

BRENTWOOD BOROUGH COUNCIL PAVEMENT PERMITS POLICY

Brentwood Borough Council supports and encourages the provision of street cafés in town centres and the larger villages within the district, as they make a positive contribution by adding vitality, colour, life and interest to the street scene. They can help maximize the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live and work in the district.

This policy is intended to help businesses understand where street cafes might be encouraged and whilst the provision of street cafes is encouraged, it is important that they are properly administered and managed to ensure that they meet the legal requirements and the high standards expected by the Council.

Anyone wishing to apply for a Pavement Permit should read this policy and the associated guidance and detailed conditions to check that their proposal meets all the criteria.

Although each application will be considered on its own merits this policy contains key points that must be considered in every case.

General Criteria

1. The area for which a pavement permit is sought must be highway as defined by S115A Highways Act 1980, namely:
 - a highway in relation to which a pedestrian planning order is in force;
 - a restricted byway;
 - a bridleway;
 - a footpath (including a walkway as defined in section 35(2) of the Highways Act 1980);
 - a footway;
 - a subway constructed under section 69 of the Highways Act 1980;
 - a footbridge constructed under section 70 of the Highways Act 1980;
 - a highway whose use by vehicular traffic is prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order; and
 - to a local Act walkway.

Applicants for pavement permits are required to confirm with Essex County Council (Highway Records) the highways status of the application site before making their application.

2. Before considering a pavement permit Brentwood Borough Council must carry out consultations and publish a Notice in accordance with the Highway Act 1980. The Council must take into consideration all representations made to them when considering an application for a pavement permit The Council is also required by the Highways Act 1980 to obtain the consent of the Highway Authority, frontagers with an interest and if appropriate obtained walkway consent.
3. The Council will not permit any objects to be placed on the highway, which will cause a hazard or an obstruction to the free flow of pedestrians, prevent the normal access to premises adjoining the highway, access by emergency or service vehicles or to prevent statutory undertakers and operators of electronic communications code network having access to any apparatus in, on or over the highway.
4. Pavement Permits will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises and employ sufficient staff to provide table service to the outside area and have sufficient provision of sanitary conveniences for use by the public.

5. In considering such applications the Council will give particular consideration to Section 17 of the Crime and Disorder Act 1998 therefore prior to granting any consent for tables and chairs within the highway, the Council will pay particular regard to any potential for crime or disorder arising either directly or indirectly from the consent and will give significant weight to the views of the local police.
6. The Council will ensure before issuing a pavement permit that Health & Safety, Food Hygiene and other Environmental legislation are not compromised.
7. To protect the attractiveness of the streets, the council will require:-
 - The appearance of the tables and chairs must ideally enhance, or at least not be detrimental to the street scene.
 - The tables and chairs and their associated activity must not cause environmental problems or detract from the amenities of adjacent retailers/occupiers. For example, there must be no litter problem, smells from food sales, or noise, so as to cause nuisance or annoyance.
8. The Council will ensure that the layout of the furniture will provide adequate access and circulation space for all customers including wheelchair users and those with push chairs, buggies, and members of the public with mobility problems etc.
9. The Council will generally apply hours of operation between 9am to 6pm from Monday to Sunday for all consents. Applications for pavement permits will be accepted beyond 18:00 hours and up to 22:00 hours. The Licensing Committee in approving such applications will have regard to an applicant's previous track record of compliance with the conditions attached to any previous consent or compliance with other associated conditions controlling their trade.
10. The Council will require that all glasses, crockery and other ancillary items used in the permitted area, are made of a toughened material. All glass-bottled drinks, including alcoholic drinks must be served in toughened drinking glasses. Glass bottles are not allowed in the permitted area.
11. The Council will not permit music to be broadcast on to the permitted area.
12. The Council will not accept an application unless the following have been provided:
 - A completed application form
 - Correct fee
 - Plans
 - Confirmation from the Highway Records of the status of the application site
 - Evidence of public liability insurance
 - Other associated permissions i.e. Planning & any appropriate licences under the Licensing Act 2003.
13. The Council's standard conditions will be applied to all "Pavement Permits". In addition to the standard conditions the Council may also impose special conditions on individual pavement permits

Enforcement

Tables and chairs placed on the highway without permission are an obstruction of the Highway. Any person who has placed tables and chairs on the highway without a valid pavement permit issued by Brentwood Borough Council will be referred to the Highway Authority for enforcement action

Conditions

The following standard conditions shall apply to all licenses. Further additional conditions may be applied to licences.

1. This permission is not transferrable.
2. The tables, chairs and umbrellas shall only be placed outside the premises between the hours of 10 am and 6 pm.
3. The area so permitted to be used solely for the purpose of consuming food and drink purchased on the premises. It is strictly forbidden to prepare any food and drink in the area so permitted by this licence.
4. The tables chairs and umbrellas shall be of such a design as may be approved by the Council in writing and be kept in good repair and condition at the Permit Holder's expense.
5. Nothing contained in this permit gives the holder permission to make fixtures to or excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
6. The Permit Holder shall make no claim or charge against the Council in the event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause
7. The Permit Holder shall indemnify the Council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use of the chairs & tables & other objects and for this purpose must take out at the Permit Holder's expense a policy of insurance approved by the Council in the sum of at least £5,000,0000 (FIVE MILLION POUNDS) in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.
8. No charge shall be made by the Permit Holder for the use of the chairs and tables and other objects
9. Waste from the Permit Holder's operations must not be disposed of in the permanent litterbins provided by the Council.
10. Refuse and litter deposited on the highway in the vicinity of the chairs and tables and other objects must be removed each day by the Permit Holder at the their expense or at more frequent intervals as may be required by or under the Environmental Protection Act 1990
11. The Permit Holder shall remove the tables, chairs and windbreaks from the highway outside the hours permitted by Clause 2 hereof and immediately if required to do so as to permit works in or the use of the highway by:
 - 1) The Council, County Council, the police, fire & ambulance services, any utility operator, or
 - 2) Builders' vehicles, hearses and furniture removal vans
12. The Permit Holder shall be responsible for any rates, taxes and other outgoings which may be charged
13. The permission shall run from the date of this Permit for a term of one year.
14. The Council reserves the right to revoke this Permit forthwith if the Permit Holder breaches any of the conditions contained herein.
15. If the area to be licensed is contained within a Designated Public Places Order Zone then the area shall be clearly delineated by the use of barriers of a suitable nature to be agreed with the Licensing Authority.