



LICENSING TABLES AND CHAIRS ON THE HIGHWAY

Under Part VIIA Sections 115A to K of the Highways Act 1980



**FINAL DRAFT
APRIL 2012**

LICENSING ENFORCEMENT TEAM 2012

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1. INTRODUCTION

Gloucester City Council recognises that tables and chairs on the highway can encourage a growing Café Culture, enhancing the life and character of the City for residents and visitors.

It is important for the Council to consider whether the proposal to place tables and chairs on the highway meets the criteria and aspirations outlined in this policy as well as complying with any legal requirements. The use of the Street includes a number of considerations so it is important to have a clear understanding about the obligations and conditions that apply to the licence.

This policy sets out the procedures and matters for consideration when applying for licences ("Consents" under the Highways Act 1980) to place street furniture on the public highway for the purposes of recreation or refreshment. It is intended to act as a guide to applicants to explain why there is a need to control and manage items placed on the highway, the issues to be considered and the conditions that will apply to successful applications. All applications and grant of licences are subject to the Highways Act 1980 and associated legislation and interpretation.

If tables and chairs are to be used on private forecourts applicants need to ensure whether there is a need for planning permission and any other consents are required. Where there is an established right of way over a forecourt it is deemed to be highway. Each application will be checked to see if planning permission is required.

A highway is a route which all persons can use to pass and re pass along as often and whenever they wish without hindrance and without charge. This definition therefore includes the road or carriageway and the footway or pavement. In order to preserve these rights of way it is necessary to ensure that they are not obstructed either wilfully or without consideration. Features and structures placed on the highway must be controlled to ensure they do not obstruct or endanger pedestrians; particularly those with impaired vision, using wheelchairs and prams.

2. APPLICATION PROCEDURE

The applicant should contact Gloucester City Council Environmental Health for an application form, which should be completed and returned along with all the relevant necessary documentation. To ensure that the application is processed quickly, applicants should have considered all the criteria that follow below and supplied all the relevant supporting data required in the application form.

It may take up to six weeks to process an application. This will include a statutory consultation period of 28 days, taking into consideration all representations made by interested frontages and any others who would be materially affected by the proposal. As part of this consultation process, the Licensing Team will also consult with Gloucester Constabulary, Gloucester City Council Planning and Conservation Team, Environmental Health and Street Trading, Gloucestershire County Council Highways, and any other body or individual it considers appropriate in the particular circumstances. In certain circumstances it may be necessary to post a notice on site as part of the application.

The application should be accompanied by the following;

- A location plan 1:50 or larger which clearly defines the premises and shows the proposed area to be licensed outlined in red in relation to the premises and kerb line with dimensions.
- The precise location of the tables and chairs, umbrellas, planters, litterbins and means of enclosure.
- A photograph or brochure detailing the furniture to be used and means of enclosure, **this must include details of any proposed advertising.**
- Details of the proposed hours and days of the week that will apply.
- Details of the proposed place of storage.
- Details of your trade waste agreement.
- A copy of Public Liability Insurance for a minimum of £5 million in respect of any one incident.
- The position of any dropped kerbs, pedestrian crossings, parking bays, market pitches, cellar hatches, points of access, fire escapes.

3. NEIGHBOURS

It is good practice to consult with neighbours, tenants and adjacent residents, to address any concerns prior to a formal submission. As part of the administration of the Tables and Chairs Licence, there are two legal consultative requirements. These are to seek the consent of interested frontagers* close to the property and to accept representations up to 28 days after a public notice has been posted on or near the premises. The Licensing Team will post a Public Notice and serve copies to your adjoining neighbours as part of the consultation process.

* "frontagers" means the owners and occupiers of any premises adjoining the part of a highway on, in or over which an object or structure would be placed or on which facilities for recreation or refreshment or both have been, are being or would be provided.

4. DETERMINATION OF APPLICATION

The criteria contained within the guidelines below will be used in determining applications. Each case will be assessed in its merits and individual circumstances. Similarly, any written objections received will be considered in terms of relevancy and appropriateness to the application and the listed criteria. Frivolous, vexatious or repetitious observations will be disregarded.

The Highways Act 1980 does not allow any legal appeals against a decision by the Food Safety and Licensing Service Manager to refuse to grant a licence. A person aggrieved by a decision may seek judicial review.

5. GUIDELINES

Prior to presenting any application consideration must be given to the following:

Space – The pavement/footway will need to be clearly delineated. An unobstructed width of 1.8m will be preferred in most areas, however 1.5m will be the minimum required for the unimpeded use of pedestrians. This allows wheelchairs and prams to pass and provides an adequate route for blind and partially sighted pedestrians. A greater width will be required in busy locations. Tables and chairs should normally be placed adjacent to the premises at the back of the footway, however, in some large pedestrianised areas they may be required leave a clear access route adjacent to the premises whilst positioned close to the frontage of the premises, for example; the Gate streets of Gloucester.

Communal Areas- there may be some sites where an area of highway is divided into pre-determined trading areas and available for different businesses to attract custom. Specific additional conditions may apply e.g. seasonal street trading pitches.

Access – The available route past a premise must be straight, obvious and unobstructed. The pedestrian route must not meander between the tables and chairs or standing customers so that pedestrians are not discouraged from using the footway. During hours when vehicles are normally excluded, tables and chairs should occupy only the area licensed in order to ensure a free and unobstructed route for emergency service vehicles. A minimum width of 4m is required to allow emergency vehicles to pass.

The Licence holder must remove any furniture if required to do so to permit access at various times to allow works by the City Council, Gloucestershire County Council, the emergency services any statutory undertaker or telecommunications operator or where the Licence holder has been notified of a special event taking place. There may also be circumstances when the owners or occupiers of buildings in the vicinity request access; licence holders must act reasonably to accommodate these requests.

When a street market or a special event is active, table and chairs will not be permitted unless there is sufficient space to accommodate passing pedestrians, shoppers, the stalls and stock including access for Emergency Service vehicles. Alternative arrangements for tables and chairs on the highway may be considered but cannot be guaranteed.

Means of enclosure – The licensed area should be physically defined, during hours of operation. The extent of area should be identified by ornamental fencing with adequate openings to permit

access. The intention of the enclosure is to contain the area and give clear warning to pedestrians; particularly those with visual impairments. A low level tapping rail would be a necessary requirement. The means of enclosure must be lightweight for out of hour's storage but sufficiently robust to cope with resistance to winds, especially near Gloucester Docks. Enclosures should have a minimum top rail height of 800mm but no taller than 1000mm. Rope or chain barriers are not considered suitable.

Furniture –

Tables and chairs; A standard city wide design and colour scheme will not be imposed however; the City Council will insist upon a good quality and expect the style to fit in with the local environment. For example, domestic plastic patio furniture will not be acceptable. Furniture must be safe and intended for commercial use. It must be properly maintained, replaced as necessary and kept clean. Furniture should be uniform in appearance for the premises. Furniture must not damage the surface of the highway and should not generate unreasonable noise when being moved at night. Consequently consideration should be given to using furniture with rubber feet. Materials should not be too bright, garish or overly reflective.

Portable planters; can be considered in the application, but they must be well maintained, planted, kept clean of debris such as litter and cigarette stubs and must be able to resist accidental or mischievous movement.

Umbrellas/Parasols/Heaters – Umbrella location, colour and material must be specified. They must not overhang beyond the enclosure and must be weighted to prevent them being dislodged by the wind. Umbrellas must be clean and in good condition. In communal street café trading areas, each business must enable the customers to identify the seating area for its business; this may be through use of different colour fabrics or identification by company logo or a brand of product that they sell. Identification will be subject to council approval. If heaters are proposed the heaters must meet BS Standards BS EN 60529:1992 (electric heaters) and BS EN 14543:2005 (gas heaters).

Other Miscellaneous Items e.g. stalls/displays of goods – Other items on the highway will be considered where sufficient space is available not to obstruct passing pedestrians. Some road side sales may also require permission where the goods are placed on the Highway. Applicants should discuss these proposals with the Licensing Team for further advice.

If additional items are to be added after a licence is granted, written approval is required from the Council. A new application may be needed to consult with relevant stakeholders.

Storage - Café furniture and other items including umbrellas and enclosures etc. shall be removed at the end of trading hours and stored inside the shop premises or within an alternative safe environment.

Litter – All tables must be cleared of all uneaten food, used crockery and cutlery as soon as reasonably practicable after being vacated by customers. Food debris must not be swept onto the highway and any wind blown litter in the area must be placed in the premises own waste receptacles. At least one lidded refuse bin should be provided at all times of operation. If smoking is permitted and complies with relevant legislation, ashtrays must be provided. At the end of each day all discarded cigarette stubs must be cleared and the area should be left in a clean and tidy condition. If the site is not kept clean the work may be undertaken by the City Council or its nominated contractor and recharged to the licence holder. In streets where seagulls or birds may be a potential nuisance, umbrellas may be requested upon application.

Trade refuse – The licence holder must have a trade waste agreement and details must be provided on application. Waste receptacles should be placed out for collection no earlier than 06:00hrs on the day of collection and be brought back in within the boundaries of the premises no later than 10:00hrs on the day of collection.

Street Cleaning – Café furniture must not be placed on the highway before 7am to assist regular street cleaning.

Environment / Nuisance – The quality of the air and the immediate environment should be suitable for the proposed use and the proposed activities must not constitute a nuisance. The area must be favourable to sitting/eating/drinking and therefore consideration should be given to traffic volume, bus stops, taxi ranks and fumes. It is recommended that the hours of operation will depend on the location, facilities available and whether the applicant's premises license permits them the use of the highway area. Normally, it would be expected that any business be concluded on the highway by 11pm except in exceptional circumstances where permission is given beyond this time. External public address systems and amplified music will not be allowed within the licensed table and chair area unless such activities are permitted under a Premises Licence application under the Licensing Act 2003. The permission holder must not cause annoyance to persons using the highway or part of the highway to which the application relates.

Use of CCTV – Where alcohol is to be consumed on the tables and chairs permitted under this licence, there must be CCTV provided to cover the external area by at least one camera operating as part of the premises own CCTV system.

Sanitary Appliances – The number and type of public sanitary accommodation provided by a business is based on the number of potential customers. The applicant should ensure that the sanitary provision remains appropriate for the increase in customer numbers resulting from additional seating.

6. PUBLIC LIABILITY INSURANCE

The persons to whom permissions are granted must always have valid public liability insurance for at least £5,000,000 (five million pounds) which also indemnifies Gloucester City Council its agents, servants and workmen against any costs, claims for injury, damage or loss arising from the use of the highway for the permitted purpose. Satisfactory evidence of this public liability insurance must be provided before a licence can be granted.

The Licence holder shall have no right to make any claim or charge against the City Council in the event of the furniture or other objects being lost, stolen or damaged in any way, unless this is caused by the City Council's own negligence.

7. ENFORCEMENT

Ongoing enforcement monitoring will be carried out to make sure the conditions of the licence are not being broken. Any obstruction that is deemed 'unreasonable' in accordance with this Guide and constitutes an immediate danger will be removed from the highway immediately and either returned to the owner, if known and practicable, or retained.

Where obstructions are 'unreasonable', but do not constitute an immediate danger, the owner will be requested to remove or reposition them in accordance with this Guide. If the problem persists, the City Council may serve notice that the objects be removed before seeking a Magistrate's removal and disposal order in respect of the items.

Any items removed from the highway will be taken to store and retained for collection by the owner. If the items are not collected within a period of one month they will be disposed of. The City Council may seek to recharge any expenses incurred in removing such items to their owners.

8. FEES AND CHARGES

There is currently no fee for Tables, chairs and planters Licences.

9. DURATION OF LICENCE

All Licences are valid for 12 months from the date of application.

10. TERMS AND CONDITIONS

Standard Conditions are detailed on the back of the application form and noted on the Licence.

11. TERMINATION

Failure to comply with the terms and conditions of the licence may result in the licence being suspended or revoked.

12. OTHER LICENCES

The Highway Authority can legally place items such as road signs, trees and seats on the highway.

Gloucester City Council licences the placing of Advertising Boards in the pedestrian areas and on the City highways. Separate guidelines are available for Licensing Advertising Boards on the Highway.

13. MODIFICATIONS, ALTERATIONS, OR AMENDMENTS

The procedures and requirements specified within this Guide may be modified, altered or amended at any time as Gloucester City Council deems appropriate.

14. CONTACT US

Email: heretohelp@gloucester.gov.uk

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