



HIGHWAY AMENITY LICENCE

Middlesbrough has much to offer by the way of creating an ambiance that makes the town attractive to visitors and residents alike. It is the Council's aim to have, weather permitting, good quality pavement cafes contributing to a relaxed and sociable style of eating and drinking.

The purpose of this brief is twofold:

- To highlight the requirements and standards expected of pavement café operations in the town centre
- To guide those wishing to establish and/or operate pavement cafes through the licensing process

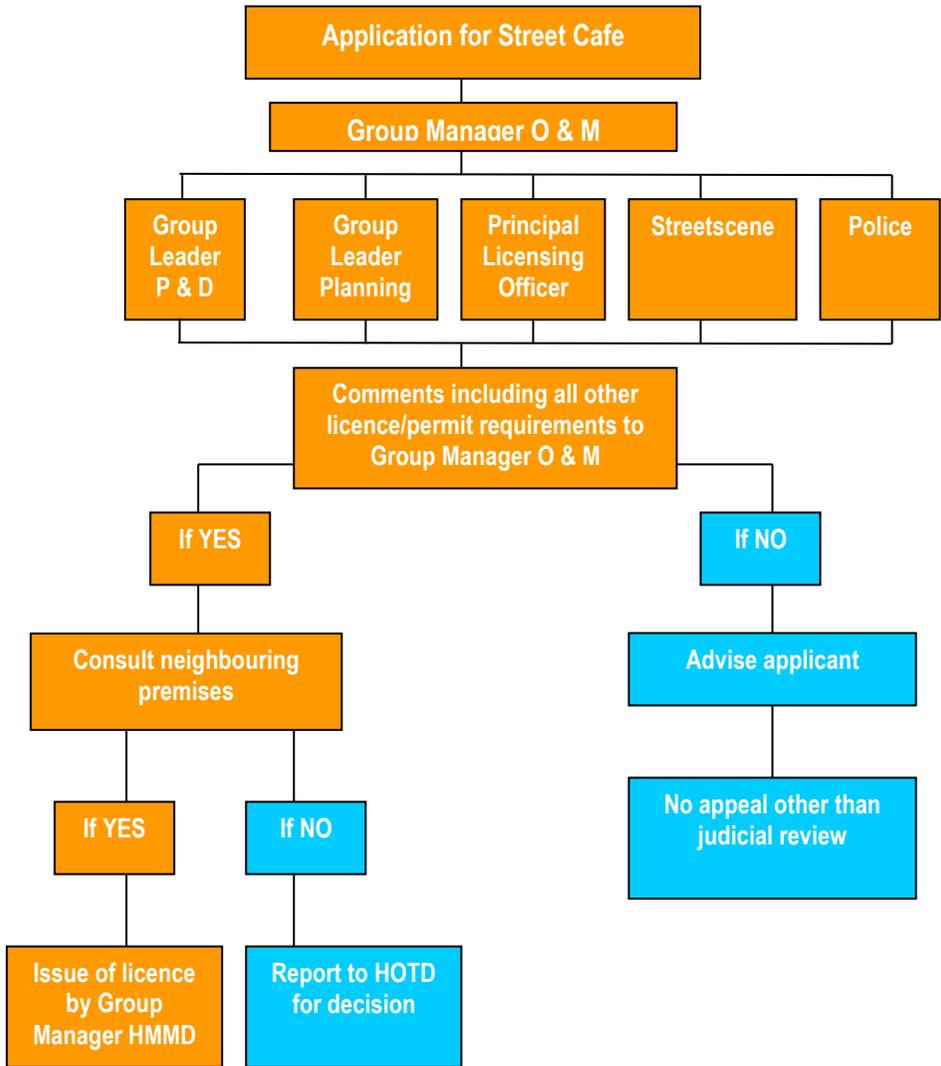
The Council licenses street cafes in Middlesbrough, which are not situated on privately owned land, by the granting of a Highways Amenity Licence. The licence is renewable annually. The current administration fee is £406 inclusive of capitalised annual renewal charges and inspection fee. The fee for annual renewal and inspection is currently £119

The Licence application process involves specific procedures, hence the need to follow the guidance in this brochure and on the application form which need to be completed by all applicants.

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 A3 permission and all facilities are portable, however, planning permission will be necessary if there is either an area of permanent development associated with the pavement café, or if permanent barriers are proposed.

Upon receipt of an application, it should normally take 2 months for the application to be determined, via the following consultation process.

Street Cafes Consultaion Procedure



This guide is produced in two parts:

- **DESIGN CONSIDERATIONS**

General Considerations and Information – Guidance on size, layout, means of enclosure, furniture, environmental and other requirements/recommendations.

- **APPLICATION FORM**

Part One - Design Considerations

The majority of streets/areas in the Town Centre will accommodate pavement seating; however each individual application has to be considered on its own merits. The Council therefore reserves the right to refuse applications if it is considered to be inappropriate.

Size and Layout

Outdoor seating areas should be located outside/clear of the lines of main pedestrian movement. Where the pedestrian desire line on the street follows the building line, a clear pedestrian route (normally not less than 2 metres wide) shall be maintained on the highway adjacent to the building line. Where suitable recesses exist along the building line, or where the pedestrian desire line is away from a building's frontage, seating areas may be located adjacent to the building line. Each outdoor seating area will be considered individually on its own merits, and the 2 metre wide pedestrian route adjacent to the building line will be introduced where appropriate. In areas of high pedestrian flows it may be necessary to leave a clear route of greater than 2 metres in width.

The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops, and pedestrian crossings. In any event a minimum distance of 1.2 metres must be kept between the kerb line of regularly trafficked routes and the pavement café boundary.

The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities.

All emergency exits and routes must be kept clear.

If the proposed area fronts other properties, then prior consent of these owners/occupiers will be required.

Furniture

The furniture should be of a high quality and uniform style within the licensed area, normally stainless steel. White plastic and/or picnic tables will not normally be approved.

Where umbrellas are used these must be fabric type (i.e. non reflective). They may display a small logo up to 150mm x 450mm in size of the establishment's name, but they must not display brand names. Umbrellas are to be positioned so as to avoid overhanging outside the enclosure or impairing vehicle sight lines.

Non – furniture items, e.g. 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.

Part One - Design Considerations

All items need to be portable enough to be brought in at the end of the licensed period of each working day or in the event of an emergency.

Environmental and Other Requirements

In certain parts of the Town Centre the quality of air from traffic fumes makes it inappropriate to site pavement café operations. Please consider the nearness of the bus stops and taxi ranks from the customer's point of view.

All pavement café operations must comply with the relevant food safety requirements.

Litterbins or similar receptacles, 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. The bins will be emptied, **by the applicant**, daily and more often when required.

Means of Enclosure

When in use the pavement café area will 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.



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 unique to the town centre.

The design of the barrier should be 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.

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.

Any proposed means of permanent enclosure will require planning consent in addition to other approvals.

In certain circumstances existing street railings may be utilised as a suitable means of enclosure.

Conditions of Licence

The granting of a Highways Amenities 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.

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.

It will be the responsibility of the pavement café operator to keep the area clean and free of litter, and supply litter bins of an approved type during licensed/operational hours.

Tables must be serviced by waiters/waitresses.

Any changes to any part of the pavement café operations (including furniture, other items, area or operating hours) must be notified to the Council in writing, and may be the subject of a new or revised licence.

The Highways Amenities Licence will normally operate from 9.00am to 11.00pm. In certain areas there may be reductions on those hours due to specific local highway requirements.

Public Liability Insurance cover to £5m will be required for the licensed area.

Any objections need to be resolved prior to the license being issued.

Where the Council is the owner of the sub-soil beneath the highway, an annual rental charge can be made on the licensed area, in addition to the license fee.

All licenses are checked yearly by the Council to ensure the street furniture is acceptable and that the Operator/Licensees Public Liability Insurance is current. Yearly reviews and reissue of licences are charged at £116 per premises.

For a full list of conditions please see overleaf.

Conditions Of Permission

1. The Holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission.
2. The Holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of Middlesbrough Council.
3. The Holder(s) shall return this Permission to the Office of the Head of Transport and Design Services immediately on revocation of this Permission.
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 Permission 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 area so Permitted to be used 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 Permit 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 Middlesbrough 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 interest or possession given by this Permission 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 Middlesbrough Council.
13. The Holder(s) shall maintain the area shown on the plan attached to this permission 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 area of the café shall be defined with planters, fencing or similar furniture to contain the tables and chairs to 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 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 Waste from the Holders' operations must not be disposed of in the permanent litter bins provided by the Council within the highway.

16. The Holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the expiry, surrender or revocation of the Permission 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 Justices to the Holder(s) of the permit.
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 Middlesbrough 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 fee for the provision of this Permission which will be reviewed from time to time. Additional rental may be charged where the Council are the owners of the sub-soil beneath the highway.
24. The Holder(s) may from time to time be notified of temporary suspension of the permission 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. Permission may also be revoked for non compliance with the above conditions and Middlesbrough 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 designated Council Officer.

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

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