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## **INTRODUCTION**

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Ipswich Borough Council has much to offer by way of creating an ambience that makes the town attractive to visitors and residents alike. On pedestrianised areas and weather permitting, the addition of good quality pavement cafes contributes a relaxed and sociable style of eating and drinking indicative of any continental city or town.

### **The purpose of this guide is twofold:**

- To highlight the requirements and standards expected of the siting of facilities for pavement café operations in the Borough of Ipswich.
- To guide those wishing to establish and/or operate pavement cafes through the consent process

Pavement cafes on the highway require consent from the Council. The consent is renewable annually.

It will not normally be necessary to obtain planning permission for street cafes on the public highway, provided that the main existing premises have an A3 planning permission (Food and Drink). However, permission may be necessary in advance from the Planning and/or Highways services, if there is either an area of permanent development associated with the pavement café, or if permanent barriers are proposed.

The application process involves both legal and non-legal procedures, hence the need to follow the guidance in this brochure and on the application forms which need to be completed by all applicants.

It can take up to two months for consent to be granted, upon receipt of an application but it will always take at least six weeks.

### **Information and Guidance:**

A consent is required for a pavement café (Sitting-Out Area). This is to ensure that it is properly set up and operated so that it benefits the business, enhances the town and does not cause a problem for other users of the highway

### **Please consider the criteria below – details for each follow overleaf:**

- Size and layout
- Means of enclosure
- Furniture type
- Environmental and other requirements
- Applying for consent

All consents are valid from 1<sup>st</sup> April to 31<sup>st</sup> March. All consents, irrespective of date of issue, will be renewed from 1<sup>st</sup> April each year.

### **Who to Contact:**

For general advice and information, in the first instance please contact Licensing & Enforcement on 01473 433076 or 433075.

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## GENERAL CONSIDERATIONS

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### Size and Layout

The following factors are some of those that will be taken into account:

- Available space
- Type of premises
- Street width
- Street character
- Number of passers by
- Existing street furniture eg bins, benches, planters etc
- Proximity to residential properties

If an area is pedestrianised, there is potentially more scope to site a pavement café and each application for such will be dealt with on individual merits and may be subjected to individual as well as standard conditions.

If the proposed location is adjacent to a vehicle carriageway then there are inevitably more limitations applicable, namely:

- People walking past the premises, wheelchair users and people with pushchairs, must have sufficient clear footway (minimum of 1.8m) between the edge of the carriageway and the boundary of the café or between the premises frontage and the pavement café. This is to ensure pedestrians, particularly the visually impaired, are not obstructed.
- Ipswich Borough Council will reserve the right to request downsizing of the pavement café or relocation on any given day due to extenuating circumstances – we will, however, endeavour to give notice of this. Utility providers may also need access to any area under the New Roads and Street Works Act.
- Ipswich Borough Council or the Local Police Authority may at any time require the sitting out area not to be operated, on reasonable notice to the Consent holder, this may occur particularly on football match days or other public events advised by the Police;

The layout of furniture and other objects and the means of enclosure will only be approved if adequate provision has been made for both customers and highway users with disabled access requirements. Emergency vehicle access will also need to be maintained at all times.

### Means of Enclosure

When in use the Sitting-Out area will need to be partially enclosed by removable barriers to demarcate the consent area and to contain the tables and chairs, thus making it distinguishable to other pavement users, and particularly to assist blind and visually impaired pedestrians.

The enclosure shall be removed at times when the sitting-out area is not being used. The means of enclosure should therefore be relatively lightweight in construction and portable, but stable enough to prevent collapse if accidentally walked/stumbled into.

The design of the barrier should complement the character of the surrounding area and in any event ideally have solid, horizontal, bars/elements at around 100mm and 1,000mm above ground level. Rope barriers are not usually considered suitable.

Planters can be particularly attractive and could be considered as part of the means of enclosure, but must be removed from the highway outside of consent times

Any proposed means of permanent enclosure will require planning consent and/or Highway approval.

### **Furniture**

Furniture should be of a high quality and uniform style within the consent area and to the satisfaction of the Council. Plastic patio type furniture will not normally be permitted.

Where umbrellas/parasols are used these must be fabric type (ie non-reflective) and display only limited pre-approved advertising/logos. Umbrellas are to be positioned so as to avoid overhanging outside the enclosure and/or impairing vehicle sightlines.

Non-furniture items eg. menu boards, signs and portable gas heaters also need to be approved as part of the defined consent area, and any unacceptable clutter or intrusion into sightlines will need to be removed if it is deemed to be causing a problem. Any object/item eg. menu boards, signs and portable gas heaters will need to be included in your consent, which will require approval of the Committee, any object/item not included within your consent or any object/item causing a problem will be removed.

It is the responsibility of the consent holder to ensure:

- (i) that all chairs and tables are in good repair and are stable
- (ii) that any parasols and umbrellas are fully secured to the ground and weighted to prevent them being dislodged by the wind

### **Environmental and Other Requirements**

In certain areas of the town centre, the quality of air from traffic fumes makes it inappropriate to site pavement café operations. Please consider proximity to bus stops and taxi ranks from the customer's point of view and avoid locating near to known traffic congestion hotspots.

It will be the responsibility of the Consent Holder to provide waste receptacles and to keep the area clean and free of litter, including cigarette ends, during consent hours.

All food premises are to be registered with Ipswich Borough Council's Food safety team. All pavement café operations must comply with the relevant food safety requirements and Waste Duty of Care Regulations.

Additional/adequate toilet provision relating to occupancy numbers will also need to be borne in mind.

The use of unbreakable glasses and crockery is recommended where appropriate. (Note: If the premises are licensed under the Licensing Act 2003 this may be a condition of the Licence or Certificate.)

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## **APPLYING FOR CONSENT**

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In the first instance contact the Licensing & Enforcement service on telephone number 01473 433076 or 433075.

The guidelines and considerations contained within this document should be considered.

The application form for the Highway Amenity Consent for a Pavement Cafe needs to be completed, signed and accompanied by all necessary documents and the appropriate fee before the process of assessing the application can begin.

Additional documents which must accompany an application are:

- A scale plan showing the dimensions of the of the area to be used; number and layout of tables and chairs; and any other objects to be placed within the consent area (eg. planters, heaters, parasols, etc). The plan should also show the area in relation to the frontage of the premises;
- Details (or photograph) of the type, size and appearance of barriers to be used;
- Documentary evidence of public liability insurance;
- The appropriate fee.

**Public Liability Insurance cover to £5m will be required for the consent area and evidence of this will be required in advance before any licence is issued.**

Prior to granting the consent, there are two legal consultative requirements as detailed in the Highways Act 1980.

- (1) The consent of frontagers (ie. owners or occupiers of premises) who may be affected by a proposed Sitting-Out Area Consent;
- (2) A public notice shall be posted on or near the premises for a period of 28 days to allow for any representations on the proposals.

The application will be subject to a 28-day consultation period when anyone may make representations about the proposed Sitting-Out Area.

Some external bodies such as the police, fire service, etc will be asked to give their comments on the application. In addition the Council's planning and highway services will be consulted together with any other Council services that are appropriate.

A consent shall not be granted until all representations have been considered.

During the consultation period an officer from the Licensing and Enforcement Team will visit you to check the application plan against the premises and the area which is proposed to be used.

Your application will be considered by a Sub-Committee made up of Councillors who sit on the Licensing and Regulatory Committee.

### **Refusal of Applications/Variations**

There is no legal right of appeal against the decision of the Council in relation to the refusal of applications/variations of Highways Amenity Consent. But, Ipswich Borough Council does offer an appeal process through the Licensing & Regulatory Committee, for persons aggrieved by the decision to refuse or grant a new Licence (or renewal/variation of an existing consent) from the sub committee.

***DATA PROTECTION ACT: The information provided when the application is completed will be processed in accordance with the Data Protection Act 1998. Please note we may disclose the data to other Council departments in accordance with the act to facilitate the efficient provision of services***

### **Conditions of Consent**

If granted the Highways Amenity Consent is subject to a set of standard conditions which relate to the operation of the sitting-out area. These conditions may be altered or added to by the Licensing Sub-Committee when your application is determined. In addition the Council reserves the right to amend any of the conditions if it considers it appropriate to do so. The consent can be revoked or suspended if the conditions are not complied with. The standard conditions are set out at the end of this document for information.

A Consent applies only to the applicant in respect of the premises concerned and is separate or in addition to any licence or certificate to sell alcohol for which an authorisation is required from the Council under the Licensing Act 2003. We reserve the right to request proof of such permissions before the Council will consider licensing a pavement café on the highway which intends to serve alcohol. (The consumption of alcohol within the pavement café consent area is not a licensable activity under the 2003 Act, however if sales of alcohol are to be made within the sitting-out area it would need to be included in the premises licence).

Any changes to any part of the pavement café operation, including change of or addition to furniture or other items or changes to the consent area or operating times will be the subject of a new application for a revised Consent. You must contact us immediately if you wish to propose any changes.

The Highway Amenity Consent will normally operate somewhere within the hours of 8.00am to 10.30pm. Times of use will vary from application to application depending on individual circumstances and location. Each case will be judged and approved on its own merits.

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## **TERMS AND CONDITIONS**

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The Council has the power to give consent to provide and operate facilities for refreshment on a highway. Subject to the following criteria a person/company to whom consent has been granted must be aware of, and comply with, the conditions set out below

1. The conditions attached to the Consent may be varied and added to by the Council at any time.
2. The Consent holder must always have a valid insurance policy for public liability for at least £5,000,000 and must notify the insurance company of their application and receive confirmation they are covered as required by the Application Form.
3. The holder of the Consent shall not provide any refreshments other than that normally obtainable within the licence holder's premises.
4. Tables and chairs should ideally be sited so that they are clearly visible from inside the premises.
5. Consent holders shall ensure that during the period of use and at the conclusion of any period of use the area of the highway that is the subject of this consent shall be kept clean and tidy and free from litter.
6. A suitable waste/litter bin must be provided in addition to a receptacle for the disposal of cigarette ends.
7. All furniture and objects covered by the consent must be removed from the highway at the end of the permitted time of opening according to the individual consent.
8. No omission from or addition to, or variation of, the consent shall be valid of any effect unless it is agreed in writing and signed by the supervising officer of the Council and by the consent holder.
9. The Consent holder shall ensure that any equipment used for the purposes of providing these facilities are safe and present no risk to members of the public and in particular:
  - (i) that all chairs are in good repair and are stable
  - (ii) any parasols and umbrellas are fully secured to the ground and weighted to prevent them being dislodged by the wind.
  - (iii) The area to be used is protected and separated from the rest of the highway in such a way that a blind or visually impaired person, or those with learning disabilities or mobility difficulties run no risk of injury from their use.

10. The consent holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the licence except where any claim in respect of such injury, damage or loss is attributable to the negligence of the Council.
11. A clear pedestrian, wheelchair and pushchair route will be required for those passing the premises. Emergency exits from adjacent buildings must not be obstructed by a seating area.
12. The layout of the consent area should not provide any obstructions, inconvenience or danger to those customers with disabilities and adequate space should be left between tables for wheelchair access.
13. Ipswich Borough Council or the Local Police Authority may at any time require the sitting out area not to be operated, on reasonable notice to the Consent holder, this may occur particularly on football match days or other public events advised by the Police;
14. The Authority will repair any damage to Local Authority property caused as a result of objects placed on the highway, with all costs being recovered from the Consent Holder.
15. The Council, in giving consent, cannot and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing anything on the highway.