

Open

Licensing and Environmental Committee

Agenda

10.30am
Monday, 3rd December 2018
Council Chamber
Wyre Forest House
Finepoint Way
Kidderminster



Licensing and Environmental Committee

Members of Committee:

Chairman: Councillor J Baker
Vice-Chairman: Councillor P Harrison

Councillor M Cheeseman
Councillor I Hardiman
Councillor K Henderson
Councillor F M Oborski MBE
Councillor J D Smith

Councillor P Dyke
Councillor J A Hart
Councillor V Higgs
Councillor M Rayner
Councillor S J Williams

Information for Members of the Public:

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of this constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

For further information:

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Sian Burford, Assistant Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF.
Telephone: 01562 732766 or email sian.burford@wyreforestdc.gov.uk

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* Unless there are no items in the open session

Wyre Forest District Council

Licensing and Environmental Committee

Monday, 3rd December 2018

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Appointment of Substitute Members To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	Minutes To confirm as a correct record the Minutes of the meeting held on the 1st October 2018.	6
5.	Review of Street Amenity Permissions The Arches, Bewdley To receive a report from the Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council to review the Street Amenity Permissions currently in place for the Arches, 1 Severn Side South, Bewdley, Worcestershire, DY12 2DX.	9
6.	To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	

7.	<p>Exclusion of the Press and Public</p> <p>To consider passing the following resolution:</p> <p>“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in the paragraph 1 of Part 1 of Schedule 12A to the Act”.</p>	
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Part 2

Not open to the Press and Public

8.	<p>Review of a Hackney Carriage/Private Hire Driver’s Licence</p> <p>To receive a report from the Corporate Director: Economic Prosperity and Place which asks the Committee to review a Hackney Carriage/Private Hire Driver’s Licence.</p>	-
9.	<p>To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.</p>	

WYRE FOREST DISTRICT COUNCIL

LICENSING AND ENVIRONMENTAL COMMITTEE

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER

1st OCTOBER 2018 (10:30am)

Present:

Councillors: J Baker (Chairman), P Harrison (Vice-Chairman), M Cheeseman, A Coleman, P Dyke, I Hardiman, J A Hart, V Higgs, F M Oborski MBE, M Rayner, J D Smith and S J Williams.

Observers:

There were no members present as observers.

LIC.18 Apologies for Absence

Apologies for absence were received from Councillor K Henderson.

LIC.19 Appointment of Substitutes

Councillor A Coleman was a substitute for Councillor K Henderson.

LIC.20 Declaration of Interests

No declarations of interest were made.

LIC.21 Minutes

Decision: The minutes of the meeting held on 6th August 2018 be confirmed as a correct record and signed by the Chairman.

LIC.22 Review of the Gambling Act 2005

The Committee received a report from the Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council to consider the responses received during the recent consultation on the revised Gambling Statement of Principles 2019 – 22, as part of the statutory triennial review in accordance with Section 349 of the Gambling Act 2005.

The Statement of Principles was first considered at the April 2018 meeting of the Committee. A full stakeholder consultation took place and the consultation period had concluded. The Senior Practitioner – Licensing (WRS) explained those consulted had been mostly happy with the document with one substantive reply having been received from Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB). He talked Members through the amendments that had been suggested in response to the consultation and explained the reasoning behind those that had been considered for

acceptance.

Agreed: Following consideration of responses received, recommend to Council that the revised Statement of Principles 2019–22 attached at “Appendix 1” of the report be approved and published.

LIC.23 Exclusion of the Press and Public

Decision: Under Section 100A(4) of the Local Government Act, 1972 the press and public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of “Exempt Information” as defined in paragraphs 7 of Part I of Schedule 12A of the Act.

LIC.24 Application for the Grant of a Hackney Carriage/Private Hire Driver’s Licence

The Committee received a report from the Corporate Director: Economic Prosperity and Place that asked Members to consider an application for the grant of a Hackney Carriage/Private Hire Driver’s Licence.

A copy of the applicants DBS disclosure form was circulated to Members at the meeting.

The Senior Practitioner – Licensing led Members through the report and highlighted the relevant convictions listed on the DBS disclosure form. He advised that the applicant had successfully passed the knowledge test required by Wyre Forest District Council, had been declared medically fit to drive a private hire and hackney carriages vehicle by a medical practitioner and had the right to work in the UK. The applicant had declared all convictions on his application form.

The applicant addressed the committee and asked Members to support his application. Following questions from Members, the applicant outlined the circumstances surrounding his previous convictions and explained the reasons for his actions.

The Senior Practitioner – Licensing and the applicant left the meeting at this point, (10:52am), for Members to deliberate their decision. The Solicitor and Assistant Committee Services Officer stayed in the meeting whilst the Committee reached their decision.

The Senior Practitioner – Licensing and the applicant re-entered the meeting at this point, (11.07am). The Solicitor read out the decision of the Committee.

Decision: Having carefully considered the application to grant a Hackney Carriage/Private Hire Driver’s Licence to the applicant, the Committee has decided that, notwithstanding the fact that the Applicant has a conviction for a major traffic offence and a conviction for a dishonesty offence and the guidance contained in Council’s “Guidelines relating to the Relevance of Convictions”, the Committee are satisfied that the Applicant is a “fit and proper person” to be granted such a

Hackney Carriage/Private Hire Driver's Licence and it is justified in departing from the Council's "Guidelines relating to the Relevance of Convictions" because of the exceptional circumstances presented to the Committee that:

- 1. More than 21 years have passed since the commission of the offences, which were both committed on the same day and occasion, and since those convictions no further convictions have been recorded;**
- 2. The Applicant was honest and upfront about his background;**
- 3. The Applicant presented himself well to the Committee and appears to the Committee to now be a good, hard working citizen with a steady employment, where his driving is regularly monitored, and who has learned from his past mistakes and who wants to move forward with his life and provide for his family.**

The Senior Practitioner – Licensing and the applicant left the meeting at this point (11:09am).

There being no further business the meeting ended at 11:10am.

WYRE FOREST DISTRICT COUNCIL**LICENSING AND ENVIRONMENTAL COMMITTEE****3 December 2018****Review of Street Amenity Permissions
The Arches, Bewdley.**

OPEN	
DIRECTOR:	Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council
CONTACT OFFICER:	Niall McMenamin – 01905 822799 enquiries@worcsregservices.gov.uk
APPENDICES:	Appendix 1 – Committee Decision 11 th June 2018 Appendix 2 – Policy Appendix 3 – Current Licence and Plan Appendix 4 – Representation - Bewdley Town Council Appendix 5 – Representation - Highways Authority Appendix 6 – Representation - Mrs Griffin Appendix 7 – Representation - Images Appendix 8 – Representation – Mr Preece, Licence Holder

1. PURPOSE OF REPORT

To review the Street Amenity Permissions currently in place for the Arches, 1 Severn Side South, Bewdley, Worcestershire, DY12 2DX, following a number of complaints received by the Council.

2. RECOMMENDATION

The Committee is asked to:

- 2.1 Review the Street Amenity Permissions granted to the Arches in light of allegations made by a number of interested parties and decide whether the permissions should be amended or revoked.**

3. BACKGROUND

- 3.1** The Arches is a public house which adjoins the river Severn, located at 1 Severn Side South in Bewdley Town Centre.
- 3.2** On 11 June 2018 at the meeting of the Licensing and Environmental Committee, street amenity permissions were granted to the premises to place tables and chairs on the highway in line with the Council's adopted Public Realm and Street Scene (Control of Street Furniture) Policy. A copy of the Committee decision is attached at "**Appendix 1**" and a copy of the Policy is attached at "**Appendix 2**".

3.3 Permission was granted by the Committee for 12 tables and 36 chairs to be placed long the bridge footpath and lower riverside area. A copy of the licence and the plan showing the position and layout of the tables and chairs is attached at “**Appendix 3**”.

4. KEY ISSUES

4.1 Since the grant of the street amenity permissions to the Arches a number of complaints have been received by the Council from Bewdley Town Council, The County Council Highways Authority and a local Bewdley resident in respect of the Arches failure to adhere to the conditions of the licence granted.

4.2 An email detailing the concerns raised by Bewdley Town Council is attached at “**Appendix 4**”.

4.3 An email detailing the concerns raised by the County Council Highways Authority in which they highlight highways maintenance concerns and advise that they missed the opportunity to object to the original application, due to internal communication issues is attached at “**Appendix 5**”.

4.4 An email detailing the concern raised by Mrs Griffin, a local Bewdley resident is attached at “**Appendix 6**”.

4.5 Images submitted by the interested parties in support of their concerns are attached at “**Appendix 7**”.

4.6 The interested parties raise similar concerns regarding the permissions granted by Committee, namely:

- The location of the tables and chairs – Images 1 and 2.
- The design and style of the tables and chairs – Images 1 and 2.

4.7 The interested parties also give details of a number of issues which have purportedly arisen since the grant of the permissions, these being:

- Obstruction of the path walkway along the bridge by tables – Image 2.
- Obstruction of the path walkway by customers of the Arches using the tables and chairs – image 4, 5, 6 and 7.
- The failure of the permit holder to remove tables, chairs and planters at the end of trading periods.
- The storage of the tables under the bridge arches during market days – Image 3.
- Two wooden benches location adjacent to the premises on the foot path which are not covered by the street amenity permissions - Image 8.

4.8 Members should note that the above points relating to the storage of the tables under the bridge arch and the siting of the two wooden benches adjacent to the premises are matters for the highways authority to enforcement.

4.9 Having considered the above matters raised by the interested parties, contact was made with Mr Preece the premises licence holder of the Arches by the Senior

Licensing Practitioner in order to bring all of these matters to his attention. A site visit was also undertaken by the Senior Practitioner with a view to establishing the validity of the claims which had been made and to discuss them with Mr Preece directly.

4.10 Having had the opportunity to discuss the matter with the Senior Licensing Practitioner and fully consider the claims which had been made in the email correspondence, Mr Preece submitted a formal reply via email to the Council addressing each of the points which had been raised. A copy of Mr Preece's email reply is attached at "**Appendix 8**".

4.11 In his email reply Mr Preece stated the following:

- That they have contacted the County Council regarding the operating times.
- Storage of the tables and chairs under the bridge arch is for a limited time only.
- The style of the tables and chairs (wooden picnic style) was submitted to and approved by the Licensing and Environmental Committee as part of the decision to grant Street Amenity permissions on 11th June 2018.
- Demarcation of the area was addressed by the Committee.
- Bins are currently provided.
- Customers with differing disabilities are able to use the furniture provided without any issues.
- The positioning of the tables are as per the plan which was submitted to and approved by the Committee

5. FINANCIAL IMPLICATIONS

5.1 There are no financial implications arising from this report.

6. LEGAL AND POLICY IMPLICATIONS

6.1 The Committee is obliged to review the Street Amenity permissions granted to the Arches in accordance with the Highways Act, 1980 and the Wyre Forest District Council Public Realm and Streetscene (Control of Street Furniture) Policy and Conditions for Highways Amenities Licences.

6.2 In light of the concerns which have been raised by the interested parties, Officers, having reviewed the above policy, can confirm the following matters are currently in question:

- Section 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. Visibility must not be obstructed.
- Section 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.

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- Section 19 - 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.
- Section 24 - When in use the pavement café area will 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.
- Section 29 - 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.
- Section 35 - The Highways Amenity Licence will normally operate from 9.00 a.m. to 10.00 p.m. In certain areas there may be reductions on those hours due to specific local highway requirements.

6.3 Officers having reviewed the conditions of licence can confirm the following matters are also currently in question:

- Condition 1 - The Holder(s) of this Licence shall not exercise privileges granted by this Licence otherwise than strictly in accordance with this Licence.
- Condition 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.
- Condition 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.
- Condition 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.
- Condition 16 - The Holder(s) shall remove all furniture, equipment and litter bins placed on the highway at the end of each working day.

6.4 In making its decision the Licensing Committee must have regard to the Councils Policy for Control of Street Furniture.

6.5 The Committee must also have regard to the representations made and the evidence it hears.

- 6.6 Members are reminded that under the terms of the Policy failure of the proposal to meet any of the specific criteria set down in the Policy may result in amendment or revocation of any permission which have been granted. The power to issue Highway Amenity Licences is delegated to Wyre Forest District Council by Worcestershire County Council and must be exercised within the terms of the Policy. As such any approval outside of the Policy would require an approval from Worcestershire County Council.
- 6.7 The Committee must take such of the following steps as it considers appropriate:
- (a) Note the concerns which have been raised
 - (b) Amend the Street Amenity Permissions
 - (b) Revoke the Street Amenity Permission
- 6.8 All parties to the hearing will be notified of the Committee's decision in writing within five working days of the conclusion of the hearing.
- 6.9 Neither the Highways Act 1980 nor the Policy provide a right to appeal against the decision of the Committee in these matters.
- 6.10 The hearing should be conducted in accordance with the agreed procedure for Licensing Committees.

7. RISK MANAGEMENT

- 7.1 There are no risk management issues arising from this report.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 There are no equality impact assessment issues arising from this report.

9. CONCLUSION

- 9.1 It is for the Committee to decide, having consideration all of the points raised in the representations submitted by Bewdley Town Council, the County Council Highways Authority and Mrs Griffin whether it is necessary to amend or revoke the permissions which have been granted to the Arches under the Highways Act 1980 .

10. CONSULTEES

- 10.1 Solicitor to the Council, Legal Services.

11. BACKGROUND PAPERS

- 11.1 None

WYRE FOREST DISTRICT COUNCIL
DECISION OF LICENSING AND ENVIRONMENTAL COMMITTEE

held on Monday 11 June 2018

Having carefully considered the application made by Alan Preece for a Street Amenity Licence in respect of the footpath and the riverside pedestrian area in front of the premises at The Arches Bar, 1 Severn Side South, DY12 2DX dated 17 April 2018

The Licensing Committee has decided:

"That a Street Amenity Licence is granted for tables 1, 2, 3, 5, 6, 7, 10, 11, 12, 13, 14 and 15 in the locations shown on the proposed layout plan in the application dated 17 April 2018 between the times of 09:00 - 22:00 hours subject to the terms of the Wyre Forest District Council Public Realm and Streetscene (Control of Street Furniture) Policy and Licence Conditions for Highways Amenity Licence.

Further, the ropes referred to in the application are not approved in accordance with the Council Policy point 28.

Tables 8 and 9 have been refused and the area occupied by these tables must not be used. The Committee have come to this decision so as to provide greater visibility and access to the pedestrian crossing and further to provide greater visibility for traffic turning off the junction at Load Street.

Tables 10 to 15 should not extend more than 1.5 metres from the balustrade and shall at no time extend beyond the lamppost (by table 11) onto the footway and shall leave a width of at least 2 metres on the footway for pedestrian access.

Further, in respect of table 4, this has been refused by the Committee to reduce the impact of this application on the public space available in the location.

All references to the table numbers referred to above are references to the numbers as set out in the application."

**WYRE FOREST DISTRICT COUNCIL
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 needs 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.
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. Every application will be considered on its merits inclusive of road safety and health and safety, and will be at the discretion of the Licensing Officer and the Highway Authority.
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. Visibility must not be obstructed.
14. The layout of furniture only be approved if provision has been made for customers with disabilities. There should be a gradient of no steeper than 1:9 of the remaining footway to ensure that it is compliant with the Disability Discrimination Act.
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 of a high quality and uniform style. Umbrellas are to be positioned so as to avoid overhanging outside or impairing vehicle sight lines.
19. 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

20. All pavement café operations must comply with the relevant food safety requirements.
21. 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.
22. The bins will be emptied, by the applicant, daily and more often when required.

23. 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.
24. When in use the pavement café area will 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.

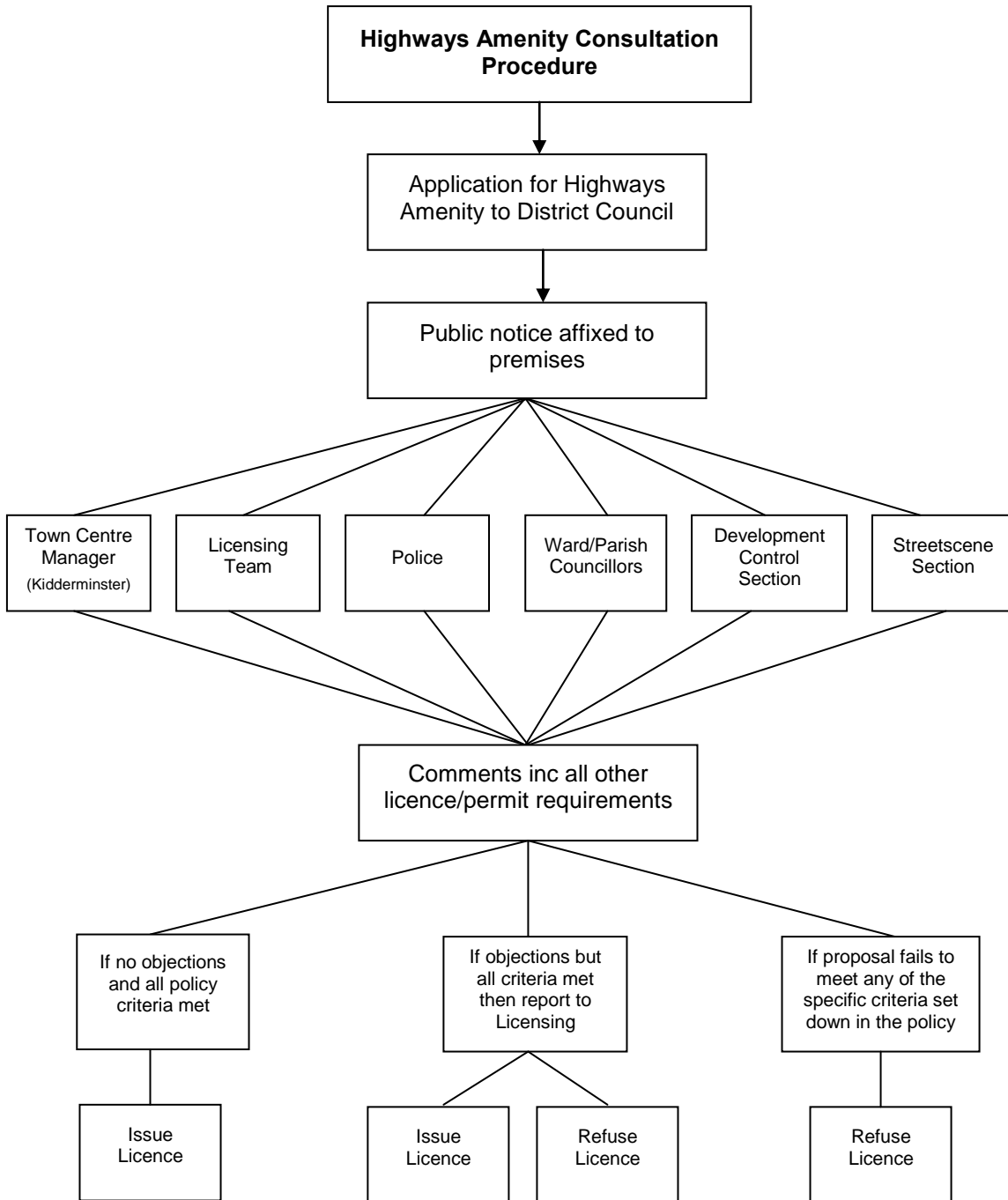
Means of Enclosure

25. When in use the pavement café area will normally need to be enclosed by temporary barriers to demarcate the licensed area which contains the tables and chairs. These temporary barriers should be of such design/colour, making the licensed area distinguishable for other pavement users, and particularly to assist blind and visually impaired pedestrians.
26. Temporary barriers should be permitted on a case by case basis. In some cases they may not be suitable.
27. Such temporary barriers shall be removed outside the licensed period or when the pavement café is not intending to operate within the licensed period. The materials used for such barriers 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 those wind conditions existing in the licensed area. Above all, such barriers should be capable of being quickly dismantled to allow access for the emergency services, if required.
28. The design of the temporary barriers should also 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.
29. 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.
30. In certain circumstances existing street railings may be utilised as a suitable means of enclosure.

General

31. 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.
32. 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.
33. 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.

34. 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.
35. The Highways Amenity Licence will normally operate from 9.00 a.m. to 10.00 p.m. In certain areas there may be reductions on those hours due to specific local highway requirements.
36. The Holder(s) may from time to time be notified of temporary suspension of the Licence granted to allow for street markets or other like events, 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.
37. 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.
38. Any objections need to be resolved prior to the Licence being issued.
39. 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.
40. 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.



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. It may be necessary for a temporary cessation of the Licence when markets and other events agreed by the Wyre Forest District Council are being held.
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.
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. Furniture must be to 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, 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 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.
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 any rates, taxes and other outgoings which may be charged.
22. 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.
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.

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.

HIGHWAYS ACT 1980



STREET AMENITIES PERMISSION

Wyre Forest District Council

Being the Licensing Authority hereby grant consent unto

**Mr Alan Preece
Trading as: Arches Bar
1 Severn Side South
Bewdley
Worcestershire
DY12 2DX**

to use that part of the Public Highway adjoining the above-mentioned premises as shown on the attached plan in order to provide and operate facilities for refreshment and to place objects or structures in the designated area for this purpose which will result in the production of income. The permission is granted subject to the general and any specific conditions set out in the attached schedule and shall remain in force until unless previously revoked or surrendered.

Date of Issue: 13 June 2018



AUTHORISED OFFICER

Licensing and Support Services Manager
Worcestershire Regulatory Services
On behalf of Wyre Forest District Council

STREET AMENITIES

SPECIFIC CONDITIONS RELATING TO THIS LICENCE (WHERE APPLICABLE)

The number of tables, chairs and all other items of furniture shall be limited to:

Amenity	Number/Description:
Number of Tables	12
Number of Chairs	36
Other street furniture	None

The location of the street amenities shall be limited to:

As per the plan and to comply with the conditions following the committee hearing on 11th June 2018 both of which are attached

Permitted times:

Everyday 09:00 to 22:00

This permission permits the Holder to provide tables, chairs and other furniture as specified on this permission on the public highway between the times specified. All furniture shall be removed from the public highway outside of the specified times and when the premises are closed for business.

WYRE FOREST DISTRICT COUNCIL
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 needs 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.
8. Upon receipt of an application, it should normally take two months for the application to be determined.
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. Every application will be considered on its merits inclusive of road safety and health and safety, and will be at the discretion of the Licensing Officer and the Highway Authority.
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. Visibility must not be obstructed.
14. The layout of furniture only be approved if provision has been made for customers with disabilities. There should be a gradient of no steeper than 1:9 of the remaining footway to ensure that it is compliant with the Disability Discrimination Act.
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 of a high quality and uniform style. Umbrellas are to be positioned so as to avoid overhanging outside or impairing vehicle sight lines.
19. 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

20. All pavement café operations must comply with the relevant food safety requirements.
21. 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.
22. The bins will be emptied, by the applicant, daily and more often when required.
23. 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.
24. When in use the pavement café area will 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.

Means of Enclosure

25. When in use the pavement café area will normally need to be enclosed by temporary barriers to demarcate the licensed area which contains the tables and chairs. These temporary barriers should be of such design/colour, making the licensed area distinguishable for other pavement users, and particularly to assist blind and visually impaired pedestrians.
26. Temporary barriers should be permitted on a case by case basis. In some cases they may not be suitable.
27. Such temporary barriers shall be removed outside the licensed period or when the pavement café is not intending to operate within the licensed period. The materials used for such barriers 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 those wind conditions existing in the licensed area. Above all, such barriers should be capable of being quickly dismantled to allow access for the emergency services, if required.
28. The design of the temporary barriers should also 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.
29. 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.
30. In certain circumstances existing street railings may be utilised as a suitable means of enclosure.

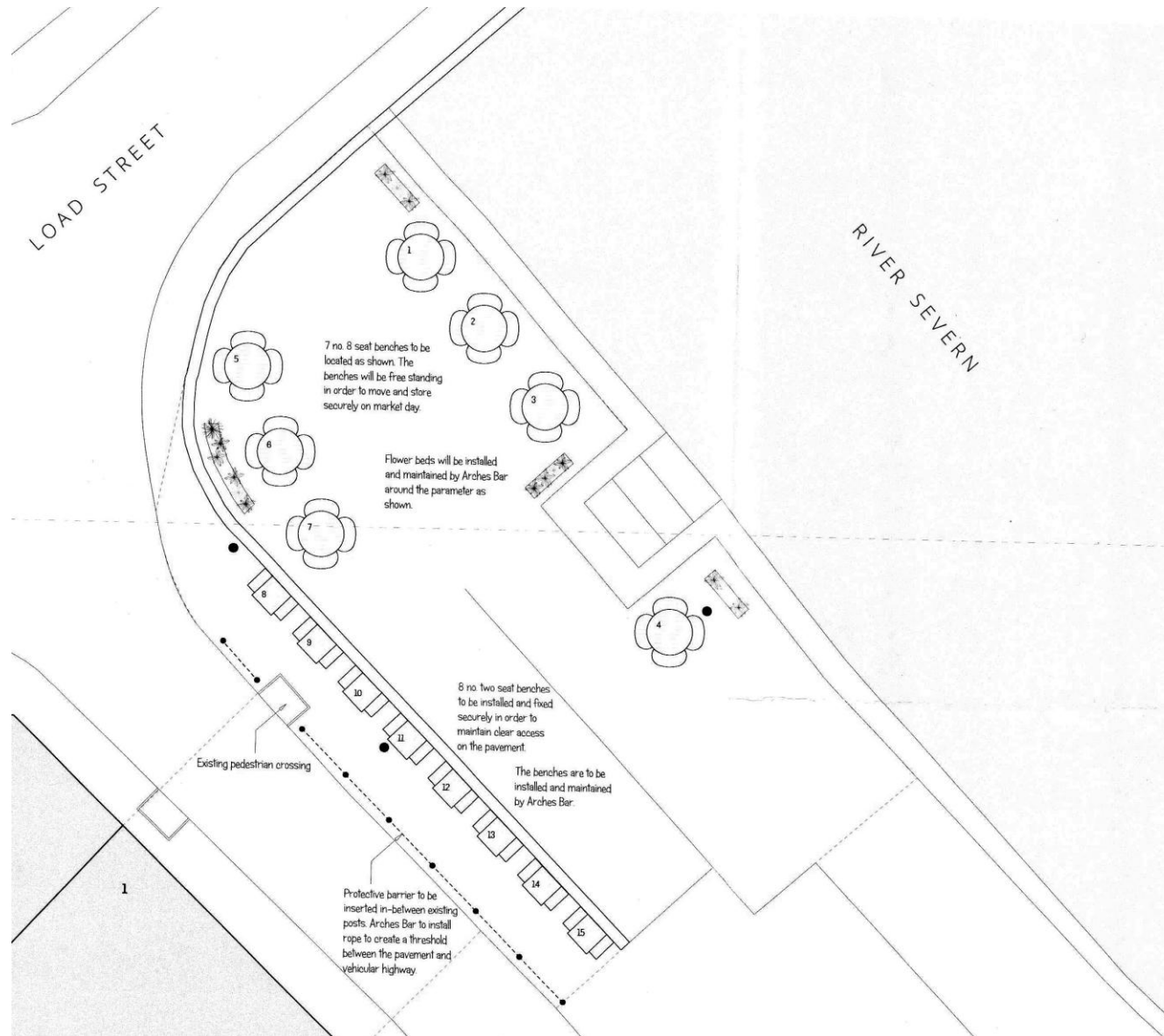
Agenda Item No. 5

Appendix 3

General

31. 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.
32. 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.
33. 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.
34. 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.
35. The Highways Amenity Licence will normally operate from 9.00 a.m. to 10.00 p.m. In certain areas there may be reductions on those hours due to specific local highway requirements.
36. The Holder(s) may from time to time be notified of temporary suspension of the Licence granted to allow for street markets or other like events, 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.
37. 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.
38. Any objections need to be resolved prior to the Licence being issued.
39. 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.
40. 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.

**Agenda Item No. 5
Appendix 3**



From: Community Officer - Bewdley Town Council [mailto:]
Sent: 22 July 2018 16:53
To: WRS Enquiries
Cc: 'Calne Edginton-White'; Bewdley Town Clerk
Subject: The Arches Bar Bewdley

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir,

At the meeting of Bewdley Town Council Planning and Licensing Committee on Wednesday 4th July 2018 the committee received an update from the chairman following the Hearing in relation to The Arches Bar and The Courtyard Street amenity Licence agenda item 8(ii) .

The committee noted that permission was granted for tables 10-15 but that these, “should not extend more than 1.5M from the balustrade”. The committee further noted “the footway shall leave a width of 2M on the footway for pedestrian access.” The Councillors were presented with a number of residents complaints and pictures demonstrating that a 2 metre footway has not been left and that pedestrians have frequently to walk into the road to pass the tables and people drinking and standing at these tables. Councillors have also themselves monitored the safety of both customers from the pub and the general public traveling from the bridge down Severn Side South or accessing Load Street from the Bridge pedestrian underpass and walking back up Severn Side South to Load Street. Councillors have frequently observed pedestrians and traffic conflicting with each other as a result of the pavement being blocked by customers from The Arches Bar drinking and seated at tables 10-15. We did point out at the Hearing that the pavement where tables 10-15 are located was not sufficiently wide to have 1.5 metre tables and a 2 metre footway and trust that this will be investigated.

In the licence granted tables 8 and 9 were refused in order “to provide greater visibility and access to the pedestrian crossing and further provide greater visibility to traffic turning off the junction at Load Street” unfortunately the blocking of the pavement at tables 10-15 mentioned above creates an overspill of customers drinking, which at times impedes visibility and prevents the public using the pedestrian crossing. The designated crossing from the riverside of Severn Side South to the pavement in front of The Arches Bar is also frequently blocked due to benches outside The Arches premises. While these benches do not appear in the current licence application they do create an additional hazard for pedestrians using these pavements and the crossing on the opposite side.

The licence granted gave permission for the tables to be out “between the times of 09:00-22:00 hours subject to the terms of the Wyre Forest District Council Public Realm and Street Scene (Control of Street Furniture) policy and licence conditions for Highways Amenity Licence” the applicant has not complied with this condition since being granted this licence. The tables 10-15 have been in place 24hrs a day since they were installed and tables 1-7 have only been removed twice within the last month when they were removed for the Bewdley Riverside Market and were stored inappropriately under one of the pedestrian arches which is the pedestrian underpass for the road. Leaving these tables out 24 hours a day also contravenes Wyre Forest District Council Public Realm and Street Scene (Control of Street Furniture) policy number 35.

There are also a number of other policy infringements including the use of wooden picnic tables contrary to policy 17. Street Furniture where it says, “Picnic tables would not be approved.” We are aware that this was also discussed and pointed out to the applicant at the Hearing. The applicant has

Agenda Item No. 5 Appendix 4

also failed to provide appropriate “means of enclosure” to demarcate the licensed area as in policy 25. The applicant also does not appear to have provided additional litter bins as in policy 21. Environmental and other requirements.

To conclude the committee agreed that we should bring these matters to your attention and trust that you will take appropriate action to enforce the conditions of the Amenity licence granted on Monday 11th June 2018 to The Arches Bar as soon as possible to ensure the safety of the public.

We would be very happy to provide further information and evidence gathered with regards to the infringements above.

Kind Regards
Kyle Daisley

Bewdley Town Council
Community Engagement and Events Officer

On behalf of: Cllr Calne Edginton-White Chairman of Planning and Licensing

Bewdley Town Council



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From: Knight, Phil/UWO [<mailto:>]
Sent: 13 September 2018 13:35
To: Niall McMenamin
Cc: WCC Structures
Subject: FW: BR2182 Bewdley Bridge - Proposed Seating for The Arches
Importance: High

Hi Niall,

Thanks for your email below. Please can the response below be recorded as being from Worcestershire County Council Structures department?

“We would like to raise a concern that all of the proposed seating, tables and planters are shown located within the Highway. WCC, as Highway Authority, have a statutory duty under the Highways Act 1980, to maintain the highway. The presence of the proposed obstructions provides a challenge to the Highway Authority for any planned or urgent maintenance; insofar as having to serve notice to the licensee under Section 291 of the Highways Act 1980, for their removal.”

Regards, Phil

Phil Knight | Jacobs | Senior Technician | Buildings, Infrastructure & Advanced Facilities - Bridges | 01905 361298 | | www.jacobs.com

From: Knight, Phil/UWO [<mailto:>]
Sent: 10 August 2018 12:44
To: Niall McMenamin
Cc: customerandcommunity@worcestershire.gov.uk; Rita.Hartley@jacobs.com; Nick Twaite; WCC Structures
Subject: RE: BR2182a Bewdley Bridge Beales Corner Repairs

Hi Niall,

Thanks for your reply. We spoke to the Highways Control Centre yesterday and they have confirmed that the email addresses below are correct so I'm not sure why you never received a response.

From a Bridges Team point of view, we would have objected to the placement of the tables and chairs so close to the bridge as it does cause us issues with maintenance. I'm sure Highways would have had a similar view. However, I gather the licence has now been granted so we are likely stuck with it.

Regards, Phil

Phil Knight | Jacobs | Senior Technician | Buildings, Infrastructure & Advanced Facilities - Bridges | 01905 361298 | | www.jacobs.com

From: Jacky Griffin [mailto:]
Sent: 25 June 2018 12:58
To: Niall McMenamin
Cc: Paul Harrison; Jeff Baker; Rod Wilson; Rod Wilson; Fran Oborski; Nick Harris; Calne Edginton-White; Bewdley Town Clerk
Subject: Arches, Severn Side South Bewdley

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hello Niall

As you know, I attended the Licensing and Environmental Committee Meeting on 11 June, at which the application for a Street Amenity Licence at Arches Bar was considered. You will also be aware that I raised a number of objections to the granting of this Licence. Nonetheless, I respect the decision of the Committee to grant the Licence.

It may be that the Licence holder is not equally respectful of the Committee's decision, as it does not appear that the conditions of the Licence are being met as they should be.

The seating was installed very quickly after the hearing so it has been possible to observe how it complies with the conditions for Highway Amenity Licences under the Council's Public Realm and Street Scene (Control of Street Furniture) Policy.

Firstly, the times allowed by the Licence are not being adhered to, as the seating is set out all the time, as was requested in the Licence application. I took some photos this morning at about 08:30, to show that all the seating is in place outside the allowed time of 09:00 to 22:00. Please see these photos attached. If you would like to me to provide further photos taken at other times then I am sure that could be arranged.

Secondly, the nature of the tables and seating is such that it would be very difficult to move, contrary to Section 19 of the Council's Policy, and I am unaware of any available location where it could be stored. More specifically, the tables and benches are in the form of wooden picnic tables, which are expressly contrary to Section 17 of the Policy which states clearly that picnic tables will not be approved. I have copied this email to Cllr Oborski, who asked about the type of tables at the meeting, reiterating that picnic tables would be unsuitable. Although the meeting was told that tables and benches had not yet been purchased, and would comply with the Policy, the round tables and benches look remarkably like the ones shown in the picture provided by the applicant at the meeting.

Thirdly, there is no demarcation of the Licensed area, in contravention of Section 24 of the Policy.

Fourthly, I have seen no bins provided alongside the seating areas, as required by Section 21 of the Policy. It appears that the only litter bins available are those provided by the Council, and therefore likely to result in additional work and expenditure for the Council.

Fifthly, there appears to be no provision for customers with disabilities. It would not be possible for a wheelchair user to sit at any of the tables, contrary to Section 14 of the Policy.

**Agenda Item No. 5
Appendix 6**

The seating immediately across the road from Arches (tables 10, 11, 12, 13, 14, and 15) does not comply with the specific conditions attached to the Licence by the Committee. The Licence was granted subject to these tables leaving a width of at least 2 metres on the footway for pedestrian access. I have measured the width of the footway from the table legs to the roadway - photos attached. At its widest point I measured it to be 183.5cm (176cm plus 7.5 cm, the length of the tape measure holder) and at its narrowest 145.5 cm (138cm plus 7.5 cm). These measurements overstate the actual width of the footway, as the table tops overhang the legs, and there are bollards which make the edge of the footway some way from the roadway. It is clear that the footway is too narrow - see the photo showing a mother unable to walk alongside her toddler.

I have also seen the footway obstructed by bags and other belongings of customers and, when present, I have seen no intervention by door staff to keep the footway clear.

Finally, I am also concerned about the seating immediately outside Arches. These large benches and tubs are placed in front of the bar at all times, and you told me that no Licence has been granted for these. As you can see from my photos, these occupy most of the pavement and obstruct the pedestrian crossing. Should a Licence be applied for, the Committee would, no doubt, observe that the benches and planters did not comply with Sections 13, 19, 21, 24 and 29 of the Policy, at least.

In view of the above, I am sure that you will seek enforcement from the County Council, and I look forward to this ensuring that the tables and seating comply with the Council's Policy and the decision of the Committee. Please keep me informed of progress.

I have also copied this email to Bewdley ward councillors, the Chairman and Vice-chairman of the Committee and to Bewdley Town Council. I am sure that all will be as keen as I am to ensure compliance in this matter.

It would be helpful to have contact details for the County Council's relevant enforcement function - would you be kind enough to send these to me please?

Kind regards

Jacky Griffin



Image (1)

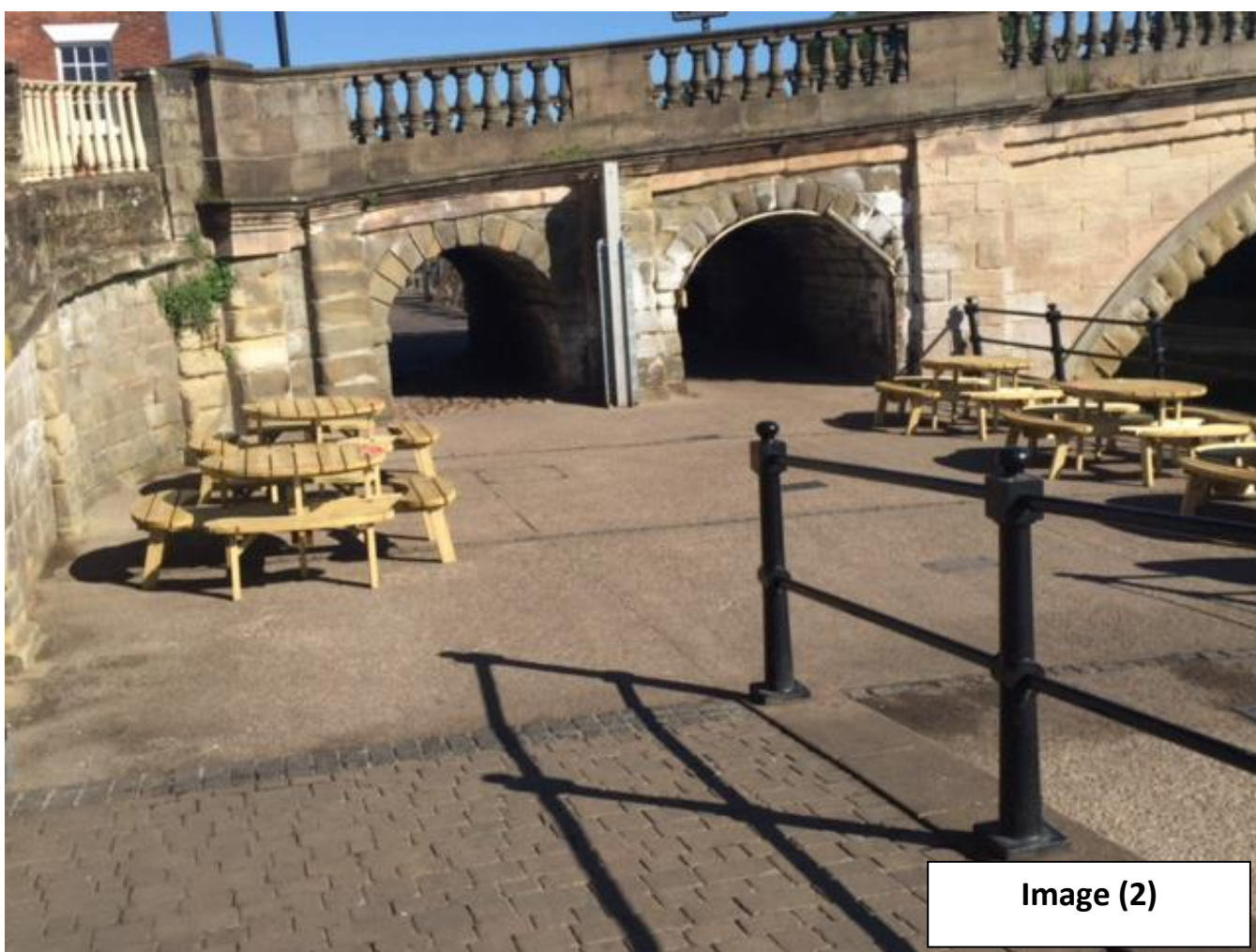


Image (2)



Image (3)



Image (4)



Image (5)



Image (6)



Image (7)



Image (8)

From: Alan Preece [mailto:]
Sent: 27 July 2018 11:35
To: Niall McMenamin
Subject: Street furniture complaint - Arches

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning Niall,

Sorry for the late reply but with all this warm weather we have been run off our feet.

In response to the point raised:

Point 1 Allowed Times - As you are aware we have contacted the county council regarding this matter.

Point 2 Storage - Yes, the tables are stored under the small arch for 8 hours while the market is on, causing no hindrance to man nor beast and immediately put back when the market leaves at 4pm. Please note the height of the small arch is 1600mm and 99% of foot traffic use the taller arch. See photos 1 and 2 in attachment

Point 3 Type of table - The tables we are using are identical to the ones that were shown during the meeting and was agreed by all.

Point 4 Demarcation - At the meeting we were told not to put ropes in between the posts, however, all tables have signage explaining this very clearly.

Point 5 Bins - There are five bins located 30 metres to the left and one 25 metres to the right of the tables. We are also constantly checking the area and hosing down and sweeping our permitted area.

Point 6 People with disabilities - Our tables are regularly used by people with all kinds of disabilities. I will start taking photos and forward them on to you.

Point 7 positioning of our tables - As you have seen for yourself our tables do not go past the lamp post, and are positioned exactly where shown on our detailed site plan. The drawings that were shown at the meeting were done to scale.

I hope this brings and end to what is a waste of both our times.

Kind regards,

Alan Preece

Sent from [Outlook](#)