Tables and Chairs on the Highway Policy
5th Edition - Spring 2013
Policy for Tables and Chairs on the Highway

1. Introduction

1.1 The Council has undertaken a detailed consultation with the residents and the business community on environmental enforcement. Residents acknowledged in their responses that the indiscriminate and disproportionate use of furniture such as tables and chairs, if not properly managed, could cause serious obstructions of the public highway and present a Health & Safety danger to pedestrians, particularly those who are disabled, partially sighted or are pushchair and wheelchair users. However, there is a general acknowledgment of that well planned, co-ordinated, designed and managed objectives at locations where there is space, could add value to the business usage, particularly in promoting the café culture. To this end, the Council will look favorably on applications by operators and businesses, in appropriate locations to put tables and chairs on the pavement outside their premises, particularly those with A3 usage and others appropriately licensed premises. Such consent, if given, will be governed by strict criterion.

1.2 The public response for developing a procedure and policy for licensing tables and chairs and for advertising boards on highways was 73% in a public consultation.

1.3 The Crime and Disorder Act stresses the need for positive action to be taken to combat crime, disorder and fear of crime. Prior to granting any consent for tables and chairs within the highway, the Council will pay particular regard to any potential for crime or disorder arising either directly or indirectly from the consent and will give significant weight to the views of the bodies such as the local police and the Safer Communities Partnership in such matters.

1.4 This policy has been drafted having regard to the mobility difficulties of the disabled and the visually impaired and aims to achieve a balance in terms of the local business and economic activities as well as the vibrancy of our town centres. The policy will be applied in the determination of applications to place suitable furniture on the highway.

2. Tables and chairs on the Highway

2.1 Tables and chairs associated with pubs, cafés and restaurants are generally regarded as acceptable in pedestrian areas, within shopping streets and near the seafront shopping areas, provided that these are selectively located to make a positive contribution to the vitality and viability of the area, do not give rise to problems associated with health & safety and crime & disorder and comply with this policy.

2.2 A Highways Licence under Section 115E of the Highways Act 1980 is required when the tables and chairs are placed on the highway. A Highways Licence is not required to place tables and chairs on private land where the public do not have a right of way.

2.3 The purpose of pedestrian areas is to enhance the street environment as well as providing safe and pleasant conditions for shopping and to complement our economic development policies. However, inappropriately located furniture can positively detract from the public’s use and enjoyment of the paved space by causing congestion, obstruction and visual intrusion. The Council is particularly concerned that the mobility difficulties of the disabled and the visually impaired are not exacerbated by unnecessary obstructions.

2.4 On balance, the Council would not wish to prevent a modest amount of tables and chairs associated with street cafés in pedestrianised areas, of a type which could positively contribute to the needs of the local businesses and enhance the enjoyment of the public realm.
3. Policy Criteria

3.1 Provided that the set conditions are met, tables and chairs placed on the highway for the consumption of food and drink in association with a business operating from the adjacent premises, may be permitted. Applications exclusively for other uses (for example exclusively as smoking areas) will normally be refused.

3.2 No objects may be placed on the highway in a way that could cause a hazard or an obstruction to the pedestrians, result in poor sight lines, impact on the accessibility of the emergency services or may give rise to problems associated with crime, disorder or Anti Social Behaviour.

3.3 In the interest of Highway safety, there must be a minimum clear width of 2.0 metres between the edge of the seating area and the inner edge of the kerb. In certain areas it may be necessary to have a minimum clear width in excess of 2.0 metres to allow public access at busy times. (eg seafront areas in summer time)

3.4 The need to ensure swift and safe evacuation of adjoining premises will be a prime consideration, having regard also to the volume of people likely to be inside the building and/or in the immediate vicinity.

3.5 The Council does not in some instances own the highway, but holds it on trust from the owners of property fronting the highway and maintains it for the public at large. In such circumstances, the Council will endeavour to consult these owners who may be materially affected by the proposal.

3.6 The Council will take into consideration any organised events, planned works to the highway or apparatus within it. Consent may be withheld or temporarily withdrawn where conflict with an event / works is envisaged.

3.7 To protect the attractiveness of the streets, some of which may have Conservation Area status, it will be the Council’s intention to:-

3.7.1 Ensure the tables and chairs and their associated activity does not cause environmental problems or detract from the amenities of the adjacent retailers/occupiers. For example, there must be no litter problem, smells from food or noise, so as to cause nuisance or annoyance. The Council may decide to suspend or terminate the licence if there are reasonable grounds to do so in such circumstances.

3.7.2 Ensure all applications conform to planning, licensing, building control and highway requirements as appropriate.

4. Further Policy Considerations

4.1 Favourable consideration will be given to applications for the placing of tables and chairs and associated furniture outside the applicant’s premises in pedestrianised areas, within shopping streets and the sea front area subject to:

4.1.1 Consultation with the owners and occupiers of the fronting premises, the Police and Safer Communities Partnership and others as may be appropriate;

4.1.2 Sufficient space being present outside the applicant’s premises to allow the safe and free flow of pedestrians to the satisfaction of the Council

4.2 Permissions will be subject to standard conditions and as detailed in Section 5.
4.3 The Council will generally apply hours of operation between 9am and 6pm from Monday to Sunday for all consents or to coincide these with the opening hours of the business (subject to consent).

4.4 Tables and chairs must be positioned in areas clearly defined by suitable temporary barriers positioned to the satisfaction of the Council.

4.5 In considering whether to grant or renew permission, the Council will have regard to an applicant’s previous track record of compliance with the conditions of any previous consent he or she may have held.

5. **Tables & Chairs on the Highway - Conditions of application**

5.1 An application will not be accepted unless it is accompanied by the appropriate fee.

5.2 Late information or evidence supporting an application or renewal, will not be accepted unless there is a valid and justifiable reason for the delay. In these circumstances the consultation period outlined at 8.5 may be extended.

5.3 The Licensee shall bear absolute responsibility for ensuring that adequate Public Liability Insurance is in place in respect of the permitted area and the cover obtained shall be not less than £5,000,000, for any one claim. Evidence of such insurance shall be provided to the satisfaction of the Council along with the application.

5.4 It is the responsibility of the applicant to obtain any appropriate prior Planning and Licensing consent for their proposal and submit such approvals as part of their application for this licence. Note:- Although planning permission is not required for placing tables and chairs on the highway (where that activity is de minimus), the licence will not exempt you from any existing planning restrictions attached to the premises, or conditions attached to a planning permission that has been granted.

5.5 A full list of conditions which will be attached to the licence can be viewed on the Council website. Hard copies are available upon request.

6. **Fees and charges**

6.1 An initial non refundable fee covering administrative and consultation costs will be payable in advance. Fees are published on the Council website, www.southend.gov.uk. (*Note: each table is a maximum of 4 chairs inclusive*)

6.2 The details of the fees and charges will be annually reviewed by the Council.

7. **Design Guide for Tables and Chairs on the Highway**

7.1 **Introduction**

7.1.1 Southend Council is happy to support and encourage continental style pavement cafés. We wish to ensure that these contribute to the economic and business activities and enhance the appearance of the street scene (public realm).

7.1.2 This guide sets out the types of furniture and other equipment that are likely to be acceptable in Southend.
7.2 **Setting**

7.2.1 There are a number of major town centres, waterfront areas and other shopping centres where the use of this policy may be appropriate. It is anticipated that owners and managers of premises may wish to have visibility in the street and attract customers. However this should not compete with or dominate the buildings or overall street-scene.

7.3 **Colours**

7.3.1 Colours for furniture and barriers and associated equipment should sit comfortably in the streetscape and be of finest quality. Metal and suitable timber will generally be acceptable but other materials can be considered, subject to location as long as they complement overall Streetscape. Details are to be submitted with the application.

7.4 **Signs and Logos**

7.4.1 Street advertising is something which the Council controls by various legislation and for two particular reasons. One is highway safety - if drivers are distracted by a sign this can be dangerous - the other is the visual effect in the street or area.

7.4.2 Bearing in mind both of the above, any signs and logos on equipment such as umbrellas must be small and discreet and relate only to the business concerned. Traders are encouraged to be as innovative and creative as they wish as long as their proposals complement street scape.

7.4.3 Menu boards and signs needed for operational reasons should be discrete and appropriate to the scale of the setting and area in which they will be used and should comply with the general design guidance above.

7.5 **Tables and Chairs**

7.5.1 Tables and chairs need to be of a high standard in terms of design, style and quality, and must be well maintained. Mass produced domestic models in plastic are not considered suitable and are unlikely to be durable.

7.5.2 All of the furniture in a particular location must be the same in design, style and colours complementing the business. Variation in style, for example in seating stools, and chairs with or without arms - will be acceptable. Generally picnic style benches will not be acceptable.

7.5.3 Furniture must be located and retained within the designated area and must be arranged so that users remain within that area. It must be removed from highways at the end of the permitted hours and the area around these must be kept clear of litter and rubbish at all times. Designated areas which seek to create artificial public access 'corridors' between two designated areas will not be approved.

7.6 **Umbrellas**

7.6.1 Section 7.4.2 relating to colour and logos is particularly applicable to umbrellas, as they tend to be large and visible. In addition they must be compatible with the colour and finish of the rest of the furniture. This element of the policy will not apply to the existing arrangements along the seafront area.

7.6.2 Umbrellas should be stable and must not overhang beyond the designated area. In the interests of safety they should not be used in blustery or windy weather conditions.
7.7 **Heaters**

7.7.1 Where portable heaters are used they must adhere to the general design requirements above. In addition they must be located within the designated area and not on its boundaries. They must not be used as part of the means of enclosure.

7.8 **Enclosure**

7.8.1 When in use, the permitted area must be enclosed and clearly distinguishable. The means of enclosure may consist of rigid or secure panels at heights specified by the officers of the Council.

7.8.2 When selecting a means of enclosure, consideration must be given to the needs of people with impaired vision.

7.9 **Portability**

7.9.1 When the Licence holder is not using the pavement area or at the end of the consent time, all of the items associated with that use must be removed from the highway. Thus it is essential that they be suitably portable and capable of being stored elsewhere. It may also be necessary to remove items from the pavement in the case of an emergency and this should be borne in mind when considering handling procedures. Notwithstanding this, in exceptional cases tables and chairs may be allowed to remain on the authorised area for a longer period. The length of time permitted in this regard, will be determined at the time of the application and will depend upon, the location, design, layout as well as proper risk assessments and mitigation plans submitted by the applicant.

7.10 **Safety**

7.10.1 The Licence holder is responsible for the safety and suitability for use of all items placed on the highway. They should ensure that these are sufficiently robust and well maintained for their purpose. They are also responsible for the health and safety aspects relating to portability and handling procedures adopted in each case.

8. **How to apply for Tables & Chairs on Highway licence**

8.1 You can complete the form on-line or request a copy from the address given below. Please note, if completing on-line you will need to print the form and sign it before submission. It is important that all the required documentation is provided as the application cannot be validated until the documentation is complete. Your application must be accompanied by the following documents:-

8.1.1 A fully completed and signed copy of the application form.

8.1.2 A scale plan clearly showing the location of where the tables and chairs are to be sited indicating dimensions, width of pavement and proximity to the kerb and supported by colour photograph(s) of the premises frontage and pictures of the proposed furniture must be submitted with the application. If this information is not supplied, the application will not be accepted (For applications for 2 or less tables a simple sketch plan is sufficient, but all other enclosures are required) An example plan can be found at the end of this policy.

8.1.3 Design and style of the proposal giving details of dimensions and the relevant supporting colour photographs.

8.1.4 Payment of application fee - cheques should be made payable to Southend-on-Sea Borough Council. Fees are non-refundable.
8.1.5 Evidence of Public Liability Insurance (Minimum £5m for any one claim)

Please send the completed documents to the address shown below. Invalid applications and those with missing documentation will be rejected.

**Consideration and determination of your application**

8.2 The process of consideration and determination of your application will normally take between six and eight weeks.

8.3 When received by the Council your application form will be checked and the fee paid into the Council’s exchequer. If there is a query then you will be contacted in writing or by telephone and given the opportunity to respond.

8.4 The completed application form will be considered by all relevant Council departments. This process will normally take about 10 working days depending upon the complexity of the application. If queries are raised by the officers at this stage then you will be contacted in writing or by telephone and given the opportunity to address them.

8.5 Whilst consulting with other officers, the Council will draw up a public notice of your application and serve it on the occupiers of fronting premises adjacent to the proposed location as appropriate. Such occupiers will normally be given 28 days in which to make any written representation.

8.6 Having received all relevant officers’ responses and recommendations and public representations and taking into account the Policy for Tables & Chairs on highway, the Joint Officers’ Panel will then decide whether to permit your application.

8.7 If your application is granted you will be informed in writing and the licence will be sent to you with the relevant conditions as deemed necessary.

8.8 If your application is refused you will be notified in writing of the reasons for refusal. You will have a right to appeal to the Corporate Director for Place, within 14 days of refusal clearly stating your reasons for the appeal. The decision of the Corporate Director will be final.

9. **Questions, contact and further guidance**

9.1 Any questions relating to this design advice should be addressed in the first instance to:

Regulatory Services
Department for Place
Southend-on-Sea Borough Council
Civic Centre, Victoria Avenue
Southend on Sea, SS2 6ER

Telephone number: 01702 534333
email address: licact2003@southend.gov.uk
Website: www.southend.gov.uk

10. **Examples of Acceptable Designs**

10.1 The following pictures are examples of designs which are considered acceptable by the authority.
Tables and Chairs (Drawing Example)
*This example illustrates a premises with a 5 metre highway depth requesting a 3 metre area for its table and chairs.
Name of Applicant
Address of Applicant
Telephone / Fax No
Email
Name of Premises
Address of Premises to be licensed
Name of Licensee
Address of Licensee
Is this a renewal of a previous licence OR a new application?
Date your licence expired? (if renewing)
Do you have a valid planning permission or written confirmation if it is not required?
Yes □ No □
Please add Planning Permission Reference Number or enclose written confirmation if not required
Where do you intend to store your furniture outside licenced hours? (No furniture is to be stored on the public highway.)

To be completed by office:
Date of receipt:......................... Application No:............................ Consultation started:..............................
Consultation completed:............................. Decision Date:............................. Decision approved/rejected
Decision letter sent (date).................................................................................................

Please continue overleaf
Furniture Details

Number of Tables

Dimensions of Tables (in cm)

Number of Chairs

Dimension of Chairs (in cm)

Width of the footpath from the building to kerb Metres

Site Plan attached (please tick) (see 8.1.2 of policy) Yes

Insurance evidence enclosed (please tick) (see 8.1.5 of policy) Yes

Photos showing area to be licensed in relation to the main premises (please tick) Yes

Pictures or photographs demonstrating the design of the proposed furniture enclosed (please tick) (see 8.1.3 of policy) Yes

Please indicate the proposed days and times of operation for the tables and chairs.

<table>
<thead>
<tr>
<th>Day</th>
<th>Monday</th>
<th>Tuesday</th>
<th>Wednesday</th>
<th>Thursday</th>
<th>Friday</th>
<th>Saturday</th>
<th>Sunday</th>
</tr>
</thead>
<tbody>
<tr>
<td>Start</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Finish</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Agreement of Licence Fees and Damage
Any damage to the public highway resulting from the placement of tables and chairs will be repaired by the council and I agree to pay the full costs for any damage.

Signature
Date
Print Name (in capital letters)

Agreement of Ownership of Public Liability Insurance Document
I confirm that I hold a Public liability insurance policy for the said amount of **£5 million** and that the cover will continue for the entire licence period in which I occupy the public highway as required in the conditions.

Signature
Date
Print Name (in capital letters)

Declaration of Application/Indemnity
I confirm that the above details are correct, I have read the conditions of the licence and acknowledge that in signing this document I am legally responsible for complying with the licence conditions and the requirements of any other associated legislation and codes of practice, together with any other condition imposed by the Authority.

Signature
Date
Print Name (in capital letters)

Please attach cheque for the required fee to your application made payable to “Southend On-Sea Borough Council” and forward along with your application to:
Head of Public Protection (Licencing Team), Civic Centre, Victoria Avenue, Southend, SS2 6ER