

Street Cafes on the Public Highway

(S115E The Highways Act 1980)

Policy and guidance pack for applicants seeking permission to
use the public highway for a street café

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1. Introduction

- 1.1 Bolton Council are commitment to developing a more vibrant town centre environment. As part of this commitment the introduction of street cafés is encouraged by the Council, amongst other things, a vibrant town centre is about creating an environment which is attractive and welcoming, one which makes people want to spend time, sitting down and taking part in community events. A healthy street café culture is seen as a crucial part of this.
- 1.2 Street cafes have already proved to be a popular element of town centre life in many British cities. Bolton Council along with many local businesses, believes street cafes could, and should, play a part in Bolton's street life.
- 1.3 These street café guidelines are intended to advise and guide those considering setting up a street café on the public highway. It is important at this stage to advise that Planning Permission and a Street Café Licence will be required in all cases.
- 1.4 These guidelines set out the issues that will be considered when assessing a street café licence application. They explain the procedures Bolton Council must go through in processing such applications, and the conditions that will be applied where applications are approved.
- 1.5 Whilst Bolton Council wishes to encourage street cafes, it must also ensure that the needs of other highway users are being met. Any planning application and Street Café Licence will take into account three main issues.
- The amount of space that the street café will potentially remove from the public highway.
 - The visual / environmental impact of the proposed street café.
 - The effect upon local residents or other businesses, particularly in terms of noise levels and the safe passage of pedestrians.
- 1.6 The proposed street café must meet Environmental Health requirements associated with eating and drinking establishments. The main areas of concern being toilets, hygiene and noise. Bolton Council's Environmental Health & Trading Standards Services can advise further on matters relating to public

health legislation.

A Street Café Licence will only be approved on the proviso that, the area proposed for a street café, is located adjoining premises used for a café or restaurant or other food outlet and must be carried out as part of that business.

The sale of food and drink from temporary stalls or takeaway food and drink from outdoor sale points will not be acceptable under the condition of the Street Café Licence.

Tables must be serviced directly from immediately adjacent the building premises, where the food is prepared and sold, and where there is an approved A3/food use.

- 1.7 Any application for a Street Café Licence should take into account the Disability Discrimination Act 1995.

2. Planning and Highways Legislation

- 2.1 Applications for Planning Permission and a Street Café Licence may be applied for at the same time and should be submitted to the relevant Council departments.

Important note: The Street Café Licence application form will not be processed until the necessary Planning Permission is formally granted.

- 2.2 Bolton Council may undertake a number of consultations, including the emergency services and adjoining premises before making a final decision.
- 2.3 At least two months should be allowed for a decision concerning the necessary Planning Permission.
- 2.4 There is a right of appeal against a refusal to grant Planning Permission, and or refusal to issue a Street Café Licence.

3. Planning Permission

- 3.1 Planning permission will be required in all cases. Therefore, anyone proposing to set up a street café are advised to firstly contact Planning Control.
- 3.2 Whilst Bolton Council wishes to encourage street cafes within the public highway, the

following criteria must be complied with before planning permission is granted.

This is to ensure the safety, appearance and amenity within the town is preserved.

- a) Tables, chairs and other equipment / furniture and the means of enclosing them must not adversely impede the safe progress of pedestrians, vehicles, pushchairs, wheelchairs and the visually impaired.
- b) Bolton Council expects high quality street furniture especially in conservation areas and outside listed buildings. The design of tables, chairs and other furniture will be a matter for consideration of any planning application.

Details of the style, design and materials proposed should be submitted along with the planning application.

- c) The Council will seek to protect residents or other adjoining users from unreasonable noise or odour intrusion. The playing of amplified music outside the premises will not be permitted.
- d) Bolton Council's policies regarding change of use of premises to café uses will be applied. Changes of use from retail classes (A1) to café uses (A3), which conflict with Council policy will be resisted on primary shopping streets. In any location, outdoor cafes will only be permitted in conjunction with existing A3/ food use.
- e) The sale of takeaway food or drink will not be permitted from outside the premises.
- f) Business advertisements may require additional consent. They should be of high quality materials, sympathetically designed, especially in relation to conservation areas and listed buildings, and should not have a cumulative impact on a building or area.

Temporary advertisements including 'A' boards, banners and flags will not normally be allowed, either inside or outside the permitted street café area.

4. Building Regulations

- 4.1 Any works involving alterations to either inside or outside of a building

may require Building Regulations approval, for further advice contact Building Control.

5. Listed Buildings

- 5.1 Any works involving alterations to either the inside or outside of a Listed Building will require Listed Building Consent from the Council. For further advice contact Bolton Council's Conservation Officer.

6. Street Café (Highway) Licence

- 6.1 Bolton Council, as the Highway Authority, may licence the use of an area of public highway for tables and chairs under the provisions of Section 115E of The Highways Act 1980. In doing so, Bolton Council must ensure that sufficient footway width is retained for pedestrians to move about safely, along with the movements of any vehicles.
- 6.2 Bolton Council may grant a licence subject to such conditions as it may think appropriate including conditions that:
 - The applicant shall pay Bolton Council all reasonable costs incurred in granting a Street Café Licence.

7. Assessing A Street Café Licence Application

- 7.1 In assessing an application for a Street Café Licence, Bolton Council must ensure that pedestrians have sufficient width of unobstructed, and clearly defined footway. This is especially important for disabled people, wheelchair users and those who are visually impaired, as well as for people with pushchairs. It is also essential that emergency access routes are kept clear at all times.

In general, all applications will be considered on their individual merits.

- 7.2 Generally when siting tables and chairs on the public highway, they should normally be placed adjacent to the applicant's premises. However, in special areas, such as a public square, pedestrianised areas, or on streets with low pedestrian flows, this requirement may be waived.
- 7.3 A minimum distance of 0.75m from the face of the building is required to adequately

accommodate tables and chairs plus seated persons.

- 7.4 The positioning of tables and chairs should never discourage pedestrians from using the footway. The pedestrian route must be straightforward, obvious and unobstructed at all times.

8. Pedestrianised Areas

- 8.1 Generally a 5.0m wide corridor should remain as a clear and unobstructed route for pedestrians and emergency vehicles. If the emergency services, including the Police, object to a proposal on safety grounds then Bolton Council may reject an application for a Street Café Licence for those reasons.
- 8.2 An exception to the 5.0m wide pedestrian corridor rule would be where obstructions, such as pedestrian bollards, reduce the carriageway to less than this minimum, and the proposed street café area is protected by these obstructions.
- 8.3 It should also be noted that a greater width of clear corridor for pedestrians may be required in certain circumstances, such as areas with very high pedestrian flows.

9. Partially Pedestrianised Areas

- 9.1 For safety reasons, tables and chairs must only be placed on the public highway which are shared with vehicles, within the times designated for pedestrian use. Street café furniture will be allowed on licensed areas 30 minutes after vehicular access is closed, to ensure stray vehicles are no longer present.

All street café furniture must then be removed 30 minutes before vehicle access commences so there is no danger of pedestrian / vehicular conflict.

- 9.2 Careful management of these streets is essential to maintain safety in the town. Therefore, consideration will also need to be given in respect of access for emergency vehicles.

Under no circumstances will a Street Café Licence be granted for the placement of tables and chairs on a designated emergency route. This may result in applications being refused for streets that are otherwise closed to

vehicular traffic.

10. Streets With Footways And Carriageways

- 10.1 A minimum width of 1.8m of unobstructed footway is required for safe pedestrian movement, nor should pedestrians be diverted from their main route, their needs must remain paramount at all time.
- 10.2 The defined area must not conflict with other accesses or dropped crossing points, required for free passage of other highway users. Additionally on bus routes a minimum of 2.3m of unobstructed footway will be required.
- 10.3 In some locations, where there are heavy pedestrian flows, then a greater unobstructed width of footway may be required. The minimum widths should be measured from the face of the kerb, or other such defined edge of the carriageway.
- 10.4 In a situation where there is a significant amount of street furniture, 1.8m will be required from the line of the street furniture rather than the face of the kerb or other defined edge.

11. Public Open / Special Areas

- 11.1 There may be areas of open public space in the town, such as a public square, where alternative arrangements for the placing of table and chairs may be considered.

12. Visual Impact of The Street Cafe

- 12.1 Bolton Council wishes to see street cafes making an attractive contribution to the street scene, and will therefore require the design of a street café area to be of a high quality, using attractive and durable furniture. The applicant will need to submit details of their design proposals at the time of the application.
- 12.2 The visual impact of any street café will be carefully examined especially where it is close to any listed building or area of special architectural or historic character.
- 12.3 Bolton Council wishes to discourage the use of lightweight plastic 'garden type' furniture on the public highway. Therefore any proposal should include a well co-ordinated range of stylish furniture manufactured using

high quality materials.

- 12.4 Tables and chairs and structures which enclose them, must be easily identifiable by people with visual impairments. Strong colour contrast is particularly helpful. In the town centre the use of black and white as a means of providing this contrast will be favoured, as well as colour combinations which enliven or do not overly dominate the street scene.

Note: Total contrast is important for visually impaired people.

- 12.5 The area occupied by the street café must be defined by a barrier, which includes 'tapping rails' at low level. Barriers are to stop encroachment onto the rest of the highway being used by pedestrians and or vehicles. Tapping rails are for the benefit of the visually impaired, and should be at least 150mm in height, set with its lower edge 300mm above the highway surface.
- 12.6 Barriers should be positioned at either end of the designated street café area, on the highway perpendicular to the building frontage and, subject to access gaps across the front of the designated area, to provide additional protection for pedestrians. The barriers should be positioned and maintained to the satisfaction of Bolton Council at all times.
- 12.7 All barriers should be removed from the highway outside the permitted hours of operation, unless otherwise agreed under the conditions of the Street Café Licence.
- 12.8 It is important that the barriers are designed to enhance the street scene and complement the townscape.
- 12.9 The style and size of umbrellas will be taken into consideration. Any advertising on the umbrellas should only relate to premises operating the Street Café Licence.

13. Street Trading

- 13.1 Bolton Council has undertaken considerable effort in controlling the proliferation of street traders and hawkers. Proposals which undermine those efforts, or which attempt to increase the number of street traders will not be recommended for approval.

- 13.2 It will not be acceptable for outdoor street cafes to include the sale of food from temporary pavement stalls, or takeaway food from outdoor sale points. No ice cream or drinks vending machines or stalls will be allowed on the public highway that infringe on food safety or street trading legislation.

Street Café tables must be served directly from adjacent building premises where the food is prepared and sold.

- 13.2 Servicing is an important factor in the appearance of the street café, so it will be a requirement that tables are cleaned as soon as they become vacant and the area as a whole kept clean and tidy at all times, with the highway surface being regularly washed to remove any deposits from the street café operation.

14. Operating Hours

- 14.1 In general, tables and chairs, barriers and any other equipment permitted under the Street Café Licence, will be allowed between the hours of 07:30 hrs and 23.00 hrs daily. Outside these hours they should be removed completely from the public highway.

In certain areas different hours of operation may be required due to noise or traffic reasons.

15 Public Liability Insurance

- 15.1 Bolton Council will require evidence that adequate insurance and indemnities have been obtained to cover the outdoor street café area prior to a licence being granted. Bolton Council is to be indemnified and kept indemnified to at least the sum of 3,000,000 (three million pounds), for any one incident against all claims, damages and losses including claims in respect of accidents and or injuries to any person, animal or thing howsoever caused as a result or arising out of the operating of a street café within the limits of the public highway.

16 Nuisance, Noise and Public Safety

- 16.1 Bolton Council will seek to ensure that any street café proposal will not result in noise

nuisance to any nearby noise-sensitive premises such as residential accommodation.

16.2 Any proposal must include considered measures that will prevent disorder and minimise consequences of any disorder.

16.3 Street Café Licence applications, if approved, may subsequently be revoked where there are justified concerns for security, public safety or the prevention of disorder.

17 Procedures For Submitting And Determining Street Café Applications

17.1 Applications for Planning Permission should be submitted on the relevant application forms to Bolton Council's Planning Control.

17.2 Applications for a Street Café Licence should be submitted on the relevant application form to the Highways & Engineering Division. Any such application should include:

- a) A location plan at 1:1250 scale
- b) A layout plan at 1:100 scale.
- c) Specification for all furniture and barriers to be provided within the licensed area. If umbrellas are proposed, this should also be specified.

17.3 Plans submitted with the applications must identify the location of the building line and kerb line adjacent to the proposed street café, or the opposite building line in a pedestrianised street. The plan should also include dimensions (refer to Appendix A for further guidance) of the area for tables and chairs.

17.4 The plans should also identify any entrances to premises within or adjacent to this area plus any area which is considered private forecourt, the location of trees, street lighting columns, and any other street furniture.

17.5 Applications should also specify the hours during which the applicant would wish to put out tables and chairs.

18. Conditions For The Operation Of A Street Cafe

18.1 Planning Permission and a Street Café

Licence will be granted, initially for a period of one year, thereafter for a period of two years. Both the Planning Permission and the Street Café Licence will refer to a specified area of the highway rather than a number of tables and chairs.

18.2 At the request of Bolton Council the area occupied by the street café shall be marked out by the installation of brass studs installed by the Licensee in agreement with the Council at the Licensee's cost. This will indicate the area licensed for the street café activity.

18.3 The Street Café Licence will normally limit the hours during which the tables and chairs may be positioned on the public highway, and will require that, outside these hours, all furniture must be removed from the public highway.

The general cleaning and appearance of the licensed area will become the responsibility of the Licensee during the hours of operation of the Street Café Licence.

18.4 The Street Café Licence will indemnify Bolton Council against any claims that might arise in respect of injury, damage or loss arising out of the granting or permission to operate a street café, unless such arise out of negligence by Bolton Council.

18.5 The Licensee will be required to revert the area for normal highway use outside the agreed operating hours in a clean and unobstructed state.

18.6 The Street Café Licence will require that the tables and chairs are safe and suitable for the purpose, clean, tidy and maintained to a high standard.

18.7 Tables must be cleaned as soon as they become vacant, if not before. Litter receptacles will be required within the Licensed area and the adjoining highway to be kept in a clean and tidy condition.

If umbrellas are proposed, they must be adequately secured and positioned so as not to project beyond the designated area.

18.8 The statutory undertakers have the right to carry out works on the public highway, the granting of a Street Café Licence will not affect this right.

- 18.9 It shall be the responsibility of the Licensee to ensure that the conditions of the Planning Permission and the Street Café Licence are adhered to at all times.

Bolton Council, under the provisions of The Highways Act 1980, has powers to ensure compliance with the terms and conditions imposed on the Street Café Licence and to recover any reasonable costs incurred in so doing.

Bolton Council may include any special additional conditions to the permission as and when deemed necessary.

- 20.3 The granting of Planning Permission does not automatically guarantee that a Street Café Licence will be approved, or vice versa as there are separate legislation and policy considerations for each.

These guidelines are correct at the time of writing, but will be subject to review.

19. Public Highway Considerations And Requirements

- 19.1 Access for public utilities and statutory undertakers to their equipment and for Bolton Council in its capacity as Highway Authority must be easily and quickly achievable, sometimes with little or no prior notice being given.

No claim can be made for the effect on the street café business in respect of such works. The Highway Authority has statutory rights to work on, in, over or under the highway at anytime.

- 19.2 In the event of the highway surface being disturbed by the activities of the street café business, the highway is to be restored and made good by the Licensee, in agreement and to the satisfaction of Bolton Council, as the Highway Authority, at the Licensees cost.

20. Advice

- 20.1 It is strongly recommended that applicants seek the advice of the relevant Council departments before submitting applications for Planning Permission and a Street Café Licence. Council Officers will be pleased to provide advice on specific cases before applications are made. However, this does not guarantee approval of the permissions being sought.

- 20.2 If the proposed street café is to be situated on the public highway then the agreement of all interested frontagers is required before Bolton Council can grant a Street Café Licence. It is therefore advisable to discuss your proposals with your neighbours.



21. Additional Guidance / Advice

Access Guidelines For The Operating Of Street Cafes

1. It is both common sense and sound business practice to design and manage a street café that is easily accessible. An attractive appearance is of little use if customers are unable to gain access to the cafe premises, or passing pedestrians are obstructed. A well-designed street café will provide a simple uncluttered layout which minimises obstructions to customers and other highway users.
2. Good unobstructed access is a material consideration in planning terms. Street café facilities should comply with the Disability Discrimination Act 1995. Easy access benefits everyone, including disabled and elderly people, those with pushchairs and young children, and customers carrying bags of shopping. Disabilities include not only limited physical mobility, but also visual and other sensory impairments.
3. Street café furniture located on the public highway should be grouped together and aligned so as not to obstruct the main pedestrian through route. A minimum 1.8m clear corridor fronting the premises and in prime heavy pedestrian flow areas a minimum 3.5m clear corridor should be maintained.

Approval for a Street Café Licence will not be granted where it is proposed that street café furniture would be located close to points where people queue or congregate, e.g. bus stops, cash points and pedestrian crossing points, or where other essential street furniture restricts the pavement width.
4. Generally the main pedestrian route along the pavement of a standard street would be adjacent to the building line. Visually impaired people, in particular, use the building line to navigate along the street. Therefore, on a standard street, the possibility of placing the tables and chairs towards the edge of the pavement should be considered, leaving the route alongside the building clear.

Alternative arrangements may be possible in particular locations such as pedestrianised streets or forecourts, provided that the street café does not obstruct the main pedestrian route.
5. Wherever possible, street café sites should be level, with a firm and even surface. The whole area should be accessible to all including those with a range of disabilities, and people with shopping or pushchairs. Further advice can be obtained from the Council's Fairness Team.
6. Pedestrian access routes to and from building entrances must not be blocked or restricted by street café tables and or chairs at anytime. An area the width of the doorway, and at least 1.8m by 1.8m, should be kept clear adjacent to doorways. This will allow sufficient width for people to pass, or for wheelchair maneuverability.
7. All areas of the street café should be accessible to wheelchair users. Tables should be positioned to accommodate wheelchair access, i.e. wheelchair users should not be relegated to one corner of street café. The use of round tables allows equal access to wheelchair users and non-wheelchair users alike. Moveable chairs, or space to the side of other seating, are preferable to fixed or bench-type seating.
8. Street café furniture should be readily distinguishable from its background and surroundings. Strong tonal contrast is important for visually impaired people.
9. The underside, or lowest point, of any overhanging features such as canopies and awnings, hanging baskets and signs should be at least 2.5m above the surface of the highway. Where umbrellas are used, these should not overhang where people will walk, and must not overhang beyond the area designated for the street café.
10. Any barriers used to define the street café area should be of a solid type, and preferably secured, so as not to constitute a trip hazard. The barriers should have good tonal contrast from their surroundings, to make them readily visible. Chains or rope between bollards or stanchions should not be used adjacent to the line of travel. Barriers should not have any ornamental features projecting horizontally.
11. Solid planters can be an effective and attractive barrier. Solid objects are more easily identified by visually impaired

people. Street furniture should be identifiable at ground level by long cane users.

12. Advertisement boards should not be displayed within a street café area or on the adjacent public highway.
13. In the case of larger, permanent sites, fixed handrails can be effective as a barrier. They allow the street café to be seen, and provide guidance for visually impaired people. The barriers should be colored so that they are in contrast with the background against which they will be seen and should be smooth and comfortable to the touch. A top rail should be 1.0m above the pavement level, with either a lower rail at 150mm to 250mm high, or an up stand of 50mm to 100mm.
14. A good standard of lighting is desirable, for sites that are to be open during hours of darkness. Care should be taken to ensure that the lighting does not cause glare, both for people passing by and for those using the premises.
15. Good access to a street café cannot be guaranteed by physical layout alone. The day-to-day management of the street café will have a huge impact on how safe and easy the street café is to use. The layout of the street café should be checked and kept tidy throughout the time that it is operating, and main circulation routes kept clean and unobstructed. It is recommended that staff receive disability awareness training as part of their customer care training.



22. Appendix A

