



Cannock Chase District Council

Policy for Commercial Use of the Highway

(including Advertising Boards, Pavement Cafés, Promotions & Displays etc.)

October 2017

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1. Introduction: policy objectives

Cannock Chase District Council (the Council) recognises and supports the needs of local businesses to use the public highway as an opportunity to increase their revenue through providing additional space, increased sales and advertising.

This Policy sets out the processes by which permits, consents and licences can be issued to allow commercial use of the highway. The Policy will be administered, monitored and enforced by the Council's Licensing Unit. If you should require advice or assistance, please email us at Licensingunit@cannockchasedc.gov.uk or by telephone on 01543 462621.

Familiar town centre features such as fairground rides, bouncy castles, advertising boards, pavement cafés and static structures such as gazebos & vehicles can all benefit the local economy and can make a positive contribution to the local amenity by adding interest, vitality, colour and life to the street scene, serving to enhance the character of the area.

In general, it is against the law to obstruct the highway. However, Section 115 (E) of the Highways Act 1980, specifically permits the Council to introduce a system of licensing commercial use of the highway so as to permit "commercial obstructions" such as A-boards, pavement café's and fairground rides etc.

This Policy is intended for use within the recognised town centres of Cannock, Hednesford and Rugeley and sets out the processes to be considered when applying for permission to place features/items on the public highway.

A commercial obstruction can be defined as any obstruction created by placement of an object on the public highway for the purpose of private gain. This can be divided into a number of categories;

- A-boards which are used to advertise a business on the public highway.
- Pavement cafés with the placement of furniture on the public highway short term or long term for the benefit of a business.
- Ad-hoc furniture such as short or long term placement of plants, sale items, and sale rails on the public highway for the benefit of adjacent businesses.
- Fairground rides/bouncy castles etc.
- Promotion of a business from a static location; normally a gazebo and/or vehicle etc.

Such obstructions can be properly regulated by the introduction of a licensing regime. The Council has adopted, and will manage a robust policy which is designed to protect the general street scene and ensure that pedestrians and the general public have safeguards in place which protect their free passage.

This is particularly important for people with impaired vision or mobility difficulties. As a result, the Council requires that no items shall be placed on the highway until the applicant has obtained appropriate permission.

Within Staffordshire, the main responsibilities for ensuring compliance with the Highways Act 1980 rests with the County Council (SCC) as the Highway Authority. They are responsible for ensuring that public access is maintained and that the area is safe. However, some of these responsibilities can be given to the District Council with respect to commercial obstructions.

The owner of any features or items placed on the highway is responsible for obtaining any relevant permissions. They are also responsible for maintaining them in good condition and in the correct position on the highway.

This Policy does not cover commercial obstructions on private land. The status of the land in question should be verified with the Council prior to any application being made.

In applying this Policy, the Council will act in accordance with the standards and guidance set out within it. In particular the Council will:

- work with individuals and businesses to assist them in complying with their legal duties and obligations;
- ensure its staff are appropriately trained and apply the Policy and standards professionally and consistently; and,
- make information about the Policy and the standards widely available to the public and business within the District.

The Council's Licensing Unit will liaise with colleagues in Environmental Health and Planning & Economic Development to ensure a coherent approach to the licensing and enforcement of commercial obstructions. Working together with other agencies, services and groups outside the Council, such as the Police, the Fire Service and the Highways Authority, will mean that common goals and standards can be identified, ensuring pavement cafés, fairground rides/bouncy castles etc., can operate safely and for the benefit of all.

Vehicles are only permitted to stay within the town centre if they form part of the commercial obstruction. Traders should be aware that some town centres are pedestrianised and that vehicle movement must therefore be kept to an absolute minimum.

Every effort should be made to enter and leave the town centres before and after the area becomes busy and generally, vehicle movements for the unloading and loading of goods should not take place between the hours of 09.00hrs and 16.30hrs.

The consultation process

The Draft Commercial Obstructions Policy consultation took place between 13 February and 26 March 2017. It followed the Cabinet Office Guidance on Consultation Principles first published in July 2012 and last updated in January 2016. This document is available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

The Council consulted with all interested agencies and groups, including with persons who may particularly be affected by the Policy, such as those with sensory impairment, physical or mobility difficulties and users of wheelchairs, mobility scooters and pushchairs.

The finalised policy document is published via the Council's website at: www.cannockchasedc.gov.uk

A fee structure has been formulated which enables the Council to recover the costs of administering and ensuring compliance with this Policy on a cost recovery basis.

Exchange of information and data protection

When an individual or an organisation provides information to the Council, it is held in accordance with the Data Protection Act 1998. Data provided to the Council is used for processing applications, recording permission holders and for regulatory and enforcement purposes.

The Council may share data with other departments and partners of the Council and other agencies where required by the licensing/registration procedure and for regulation /enforcement but data will not otherwise be passed on to any other party.

While certain information may be disclosed under the Freedom of Information Act, some information may be held on a publicly available register, and may be posted onto the Council website; personal data will be protected unless it is also official business data (e.g. a trader whose registered business address is also his home).

The Council has a duty to protect the public funds it administers and to this end, may use the information provided for the prevention and detection of fraud. It may also share information with other bodies responsible for auditing or administering public funds for these purposes, e.g. UK National Fraud Initiative.

The Council holds and uses data in accordance with the Data Protection Act 1998. Stakeholders should be aware that information provided may be used and shared with other departments and agencies in order to assist in the prevention and detection of crime and to protect public funds.

Equality and diversity

Through policies and service delivery, the Council's main aims for ensuring equality and diversity are to:

- Eliminate unlawful discrimination
- Promote equality of opportunity
- Promote good relations between diverse communities

A link to the Council's Equalities and Diversities Policy can be found here:

<http://chaseweb.cannockchasedc.gov.uk/chief-executives-policy-and-performance/equality-and-diversity>

2. Scope of the policy

It is not intended that this Policy should apply to those who are street trading within the Cannock Chase District. A separate policy exists in respect of street trading activity.

<http://www.cannockchasedc.gov.uk/business/licensing-permits/application-forms/licensing>

Each application will be considered on its own merits so that individual circumstances may be taken into account and exception may be made to this policy where appropriate.

This Policy does not apply where commercial obstructions are placed on private land. This includes private shopping developments and any frontage or area within the curtilage of the premises boundary.

This Policy is intended for those who place commercial obstructions on land owned and /or maintained by the Staffordshire County Council Highways Authority. This will generally include most areas of any town centre.

Commercial obstructions which form part of fetes, festivals, carnivals or street markets which are managed by recognised organisations and take place in town centres, will not normally require authorisation from the Council's Licensing Unit. However, organisers should notify the Council's Licensing Unit of the proposed event to ensure that there are no conflicting events or activities scheduled in the same location.

Recognised organisations include the district, town and parish councils as well traders associations and established event organisers.

Registered charities and non profit making organisations may be exempt from paying a commercial obstructions fee. A written request for fee exemption must be provided to the Council on the charity's letter headed paper which must be signed by a responsible person such as a Director or Trustee of the Charity.

3. A-boards

The term A-board shall also be taken to mean any retail or trade display or similar obstruction.

A-boards must not be deployed on the highway without prior permission of the Council. Where permitted, the advertising must relate to the business that holds the Permit and be placed outside the premises concerned.

Where appropriate, the Council will aim to approve all applications for A-boards and permission will be granted in accordance with this Commercial Obstructions Policy as well as Section 115 (E) of the Highways Act 1980; Section 224 of the Town & Country Planning Act 1990; and, the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

The location of the A-board must not hinder passage by the emergency services, or hinder access to, or egress from, the premises concerned or to any adjacent premises; this includes fire evacuation routes. The A-boards must not cause a nuisance or hazard to persons using the highway or any adjacent land or premises. They must not be placed on grass verges, roundabouts, central reservations, pedestrian refuges or other such areas of the highway.

The application process

The applicant must submit a completed application form that includes:

- The appropriate fee
- Evidence that Third Party Public Liability Insurance to the sum of £5,000,000 (five million pounds) is held by the permit holder to indemnify the Council against any and all claims that may arise from the use of the A-board.

Once the application is accepted, the applicant will be required to display a notice on the premises, for a period of not less than 28 consecutive days. This notice must be visible from outside and will give notice of the application and invite the public and other interested parties to make representation about the application should they wish to do so.

Where objections are received, applications may take up to 8 weeks to determine. If granted, permissions will normally be issued for a period of 3 years. Final determination on the matter will be made under officers delegated powers.

General A-board conditions

- Each shop, business or premises, will only be issued with a Permit for one A-board per premises, unless the premises has public access from more than one street, in which case, one A-board per street is acceptable.
- Where multi occupancy premises exist, e.g. shopping arcades / centres or alleyway locations, this Policy provides for one A-board to be located at each public street entrance. Each A-board may be a composite board used to advertise more than one business.
- A-boards must be stable, robust in good repair and fit for purpose. They must be of sound construction and, when extended, must not be more than 1 metre total high (including display items) and no wider than 600mm.
- The 'A' board or display shall not encroach onto the highway by more than 0.7 metres from the façade of the premises;
- A-boards must not rotate or have attachments and must be sufficiently stable so as not to blow over.
- A-boards must be professionally presented and relate to the normal business carried out on the premises. The content of any text or images on any board must not be considered by the Council to be offensive, indecent or defamatory.

- The design of any A-board must include a 100mm high tapping rail positioned at or near ground level, and the construction of both should be solid and in a colour / design which is distinct from the surrounding area, without being too visually dominant, to provide a contrast to assist the visually impaired.
- A minimum of 2 metres clearance, unobstructed by other street furniture or trees, must be maintained between the A-board and the edge of any trafficked carriageway.
- Suitable account must be taken of highway facilities in the immediate vicinity of the proposed A-board, e.g. bus stops, taxi ranks or pedestrian crossings, which will themselves give rise to intermittent footpath obstruction, and must therefore, be taken into account when considering unobstructed clearance.
- The location of the A-board must be within the limits of the frontage of the premises and must be positioned so as to be touching and perpendicular to the frontage of the building.
- Specific hours of operation will be indicated on the Permit, however, generally the Permit will not allow the A-board display to be in position before 09:00hrs or after the premises has ceased trading for the day.
- A-boards should not be used in high winds or where they are being misused by others. They must not be fixed to any street furniture or other parts of the highway.
- The location of the A-board must not obscure visibility for pedestrians or other road users who need to see road signs, pedestrian crossings, junctions, accesses or bends.
- A-boards must be removed at the instruction of the Council for the purpose of:
 - 1) Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by the Staffordshire County Council Highway Authority, the Council or any Statutory Undertaker,
 - 2) Access required by emergency services,
 - 3) Any other reasonable cause.

Notwithstanding adherence to the conditions outlined above and any additional conditions required by the Council, if an A-board or retail / trade display is considered to be causing an obstruction or nuisance to highway users, Staffordshire County Council reserve the right to utilise the provisions of the Highways Act 1980, to remove the items concerned.

The permit holder shall not make, or cause to be made, any claim against the Council in the event of any property associated in any way with the A-board becoming lost or damaged in any way from whatever cause. It is the permit holders responsibility to renew their public liability insurance when necessary.

Non compliance with A-board permit conditions

A-boards must not be deployed other than in accordance with the provisions of a Permit issued by the Council. Where a permit holder is found to be non compliant with their conditions then:

- 1) Licensing officers will work with the permit holder to help resolve any issues and ensure compliance with conditions.
- 2) Where such involvement is unsuccessful then letters will be sent notifying the permit holder of the non compliance issues and providing a timescale by which the issue must be remedied.
- 3) If this formal involvement is unsuccessful then the Council will take whatever action it deems appropriate having regard to the Environmental Health Enforcement Policy. This may include revocation of the A-board Permit and referral to the Staffordshire County Council Highways Authority for further action. Permit fees will not be refunded where A-board permits are revoked

Use of A-boards without permits

- 1) Where an A-board is placed on the highway without permission, the business owner will be asked to remove the A-board with immediate effect.
- 2) Persistent non compliance may result in formal action being taken if it is deemed appropriate to do so having regard to the Environmental Health Department Enforcement Policy. Referral may then be made to the Staffordshire County Council Highways Authority for further action.

A-boards on private property or on land owned by Cannock Chase Council

Freestanding A-boards deployed on private property or those propped against walls or overhanging the highway, will be dealt with through the Council's Planning and Economic Development Department.

Applications for A-boards deployed on Council owned land should be directed to the Council's Property Services Department.

4. Fairground rides/vehicles/promotion stands and gazebos etc

Fairground rides, vehicles, promotion stands and gazebos etc. (including tables and display stands etc, placed outside commercial premises) must not be deployed on the highway without prior permission of the Council and will only be permitted if an adequate, clearly defined pedestrian space is available.

Such items may only occupy a specifically identified area so as to ensure a free and unobstructed route for emergency service vehicles and delivery access.

Consent will be granted in accordance with this Commercial Obstructions Policy as well as Section 115 (E) of the Highways Act 1980; Section 224 of the Town & Country Planning Act 1990; and, the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

The application process

The applicant must submit a completed application form that includes:

- The appropriate fee.
- Evidence that Third Party Public Liability Insurance to the sum of £5,000,000 (five million pounds) is held by the consent holder to indemnify the Council against any and all claims that may arise from the use of the Fairground rides/vehicles/promotions and gazebos etc.
- Appropriate health and safety /public safety certificates. (Electrical/Gas safety/ADIPS etc.).
- DBS police check certificates (where children's fairground rides are licensed).
- An appropriate risk assessment where the need is identified.
- Details of any independent power supply to be used.

The nature of fairground rides/vehicles/promotion stands and gazebo means that consents will normally be issued on a short term ad hoc basis. Most applicants for this type of consent will only be expected to be in the town centres for a single day or for a maximum of one week at a time.

Positioning of the fairground rides/vehicles/promotion stands and gazebos etc

Emergency exit routes from adjacent buildings and the premises should not be obstructed and emergency vehicles must have access along all pavements at all times, even in pedestrianised areas.

The needs of other users of the pavement or town centre must be taken into account, e.g. pedestrians, wheelchair users, trades people, vehicle users, adjacent businesses etc. The location of the obstruction must not hinder access to, or egress from any premises, or to any adjacent premises.

Consideration must always be given to the requirements of the Equality Act 2010 and any associated codes of practice. There is an obligation to regulate features placed on the highway to minimise risk and to ensure that there are no severe hazards particularly for vulnerable people. This includes the visually impaired, those with mobility problems as well as the elderly and the young.

The granting of a consent does not imply an exclusive right to the area. The consent holder should be aware that the Council will need access to the highway for cleaning, repairs and access to equipment. Others, particularly statutory undertakers, may also require access for maintenance and repair of their equipment. The Council reserves the right to suspend the Consent temporarily for any reason if it becomes necessary to do so

General fairground rides/vehicles/promotion stands and gazebos etc. conditions

- Specific hours of operation will be indicated on the Consent, however, generally the consent will not permit the obstruction to be in position before 08:00hrs or after the cessation of the days trading.
- Commercial obstructions such as fairground rides, promotion stands and gazebos, should not be used in high winds or where they are being misused by others. They must not be fixed to any street furniture or other parts of the highway.
- The location of the fairground rides/vehicles/promotion stands and gazebos etc. must not obscure visibility for pedestrians or other road users who need to see road signs, pedestrian crossings, junctions, accesses or bends.
- Generally, no amplified music or sound is permitted. Where music is permitted, this must adhere to any Council guidelines on noise levels.
- Fairground rides/vehicles/promotion stands and gazebos etc. must be removed at the instruction of the Council for the purpose of:
 - 1) Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by the Staffordshire County Council Highway Authority, the Council or any Statutory Undertaker,
 - 2) Access required by emergency services,
 - 3) Any other reasonable cause.

The consent holder will, in the event of a breach of the terms of the consent, reinstate the highway, or street furniture to the satisfaction of the Council or reimburse the Council if, as a result of a breach, it is required to carry out any reinstatement works itself.

Notwithstanding adherence to the conditions outlined above and any additional conditions required by the Council, if an A-board or retail / trade display is considered to be causing an obstruction or nuisance to highway users, Staffordshire County Council reserve the right to utilise the provisions of the Highways Act 1980, to remove the items concerned.

The consent holder shall not make, or cause to be made, any claim against the Council in the event of any property associated in any way with the fairground rides/vehicles/promotion stands or gazebos etc. becoming lost or damaged in any way from whatever cause.

Non compliance with fairground rides/vehicles/ stands and gazebo conditions

Fairground rides/vehicles/promotion stands and gazebos etc. must not be established other than in accordance with the provisions of the consent. Where a consent holder is found to be non compliant with their conditions then:

- 1) Licensing officers will work with the consent holder to help resolve any issues and ensure compliance with conditions.
- 2) Where such involvement is unsuccessful, then letters will be sent notifying the consent holder of the non compliance issues and providing a timescale by which the issue must be remedied.
- 3) If this formal involvement is unsuccessful, then the Council will take whatever action it deems appropriate having regard to the Environmental Health Enforcement Policy. This may include revocation of the fairground rides/vehicles/promotion stands and gazebos etc. Consent and referral to the Staffordshire County Council Highways Authority for further action. Fees will not be refunded where fairground rides/vehicles/promotion stands and gazebos etc consents are revoked.

Use of fairground rides/vehicles/promotion stands and gazebos etc. without consent

- 1) Where fairground rides/vehicles/promotion stands and gazebos etc. are placed on the highway without permission, then the business owner will be asked to remove the obstruction with immediate effect.
- 2) Persistent non compliance may result in formal action being taken if it is deemed appropriate to do so having regard to the Environmental Health Department Enforcement Policy. Referral may then be made to the Staffordshire County Council Highways Authority for further action.

Fairground rides/vehicles/promotion stands or gazebos etc. on private property or on land owned by Cannock Chase Council

Fairground rides/vehicles/promotion stands or gazebo etc. deployed on private property may be dealt with through the Council's Planning & Economic Development Department.

Applications for fairground rides/vehicles/promotion stands or gazebo etc. deployed on Council owned land should be directed to the Council's Property Services Department.

5. Pavement café licences

Pavement cafés are areas of the highway where tables and chairs are placed for the purpose of consuming food and drink outside shops, and alcohol with meals outside premises licensed under the Licensing Act 2003. Cannock Chase District Council supports the provision of pavement cafés in its town centres.

They can make a positive contribution by adding vitality, colour, life and interest to the pavement scene and can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who live, work and visit the District.

The Council regulates pavement cafés under Section 115(E) of the Highways Act 1980 and has created this Policy to ensure that these features make a positive contribution to the District. The Council has set out a list of key points that applicants must meet.

Pavement café licence operating hours are generally between 09:00hrs and 20:00hrs. All pavement café furniture must be removed by 20.30hrs unless otherwise permitted. For those facilities in close proximity to residential premises, the hours may be restricted to daytime hours up to 18.00hrs. It may be necessary to further restrict operating hours depending upon the location and circumstances under which the pavement café operates.

The application process

Applicants are invited to contact Cannock Chase Council's Licensing Unit in order to establish whether their application would be acceptable in principle.

The Applicant will then be made aware of who they should contact in order to discuss issues relating to noise, food, health and safety, and litter with the Council's Environmental Health Department or the requirements of other Council Departments such as Planning, Revenues and Property Services. Please note that the act of seeking such advice does not guarantee approval.

All applications will be considered in consultation with other agencies. This includes other Council Departments, the Staffordshire County Council Highways Authority and Staffordshire Police.

It may take up to 8 weeks to process an application from its receipt to the issuing of a licence. The submission of an incomplete application, or where an objection is received, may extend the process. If the application is incomplete the application will be returned giving reasons.

Where an application meets the necessary criteria, it will be processed accordingly and a 28 day period of notice will commence.

There is a requirement to display a Pavement Café Notice, which will be placed on or near the premises for a minimum of consecutive 28 days. The said notice must set out the details of the proposed Pavement Café Licence and invites representations from interested parties including the general public as well as the owners of any adjacent premises who may be affected by the proposal.

Where objections are received, applications may take up to 8 weeks to determine. If granted, licenses will be issued for a period of 1 year. Final determination on any objection will be made under officers delegated powers.

The applicant will need to provide:

- A completed application form

- The appropriate fee
- Copies of any necessary planning permissions etc.
- A location plan (approx. 1:1250 scale) showing:
 - the outline of the premises
 - two copies of the site plan and café layout (1:100 or 1:50 scale) showing areas and dimensions where the proposed tables and chairs etc. are to be placed
 - Details of any additional lighting to be used
 - Position of the building line
 - Position of kerb line adjacent to the proposal, or the opposite building line in a pedestrianised street
 - Entrances to the premises near to the area proposed for tables and chairs
 - Any areas considered to be private land
 - Location of trees, lamp posts and other street furniture

Also included with the application should be details of the following:

- Full details, including metric dimensions, materials and colours of the proposed furniture and parasols, accompanied by photographs, illustrations or drawings
- Means of enclosure to be used (dimensions, colours, materials)
- Any additional lighting required (including detailed specifications)
- Full details of any heating appliances to be used
- A copy of the third party public liability insurance certificate
- A Management Plan (where appropriate) detailing how the licensee would deal with any instances of antisocial behaviour

It is the applicant's responsibility to ensure that all the necessary approvals are obtained and where appropriate, the following will be necessary as a minimum:

- Planning permission (where the highway land is to be used as a pavement café on more than 28 days a year).
- A Premises Licence under the Licensing Act 2003, where alcohol is intended to be served.
- Food safety registration with the Environmental Health Department where food is intended to be served.
- Evidence that Third Party Public Liability Insurance to the sum of £5,000,000 (five million pounds) is held by the licence holder to indemnify the Council against any and all claims that may arise from the use of the Pavement Café.

Pavement cafés should not normally extend beyond the limits of the applicant's front and/or side elevations of the premises. The Council will need to be certain that agreement has been reached with any interested frontages affected by the proposal before it can approve the application. This will be part of a formal notification process which the Council will undertake.

The fee must be included with the application and may be refunded if the application is refused. The fee will not normally be refundable should the licence be terminated by the Council or

surrendered by the licence holder. A licence holder may surrender a licence at any time by informing the Council in writing.

Licences are not transferable from premises to premises but may be transferred to new owners/occupiers of the same premises for a small administration fee.

An applicant may apply for a variation of the Pavement Café Licence where the changes to the café are within the current planning permission. Any changes requiring new planning permission would also require a new pavement café application.

A Pavement Café Licence is valid for one year from the date that the application is granted. A licence holder can apply for a simple renewal of the licence where there are no proposed changes to the pavement café or previous breaches of operating conditions; the presumption will be in favour of approval. There is no right of appeal to the courts if the Pavement Café Licence is refused.

Design of the pavement café

An applicant will need to demonstrate that their proposals will make a positive contribution to the street scene and ensure the public's rights to use the highway are not detrimentally affected. 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.

Emergency exit routes from adjacent buildings and the premises should not be obstructed by the pavement café and emergency vehicles must have access along all pavements at all times, even in pedestrianised areas. If the emergency services object to the proposal on safety grounds, the application will be refused.

The needs of other users of the pavement or town centre must be taken into account, e.g. pedestrians, wheelchair users, trades people, vehicle users, adjacent businesses etc. The location of the pavement café must not hinder access to, or egress from the premises, or to any adjacent premises, including fire evacuation routes, or cause a nuisance or hazard to persons using the highway or any adjacent land or premises.

Consideration should be given to the level of lighting in the proposed pavement café area. Whilst this may be perfectly adequate during daylight hours on a public highway, it may need supplementing to allow the pavement café to operate safely. Any additional lighting equipment and supply must be specified in the application to enable its impact upon the highway to be considered.

Consideration must be given to the requirements of the Equality Act 2010 and any associated codes of practice. There is an obligation to regulate features placed on the highway to minimise risk and to ensure that there are no severe hazards particularly for vulnerable people. These include the visually impaired, those with mobility problems as well as the elderly and the young.

Size and layout

The size and layout of the proposed pavement café will be dependent upon the characteristics of the site outside of the premises, the space available, the pavement furniture and the type of premises etc. The location of the pavement café will normally be confined within the limits of the front and/or side elevations of the premises concerned.

Granting a licence to operate a pavement café does not imply an exclusive right to the area. The operator of the café should be aware that the Council will need access to the highway for cleaning, repairs and access to equipment. Others, particularly statutory undertakers, may also require access for maintenance and repair of their equipment. The Council reserves the right to suspend the licence temporarily for any reason if it becomes necessary.

Approval will not normally be given for tables and chairs close to points where people queue or congregate, e.g. close to junctions, traffic signals or over tactile paving, bus stops, cash points or where other essential street furniture restricts the pavement width.

Boundaries

The boundary of the pavement café should be defined; this may be by means of a physical barrier. All activities associated with the café must be contained within the agreed boundary, including all tables, chairs, parasols, space heaters, planters, barriers, etc.

The method utilized to enclose the boundary limits of the pavement café is to be sturdy in construction and agreed between the licence holder and the Council. The design should be not less than 800mm high and include a 100mm high tapping rail positioned at or near ground level, and both the barrier and rail should be of a colour / design which is distinct from the surrounding area, without being too visually dominant, to provide a contrast to assist the visually impaired

Furniture

The type and style of the furniture to be used must be agreed between the licence holder the Council and must be high quality robust furniture designed for outdoor use. Tables, chairs, etc. should be manufactured from metal, wood or other high quality materials. Plastic (garden type) furniture will not be accepted. In addition, the tables should be of a height capable of accommodating wheelchair users. The Council reserves the right to reject an application that proposes to use inappropriate furniture.

All tables and chairs and other equipment must be maintained in a clean, tidy and safe condition at all times and should reflect existing structures and features within the street scene. Where relevant, consideration should be given to furniture utilised at adjoining premises to provide an overall enhanced street environment.

Parasols made of wood and canvas are recommended. Their location, materials and colours must be specified as part of the design and they must be positioned so that their extent is contained within the boundary to ensure they do not present a danger to any user of the pavement café or any other users of the highway.

All furniture associated with any pavement café, including parasols, should be securely fastened to ensure that they are not liable to be moved by external forces, such as the effects of the wind.

Limited advertising is permitted on both the enclosure and parasols but is restricted to the name of the premises only. They must not be used to advertise services or products sold. Proposed details should be provided with the application. Adverts must not be too dominant and must be sympathetic to the building and its setting.

Specific permission must be obtained from the Council for the use of outdoor space heaters. Where provided, they must be of a type suitable for use outdoors and placed within the pavement café boundary.

If patio style liquid petroleum gas (LPG) heaters are to be used, they need to be adequately secured upright, be fitted with a flame failure device and be maintained in an good working order.

Licence holder responsibilities

Customers must be offered the choice of purchasing both food and drink at pavement cafés. Alcohol must only be served as ancillary to food prepared on the premises and the licence holder must ensure that the pavement cafe is not used by anyone solely for the drinking of alcohol. Pavement café applications for the sale of alcoholic drinks only, will not normally be considered.

Food must be prepared on the premises in a kitchen that meets both food and health and safety requirements. The licence holder/operator is required to hold an appropriate food hygiene registration and to be trained in food safety.

Where a premises is licensed under the Licensing Act 2003, the pavement café licence holder must comply with the terms and conditions of that Premises Licence.

Premises that are not licensed under the Licensing Act 2003, will not be permitted, under the terms of their Pavement Café Licence, to place tables and chairs on the highway prior to 09:00hrs. They must be removed from the highway by 20:30hrs. It may be necessary to further restrict operating hours depending upon the location and circumstances under which the pavement café operates.

The licensee is responsible for the cleanliness of the pavement café area during operating hours and for the disposal of any associated waste. The area must be kept clean, clear and litter free. Care should be taken to ensure that litter does not stray or get blown further afield.

The Council requires the licensee to take out adequate third party public liability insurance cover for the pavement café of at least £5,000,000 (Five million pounds). The licensee will be required to indemnify the Council against all actions, costs, claims and demands arising from and using the highway under the permission granted.

Space and positioning

A clear footway width of at least 2.0m will be required for the unimpeded use of pedestrians. The needs of other users must also be taken into account, e.g., wheelchairs users, trades people, vehicle (including emergency vehicles) and adjacent businesses.

Where the pavement café is situated immediately adjacent to the premises, a minimum of 2 metres clearance, unobstructed by any other street furniture, trees or supports of any boundary demarcation barrier, must be maintained between the boundary of the pavement café and any other obstruction including the edge of any trafficked carriageway.

Where pedestrian flows are high, the Council may need to make an assessment as to the width of clearance required. It may be necessary to ensure an unobstructed clearance greater than 2m in order to ensure the safety of all highway users.

Where the pavement café is **not** situated immediately in front of, or to the side of a premises, a minimum of 2 metres clearance, unobstructed by any other street furniture, trees or the supports of any boundary demarcation barrier, must be maintained between the building line and the boundary of the pavement café.

The location of any pavement cafe must not obscure visibility for pedestrians or other road users who need to see road signs, pedestrian crossings, junctions, accesses or bends.

The licence holder will, in the event of a breach of the terms of the licence, reinstate the highway, or street furniture to the satisfaction of the Council or reimburse the Council if, as a result of a breach, it is required to carry out any reinstatement works itself.

General pavement café licence conditions

The licensee is responsible for the operation of the pavement café in accordance with the conditions attached to the Pavement Café Licence. General conditions will include:

- 1) A copy of the licence must be kept on the premises at all times and be available for inspection by a police officer or other authorised officer.
- 2) All tables, chairs, etc. must be removed from the highway as required by the operating hours stated on the licence.
- 3) The licensee shall ensure that the pavement café is operated in a safe and efficient manner ensuring that there is no safety risk, nuisance, or detriment to amenity caused to other users of the highway or nearby premises.
- 4) The licensee is responsible for the conduct of patrons/customers within the pavement café area. The café area must be supervised during its hours of operation.

- 5) Pavement cafés must only be used by seated customers. Drinks shall not be served to people standing outside the boundary of the pavement café and customers shall not be permitted to stand and drink within the said area or to take drinks outside of the area.
- 6) Alcoholic drinks must only be served as ancillary to meals prepared on the premises and must not be sold or consumed as a single commodity.
- 7) Food must be prepared on the premises and in an appropriate kitchen area.
- 8) No amplified music or sound is allowed outside the premises. Licensees must adhere to any Council guidelines on noise levels.
- 9) The area occupied by the pavement café must be washed down thoroughly at the end of every day, using a method sufficient to remove food debris and grease, including any staining from food and drink spillages.
- 10) The pavement café and surrounding area must be kept free of litter and rubbish caused by patrons using the pavement café. Arrangements must be made to regularly check for and remove litter and rubbish on pedestrian footways, for a distance of up to 10 metres from the boundary of the pavement café.
- 11) The pavement café must be removed at the instruction of the Council for the purpose of:
 1. Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by, the Staffordshire County Council Highways Authority, the Council or any statutory undertaker,
 2. Access required by emergency services,
 3. Any other reasonable cause.

Granting a licence to operate a pavement café does not imply an exclusive right to the area. The operator of the café should be aware that the Council will need access to the highway for cleaning, repairs and access to equipment. Others, particularly statutory undertakers and emergency services, may also require access for maintenance and repair of their equipment.

The Council reserves the right to suspend the licence temporarily for any reason if it becomes necessary. The Police may have the right to close down any establishment where anti-social behaviour or excessive noise prevails.

The licence holder shall not make, or cause to be made, any claim against the Council in the event of any property associated in any way with the pavement café becoming lost or damaged in any way from whatever cause.

Non compliance with pavement café licence conditions

The pavement café must not be established other than in accordance with the provisions of the licence. Where a licence holder is found to be non compliant with their licence conditions then:

- 1) Licensing officers will work with the licence holder to help resolve any issues and ensure compliance with licence conditions.
- 2) Where such involvement is unsuccessful, then letters will be sent notifying the licence holder of the non compliance issues and providing a timescale by which the issue must be remedied.
- 3) If this formal involvement is unsuccessful then the Council will take whatever action it deems appropriate having regard to the Environmental Health Enforcement Policy. This may include revocation of the Pavement Café Licence and referral to the Staffordshire County Council Highways Authority for further action. Licence fees will not be refunded where pavement café licences are revoked.

Unlicensed pavement cafés

- 1) Where pavement cafés placed on the highway are unlicensed, then the business owner will be asked to remove the obstruction with immediate effect.
- 2) Persistent non compliance may result in formal action if it is deemed appropriate to do so having regard to the Environmental Health Department Enforcement Policy. Referral may then be made to the Staffordshire County Council Highways Authority for further action.

Notwithstanding adherence to the terms issued by the Council prior to the issue of a licence, if a pavement café, in whole or in part, is considered to be causing an obstruction or nuisance to highway users, the Staffordshire County Council Highways Authority reserves the right to utilise the provisions of the Highways Act 1980, to remove the items causing the obstruction or nuisance.

Pavement cafés on private property or on land owned by Cannock Chase Council

Pavement cafés deployed on private property may be dealt with through the Council's Planning & Economic Development Department.

Applications for pavement cafés deployed on Council owned land should be directed to the Council's Property Services Department.

6. Enforcement principles

The Council will work closely with other agencies and aim to promote the policy objectives by targeting known high risk premises following Government guidance around better regulation.

In carrying out its enforcement duties relating to the inspection of premises and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council will have regard to the regulators code and will try to be:

- **Proportionate:**
Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.
- **Accountable:**
Regulators must be able to justify decisions, and be subject to public scrutiny.
- **Consistent:**
Rules and standards must be joined up and implemented fairly.
- **Transparent:**
Regulators should be open and keep regulations simple and user friendly.
- **Targeted:**
Regulation should be focused on the problem and minimise side effects.

The Council will adopt a risk-based inspection programme in line with Government recommendations around better regulation and the principles of the Regulators Code. The Regulators Code can be found at: <https://www.gov.uk/government/publications/regulators-code>

The Council will endeavour to avoid duplication with other regulatory regimes and will exhaust all of its own enforcement options before referring any matter to the Staffordshire County Council Highways Authority. The Environmental Health Enforcement Policy is available at <http://www.cannockchasedc.gov.uk/residents/environmental-health/environmental-health-enforcement-policy>

Cannock Chase District Council (the Council) recognises and supports the needs of local businesses to use the public highway as an opportunity to increase their revenue through providing additional space, increased sales and advertising.

This Policy sets out the processes by which permits, consents and licences to place commercial obstructions on the public highway will be administered, monitored and enforced by the Council's Licensing Unit. Our contact details are given below:

Licensing Unit,
Civic Centre,
PO Box 28,
Beecroft Road,
Cannock,
Staffs,
WS11 1BG.
Phone: 01543 462621
Fax: 01543 464489 Email: licensingunit@cannockchasedc.gov.uk

7. Complaints against the service

The Council has a Corporate Complaints Procedure copies of which are available from the Council Offices or on the Council's website www.cannockchasedc.gov.uk.

ANNEX 1

PROCEDURE FOR DETERMINING COMMERCIAL USE OF THE HIGHWAY APPLICATIONS

The application and approval procedure comprises of the following stages:

