

Pavement Café

Design and Licence Guide





Introduction

The Chorley Pavement Café Design and Licence Guide is a document that will support the regeneration, economic development and vitality of the town centre. It specifically focuses on Chorley town centre and seeks to implement objectives within the town centre strategy, which was adopted in October 2006. The policy also supports the establishment of pavement cafés outside the town centre, within surrounding villages subject to compliance with planning policy, particularly in conservation areas

The purpose of this design and licence guide is threefold:

- *To ensure that any pavement café makes a positive contribution to the street scene whilst considering the needs of all highway users.*
- *To ensure that any pavement café operation is of a high standard, run in accordance with specified requirements and standards.*
- *To guide those wishing to establish and/or operate pavement cafés through the necessary licensing and planning processes.*

Where pavement cafés are not located on privately owned land, they will usually be sited on part of the highway. Chorley Council and Lancashire County Council, have approved a scheme under which certain amenities (eg pavement cafés) may be provided on specified areas of public highway. In order to operate a pavement café on the highway under this scheme, a Highways Amenities Licence must be obtained. The licensing process will take between 6-8 weeks and licences are renewable annually.

In order to ensure that pavement cafés make a positive contribution to highway amenities and to the area in question, and to protect rights and safety on highways, the Council has set out a list of requirements that must be met by any licence application. Chorley Council will administer and enforce the licence applications. Any proposed changes that require planning permission will

need to be approved prior to the submission of a Highway Amenity Licence. Permanent structures on the highway will not be permitted. Further information about the need for planning permission can be found on pages 6/7.

The Council is prepared to encourage outdoor cafés across the whole borough. However, within this general guideline, each proposal will be considered on its merits. Pavement cafés cannot be accommodated in certain streets, due to factors such as visual impact, width restrictions, obstructions or very heavy pedestrian flows.

Smokefree in Chorley

Virtually all enclosed places are now smoke free. Whilst pavement cafes offer an open environment, it must be pointed out that the health related legislation recognises a person's right to be protected from the harmful effects of second hand smoke and to breathe smokefree air. It should also be noted that permanent or non-portable shelters will not be permitted on the highway. If after reading this guide you are uncertain on your rights please refer to www.smokefreeengland.co.uk for further information or contact Chorley Council on 01257 515151.

Design considerations: Street Scene and relationship to adjacent buildings

The applicant will be expected to demonstrate that the café will make a positive contribution to the street scene. Only well designed proposals, which respond to the site and its surroundings (buildings and public realm) and produce a high quality result, will be considered. Simple robust designs will be preferred and excessive or elaborate detail or signage should be avoided unless clearly justified by the particular context.

Applicants should also demonstrate commitment to the care and/or refurbishment of the external appearance of the building in which the business is housed, to ensure that the appearance of the street scene will



be maintained and, where necessary, enhanced. In this connection, any changes to the shop front of the premises from which the café is to operate should accord with the terms of the Council's Shop Front and Sign Design Guide - Supplementary Planning Guidance.

It should be noted that planning permission is required for any 'material change' in the appearance of a shopfront and that other consents may also be needed before any physical changes are made to the building. To support the use of good quality shop front design, the Council has a small budget from which grants may be made for the repair of a traditional shop front or for the installation of an appropriately designed new shop front in a location which falls within an area allocated as a shopping centre in the adopted Chorley Borough Local Plan Review and is of recognised heritage significance. Please see www.chorley.gov.uk for more details.

Street café proposals should not hinder reasonable use of the highway, cause nuisance to adjacent frontages, or interfere with apparatus or access to apparatus within the highway. To this end the applicant shall comply with all statutory requirements and obtain all necessary permissions before making a licence application.

Size and layout

The extent of the area to be licensed will depend on the site characteristics, safety considerations and the criteria set by the Council to maintain adequate highway space for both pedestrian and vehicle movement.

The outdoor seating area should:

- Avoid conflict with the principal lines of pedestrian movement.
- Avoid conflict between customers going in and out of the café and passing pedestrians.
- Be confined to the frontage of its own premises with close integration of internal and external activities.

In all cases, a minimum width of 2 metres must be left between the seating area and the kerb, and this figure will be increased to 3 metres in the busiest areas of the town centre as shown in Figure 1. Where the seating area is adjacent to a road junction or vehicular access 15 metres should be left to allow for junction visibility. In pedestrianised areas, 6 metres of unobstructed space is to be left.

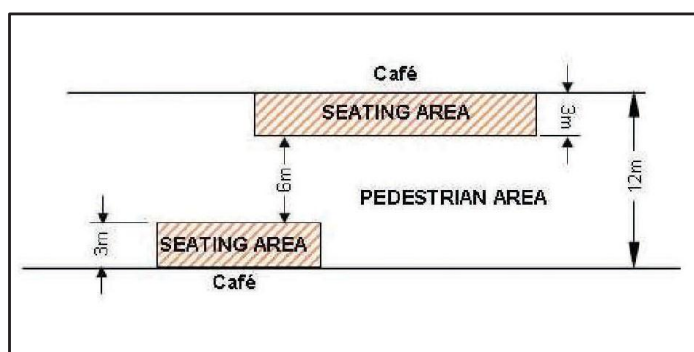


Figure 1

Each outdoor seating area will be considered on its own merits. The area to be used must take into account other needs in the immediate vicinity (eg kerbside parking, unloading areas, bus stops, emergency vehicle access, emergency exits, street cleaning machines, and pedestrian crossings). See figure 2.

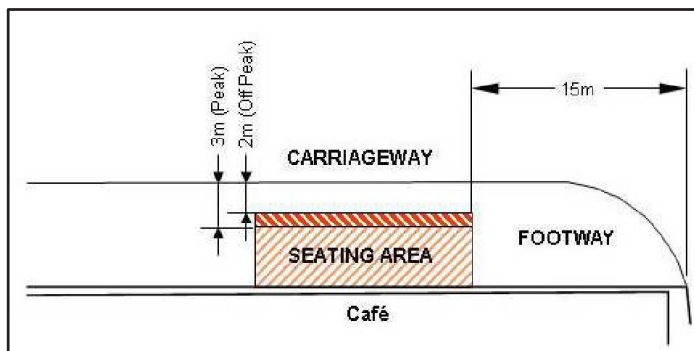


Figure 2



The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with impaired vision, mobility difficulties and people pushing prams.

If the proposed area fronts other properties prior consent from these owners/occupiers must be obtained by the applicant before any licence can be granted. A public notice must be displayed at the property clearly and be clearly visible from outside the premises, this notice will be supplied to you by the Council following receipt of your application. In addition the Council is obliged to contact your neighbours to inform them of your application, you may therefore find it helpful to discuss your application with your neighbours prior to submitting it to the Council.

The limits of the approved café area will be marked out by the Council using brass studs and it is important that no obstructions such as tables, chairs, portable advertising boards, planters or barriers are placed outside this approved area or left on the pavement or any part of the licensed area outside approved hours. There are powers, under Common Law, which can be used by a highway authority to remove obstructions. A copy of the approved Pavement Café plan should be available on the premises for inspection on request.

Means of enclosure

When in use, the pavement café area must be enclosed, to demarcate the licensed area and contain the tables and chairs, in order to make it distinguishable to other pavement users, and to assist blind and visually impaired pedestrians. For this reason it is essential that the barrier has some solid bars/elements at around 100 mm and 800 mm above ground level to be detectable by a stick ("tapping rail").

The enclosure shall be removed both outside the licensed period and when the pavement café is not intending to operate within the licensed period. The materials should, therefore, be lightweight in construction and portable, but stable enough to prevent collapse if accidentally walked into or a hit by a sudden gust of wind.

The design of the barrier should complement the character of the surrounding area and may be required to be of a specific design in order to maintain continuity along the street frontage.

The colours and materials used for the enclosure should ensure that the enclosure will not be too visually dominant

in longer views but will allow key elements to stand out against the background in close up.

Well maintained planters can be particularly attractive and can be appropriately used as part of the means of enclosure, but must be removed from the highway outside of the licensed period. In certain circumstances, it may be possible to utilise existing street railings, planters and bins as a suitable means of enclosure.

Furniture

The furniture should be of a high quality design and construction, for example wood, charred steel or aluminium. A mix of furniture design is not recommended. White plastic and/or picnic tables will not normally be approved. Smoking shelters will not be accepted on the highway.


Where umbrellas are proposed these must be fabric type (ie non reflective), be of high quality and display only limited advertising/logos. Their design, location and colour will have to be specified as part of the design. Umbrellas are to be positioned so as to avoid overhanging the pedestrian walkway or impairing vehicle sight lines.

Non furniture items, eg menu boards, signs and portable gas heaters also need to be approved as part of the enclosed licensed area. Such items should be colour co-ordinated. Bright colours and advertising should be minimised and any undue clutter or intrusion into sight lines will be unacceptable.

All items need to be portable enough to be taken inside the premises at the end of the licensed period of each working day, whenever access to the area is required by any statutory undertaker or in the event of an emergency. If the main premises operate for longer than the licensed period the applicant should give consideration to storage issues, this should be demonstrated in the application.

Environmental implications and other requirements

It will be the responsibility of the pavement café operator to keep the area clean and free of litter, during licensed/operational hours. The conduct of customers using the outdoor seating area will also be the responsibility of the operator. Inappropriate behaviour may lead to the withdrawal of a licence.



All food premises should be registered with Chorley Council. The provision of adequate toilet facilities relating to occupancy numbers will be required.

The licence does not imply an exclusive right to the area and others have rights over it for events, maintenance, repairs etc. No amplified music or loudspeaker equipment shall be used.

The number of persons permitted to use the pavement café area will correspond with the number of chairs approved in the application plan. Additional persons, who are not seated, are not permitted to use the area. Customers must not take refreshment outside the permitted area.

All transfers of food and/or drink to the area must be by waiter/waitress service and all food and drink shall be served on or in non-disposable crockery and with non-disposable cutlery.

Proprietors should give serious consideration to dividing their outside refreshment areas into smoking and non-smoking sections, with each section clearly marked. Each area must have a sufficient number of table ashtrays or free standing ashtrays.

Safety

It is the responsibility of the applicant to ensure that all operations and equipment comply with all appropriate legislation, food safety, health and safety and alcohol sales requirements. Applicants will be required to provide copies of risk assessments carried out under the Health and Safety at Work Act 1974 as they relate to the area and activities covered by the pavement café.

Individual pavement café operators with the required Pavement Café Licence will be responsible for securing insurance cover and for indemnifying the Local Authority against public liability claims from members of the public arising from café uses on the highway.

Any damage to Council property caused, as a result of the pavement café will be repaired by the Council will all costs recharged to the business in question.

Any breach of the conditions contained in the planning approval, design criteria or Highways Amenity Licence will result in the revocation of the licence forthwith.

Guidance on the licensing process: Useful information

Please contact Chorley Council to informally discuss your proposal before you submit the necessary application forms.

Is planning consent needed?

It will not normally be necessary to obtain planning permission for outdoor street cafés on the public highway, provided that the main existing premises have permission for an A3 use. However, planning permission, listed building consent or conservation area consent may be required if there is any change to the building frontage or signage. Permanent structures on the highway associated with a pavement café for example decking, smoking shelters or awnings will not be permitted.

A fee will be charged if planning permission is required. The fee is dependant on the detail of the application. Planning application forms can be downloaded from www.chorley.gov.uk/planning

If your proposal requires planning permission you will be expected to have planning permission granted prior to applying for a highway amenity licence.

Procedure for applying for a Highway Amenity Licence under section 115 (E-K) of the Highway Act 1980.

The licence application process involves both statutory and non-statutory procedures; hence the need to follow the guidance in this booklet and on the application form, which needs to be completed by all applicants.

- *A pavement café licence can be applied for at any time.*
- *The guidelines, design considerations and conditions contained within this booklet need to have been considered. You are advised to read these carefully and ensure you fully understand the requirements before you proceed with an application.*
- *Fees for the Highways Amenity Licence and renewals are as follows:*
 - *Fee for applying for a Highway Amenity Licence*
£306.50
 - *Fee for annual renewal or transfer to new licensee*
£251.50
- *On receipt of your application the proposal will be checked against the criteria. Further details may be obtained from you at this stage. If the proposal satisfies the criteria you will be required to display a notice, clearly visible on the outside of your premises outlining your proposals and inviting representations from interested parties, this notice will be supplied to you by Chorley Council.*

The notice must be in the presented format and displayed for a minimum of 28 days from the date of the notice. In addition the council is obliged to contact adjacent property occupiers to inform them of

the application and invite any representations from them. Other consultees include Lancashire County Council Highways, the Police, Disability Forum and Chorley Planning Service, 4 weeks will be given for comments.

Any objections will need to be resolved prior to the licence being issued.

- *Progress reports on your application can be obtained from Chorley Council.*
- *If your proposal fails to meet the principal criteria, you will be informed, and may be advised on any amendments which could enable a better fit with the criteria. **If your application is subsequently refused you will be refunded £100 from the fee originally submitted.***
- *Following approval of the pavement café application, the Council will delineate the area of highway by the placement of a brass stud at the corners of the proposed licence area.*
- *All licences issued will be subject to the Council's standard conditions and any other specific conditions, relevant to the facility in question as deemed necessary*
- *Failure to obtain an appropriate licence or failure to comply with the conditions attached to a licence will result in enforcement action being instigated.*

Four copies of the following documents must be sent to Chorley Council when applying for a licence.



CHECKLIST



4 fully completed application forms.



4 location plans to a scale of 1:1250 showing sufficient area around the proposed pavement café to enable consideration of all highway related issues. Location plans can be obtained from the Union Street One Stop Shop at a cost of £21.85.



4 site plans to a scale of not less than 1:100 showing access points, building lines, boundaries, kerbs, table and chair arrangement, bins, lighting, trees, other items. It would be useful to provide plan and elevation of barriers/enclosures. Measurements should be given for all locations of furniture within the application area and the relationship of the area to adjacent property should also be shown.



The application should be accompanied by details of the furniture, chairs, tables, umbrellas, etc, to be used. (Manufacturers detailed brochures would be an advantage).



4 Health and Safety Risk Assessments.



The standard fee.



Details of proof of £5 million public liability insurance cover.



Evidence of planning permission if appropriate.



CONDITIONS OF THE LICENCE

1 General

- 1.1 Term of Licence:** The Highway Amenity Licence shall be valid for a period of 12 months after which the licence must be renewed. A reminder will be sent out one month before expiry.
- 1.2 Setting up Pavement Café:** Seven days notice in writing shall be given prior to the commencement of any work on site.
- 1.3 Setting up Pavement Café:** All work on the highway shall be carried out at the Operator's expense and thereafter maintained to the satisfaction of the Director of People and Places. All such work must comply with the Council's Code of Practice on Health and safety [and any statutory requirements in relation to Health and Safety at Work legislation and chapter 8 of the Traffic signs manual].
- 1.4 Setting up Pavement Café:** The design of chairs, tables, umbrellas, etc., placed in the licensed area shall be subject to the approval of the Director of People and Places. Clear access to the entrance of the premises must be maintained at all times.
- 1.5 Insurance:** Public liability to cover £5,000,000 will be required for the licensed area. The operator shall indemnify the Council and shall produce to the Council's Director of People and Places for inspection a policy of insurance indemnifying himself and the Council against any injury or damage to any person or property and against any claim, liability, expense or demand arising by reason or in consequence of the permission granted. The policy shall provide cover of not less than £5,000,000 in respect of any one accident or series of accidents arising from one incident during the period of insurance.
- 1.6 Revocation of Licence:** The Council may revoke the permission by giving 30 days notice in writing to the operator:
- (i) where any condition attached to the permission is contravened by the Operator
 - (ii) if there is a change in the ownership of the premises to which the permission relates (although a transfer of the permission will be considered provided that 30 days notice is given in writing giving details of the intended transferee).
 - (iii) Where the revocation is necessary for the purpose of the County Council exercising any of functions as the Highway Authority.
- 1.7 Changes of Furniture/Layout:** Changes to any part of the pavement café operations including change of or addition of furniture or other items or changes to the licensed area or operating times will be subject of a new or revised licence.
- 1.8 Licence Hours:** The Highways Amenity Licence will normally reflect any restriction in the premises licence. In certain areas fewer hours will be allowed due to specific local area requirements e.g. markets and fairs.
- 1.9 Highway Works:** All furniture shall be removed from the licensed area if any statutory undertaker or licensed telecommunications operator requires access to plant on, over or beneath the licensed area and shall not be replaced until works of the apparatus are complete and any necessary reinstatement completed.
- 1.10 Highway Works:** All furniture shall be removed from the licensed area if the Council as Agent of the Highway Authority or the Highway Authority requires access to the licensed area to carry out any works



whatsoever and shall not be replaced until the works are completed. Chorley Council will not be liable for any loss of business or other disruption caused by third parties.

1.11 Transfer of Licence: Notwithstanding the provisions contained in 1.5 above, where the operator proposes to part with his interest in the premises to which the permission relates, a transfer of the permission will be considered by the Council provided that 30 days notice of the proposed transfer is given in writing giving details of the intended transferee.

1.12 Expiry of Licence: Upon expiry or revocation of the permission the Operator shall remove any structures from the highway and re-instate the highway to its former state and condition and in default thereof, the Council will be empowered to carry out such work of reinstatement and recover the expenses in so doing from the operator.

1.13 Other Permissions: The granting of a licence for establishing a pavement café does not obviate the need to gain any other relevant permissions, e.g. it does not permit the supply of alcohol within the pavement café area for which separate licensing requirements under the Licencing Act 2003 may apply. More information on the Licencing Act 2003 can be obtained from Chorley Council.

2 HIGHWAY/PEDESTRIAN ACCESS

2.1 Pedestrian Requirements: Use of land designated as public highway and other areas where there is public access will normally be allowed provided that there is at least 1.8 metres clear between the café and the kerb to allow pedestrians to pass safely. In a pedestrianised area there should be at least 3.5 metres of unobstructed space in front of the café area. In certain busy streets a clear depth greater than 1.8 metres may be required between café and kerb.

2.2 Access to Premises: Where the use directly fronts the premises from which refreshments are served, there must be an unobstructed corridor to the shop entrance of 1.5 metres.

2.3 Road Safety: Normal road safety considerations will apply; and in certain circumstances may override the provisions of paragraph 2.1. Access for emergency vehicles must be protected at all times.

2.4 Demarcation of Licensed Area: Where tables and chairs are proposed directly outside a shop front, a well designed and constructed physical barrier of approximately 0.8 metres in height is required to designate the area and to guide persons with sight disability around the use. Such barriers must not be permanently fixed to the ground and must be of a style, design and type to be agreed by the Director of People and Places. The pavement café licence area will be demarcated at the far corners with brass studs.

3 PUBLIC HEALTH AND AMENITY

3.1 Public Health: Since at most locations, problems with pigeon or starling droppings are likely, umbrellas or retractable canopies may need to be provided with the tables. Advice on canopy design should be sought from Chorley Council prior to installation to ensure they meet the Council's requirements.

3.2 Public Health: The licensed area, and chairs, tables, umbrellas, etc., together with associated outdoor and pavement areas including an area of 1 metre around the permitted area must be regularly cleansed and floor debris and other waste immediately removed.



3.3 Litter: There must be adequate provision made for the collection and containment of litter and, where directed, the Operator must provide suitable litter-bins.

3.4 Health & Safety: Pavement cafés must not obstruct any existing doorway or fire exit whether belonging to the premises or not.

3.5 Health & Safety: Furniture stored within the premises should not at any time block a fire exit.

3.6 Toilets: The operator shall at all times when the pavement café is in operation make available for customers toilets and hand washing facilities.

3.7 Music: Noise disturbance, smells or litter which cause a nuisance to other premises are not acceptable and music (amplified or otherwise) will not be permitted within the licence area.

3.8 Alcohol: No alcohol shall be supplied within the licence area unless authorised by a premises licence under the Licensing Act 2003. The terms of a premises licence setting out any restrictions in any outside areas designated for the consumption of alcohol must be complied with at all times.

4 MANAGEMENT

4.1 Customers to be Seated: All persons consuming food or drink within the permitted area must be seated at an approved place within the area and must not take refreshment outside the permitted area.

4.2 Waiter Service: All transfers of food and/or drink to the permitted area must be by way of waiter/waitress service and all food and drink shall be served on or in non-disposable cutlery.

4.3 Removal and Cleaning of Structures: All equipment and structures placed on a public highway must be removed from the highway upon the cessation of the days trading and the area cleansed to the satisfaction of the Director of People and Places.

CONTACTS

Please contact Chorley Council for advice:

PO BOX 13
Chorley
PR7 1AR

t: 01257 515151

e: contact@chorley.gov.uk

w: www.chorley.gov.uk

Application for permission to provide an amenity on a public highway

(Highways Act 1980 Section 115 A-K)

1. Please indicate if this is a:

New licence Transfer of licence Renewal

2. Applicant's Name/Name of Licensee(s):

.....
Address of Premises:

.....
Telephone No:

Fax No

3. Address for Correspondence (if different from above):

.....
.....

Telephone No:

Fax No:

4. Agent's Name/Address (if Applicable):

.....
.....

Telephone No:

Fax No:

5. Description of the area of highway that is the subject of this application:

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.....

6. Address(s) and owner(s) and nature of business conducted at the premises adjacent to the above:

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7. Do you intend to alter any of the building and/or frontage to accommodate the proposal? If yes please submit proof of planning permission:

Yes No

8. Details of how the café will operate i.e waitress service, clearing tables etc:

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.....
.....



Application for permission to provide an amenity on a public highway (Highways Act 1980 Section 115 A-K)

9. Details of the numbers of chairs and tables and an explanation of where they will be stored when not in use

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Name of Applicant (printed):.....

Signature of Applicant:.....

Date:.....

10. Is it intended to seek a licence to serve alcohol within the pavement café area?

Yes [] No []

Please ensure you supply all appropriate supporting documentation with your licence application as set out in the checklist.

11. Please indicate the number of Male / Female sanitary facilities:

Male [] Female []

Please return the completed form, and accompanying documents, together with your application fee to:

PO Box 13
Chorley
PR7 1AR

12. Intended period of operation:

Start Date:

End Date:

Days of Week:

.....

Times of Day: From: To:.....

Cheques should be crossed and made payable to 'Chorley Borough Council'

13. Is it intended to provide electricity or water supplies to the amenity:

Yes [] No []

If 'yes', please indicate reason for this and the method by which the supply will be provided:

.....
.....
.....

