

Pavement Cafés & Trade Displays



Designed by Media & Communications Team - Graphics



Introduction

Local centres around Wigan Borough have much to offer shoppers and residents alike and we want to assist in creating and maintaining town centre vibrancy. However, this needs to be balanced against public highway safety for all including members of the community with visual or movement impediments. The council and its partners aim to encourage well designed and managed opportunities to licence sections of the public highway for pavement cafés and trade displays.

In order to ensure that these areas make a positive contribution to highway amenities and to the area in question, the council has set out a list of requirements that must be met by any licence application. The traffic group within the council's Environmental Services Department will administer and enforce the licence applications.

Each proposal will be considered on its merits. Licensed areas cannot be

accommodated in certain streets, due to factors such as visual impact, width restrictions, obstructions or very heavy pedestrian flows.

The overall aim of this policy is to regulate and control businesses wishing to use part of the public highway in connection with their business by way of a licensing system. The policy will be executed in a fair and consistent manner. It is subject to an application process and licence fees being paid if approved. In applying the policy, the council will act in accordance with the standards and guidance set out in this policy. In particular, the council will:

- consult parties subject to regulation and enforcement by the council about the standards it sets in undertaking this role;
- 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;

- make information about the policy and the standards widely available to the public and businesses within the borough;
- review the policy from time to time in consultation with parties subject to its application and;
- act in accordance with the council's Enforcement Policy as necessary.

Licences will be considered for non-permanent furniture or structures to be placed on the public highway. Structures on the highway associated with a pavement café such as decking or smoking shelters will not be permitted.

The applicant will be expected to demonstrate that their proposals 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.

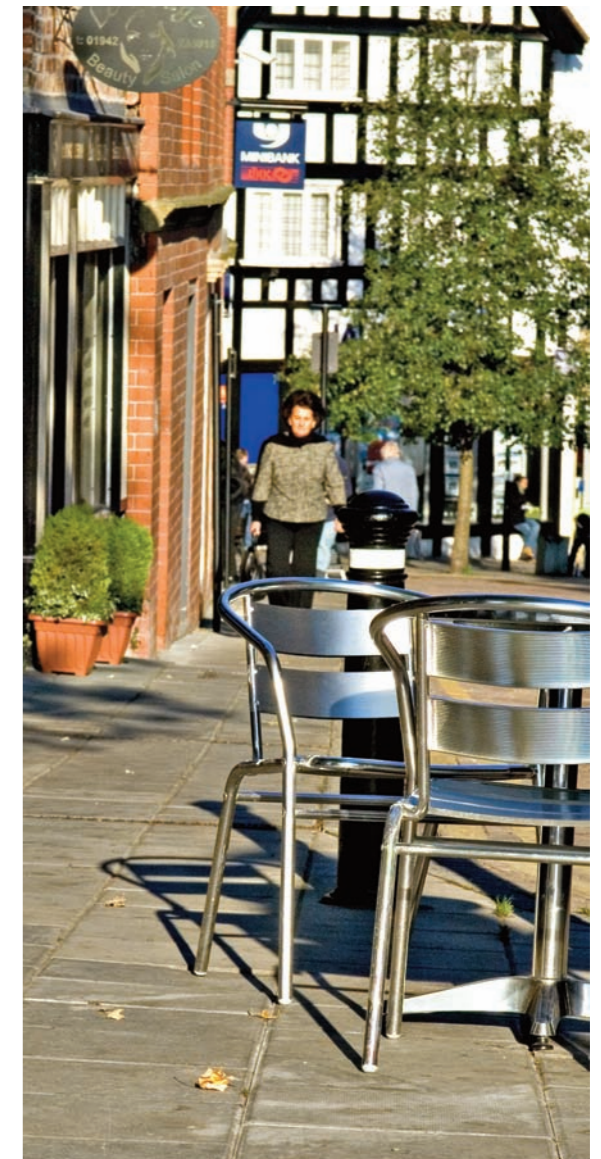
Reference shall be made to the Council's Equal Opportunities and Customer Care Policies in executing this policy. Regard shall also be had to the council's Enforcement Policy in dealing with any unauthorised displays on the public highway or breaches of licence conditions.



Scope of the Policy

It is considered that the following uses would fall within the range of this document:

- Pavement café
- Fruit and vegetable stall
- Bakers and confectioners
- Farm produce (dairy produce)
- Children's rides (roundabouts, bouncy castles)
- Mobile exhibitions
- Flower stalls



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.

In all cases, an absolute minimum width of 1.8 metres must be left between the licensed area and the kerb, and this figure may be increased to 3 metres in busier town centres.

Figure 1 indicates a licensed area projecting up to 2 metres from the building. In cases where the area exceeds 2 metres the layout should be as shown in **Figure 2**. Where the licensed area is adjacent to a road junction or vehicular access 15 metres should be left to allow for junction visibility as shown.

When in use the area must be required, to identify the licensed area and contain the goods (tables, chairs and so on), in

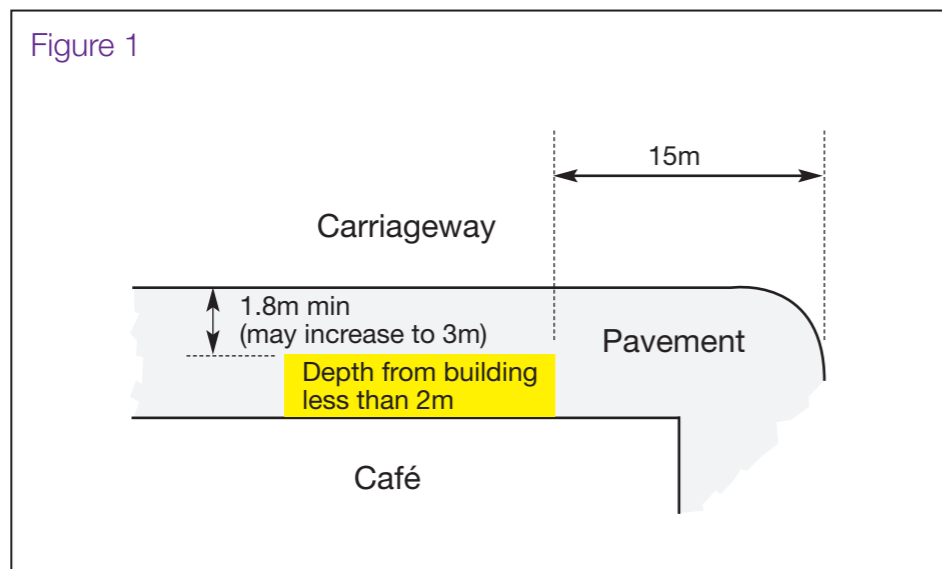


Figure 1

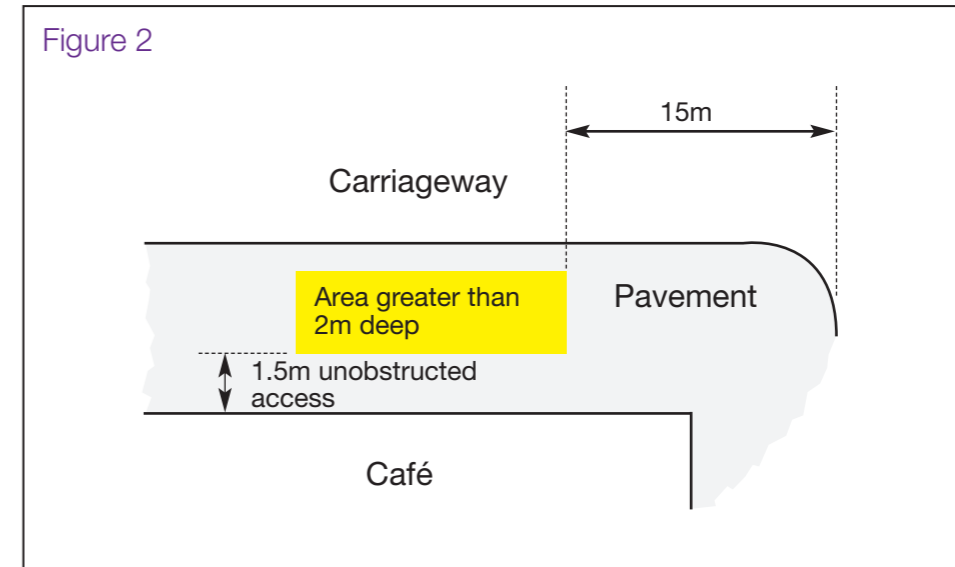


Figure 2

order to make it distinguishable to other pavement users, and to assist blind and visually impaired pedestrians. It is therefore essential that the barrier has a solid boundary (tapping rail) at around 100mm above ground level to be detected by a stick and for pavement cafés an additional barrier erected at a height of 800mm. The enclosure shall be removed outside the licensed period.

Additionally trade displays and pavement cafés should meet the following criteria:

- All displays must be stable and must not be more than 1 metre high.
- In all circumstances, the licensed area is the sole responsibility of the individual business and the council will insist that third party public liability insurance is taken out with evidence being provided.
- Under no circumstances shall the proposal lead to excavations or damage of any kind to be made to the public highway.

- In no circumstances shall the proposal interfere with the visibility for traffic and pedestrians.
- Trade displays and pavement café furniture must be removed if the council or other authorised organisation have to carry out repairs or works to the public highway (including equipment beneath the highway).
- The permitted hours will be between 8.00 am and 8.00 pm unless otherwise agreed in writing with the council's Executive Director of Environmental Services.
- In all circumstances, tables, chairs and any other furniture in connection with a pavement café must be of good quality and design. Details should be submitted to Wigan Council with every application. All furniture must also be kept in good repair and condition.
- All barriers should be clearly visible and strike a contrast with the surrounding environment.

- All furniture or goods associated with any licensed area, should be securely fastened to ensure that they are not liable to be moved by external forces, such as the effects of the wind or from being lightly knocked.



Licence Fee Structure/Application Process

The licence application process involves both statutory and non-statutory procedures. There is a requirement to follow the guidance within these notes and on the application form, which must be completed by all applicants.

- A pavement café licence can be applied for at any time.
- You are advised to read these notes carefully and ensure you fully understand the requirements before you proceed with an application.
- Fees for the Highways Amenity Licence are:
 - Trade display £100 every two years.
 - Pavement café (area less than 10 m²) £250 every two years.
 - Pavement café (area greater than 10 m² *) £400 every two years.

(* maximum area applies)

- 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 Wigan Council. The notice must be in the presented format and displayed for a minimum of 28 days from the date of the notice. The council will also serve notice on adjacent property owners/occupiers. Any objections resulting from the notice will need to be resolved prior to the licence being issued. Other agencies such as the police will also be consulted if necessary and again 28 days will be given for comments.

- Progress reports on your application can be obtained from the council's traffic group.
- If your proposal fails to meet the principal criteria, you will be informed, and may be advised on any amendments which could enable it to meet the required criteria. If your application is subsequently refused you will not be refunded the application fee.
- Following approval of the application, the council will delineate the area of highway (at the applicant's expense) by the placement of a metal stud at the corners of the proposed licence area.

The following documents must be sent to the traffic group when applying for a licence.



Checklist

The following documents must be sent to the traffic group when applying for a licence.

- Fully completed application form.
- A location plan to a scale of 1:1250 showing the area applied for and that there is sufficient area around the proposed pavement café to enable consideration of all highway related issues. Location plans can be obtained from the council's Civic Buildings Offices.
- A site plan to a metric scale of not less than 1:100 detailing your proposals including barriers etc. Plans can be obtained from Civic Buildings.
- Details of the furniture, chairs, tables, umbrellas and so on to be used. If possible, please include manufacturer's detailed brochures.
- Health and Safety risk assessments in relation to the use of food and drink outside the premises.
- The appropriate fee (cheques should be crossed and made payable to Wigan Council).
- Details of proof of £5million Public Liability Insurance cover.

Conditions of Licence

1 General

- 1.1 Term of Licence:** The Highway Amenity Licence will be valid for a period of 2 years commencing on the date of issue unless surrendered earlier by the Operator or revoked in accordance with conditions 1.5 and/or 1.6 below. At the expiry of this period the Licence must be renewed if still required.
- 1.2 Setting up of licence area:** Seven days notice in writing must be given prior to the commencement of any work on site. All work on the highway shall be carried out at the Operator's expense and thereafter maintained to the satisfaction of the council's Executive Director of Environmental Services. 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).
- 1.3 Setting up of licence area:** The design of all chairs, tables, umbrellas, and other such structures or equipment placed in the licensed area shall be subject to the prior approval of the council's Executive Director of Environmental Services.
- 1.4 Insurance:** Public liability to cover £5,000,000 will be required for the licensed area. The Operator shall indemnify the Council and shall take out and maintain throughout the licence period and produce to the council's Executive Director of Environmental Services 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.

- 1.5 Revocation of Licence:** Subject to the provisions of condition 1.6 below 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) where revocation is necessary to enable the council to exercise any of its statutory functions
 - (iii) if there is a change in the ownership of the premises to which the permission relates and the Council's Executive Director of Environmental Services has not given approval in writing to the proposed transfer (a transfer of the permission will be considered provided that 30 days notice in writing of the intended transfer is given together with details of the proposed transferee).
- 1.6 Changes of Furniture/Layout:** The council may terminate the Licence forthwith by notice in writing if the Operator changes any part of the operations including change of or addition of furniture or other items or changes to the licensed area or operating times without first obtaining the approval of the council.
- 1.7 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 for example, markets and fairs.
- 1.8 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 on the apparatus are complete and any necessary re-instatement completed.

- 1.9 Highway Works:** All furniture shall be removed from the licensed area if the council as 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. Wigan Council will not be liable for any resulting loss of business or other disruption to the operators business.
- 1.10 Cleansing Works:** All furniture shall be removed from the licensed area if the Council requires access to the licensed area to carry out any cleansing related works, and shall not be replaced until the works are completed. Wigan Council will not be liable for any loss of business or other disruption caused by third parties.
- 1.11 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 its expenses in so doing from the Operator.
- 1.12 Other Permissions:** The granting of a licence does not obviate the need to gain any other relevant permissions, for example, it does not permit the sale of alcohol within the pavement café area for which separate licensing requirements apply.
- 1.13 Duties:** Nothing in this licence shall fetter any of the statutory rights or duties for the time being vested in the council as the local Highway Authority nor shall this licence absolve the Operator from his/her legal responsibilities under the Highways Act 1980 or any other legislation.

2 Highway/Pedestrian Access

- 2.1 Pedestrian Requirements:** At all times there shall be at least 1.8 metres clear distance to allow pedestrians to pass safely. In certain busy streets a clear depth

greater than 1.8 metres may be required between licensed area and kerb.

- 2.2 Access to Premises:** Where the use directly fronts the premises 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 the council's Executive Director of Environmental Services 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, a well designed and constructed physical barrier of approximately 0.8 metres (800mm) in height is required to designate the area and to guide persons with sight disability around the use. For amenities other than pavement cafes a tapping rail 100mm above ground is required. Such barriers must not be permanently fixed to the ground and must be of a style, design and type to be agreed by the Executive Director of Environmental Services. The licence area will be demarcated at the far corners with metal studs.

3 Public Health and Amenity

- 3.1 Public Health:** The licensed area together with associated outdoor and pavement areas including an area of 1 metre around the licence area must be regularly cleansed as specified and floor debris and other waste immediately removed.
- 3.2 Litter:** There must be adequate provision made for the collection and containment of litter and, where directed, the Operator must provide suitable litter-bins.
- 3.3 Health & Safety:** Licensed areas must not obstruct any existing doorway or fire exit whether belonging to the premises or not.



- 3.4 **Health & Safety:** Furniture/goods stored within the premises should not at any time block a fire exit.
- 3.5 **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.
- 3.6 **Alcohol:** The terms of any premises licence issued under the Licensing Act 2003 setting out any restrictions in respect of any outside areas must be complied with at all times.
- 3.7 **Amenity:** All structures and equipment used by the Operator in the licensed area must be kept in good repair and condition.

4 Management

- 4.1 **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 Executive Director of Environmental Services and in default the council may itself remove the equipment and structures and recover its expenses in so doing from the Operator.

Note: The Operators attention is drawn to the Highways Act 1980 section 115K (failure to comply with terms of permission). Failure to comply with licence conditions may be taken into account by the council when it considers whether to grant any subsequent permission to the Licensee.

Please contact the Traffic Group for specific advice on:

Wigan Council, Department of Environmental Services, Traffic Group, Civic Buildings, New Market Street, Wigan WN1 1RP. Phone: 01942 404314

Application for permission to provide an amenity on a public highway

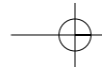
Highways Act 1980 Section 115 A-K

- 1 Please indicate if this is a: New licence Renewal
- 2 Applicant's name/name of licensee(s): _____
Address of premises: _____

Phone number: _____ Fax number: _____
- 3 Address of correspondence (if different from above): _____

Phone number: _____ Fax number: _____
- 4 Agent's name/address (if applicable): _____

Phone number: _____ Fax number: _____
- 5 Description of the area of highway that is the subject of this application:



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

7 Details of the number of chairs/tables/goods and an explanation of where they will be stored when not in use: _____

8 It is intended to seek a licence to serve alcohol within the pavement café area?

Yes No Not applicable

9 Intended period of operation:

Start date: _____ End date: _____

Days of week _____

Times of day: From: _____ To: _____

10 Signature of applicant: _____ Date: _____

Please ensure you supply all appropriate supporting documentation with your licence application as set out in the checklist. Then return your completed form, and accompanying documents, together with the application fee to:

Wigan Council, Department of Environmental Services, Traffic Group, Civic Buildings, New Market Street, Wigan WN1 1RP.

Cheques should be crossed and made payable to 'Wigan Council'.



We can make this information available in other formats and languages on request. Contact:

Wigan Council
Department of Environmental Services
Traffic Group
Civic Buildings
New Market Street
Wigan
WN1 1RP

Phone: 01942 404314