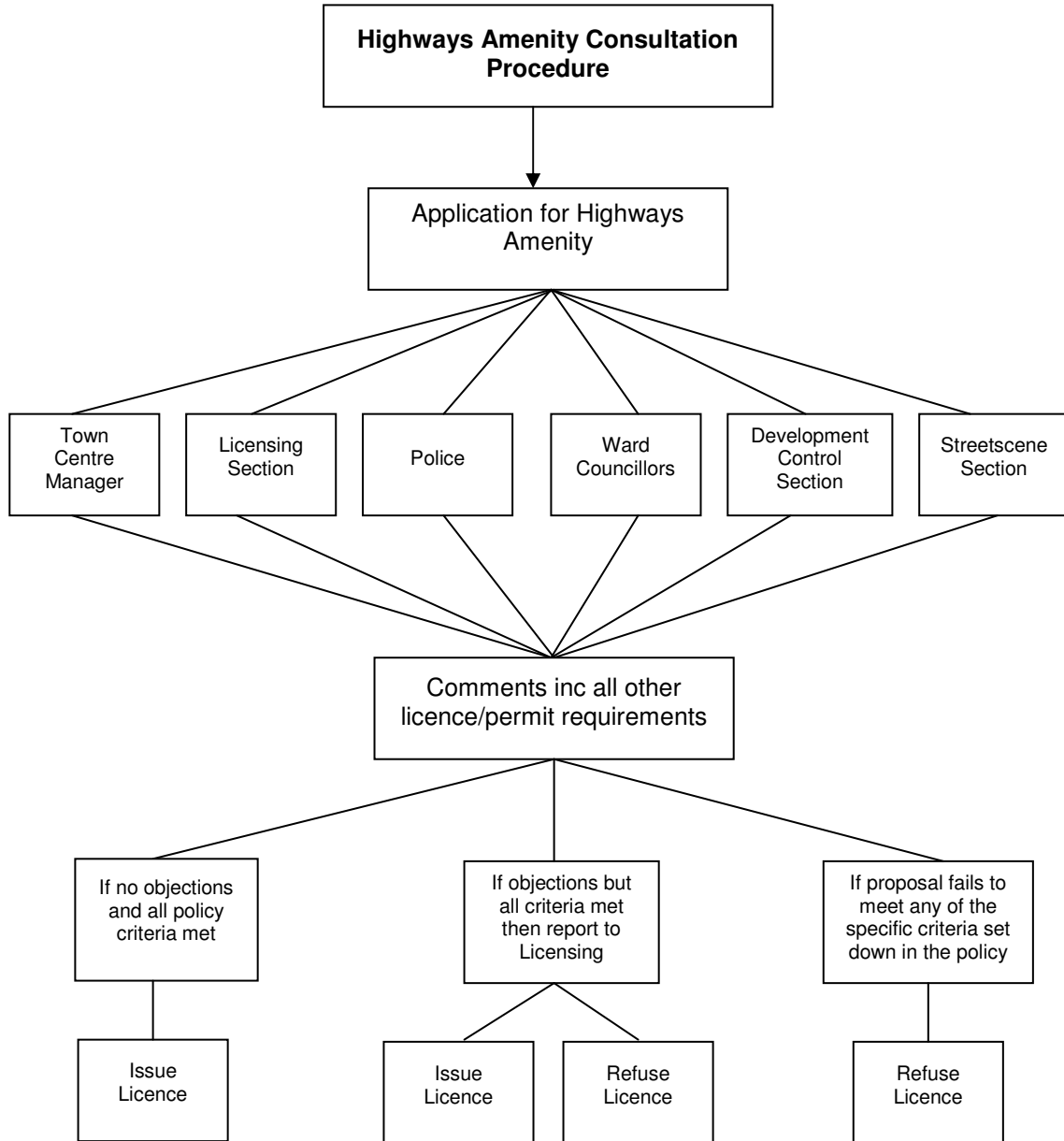
Means of Enclosure

25. When in use the pavement café area will normally need to be enclosed, to demarcate the licensed area which contains the tables and chairs, thus making it distinguishable from other pavement users, and particularly to assist blind and visually impaired pedestrians.
26. The enclosure shall be removed outside the licensed period or when the pavement café is not intending to operate within the licensed period. The materials should therefore be lightweight in construction and portable, but stable enough to prevent collapse if accidentally walked/stumbled into. They must also be capable of withstanding wind conditions.
27. 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. Rope barriers are not considered suitable, as they are not readily identifiable by the partially sighted.
28. Planters can be particularly attractive and can be used as part of the means of enclosure, but must be removed from the highway outside of licensed period.
29. In certain circumstances existing street railings may be utilised as a suitable means of enclosure.

AGENDA ITEM NO. 5
APPENDIX 1

30. The granting of a Highways Amenity Licence applies only to the applicant in respect of the premises concerned and is outside of and in addition to a licence to sell liquor off premises, and any entertainment consents.
31. Licences have various conditions which can vary between locations. Failure to comply with the licence conditions may lead to the withdrawal of the consent or refusal to renew the licence in future years.
32. 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.
33. 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 licence.
34. The Highways Amenity Licence will normally operate from 9.00am to 9.00pm. In certain areas there may be reductions on those hours due to specific local highway requirements.
35. Public Liability Insurance cover to £5m will be required for the licensed area and evidence of this must be provided to the Council upon renewal and at such other times as the Council may request.
36. Any objections need to be resolved prior to the Licence being issued.
37. Where the Council is the owner of the sub-soil beneath the highway, an annual rental charge may be made on the licensed area, in addition to the license fee.
38. All Licensed areas are checked yearly by the Council to ensure the street furniture is acceptable and that the Operator/Licensees Public Liability Insurance is current.

Appendix



WYRE FOREST DISTRICT COUNCIL

HIGHWAYS AMENITY LICENCES

LICENCE CONDITIONS

1. The Holder(s) of this Licence shall not exercise privileges granted by this Licence otherwise than strictly in accordance with this Licence.
2. The Holder(s) shall produce this Licence on demand when so required by a Police Officer or a duly authorised Officer of the Council.
3. The Holder(s) shall return this Licence to the Principal Licensing Officer immediately on revocation of this Licence.
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 by this Licence unless otherwise agreed with the Council in writing.
6. The Holder(s) shall not make any 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 licensed area permitted must be used solely for the purpose of consuming refreshments and not for any other purpose whatsoever.
8. The Holder(s) shall not take the issue of this Licence to exclude the requirement to obtain any other licences, 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 in Condition 4. above the Holder(s) shall not do or suffer 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 Licence or any part thereof but the Holder(s) may surrender it at any time.

AGENDA ITEM NO. 5
APPENDIX 1

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 as shown on the plan attached to this Licence and edged in red, 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 shall include (1) washing down the area, and (2) removing any refuse and litter deposited 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. The licensed area shall be defined with planters, fencing or similar furniture to contain the tables and chairs within the boundary and to assist people with visual impairment to recognise the boundary. Such furniture to be 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.
15. The Holder(s) shall provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items if required 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 the litter bins provided by the Council.
16. The Holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Licence at the expiry, surrender or revocation of the Licence and where required 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 a policy of insurance approved by the Council 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 herein contained 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.

AGENDA ITEM NO. 5
APPENDIX 1

20. The Holder(s) shall, whilst members of the public are using the facilities provided for the consumption of intoxicating liquor, provide in a prominent position, to the satisfaction of the Council's representatives, Notices in the form approved concerning the provisions required by the Council relating to the consumption of intoxicating liquor in public places.
21. 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
22. The Holder(s) shall be responsible for any rates, taxes and other outgoings which may be charged.
23. The Holder(s) may from time to time be notified of temporary suspension of the Licence granted to allow for maintenance, installation works or any other lawful activity to take place. In other cases where the use of the highway alters the permit may be revoked by issue of a notice.
24. The licence may also be revoked for non compliance with the above conditions and the Council shall not in any circumstances whatsoever be liable to pay compensation to the Holder(s) in respect of such suspension or revocation.
25. 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.

NOTE

In addition with the above Conditions of Licence, your attention is drawn to the overriding requirements of Section 115k of the Highways Act, 1980.

Failure to comply with any Conditions of Licence will require the Council to consider whether any subsequent Licences should be granted to the Holder(s) of this Licence.