

# Policy for Café Licensing



How to get permission to use the area  
outside your premises as  
a café area

## Definitions

<b><u>Appeal</u></b>	a review of our decision. You appeal to the Licensing Committee. The committee may uphold our decision (they agree with us) or overturn it (agree with you)
<b><u>District</u></b>	the area covered by the local Council e.g. East Herts, St Albans, Welwyn & Hatfield
<b><u>County Council</u></b>	Hertfordshire County Council
<b><u>Café licence</u></b>	the permission given by us to allow you to use an area outside your premise as a café area for table and chairs
<b><u>Public nuisance</u></b>	noise disturbance or other nuisance caused to residents or neighbouring businesses
<b><u>We</u></b>	Hertfordshire County Council
<b><u>You</u></b>	the licence holder granted the permission for the tables and chairs

## **Introduction**

“Café Culture” is a growing trend with the County. There is a demand for eating and drinking outdoors, and many pubs, restaurants and cafes want to provide facilities to meet this demand by using the pavement.

Many more pubs, restaurants and cafes may wish to make use of the pavement for tables and chairs. However, if the use of the pavement areas is not carefully controlled they can lead to pedestrians, in particular those with disabilities, being unable to use the pavement safely.

To regulate the number and location of pavement cafes, all premises must have a licence under section 115 of the Highways Act 1980 to place tables and chairs on the highway.

Our policy and procedure explains the requirements and standards we expect of the applicant for a pavement licence.

## **Our powers and duties**

Our duty to regulate such licences within the County comes from the Highways Act 1980 (section 115), However some Local District Councils also have this responsibility under an agency agreement.

## **How will we use the policy?**

The policy provides guidelines on the factors we consider when making our decision to grant or refuse a café licence.

## **Is the area you want to use suitable for a Café licence (Table and Chairs)?**

Table and Chairs can be sited on the public highway; however seated areas that are sited on privately owned land or land which is to the rear of buildings or other courtyard areas shall not require a licence.

The area in which you would like to place the tables and chairs must be defined as *highway* by section 115 Highways Act 1989:

- A highway in relation to which a pedestrian planning order is in force;
- A restricted byway;
- A bridleway;
- A footpath (including a walkway as defined in section 35(2) of the Highways Act 1980);
- A footway;
- A subway constructed under section 69 of the Highways Act 1980;
- A highway whose use by vehicular traffic is prohibited or restricted or regulated by such an order

If your existing premise has either A3 or A4 use, you may not require planning permission for a café licence. Planning permission will be necessary if any permanent fixtures are proposed that constitute development. You should contact the Planning Department for advice.

### **How we decide your application?**

We will grant an application only if we decide there are no issues and no valid objections have been made. Each application shall be considered on its own merits and we shall normally follow the policy, unless there is any reason not to and if so this shall be explained.

### **You must provide the following items when you apply:**

- The completed original application with full details of the proposed use (an application can also be done online)
- The correct fee (cheque made payable to Hertfordshire County Council)
- Plans( see below for details)
- A copy of your public liability insurance (min £10 million)
- A copy of any other associated permissions i.e. Planning and any appropriate licences under the Licences under the Licensing Act 2003 (if required)

Our standard conditions will be applied to all Café licences. In addition to the standard conditions we may also impose special conditions on individual licences.

- Considerations for access to underground apparatus such as water valves, stopcocks, Fire Hydrants and meter chambers.
- Confirmation of notice sent to any person(s) residing above and to the side of the proposed location.
- Confirmation of display of public notice.
- Indemnity and insurance details (minimum public liability cover for £10 million)
- A copy of the licence to serve alcohol in the area (if applicable)

## **Plans**

### **Location Plan**

Please supply an A4 plan clearly outlining the premise and the location of the proposed outdoor seating area. This should be an accurate Ordnance Survey plan outlining the application site in red and the land in the applicant's ownership in blue (1:1250 or 1:500 scale plan as appropriate). The location plan may be included as part of a larger site plan.

### **Site Plan**

Please supply a site plan of at least 1:200 showing the precise location and proposed setting out of the tables and chairs.

You should ensure that your plan has the following information:

- Access points
- Building lines
- Kerbs
- Dimensions of seating area
- Table and chair arrangement
- Other furniture/items layout
- Plan and elevation (1:50) of barriers/enclosure

### **Advertising**

You must complete the public notice and display it on or near the premises. It should be in a location that is easily visible from the street for a period of at least 28 days from the date you send your application.

### **Consultations**

You must publish a notice in accordance with the Highways Act 1980 and consult with those listed in Appendix A. We will take into consideration all representations made to us in deciding your application. We will take into consideration all representations made to us in deciding your application.

The licence applied for is covered by Section 115E of the Highways Act 1980. The licence may be applied for directly by you or by your solicitor on your behalf.

### **Hours**

The maximum hours that you can operate a table and chairs licence is 08:00 to 23:00 hours.

## Cost

The current fees for 2016/2017 are as follows;

Number of tables & chairs/seats	Grant	Renewal
No restriction	£342	£171

Please provide payment by cheque and made payable to **Hertfordshire County Council**. Please send your payment with the completed application form to: **Highways Business Support Team, Hertfordshire County Council, First Floor (North West Block), County Hall, Pegs Lane, Hertford, SG13 8DN**

## Refund of Fees

If you stop trading or surrender your licence we will not normally refund any fees, unless there are exceptional circumstances.

## Insurance

You will be required to hold Public Liability Insurance to a value of £10 million cover. You must provide proof with your application.

**We will consider the following factors in determining your application:**

- **Protecting the Public**

We will consider our duty to protect the public as a key factor when we decide whether to grant or renew a table and chairs licence.

- **Size and Layout**

An absolute minimum unobstructed width of 1.5 metres of the highway measured from the boundary line of the premise must be available before a table and chairs licence is granted. Additional widths may be required in certain locations.

Licensed areas will normally be situated outside the main premises leaving an unobstructed 1.5 metre clear gap between the highway and the designated area. The area used must take into account other needs and uses in the vicinity, for example, pedestrian crossings, loading bays, disabled bays and street furniture.

Consideration to the size and layout must be given to allow customers with disabilities to access and move around within the licensed area.

- **Safety**

Applications will not be granted if pedestrians are forced to cross a pavement in a dangerous manner. Applications may be refused if there is insufficient space between tables and chairs to enable disabled persons, particularly those in wheelchairs, to use the facilities, or if the proposed facility poses a risk to disabled persons on the pavement. Applications will not be granted where health and safety risks may arise that cannot otherwise be avoided.

Furniture must be suitable for the outside use. All items contained within the enclosure must be portable enough to be brought in at the end of the licensed period of each working day and can be moved quickly in the event of an emergency.

- **The Licensed Area**

Applicants must submit details of the types of furniture that are to be used. Where it is necessary to use barriers to show where the licensed area is, the types of barriers proposed must be agreed by officers.

Applications in conservation areas will be referred to the conservation officers for consultation. Furniture and barriers must be of a high quality and be in keeping with the characteristics of the area in which it will be used.

When the licensed area is not in use, any barriers have to be removed. The only exception will be where planning permission has been sought and arranged for permanent/semi-permanent barrier systems.

Licences will not be granted where access to local authority or utility company plant and equipment will be restricted.

- **Crime and Disorder**

In considering such applications the County Council will give particular consideration to section 17 of the Crime and Disorder Act 1998. Therefore, prior to granting any consent for tables and chairs on the pavement/highway, the County Council will give significant weight to the views of the local police.

- **Public Nuisance**

Applications will be refused if they are likely to cause excessive amounts of litter, noise, disturbance, smell or other nuisance to users of the pavement/highway or adjacent properties, particularly residential properties.

## **How long will I be able to operate under my licence?**

We will normally grant a licence to operate between 8 am and 11 pm.

Applications outside of those hours will be considered on a case-by-case basis, and only granted in the absence of objections or once such objections have been resolved or withdrawn.

We shall issue the licence for one year, which can be renewed by paying a renewal fee providing we are satisfied there are no reasons not to renew it. We will not renew if you have failed to comply with the licence conditions, or if there are highways works planned that will affect your licensed area.

## **Additional Information**

- **Licensed Premises – Licensing Act 2003**

If you attend to carry out any licensable activity i.e. the sale of alcohol within the licensed area you should contact your Local Licensing Officer, with the District Council, in order to find out if you need to vary your current premises licence to include the licensed area.

## **Enforcement**

The County Council may revoke the licence if you breach the conditions attached to it. We may also revoke/suspend the licence if the land is required for other purposes, or for any other reason. We will give you 28 days' notice of our intention to revoke the licence. You can make representations to persuade the County Council not to revoke the licence.

The following enforcement protocol will apply to a Café licence

1. On the first breach of a licence condition, we may issue a written warning:
2. On the second breach within a 12 month period of the first breach, we may issue a final written warning.
3. A third breach of the conditions within the same 12 month period may result in the licence being revoked.

The County Council will consider any breach on its facts.

## Appendix A – Consultees

You have to send a copy of your application to each of the consultees set out in the table below

<p><b>Fire Protection Manager</b> Fire Protection Mundells MU103 AL7 1FT</p> <p>Tel: 01707 292310</p> <p>Email: <a href="mailto:Administration.cfs@hertfordshire.gov.uk">Administration.cfs@hertfordshire.gov.uk</a></p>	<p><b>Hertfordshire Police Headquarters</b> Stanborough Road Welwyn Garden City Hertfordshire AL8 6XF</p>
<p><b>Local Planning Officer</b></p> <p>Please contact the relevant District Council.</p>	<p><b>Local Town or Parish Council</b> if the premise falls within the area of a Town or Parish Council.</p> <p>Details of the Local Town or Parish Councils can be obtained from your Local District Council</p>

If you have any queries about the application or completing the form, you can telephone the Licence and Enforcement Team via 0300 123 4040

Or email: [StreetCafeLicences@hertfordshire.gov.uk](mailto:StreetCafeLicences@hertfordshire.gov.uk)

## Appendix B - Application Form

The guidance document for the applicant should be referred to prior to completing the application form to ensure applicants are able to meet the applicable criteria before applying.

<p><b>Applicants name</b></p> <p><b>Company name/address and postcode:</b></p> <p><b>Telephone:</b></p> <p><b>Email:</b></p> <p><b>Agents details (if applicable)</b></p> <p><b>Company name/address and postcode:</b></p> <p><b>Telephone:</b></p> <p><b>Email:</b></p>
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<p>Name and address of the premises where it is proposed to place tables and chairs:</p> <p>Telephone Number:</p> <p>Please give the name of a contact person at the premises if different from Q1:</p>
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<p>Please tick as appropriate Do you occupy these premises as</p> <p>Freeholder <input type="checkbox"/>      Leaseholder <input type="checkbox"/>      tenant <input type="checkbox"/>      other <input type="checkbox"/></p>
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<p>To be completed by the freeholder or their authorised representative if applying for the first time. I/We give our consent to this application being made:</p> <p>Name:</p> <p>Capacity:</p> <p>Address:</p> <p>Telephone Number:</p> <p>Email address:</p> <p>Signature or official stamp:</p>
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**What is the nature of the business at these premises?** (please be specific)

Location: \_\_\_\_\_

Size of area (m), length \_\_\_\_\_, width: \_\_\_\_\_

How many tables and chairs do you propose to have at the site?

Number of tables: \_\_\_\_\_ Numbers of chairs: \_\_\_\_\_

Number of umbrellas: \_\_\_\_\_

Details of furniture (e.g. type, colour, material, size):

Please indicate below the **proposed days and times of operation for the tables and chairs:**

Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Start							
End							

**What date would you like the licence to start?**



## Conditions of a Café Licence

1. The following conditions will be applied to all licences. Further additional conditions may be applied to licences where necessary
2. You are only allowed to place furniture and structures on the pavement/highway during the hours granted on your licence. Outside of these hours you must remove the furniture and structures from the pavement/highway. You must leave the pavement in a neat and tidy condition at the end of each day.
3. If you breach any of your conditions we may revoke or suspend the licence. We will give you 28 days' notice in writing before we revoke or suspend the licence,
4. You must not cause any unnecessary obstruction of the pavement/highway or danger to people using the pavement/highway.
5. You must not allow people to gather and cause a nuisance or annoyance or danger to any person lawfully using the pavement/highway.
6. You must not play music amplified or unamplified or any musical instruments, radio or television whilst your licence is in operation.
7. You must not allow any excavations or indentations of any description in the surface of the highway or place or fix equipment of any description in the surface of the highway.
8. You must not allow the use of the highway for any other purpose at any time other than during the hours permitted by your licence.
9. You must not place any furniture or equipment or advertisement on the highway that is not specified in your licence. You must not obstruct the access and exits to your premise.
10. You must ensure the licensed area and the immediately adjacent area is kept clean and in a tidy condition during the permitted hours. You must provide litterbins for rubbish as required by us. You should dispose of food waste appropriately.
11. You must remove all furniture, litterbins and other equipment placed on the highway at the expiry, surrender or revocation of the licence.
12. During an emergency you must remove the permitted structures from the highway, if instructed to do so by;
  - Police Officer
  - Fire Officer
  - Paramedic
  - Undertaker
  - Utilities companies

- Other authorised persons
13. You must remove the permitted obstructions from the highway if instructed to do so by the Highway Authority.
  14. You must display the Café Licence at the premises so it can be clearly seen
  15. You must comply with any reasonable requests in relation to the use of the highway by officers on behalf of the Council.
  16. You must provide suitable barriers around the permitted area where required by us.
  17. You can only place the tables, chairs and umbrellas outside the premises between the hours of 08:00 and 23:00.
  18. You must indemnify the County Council against all actions, proceedings, claims demands and liability which may be taken, made or incurred in the consequences of the use of the chairs and tables and other objects and for this purpose must take out at your expense a policy of insurance approved by the County Council in the sum of at least £10,000,0000 (TEN MILLION POUNDS) in respect of any one event and must produce to the County Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.
  19. You must not charge for the use of the chairs and table and other furniture.