

# Wolverhampton City Council

Committee / Panel

**LICENSING COMMITTEE**

Date: **27/06/2012**

Originating Service Group(s)

**EDUCATION & ENTERPRISE**

Contact Officer(s)/

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Title/Subject Matter

**DRAFT POLICY FOR THE MANAGEMENT OF A-BOARDS, TABLES AND CHAIRS AND GOODS ON THE HIGHWAY**

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## **Recommendation**

Members are asked to:

- (i) Endorse the draft policy for the management of A-Boards, tables and chairs and goods on the highway.
- (ii) Agree the consultation arrangements for the draft policy for the management of A-Boards, tables and chairs and goods on the highway.
- (iii) Agree to receive a further report following completion of the consultation.

# **DRAFT POLICY FOR THE MANAGEMENT OF A-BOARDS, TABLES AND CHAIRS AND GOODS ON THE HIGHWAY**

## **1.0 Purpose of Report**

1.1 The purpose of this report is for Members to:-

- (i) Endorse the draft policy for the management of A-Boards, tables and chairs and goods on the highway.
- (ii) Agree the consultation arrangements for the draft policy for the management of A-Boards, tables and chairs and goods on the highway.
- (iii) Agree to receive a further report following completion of the consultation.

## **2.0 Background**

2.1 On 7 December 2011 Cabinet received a report titled: *'Taking forward the management of the city centre public realm'*. The report discussed various public realm issues in the city centre.

2.2 Within the report were sections on both A-Boards and tables and chairs, outlining the background, current position and proposed approach.

2.3 Members agreed a proposed approach to introduce a management scheme to control A-Boards, tables and chairs and good on the highway. This scheme is intended to improve local environmental conditions and the public realm in order to facilitate regeneration.

2.4 Cabinet endorsed the recommendations of the report and it was agreed that the proposed fee revisions for A-Boards and tables and chairs should be presented to the Licensing Committee for agreement.

2.5 On 11 January 2012 Licensing Committee agreed the fee of £25 for applications to place A-Boards, tables and chairs and goods on the highway.

2.6 It should be noted that whilst the Cabinet report detailed above was only concerned with city centre issues, the regulation of A-Boards, tables and chairs and goods on the highway will be city wide and comes under the control of the Licensing Committee.

## **3.0 Draft Policy**

3.1 A draft policy has been developed outlining to businesses the approach the Council will adopt when considering applications to place A-Boards, tables and chairs and goods on the highway. The draft policy is attached at Appendix A to this report.

3.2 In the development of this policy Licensing Services have carried out a Systems Thinking intervention to try and ensure a streamlined application and regulation process for these functions. This has involved detailed dialogue with businesses, the general public and a variety of other stakeholders.

#### **4.0 Consultation Arrangements**

- 4.1 The consultation will follow best practice and will be fair, transparent and proportionate allowing parties twelve weeks to submit responses. It is proposed to consult as widely as possible and publish the consultation document on the Council's website.
- 4.2 The Council will consult with a number of statutory bodies, including (but is not limited to):
- West Midlands Police
  - West Midlands Fire Service
  - Safer Wolverhampton Partnership
  - WCC Development Control
  - WCC Street Scene Services
  - WCC Access Officer
  - WCC Transportation Services
- 4.3 The Council will also seek to consult widely with the business community both in writing and by attendance at various forums; this will include engaging with the following groups:
- Licensing Forum
  - Market Traders Forum
  - WVOne
  - Bilston Traders Forum
  - City Centre Pubwatch
  - Wednesfield Traders Forum
  - Black Country Hotels Association
  - Chamber of Commerce
  - Association of Small Retailers
- 4.4 In addition to the groups detailed above the Council will also pro-actively seek views from a variety of safety and disabled access charities, including RoSPA and Beacon Centre for Blind.
- 4.5 It is proposed to bring a report detailing the consultation responses back to Members at the Licensing Committee meeting on 17 October 2012 for consideration and final approval of the policy.

#### **5.0 Legal Implications**

- 5.1 The regulation of A-Boards, tables and chairs and goods on the highway is derived from Section 115E of the Highways Act 1980 which provides a council may grant permission to a person to use objects or structures placed on, in or over a highway for certain purposes. Power to grant a permission is subject to consent being obtained from interested frontages, as defined by the Act, being obtained.

Consent can not be unreasonably withheld (s115J).

A Council shall not exercise powers conferred under s115E unless they have first published a notice giving details of any application and considered any representations made in response to this (s115G).

- 5.2 Conditions may be placed on any permission in accordance with Section 115F of the Highways Act 1980 and they should be such conditions as the Council think fit and appropriate and can include requiring the payment of a reasonable charge or fee.

Failure to comply with conditions imposed on the permission may result in action being taken by the Council to remedy the breach (s115K).  
[SH/15062012/H]

## **6.0 Financial Implications**

- 6.1 Members agreed the fee of £25 for this function on 11 January 2012 and 1 February 2012 within the Fees and Charges report. The fee is based on a cost recovery basis and is non-refundable. [JJ/15062012/C]

## **7.0 Equalities Implications**

- 7.1 The regulation of A-Boards, tables and chairs and goods on the highway will have potential equalities implications, particularly relating to access issues.
- 7.2 An Equality Analysis has been undertaken in respect of this and will be reviewed as part of the consultation process.

## **8.0 Environmental Implications**

- 8.1 There are environmental implications arising from this report relating to the public realm and the control of activities on the highway.
- 8.2 The report covers the development of a policy which seeks to secure improvements to both public safety and access and also for the amenity of the local environment and public realm.
- 8.3 It is believed the implementation of the policy will bring associated regeneration benefits through the positive effect of improved city centre, other retail centres and urban environments.

## **9.0 Background Papers**

- 9.1 *'Taking Forward the Management of the City Centre Public Realm'*

WCC Cabinet, 7 December 2011.

**Wolverhampton**  
City Council



**A-Boards, Tables and Chairs  
and Goods on the Highway**

**DRAFT POLICY**

**1 July 2012**

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## 2. Introduction

Retail areas within the city have much to offer by way of creating an ambience that makes them attractive to shoppers and visitors alike. The Council recognises this and wishes to encourage traders to promote their business activities in a way which both enhances the street scene re-invigorates the city and is sensitive to the needs of highway users.

The Council views all items placed by businesses on the highway as an obstruction to other highway users. However, it is proposed within this policy to allow businesses to apply to the Council under the Highways Act 1980 to obtain permission to place A-Boards, Tables and Chairs and Goods on the Highway. Any application should satisfy the criteria detailed within this policy and any requirements under general law. Following the implementation of this approach any item or items placed on the highway without the benefit of appropriate permission will be deemed an obstruction of the highway.

In addition to obstructing the highway such items can potentially also have an adverse effect on the city's streets and shops. It is for these reasons that the Council in consultation with key stakeholders and local businesses has produced this policy and guidelines to better manage and control the impact such items have on pedestrian safety and the public realm.

In order to help stimulate the regeneration of the city centre and foster a café culture, applications for Tables & Chairs will take precedence over applications for A-Boards or Goods on the Highway.

In formulating this draft policy the Council has consulted with statutory consultees and a wide range of businesses and individuals. The Council is grateful for the help, support and advice given by all those who contributed to this process and helped shape this draft policy.

This is a 'living document' that will be modified and developed over time to reflect changing circumstances. The Council will consider representations from statutory bodies and individuals that propose changes to the policy.

### **What we are seeking to achieve**

**“ENSURE THE HIGHWAY IS SAFE AND TIDY”.**

#### **It is hoped to achieve this through:**

Introducing a management scheme to

- work with traders to promote their businesses in a way which improves the streets;
- allow pedestrians to move freely through a clear, obstacle-free network of streets;
- ensure the safe and free movement of pedestrians especially visually impaired and disabled people;

- improve the quality of streets in line with the current management of the public realm.

A permit will be required for any of the following activities:

- A- Boards [One application for each A-Board]
- Tables and Chairs
- Goods on the Highway

This is to ensure that they are properly set up, managed correctly and operated in a way that benefits the business, and enhances the shopping area and does not cause a problem for other users of the highway.

It is proposed to stagger the implementation of this policy across the city; details of this implementation can be found at Section 4 of this policy.

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### 3. **Definition of A-Boards, Tables and Chairs and Goods on the Highway**

What are A-Boards, Tables and Chairs and Goods on the Highway

#### **A-Boards**



A selection of Advertising Boards (A-Boards) is shown above. Further details of the acceptable sizes of A-Boards can be found at Section 6 of this policy.

#### **Tables and Chairs**



Tables and Chairs or street cafés are areas of the highway used by businesses to provide facilities for customers to sit in a specified area, the Council would usually expect that such facilities are enclosed, do not detract from the amenity of the area and meet a standard that ensures there is no obstruction to highway users.

Further guidance regarding applications for Tables and Chairs on the highway can be found at Section 6 of this policy.

#### **Goods on the Highway**

Goods placed on the Highway by businesses can include the display of flowers, groceries, newspapers and other items outside retail premises on the highway. This list is not exhaustive and the Council may seek to restrict the items it is willing to permit to be placed on the highway if it believes that there is the potential for certain items to detract from the amenity of an area and create a nuisance.

Further guidance regarding applications on Goods on the Highway can be found at Section 6 of this policy.

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4. **Zoning of Areas Across the City and Implementation Dates**

To assist with the implementation of this policy the city has been divided into zones, these are as follows;

Businesses wishing to place A-Boards, Tables and Chairs and Goods on the Highway in each of the zones detailed below will be required to obtain permission by the following date(s).

Zone 1	City Centre [inner ring road]	1 April 2013
Zone 2	Bilston Town Centre	1 November 2013
Zone 3	Tettenhall Centre	1 November 2013
Zone 4	Wednesfield Town Centre	1 November 2013
Zone 5	Remaining areas	1 April 2014

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## 5. **Fees and Making an Application**

### Fees and Duration of Permission

The application fee is £25 per year for a permission to place an A-Board, Tables and Chairs or Goods on the Highway.

Applicants wishing to apply for permission to place more than one A-Board on the highway will be required to submit an application for each A-Board together with a fee of £25 per application.

This fee was set by the Licensing Committee on 11 January 2012 and is subject to an annual review.

Permissions will apply for twelve months from the implementation dates detailed at Section 4 of this policy, a renewal application will be required to continue a permission into the following year.

### Making an Application

Those wishing to place A-Boards, Tables and Chairs and Goods on the Highway from the implementation dates detailed at Section 4 must obtain permission from the Council.

To apply for permission please download and complete the relevant form attached. It is recommended that applicants liaise closely with Licensing Services before an application is submitted in order to obtain advice on the application process.

Section 6 of this policy contains guidance to applicants and should be read prior to submitting an application.

### **Contact**

Wolverhampton City Council  
Licensing Services  
Reception 14  
Civic Centre  
St Peters' Square  
Wolverhampton  
WV1 1DA

[licensing@wolverhampton.gov.uk](mailto:licensing@wolverhampton.gov.uk)

or telephone 01902 551155

## 6. Applicants Guidance

All applicants are advised to read these guidelines prior to submitting their application(s). Whilst applications that comply to these guidelines will generally be granted, failure to do so does not necessarily mean an application will be refused as each application will be determined on its own merits.

Further guidance can be obtained from Licensing Services (details available at Section 5).

In addition to these guidelines any permission granted will be subject to standard conditions detailed at Appendix A-C.

### (i) General Guidance for all Applications

#### Clearance from Obstructions

In all cases where an application is made to place items on the highway applicants will be required to **ensure that a minimum of 1.5 metres is available on the footway for pedestrians from the items placed on the highway to the nearest obstruction and/or carriageway.**

#### Location

Items must not be placed on the highway in such a way as to cause a visual obstruction to pedestrians or drivers.

Items must not be placed on the highway in areas where tactile paving is provided.

#### Consultation

All applications are required to be subject to public consultation.

A form is attached which must be completed and displayed at your business (if the application is for items directly outside) in a location that is clearly visible to highway users.

If the application is for an item or items that are not directly outside your premises then Licensing Services will need to place a notice(s) in the area to which the application pertains, there will be an additional cost of £7.00 for each such application(s).

The notice must remain in place for a period of no less than 28 days. Failure to comply with this requirement will result in the application being rejected and application fees are non-refundable.

## Interested Frontagers

Where an application for an item is not directly outside your own business frontage you are required to obtain the consent of the frontagers with an interest in the application.

Interested frontagers are any premises outside which the items applied for would be placed. In the case of items placed directly outside the applicants own business this consent is not required.

### (ii) **A-Boards**

#### Location

On a traditional road and pavement A-Boards must not be placed against the build line of the business, while maintaining a minimum of 1.5 metres clearance from any obstruction and/or the carriageway.

A-Boards generally should only be placed outside the applicants own business, as such, advanced directional A-Boards are not considered appropriate in most locations. There may be exceptions to this, such as where a business is based on a first floor and has no visible frontage.

Where an application is not for a location that is directly outside the applicants premises a street plan at scale 100:1 or 50:1 will be required showing where it is proposed to place the A-Board and the nearest obstructions and/or carriageway.

There is a general presumption that business will only be permitted one A-Board.

#### The A-Board

A-Boards should be no more than 1.25m metres in height and 0.66 meters in width.

### (iii) **Tables & Chairs**

The Council is keen to encourage a café culture in retails areas across the city and as such Tables and Chairs applications will take precedence against other items placed on the highway.

#### Enclosure

Tables and Chairs should normally be within an enclosure. Applicants are asked to provide details of the enclosure with their application.

The point of access/egress to the enclosure must be a least 1.2 meters wide.

The material used in the enclosure should be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.

The enclosure should be of a solid nature and have a minimum height of 1.0 metre up to a maximum of 1.2 meters above ground level. Rope barriers are not usually permitted. The material used should offer good colour contrast from the floor. Light paving should have a dark coloured enclosure and tarmac / dark paving should have a light coloured enclosure. Livery is permitted on the enclosure. However certain types of advertising may require additional planning consent and guidance should be sought from Development Control (01902 551155).

### Plan

All applications to place Tables and Chairs on the highway should be accompanied by a plan at scale 100:1 or 50:1 and will be required to show where it is proposed to place the Tables and Chairs, the enclosure and the nearest obstructions/carriageway.

#### (iv) **Goods on the Highway**

Goods on the Highway displayed by businesses can, where placed appropriately and in keeping with the local amenity and street scene, greatly add to the offer of retail area, they can provide businesses with an opportunity to display their produce to passing customers and can help establish a unique identity for a particular shop or street.

### Location

The display of Goods on the Highway must not block any points of access/egress to the premises or any fire exits.

Displays of Goods on the Highway will not normally be permitted that extend beyond the applicants premises and overlap adjoining businesses.

### Zone 1 – City Centre

Within the city centre Goods on the Highway are generally not permitted as they are not in keeping with the amenity of the area or the street scene and as such are considered detrimental and a nuisance.

However where the requirements detailed below can be met florist displays may be permitted in non-pedestrianised areas as they can enhance the street scene.

- The display must not extend beyond 1.0 metre of the build line of the premises.
- The display must not extend beyond 1.5 metres in height.

## Other Zones

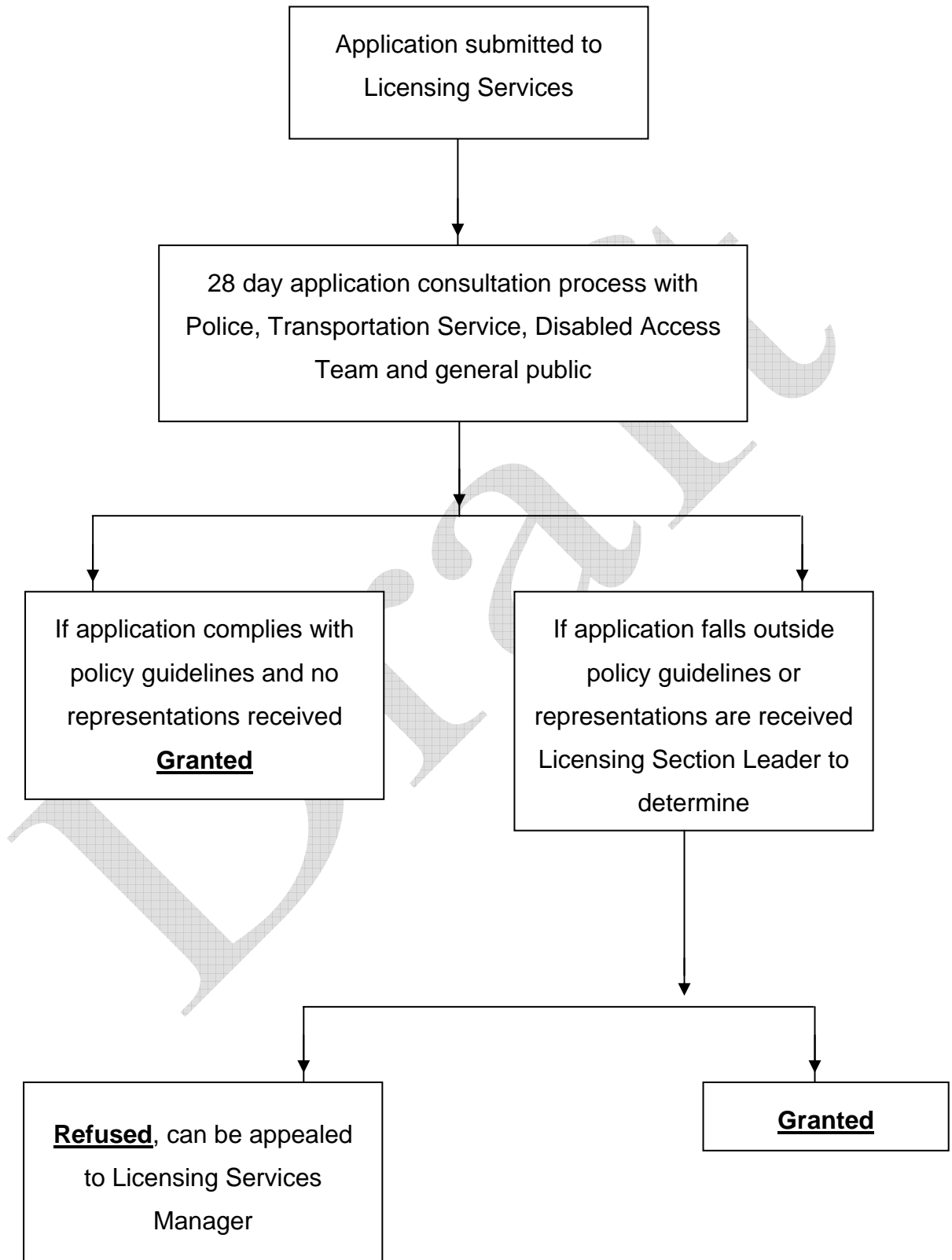
There are no restrictions on trade lines displayed in other zones, however applicants will be required to meet the following criteria:

- The display must not extend beyond 2.0 metres of the build line of the premises.
- The display must not extend beyond 1.5 metres in height.

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7. Application Flow Chart



## **APPENDIX A**

### **A-Board Conditions**

1. The conditions attached to the A-Board permit may be varied and added to by the Council at any time.
2. The permit holder must always have a valid insurance policy for public liability for at least £5,000,000 covering the area subject to application.
3. No A-Boards should be placed on the highway before 0800 hours.
4. The A-Board must be removed at the end of the daily trading.
5. The permit holder shall ensure that any equipment included in the permission is safe and presents no risk to members of the public and in particular:
  - that the A-Board is in good repair and stable.
6. The permit holder must ensure adherence to any direction from the Council on livery, advertisements and logos.
7. The permit holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the permit except where any claim in respect of such injury damage or loss is attributable to the negligence of the Council.
8. Any damage to Council property caused as a result of the permit holders activity will be repaired by the Council with all costs recharged to the business in question.
9. The permit must be available at the premises and the accompanying permission disc clearly displayed on the A-Board.
10. The permit holder agrees that the permit may be suspended if the Council is required to make the permitted area available for any event, works, or issues of public safety or any other reason it requires the area for.
11. The permit holder shall remove the A-Board for an identified period at the request of an authorised officer of the Council or a police constable.
12. All items placed on the highway shall be free-standing. No drilling or excavation of the highway shall be permitted.
13. The A-Board shall not exceed 1.25 metres in height and 0.66 metres in width.
14. The A-Board should not be fixed by any means to other items of street furniture.
15. The A-Board should not be placed on tactile paving.
16. The A-Board should not be placed in such a way as to obstruct the visibility of motorists or pedestrians crossing the carriageway.

17. The Council may withdraw this permission at any time for any other reason than those stated above.

It must be emphasised that the Council in issuing permission cannot, and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing any object on the highway.

The following is taken from the Highways Act 1980 in respect of failure to comply with the terms of the permission to place an A-Board on the highway:

*(1) If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.*

*(2) If a person on whom a notice is served under subsection (1) above fails to comply with the notice, the council may take the steps themselves.*

*(3) Where a council have incurred expenses in the exercise of the power conferred on them by subsection (2) above, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under subsection (1) above was served. (s115K).*

## Appendix B

### 8. Tables and Chairs Conditions

1. The conditions attached to the Tables and Chairs permit may be varied and added to by the Council at any time.
2. The permit holder must always have a valid insurance policy for public liability for at least £5,000,000 covering the area subject to application.
3. The permit holder shall not allow the area to be used for any purpose other than that detailed in the granted permit. The layout of the area as detailed at the time of application must be maintained unless expressly permitted otherwise in writing by the Council.
4. The area where the permit applies must be supervised at all times if the permit allows the sale and consumption of alcohol. **It should be noted that the provision of a Tables & Chairs permit does not enable the sale of alcohol to be permitted. To do so will require a licence under the Licensing Act 2003.**
5. Tables and chairs should be sited so that they are clearly visible from inside the premises, **with the exception of areas permitted for the consumption and sale of alcohol where Condition 4 applies.**
6. The permitted area must be kept clean and clear of all debris during the permitted hours. The provision of suitable litter bins/ ashtrays should be made available.
7. The enclosure, tables, chairs and other permitted items must be removed at the end of the permitted hours.
8. The permit holder shall ensure that any equipment included in the permission is safe and presents no risk to members of the public and in particular:
  - that all tables and chairs are in good repair and stable;
  - any parasol and umbrella are fully secured to prevent them being dislodged; and
  - the area to be used is defined and protected in the manner prescribed by the Council with regards to material, colour and dimensions.
9. The permit holder must ensure adherence to any direction from the Council on livery, advertisements and logos.
10. The permit holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the permit except where any claim in respect of such injury damage or loss is attributable to the negligence of the Council.
11. Any damage to Council property caused as a result of the permit holders activity will be repaired by the Council with all costs recharged to the business in question.

12. No music or entertainment is to be provided in the area permitted for tables and chairs.
13. The permit must be displayed in a prominent position as near as reasonably possible to the permitted area ideally on the door or window of the premises.
14. The permit holder agrees that the permit may be suspended if the Council is required to make the permitted area available for any event, works, or issues of public safety or any other reason it requires the area for.
15. Any electric lighting must be installed by a competent person and conform to IP65 for outdoor use.
16. The hours of trading shall be as determined on the permit.
17. The permit holder shall remove all or part of the tables and chairs for an identified period at the request of an authorised officer of the Council or a police constable.
18. All items placed on the highway shall be free-standing. No drilling or excavation of the highway shall be permitted.
19. The Council may withdraw this permission at any time for any other reason than those stated above.

It must be emphasised that the Council in issuing permission cannot, and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing any object on the highway.

The following is taken from the Highways Act 1980 in respect of failure to comply with the terms of the permission to place tables and chairs on the highway:

*(1) If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.*

*(2) If a person on whom a notice is served under subsection (1) above fails to comply with the notice, the council may take the steps themselves.*

*(3) Where a council have incurred expenses in the exercise of the power conferred on them by subsection (2) above, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under subsection (1) above was served. (s115K).*

**8. Goods on the Highway Conditions**

1. The conditions attached to the Goods on the Highway permit may be varied and added to by the Council at any time.
2. The permit holder must always have a valid insurance policy for public liability for at least £5,000,000 covering the area subject to application.
3. The permitted area must be kept clean and clear of all debris during the permitted hours.
4. No items to be placed on the highway prior to 0800 hours.
5. The permitted items must be removed at the end of the daily trading.
6. The permit holder shall ensure that any equipment included in the permission is safe and presents no risk to members of the public and in particular:
  - that all items are in good repair and stable.
7. The permit holder must ensure adherence to any direction from the Council on livery, advertisements and logos.
8. The permit holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the permit except where any claim in respect of such injury damage or loss is attributable to the negligence of the Council.
9. Any damage to Council property caused as a result of the permit holders activity will be repaired by the Council with all costs recharged to the business in question.
10. The permit must be displayed in a prominent position as near as reasonably possible to the permitted area ideally on the door or window of the premises.
11. The permit holder agrees that the permit may be suspended if the Council is required to make the permitted area available for any event, works, or issues of public safety or any other reason it requires the area for.
12. The permit holder shall remove all or part of the items for an identified period at the request of an authorised officer of the Council or a police constable.
13. All items placed on the highway shall be free-standing. No drilling or excavation of the highway shall be permitted.
14. The Council may withdraw this permission at any time for any other reason than those stated above.

It must be emphasised that the Council in issuing permission cannot, and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing any object on the highway.

The following is taken from the Highways Act 1980 in respect of failure to comply with the terms of the permission to place goods on the highway:

*(1) If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.*

*(2) If a person on whom a notice is served under subsection (1) above fails to comply with the notice, the council may take the steps themselves.*

*(3) Where a council have incurred expenses in the exercise of the power conferred on them by subsection (2) above, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under subsection (1) above was served. (s115K).*