

Street café license application

Section 115E, Highways Act 1980

Please read the attached guidance before completing this form

Applicant details

1 Name of applicant:

2 Address of applicant:

3 Home telephone number

4 Mobile telephone number

5 Email address

Details of premises to be licensed

6 Name of premises:

7 Address of premises:

8 Nature of business:

When answering yes to any of the questions below please submit evidence with your application:			
9	Does the applicant have day to day management control of the business?	YES	NO
10	Is the applicant the freeholder / lease holder or owner of the premises?	YES	NO
11	Do you have planning permission?	YES	NO
12	Do you have permission from the land owner?	YES	NO
13	Do you have public liability insurance for the area?	YES	NO
14	Does the business have a Premises Licence (alcohol etc.)?	YES	NO

15	Days and times during which the proposed license area will be used:			
	DAY	✓	Start time	End time
	Monday			
	Tuesday			
	Wednesday			
	Thursday			
	Friday			
	Saturday			
	Sunday			

16	Proposed use of license area:

17	Describe furniture type(s) and numbers:

18	Date on which you would like your license to commence:

19	Signature	
20	Date	

FOR OFFICE USE ONLY

Document checklist:

Public liability insurance

Planning permission

Location plan & proposed layout (scale 1:200 or better)

Details of furniture (photos, specifications, catalogues etc.)

Customer notes for guidance

1.0 STREET FURNITURE

1.1 Introduction

- 1.1.1 Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life and interest to an area.
- 1.1.2 There has been a steady rise in the interest from restaurants, cafés, and bars within the county to seek permission to place tables and chairs, associated with their operation, in the highway.
- 1.1.3 Rutland County Council appreciates the general appeal of this concept, recognises the economic benefits and welcomes the potential visual and amenity rewards such schemes can give if they are developed and implemented sympathetically.
- 1.1.4 The Council is mindful that uncontrolled and inconsiderately sited tables and chairs on the pavement can be unsightly, cause a nuisance, obstruct the passage of pedestrians, prams, and wheelchairs and create a danger to people with impaired vision or mobility difficulties.

1.2 Legal Situation

- 1.2.1 For the purposes of this policy pavement cafes are considered to be tables and chairs placed on the highway where food and drink is consumed by customers.
- 1.2.2 Before agreeing to grant permission for a pavement café on the highway, the Council must ensure that the public's rights to use the highway are not detrimentally affected.
- 1.2.3 This power was written into the Highways Act 1980 sections 115A to 115K, and allows the Council (as the Highway Authority) to provide and operate facilities for recreation and refreshment within the boundaries of the highway. It also allows the Council to grant permission to third parties to locate and operate such services in the highway.

1.3 Permissions Required

1.3.1 Highway Authority

- 1.3.1.1 A permission to use the highway for pavement cafés is issued by the Council under section 115E Highways Act 1980.
- 1.3.1.2 Tables and chairs placed on the highway without permission are an illegal obstruction and the Council will take enforcement action in such cases.

1.3.2 Planning Permission

1.3.2.1 Planning permission may be required for pavement cafes on the public highway, but the Council may not necessarily pursue this if it is satisfactory from a highways perspective. It should be noted that relevant planning permission or a lawful use for your existing premises must be in place before consent for a pavement café will be considered.

1.3.3 Premises Licence

1.3.3.1 If it is intended to serve alcohol at the table within the public highway, it will be necessary to apply separately for alcohol permission under the Licensing Act 2003. Early consultation with the Council licensing section/ department is recommended to ascertain the requirements for any particular proposal.

1.3.3.2 If you do not have a premises licence or your current licence expires or is revoked for any reason, you will not be able to serve any alcohol within the public highway.

1.3.4 Environmental Health registration

1.3.4.1 Food businesses are required by law to be registered with the Council. This is an entirely separate consideration to granting a pavement café licence. An application form can be obtained from the Environmental Services department of the Council.

1.4 Designing the Pavement Café

1.4.1 The size and layout of your proposed pavement café will be dependent upon the characteristics of the site outside your premises, the space available, the street furniture and the type of premises. However, there are a few fundamental principles to follow with the design. It is suggested that preliminary discussions take place with the Council.

1.5 Size And Layout

1.5.1 The pavement café should normally occupy an area directly in front of and be visible from your existing premises. It should not extend beyond the width of your frontage but if you propose to extend beyond your frontage you will need to obtain your neighbours agreement.

1.5.2 Emergency exits from your own premises or adjacent buildings must not be obstructed by the pavement café and emergency services vehicles must have access along all streets at all times, even in pedestrianised areas.

1.5.3 The needs of other users of the highway should be taken into account e.g. pedestrians, trades people, adjacent businesses etc.

1.5.4 On normal street pavements or narrow footways the tables and chairs should be placed against the building. The presence of tables and chairs should never discourage pedestrians from using the footway.

1.5.5 Where a café lies outside a pedestrianised area, a minimum width of footway of 1.8m is required between the boundary of the seating area and any space used by vehicles or the kerb face.

1.5.6 It is not appropriate to set a standard size for pavement cafés. Each application will be evaluated on its merits taking into account the site characteristics, the space available and the proposed layout.

1.5.7 The layout of the café's furniture, access points and means of enclosure must provide adequate access and circulation space for all customers including wheelchair users and those with pushchairs, buggies etc.

- 1.5.8 Tables and chairs should not be located where they will impede drivers' sight lines or obscure highways signs.
- 1.5.9 When designing the pavement café you should consider whether or not your existing toilet and washing facilities are adequate to accommodate increased customer numbers. If toilet facilities do not meet the requirements necessary for wheelchair access, a sign should be displayed to ensure people are aware of this.
- 1.5.10 The pavement café should not adversely affect the architecture or historic character of a Listed Building or its setting or the Conservation Area in which it is located.

1.6 Boundaries

- 1.6.1 The County Council will not allow any fixtures to or any excavation of any kind to the surface of the highway.
- 1.6.2 Every effort should be made to avoid causing damage to the highway or adjacent property. The cost of rectifying any damage to the highway surface or to the street furniture caused by any activity connected with the pavement café operation may be recharged to the licensee.
- 1.6.3 Once the size and the layout of the pavement café are agreed it is important that it is adhered to at all times. All activities associated with the café must be contained within the agreed boundary including all tables, chairs, parasols, planters, barriers/fencing etc.
- 1.6.4 When the pavement café is in use, a form of enclosure will be required to demarcate and contain the area. Good quality and well-designed materials should be used. Waist-high post and ropes are suggested as one method and it is also advised that the enclosure includes solid elements near to ground level which are detectable by stick to give a clear warning to people with visual impairment.
- 1.6.5 The colour and materials of the enclosure should be considered carefully to ensure that in the longer view it is not too visually dominant, but at close range contains key elements which stand out against the background. In some circumstances a particular design may be required to retain some continuity of design in a particular area.
- 1.6.6 Planters with shrubs or floral displays will be welcomed as part of the enclosure.
- 1.6.7 Menu boards will not be accepted as part of the boundary or as a separate advertising opportunity.
- 1.6.8 When the designated area has been agreed a definitive plan of the area showing the boundaries and the dimensions will be attached to and form part of the Licence.

1.7 Hours Of Operation

- 1.7.1 The County Council does not wish to be too prescriptive on the hours of operation for the café. The proposed hours of operation will need to be included on your application.
- 1.7.2 **All furniture etc. is to be removed and stored off the highway within 30 minutes of closing. Furniture cannot be placed upon the highway before any designated opening times. The designated area swept and washed within 30 minutes of closing.**

1.8 How Long and How Much?

- 1.8.1 When an application is received it is initially checked to see if all of the information required is complete, if not the applicant will be informed.
- 1.8.2 When a valid application is made the Council will carry out consultations with the following organisations and persons as appropriate before granting a licence;-
- a) Leicestershire Police
 - b) Leicestershire Fire and Rescue Service
 - c) Local County Councilor
 - d) The appropriate Parish or Town Council
 - e) Local disabled groups
 - f) Town Centre Manager
 - g) Local Chamber of Trade and Commerce
 - h) Environmental Services
- 1.8.3 The above listed persons will be requested to make their representations within 28 days of the submission of the application.
- 1.8.4 **If objections are received from the Police or Town Council that cannot be resolved then the application will not be approved.**
- 1.8.5 If no representations are received, or if any are received and are resolvable by amending the proposal, then the application process will continue with formal consultation taking place.
- 1.8.6 Under the terms of the Highways Act 1980, the Council cannot grant permission unless it obtains consent of interested frontagers who may be materially affected by the proposal i.e. those that may have a café extending onto their frontage.
- 1.8.7 The Council must publish a public notice of the application and consult with nearby frontagers who may be affected. The notices are usually posted in the vicinity of the proposed pavement café, with frontagers being sent a copy of the notice. The notices must be in place for a minimum of 21 days to allow for any representations.
- 1.8.8 Council officers usually try to resolve any objections at an early stage. If however they cannot be resolved then the application may be considered by the Planning and Licensing Committee.
- 1.8.9 Each application will be different and may take a different time to determine. Some may provoke many objections; others may raise none at all. In general it is estimated that it will take approximately three months to process an application. Following the good practice procedures in this policy will improve your chance of succeeding. The notices must be in place for a minimum of 21 days to allow for any representations.

1.9 Standard Conditions

- 1.9.1 9.1 The standard conditions for a street furniture licence can be found in Appendix A.

**A large print version of this document
is available on request from:**

Rutland County Council
Catmose
Oakham
Rutland LE15 6HP

01572 722 577

enquiries@rutland.gov.uk

www.rutland.gov.uk

Appendix A

Rutland County Council

Street Café Licence Standard Conditions

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 the council.
3. The Holder(s) shall return this permission to the Office immediately on revocation of this Permission.
4. The Holder(s) shall not cause any unnecessary obstruction of the highway 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 person lawfully using the highway. A clear width of 1.8m of footway is to be left for the safe passage of pedestrians.
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 excavation or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description on the said surface.
7. The area 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 have full responsibility for the designated café area, which must be directly outside the premises. Total number of customers using café area must be monitored in order to prevent overspill outside the designated area.
9. The Holder(s) shall not exceed the hours of 09:00hrs to 23:00hrs for displaying the tables and chairs.
10. 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 Councils' representatives, notices in the form approved concerning the provisions required by the Council relating to the consumption of intoxicating liquor in public places.
11. If food and drink is required to be served waiter style to the tables then a separate liquor licence will be required. Before introducing this type of service a liquor licence is to be obtained from the Licensing Authorities.

12. The Holder(s) shall not place on the Highway any furniture or equipment or advertisement other than as permitted by the Council and must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises. Such furniture shall be to an agreed standard and themed with accessories around a colour scheme.
13. The Holder(s) shall make no claim or charge against the Council in event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause.
14. 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 or neighboring premises or to members of the public.
15. 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.
16. 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. In particular, access shall be provided at all times for highway works including public utility plant.
17. The application must make clear the area in which tables and chairs are to be placed, not merely the number of tables and chairs proposed. If umbrellas are proposed, this should also be specified. Plans submitted with the application must identify the location of the building line in a pedestrian priority zone, together with dimensions of the area for tables and chairs. The plan should also show any entrance to premises within or adjacent to this area plus any area which may be considered to be private forecourt, location of trees, lamp columns and other street furniture. Any application without such a detailed plan will be treated as invalid and will not be dealt with until such a plan has been supplied.
18. The Holder(s) shall maintain the area as shown on the plan attached to this Permission and edged in red and the immediately adjacent, in a clean and tidy condition during the permitted hours and shall leave the same in a clean and tidy condition and unobstructed which shall include (1) washing down the area, at the end of each daily period of use and (2) removing any refuse and litter deposited on the highway in the vicinity of the tables and chairs.
19. The area of the café shall be defined with planters or ropes to contain the tables and chairs to within the boundary and assist people with visual impairment to recognise the boundary. Such furniture to be an agreed standard and themes to match the rest of the café furniture.
20. The Holder(s) shall provide litterbins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items if required and ensure that the same are emptied daily. Waste from the Holders operations must not be disposed of in the permanent litterbins provided by the Council within the highway.
21. The Holder(s) shall remove all furniture or equipment, litterbins or other articles placed on the highway in accordance with this Permission at the expiry, surrender or revocation of the Permission and at the end of each working day.
22. 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.

23. The Council may revoke the permission at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the Holder(s) in respect of such revocations.
24. Nothing herein 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.
25. The Holder(s) shall be responsible for any rates, taxes and outgoings, which may be charged.
26. The fee for the provision of the Permission shall be in accordance with the Council's fees and charges renewable on the 1st April each year.
27. The Holder(s) attention is drawn to section 115k of the Highways Act 1980 which provides as follows:
 - i) If it appears to a Council that a person to whom they have granted a Permission under Section 115E of this Act has committed any breach of that Permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as it so specified.
 - ii) If a person on whom a notice is served under the sub-section (1) of this Act fails to comply with the notice, the Council may take the steps themselves.
 - iii) Where a Council have incurred expenses in the exercise of the power conferred on them by sub-section (2) of this Act those expenses, together with interest at such reasonable rates as the Council may determine from the date of service of a notice of demand for the expenses, may be recovered by the Council from the person on whom the notice under Sub-section (1) of this Act was served.
28. The Holder(s) must be aware of any potential conflict and must not interfere with special cyclic events on the highway e.g. Markets, Parades, other events
29. Failure to comply with any conditions of the Permission will require the Council to consider whether any subsequent Permission should be granted to the Holder(s) of this Permission.
30. If the licensee ceases to trade during the permit period, no refund will be issued under any circumstances.