

Licensing Services

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Our ref: L12/CSM/SK
Your ref:

11 August 2010

Dear Sir/Madam

STREET CAFES/SITTING OUT AREAS – DEVELOPMENT OF POLICY, GUIDELINES AND CONDITIONS.

Licensing Services took over the management of street cafes and sitting out areas with effect from 1st April this year. The Council recognises that these areas are important to local businesses and in most cases add to the offer for local people and visitors to enjoy a meal or a drink outside. The Council has recently begun to develop a policy, guidelines and conditions in an effort to improve the management of these areas, minimise issues and provide a transparent framework for those applying for licences.

Weymouth and Portland Borough Council is undertaking an 8 week public consultation period on the draft policy, etc. between 11th August 2010 and 6th October 2010. A copy of the draft policy is available to view and/or download on the Council's website at: www.weymouth.gov.uk

Feedback from the consultation will be presented to the Policy Development Committee at their meeting on 20th December and it is anticipated that formal adoption of the policy will take place on 1st February 2011. Any changes to existing licences will not be effected until renewal (with effect from August 2011). However, new applicants applying after 1st February 2011 will be subject to the new policy, guidelines and conditions.

Your contribution is important to us in deciding the final content of our policy and all comments will be considered, although we will not be able to respond individually to each comment. If you are a current licence holder you may be particularly interested in commenting on section 4 of the policy (management and other issues).

Any comments on the content of this policy should be made in writing (by letter or e-mail) by 5 p.m. on 6th October 2010 to:

The Licensing Manager
Weymouth and Portland Borough Council
Council Offices
North Quay
Weymouth
Dorset
DT 4 8TA

Fax: 01305 766648

Or by e-mail: licensing@weymouth.gov.uk

Please note that if you make comments on the policy your details may appear in our published responses document. If you do not wish your details to be published please inform us at the time of submitting your comments.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Sue Moore'. The signature is cursive and somewhat stylized.

Sue Moore
Licensing Manager

Draft Policy for Street Cafes and Chairs and Tables on the Highway and Open Space associated with Food and Drink establishments

Weymouth and Portland Borough Council supports in principle the establishment of street cafes and similar uses provided that the eating and drinking of refreshments is strictly contained within the approved area, and subject to the following conditions.

1. Pedestrian Access and Safety

- i) Use of the public highway and other areas where there is public pedestrian access will not normally be allowed if they do not leave at least 2 metres clear unobstructed width on one side of the use.
- ii) Proposals which encourage pedestrians to cross vehicular carriageways where it is dangerous to do so will not be supported.
- iii) Adequate access for emergency services and statutory undertakers should be available at all times.

2. Access

- i) Table and chairs should be sufficiently spaced to enable wheelchair/highchair/pram access.
- ii) Physical barriers will be required to be placed around the tables and chairs in order to guide the visually impaired around the use. Such barriers should be no less than 800mm in height, capable of being temporarily fixed and must be of a style, design and type to be agreed by the Council.

3. Hygiene, Amenity and Public Health

- i) Uses likely to cause excessive or uncontrollable depositing of litter will not be supported.
- ii) Proposals likely to cause unacceptable levels of noise, disturbance, smell, or other nuisance to nearby properties will not be supported.
- iii) In areas where there is potential for a public health problem (e.g. associated with seagulls), umbrellas will need to be provided with the tables. Applicants should seek advice of Licensing Services.
- iv) All tables, chairs, and the outdoor area must be regularly cleansed, and food debris and waste should be removed immediately.
- v) Amplified music will not normally be supported, unless otherwise agreed with the Council.

4. Management and other issues

- i) **In most cases** the transfer of food and/or drink to the outdoor area must be through the use of table service. It will be a requirement that, where the consent holder presently operates table service within the premises, or is a licensed premises, this facility must be extended to cover the street café area.
- ii) The street café area will be suitably managed by staff, i.e. to control the use of the outside area, to return trays and to maintain the area to as high a standard as is required inside the premises.
- iii) Litter will be disposed of at regular intervals (NB the acceptable control of litter will be a determining factor in assessing all proposals for street cafes). This is particularly important at busy times, festivals, events, etc.
- iv) The consent holder will be expected to maintain tables, chairs and the outdoor area in a tidy and orderly manner at all times. All litter must be removed at regular intervals.
- v) The consent holder will be required to remove tables, chairs and other associated structures from the public highway after trading hours. In addition, street café furniture should not be stacked on the highway when not in use, e.g. during inclement weather.
- vi) The drinking of alcoholic beverages from bottles will not be acceptable. Where drinks are served in glasses they should be made of toughened or tempered safety glass.

5. Requirements for Submission of Applications

- i) All applications should be accompanied by a scale plan of the area to be used i.e. size of area desired, width of footpath and number of tables and chairs to be placed in area for which permit sought.
- ii) Full details of the envisaged use will need to be detailed including identification of whether hot food and/or alcohol is to be served, whether **all** serving of food/drink to the outdoor area will be by table service, or if not by table service, what measures will be taken to ensure that the transfer of food and/or drink may be undertaken safely, how the outside area will be managed including the control of litter, etc.

Compliance with Conditions

Non-compliance with the conditions of consent granted for street café use will be regarded as a serious matter, and may jeopardise that consent.

Particular emphasis is placed on the requirement to keep street café areas in a clean and tidy manner.

STREET CAFES

Draft Guidance for Applicants

1. Introduction

Weymouth and Portland Borough Council supports the provision of street cafes in the area. Street cafes can make a positive contribution to the street-scene and to the vitality of shopping and tourist areas bringing life, colour and interest onto the street. Should you wish to make use of the paved area outside your premises for the siting of an enclosed area of chairs and tables, please read this note in conjunction with the attached documents.

- i) Approved Policy for Street Cafes.
- ii) Approved Fee Structure and Standard Conditions in respect of Street Café Proposals

2. The Visual Impact of Street Cafes

- Furniture

The positioning of tables and chairs outside your premises should relate to the existing street-scene and movement of pedestrians. Ideally it should be seen as an integral part of the main café rather than an unrelated after-thought. Whilst regard should be given to the function of street furniture, the visual impact will be crucially important.

The choice of tables and chairs for use outside your premises should reflect the quality of the furniture inside and the quality of the street environment outside. In the latter case your choice of furniture should enhance the street environment.

Weymouth and Portland Borough Council have invested in and are committed towards a quality environment. Choosing the 'right' furniture is equally important.

- Barriers and means of enclosure

You will be required to provide a movable means of enclosure for any furniture sited outside your premises.

When thinking about the type of enclosure to install, consider the environment and setting of the café.

Weymouth and Portland Borough Council considers trellis-like structures, substantial planters or a combination of both, in timber, plastic or metal to be functional and attractive means of enclosure. Structures should have a minimum overall height of 800 mm and a gap of no more than 100 mm-150mm between the base (or tapping rail) and the ground.

IDEAL BARRIER

- i) Stable and sturdy, not flimsy
- ii) Light in colour (painted, natural colouring or similar) – a contrast to the café furniture
- iii) Close textured, fence-like in appearance, with a tapping rail (i.e. a length of wood positioned at the base of the barrier, designed to assist the visually impaired).
- iv) Light in weight (for ease of movement/storage as they will be taken in and out each day).

DESIGNS TO BE AVOIDED

- i) Post and chain barriers – potentially hazardous to pedestrians, particularly the visually impaired.
- ii) Hoop top garden fencing – too flimsy and not very tall therefore posing a serious trip hazard.
- iii) The use of a variety of small plant tubs – untidy and inadequate as a means of enclosure or guide for the visually impaired.

A variety of means may be used to temporarily fix the barriers in place for example, lockable wheels.

You must consult with the Council prior to purchasing barriers (as this forms part of the application process).

- Parasols

You may wish to consider the use of parasols as part of your street café. In some cases this may be for reasons of hygiene, for example where tables are positioned under trees or where seagulls pose a public health risk. During the summer, parasols may also provide a convenient and colourful means of shade for your customers.

3. Layout

Where street cafes are to be located on a main pedestrian thoroughfare, and where public pedestrian access needs to be maintained, tables and chairs must be enclosed in order to allow for easy pedestrian movement and to contain the street café area.

The positioning of tables and chairs will be dictated by the availability of space outside your premises.

Subject to the availability of space, the following guidelines need to be taken into account:

- Café furniture directly fronting the shop front:

A physical barrier should be positioned at either end of the area of tables and chairs. This will serve as a guide to the visually impaired. If chairs and tables “spill out” onto the pedestrian walking area then a barrier may be needed in front of the area of tables and chairs. The extent of the area of tables and chairs must be such that a minimum 2m width footway is still available to passing pedestrians (taking into account telephone boxes, litter bins, light columns and so on).

- Café furniture sited away from the shop front:

You should leave no less than 2m width of unobstructed footway between the front of your premises and the outermost boundary of the street café (where relevant, you should allow for the tables and chairs immediately fronting your premises).

The tables and chairs should be enclosed by physical barriers in order to act as a guide to the visually impaired.

- Café furniture and existing features:

Where possible, you should take advantage of the existing structures and features within the street scene when siting your tables and chairs, for example, planters and other landscaping features. In some cases, you may not need to erect additional barriers.

NB: The requirement for barriers may differ from one street café to another so all applicants are recommended to consult with the Council.

4. Advertising

You may wish to incorporate an element of advertising in the establishment of your street café, for example in any decoration included in the design of the means of enclosure or on parasols if you intend using them. In some instances, this may require advertising consent.

Should you be in any doubt, please discuss your designs with the Council.

5. Storage

Street café furniture should not be stored on the highway e.g. public pedestrian access way, pavement or road, when not in use. Tables and chairs, parasols and means of enclosure should be removed and securely stored inside your shop premises. In order to facilitate this, none of the furniture or barriers should be permanently fixed to the ground. If café furniture cannot be stored inside during working hours, then it should be set up outside as if ready for use.

Remember to read the following in conjunction with these guidelines:

- (i) The APPROVED POLICY FOR STREET CAFES, and;
- (ii) The APPROVED FEE STRUCTURE AND STANDARD CONDITIONS IN RESPECT OF STREET CAFÉ PROPOSALS

Please discuss your ideas with the Council in order to agree siting of furniture and barriers.

For further information on suitable street café furniture or means of enclosure, please contact Licensing Services on 01305 838599 or 838205.

Draft Fee Structure and Standard Conditions in respect of Street Café Proposals

FEE STRUCTURE

- (a) Under 10 square metres - £200 per annum
 - (b) 10 – 20 square metres - £300 per annum
 - (c) 20 – 30 square metres - £400 per annum
 - (d) 30 – 40 square metres - £500 per annum
 - (e) 40 – 50 square metres - £600 per annum
 - (f) 50 – 60 square metres - £700 per annum
 - (g) 60 – 70 square metres - £800 per annum
 - (h) 70 – 80 square metres - £900 per annum
 - (i) Over 80 square metres - £1,000 per annum
 - (j) Transfer of or alteration to licence - £80
1. Permitted hours, between 10.00 a.m. and 11.00 p.m. unless otherwise indicated
Permitted days – All week
Duration of permission, from 1st August to 31st July annually
Permitted location as shown on attached plan
Permitted furniture or equipment – Tables, chairs and umbrellas
 2. The holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission.
 3. The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of Weymouth and Portland Borough Council.
 4. The holder(s) shall return this Permission to the Licensing Manager at Weymouth and Portland Borough Council immediately on revocation of this Permission.
 5.
 - (a) The holder(s) shall not cause any unnecessary 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.
 - (b) The holder(s) shall ensure by means of signage of a type to be approved by the Licensing Manager that the permitted furniture or equipment is placed and remains within the permitted location at all times and shall inform his/her customers accordingly and shall immediately replace within the permitted the location any furniture or equipment or placed outside the permitted location by his/her customers.
 - (c) The holder(s) shall ensure that all customers consuming food or drink within the permitted area are seated.
 - (d) The holder(s) shall ensure that customers who purchase food or drink for consumption on the premises shall not consume such items outside of the permitted area.

- (e) The holder(s) shall ensure that a copy of these conditions is at all times on prominent display within the permitted location.

NON-COMPLIANCE with any Condition of this permission resulting in any complaint to the Council or to the Police will render the holder(s) liable to a written Notice under Section 115K of the Highways Act 1980 and failure to comply with such Notice immediately **AND ANY SUBSEQUENT** breach or non-compliance as aforesaid shall render the holder(s) liable to a written Notice under Condition 20 hereof **REVOKING** this permission forthwith (see attached notes).

6. The holder(s) shall ensure that all drinking glasses in which drinks are served shall be of toughened or tempered safety glass and that no drink shall be served in a glass bottle from which it is intended or likely that a customer will drink.
7. The holder(s) shall ensure that adequate supervision e.g. by means of a waiter/waitress service, is provided over the permitted area during the times of operation in order to comply fully with these conditions.
8. The holder(s) shall not use or suffer or permit 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.
9. The holder(s) shall not make any excavations or indentations of any descriptions whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
10. The holder(s) shall (if required) before exercising the privilege granted by this permission place removable physical barriers within the perimeter of the area denoted on the attached plan to the satisfaction of the Licensing Manager and shall ensure that such barriers are removed at the end of each daily period of use and at the expiry, surrender or revocation of this permission.
11. The holder(s) shall not use the highway for any other purpose whatsoever nor at any time other than during permitted hours, other than lawfully passing or repassing thereover as (a) member(s) of the public.
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 to or exit from any premises.
13. The permission is a permission granted under Section 115E of the Highways Act 1980 and the holder(s) shall comply with and obtain all other necessary statutory consents and approvals required in connection with the exercise of a refreshment facility on the said highway and comply with the provisions of all such consents and approvals and all statutes and other obligations imposed by law with regards to the provision, maintenance and operation of the refreshment facility.

14. Notwithstanding the specific requirements in Condition 5 above, the holder(s) shall not do or suffer anything to be done in or on the highway which in the opinion of the Weymouth & Portland Borough Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the said Council or the owners or occupiers of any adjacent or neighbouring 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 the Licensing Manager of Weymouth & Portland Borough Council.
17. The holder(s) shall maintain the area shown on the plan attached to this Permission and the immediately adjacent area in a clean and tidy condition during the permitted hours and shall leave the same in clean and tidy condition and unobstructed at the end of each daily period of use and on revocation or surrender of this permission.
18. The holder(s) shall provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items if required by the Weymouth & Portland Borough Council and ensure that the same are emptied at least daily.
19. 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 end of each daily period of use and at the expiry, surrender or revocation of this Permission.
20. The holder(s) shall indemnify Weymouth & Portland Borough Council and their agents, servants and workmen from and against all proceedings, claims, damages, costs or expenses in respect of any injury (including personal injury) or damage which may be sustained by the council or any person or persons, body or company whatever arising out of or in any way connected with the provision or use of facilities under this Permission (save where the injury, damage or loss is attributable to the negligence of the Council).
21. The holder(s) shall suspend the operation of any permission granted at the request of the Licensing Manager of Weymouth & Portland Borough Council to enable any street works to be carried out on or near the permitted location.
22. This permission may be revoked in writing by Weymouth & Portland Borough Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation or refund any fees to the holder(s) in respect of such revocation.
23. 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.
24. This permission shall tenure for a period of one year from the date of issue subject to the requirements of conditions 19 and 20 above.

25. If the licence is to be transferred to a new named operator, or there is an alteration to the permitted hours at the operator's request, a new licence will be issued. A charge of £80.00 will be made for the transfer or alteration to the licence.
26. Weymouth & Portland Borough Council reserves the right to change or amend these Terms and Conditions without prior notice. This includes the right to increase the level of fees or charges referred to herein in order to reimburse the Council its reasonable expenses in connection with granting this Permission. Any changes will be notified and will apply with immediate effect. If you do not wish to accept the updated Terms and Conditions you should not continue to use this licence.

Notes:

1. Section 115K of the Highways Act, 1980 provides as follows:-
 - (1) 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 the terms of that permission, they may serve a notice on him/her requiring him/her to take such steps to remedy the breach as are specified in the notice within such time as is so specified.
 - (2) If a person whom a notice is served under sub-section (1) of this Act fails to comply with the notice, the Council may take the steps themselves.
 - (3) 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 rate 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 91) of this Act was served.
2. Failure to comply with any Condition of the Permission and/or the issuing of any Notice under Conditions 5 or 22 hereof will require the Council to consider whether any subsequent Permissions should be granted to the holder(s) of this Permission.
3. Any Notice hereunder shall be deemed to be sufficiently served if handed to holder personally or left addressed to him/her at the address given on page 1 of the attached permission.