Guidance for Pavement Café Seating and Other Business Uses of Pavement Space
Introduction

This guidance has been prepared by Worcestershire County Council, in association with Worcestershire Regulatory Services and the Worcestershire District Councils. It aims to support local businesses to take full advantage of the public realm by expanding business activities beyond their shop fronts, creating an inviting environment which welcomes visitors. It also considers the needs of pedestrians who have a disability, additional needs or who are pushing buggies or wheelchairs.

Worcestershire benefits from a vibrant, visitor-focussed economy. Our town and city centres provide a variety of distinctive destinations with a variety of attractions for the residents and visitor alike. Features such as pedestrianised streets and wide pavements are well suited to accommodate outdoor seating, which supports contemporary café culture. Similarly, with careful use of the area outside, shop fronts can add significantly to the attraction of the streetscape, stimulating increased footfall, economic activity and social interaction.

This guidance sets out the standards and specifications recommended for pavement café operation and the factors that businesses should consider for all uses of pavement areas.

Whilst there are some basic legal provisions that control obstruction of the highway, the law is imprecise and often open to interpretation. This can sometimes inhibit innovation, making it difficult to meet the needs of local businesses. Worcestershire County Council and partners recognise that each case is unique, so will aim to work with the business community in a pragmatic way to get the look and feel of our streetscape right. This will ensure all parties benefit as our town and city centres continue to diversify and grow.

By following this guidance and, perhaps most importantly, by discussing proposals with Worcestershire County Council and the relevant Local Planning Authority before implementation, businesses will be able to navigate the legislation and to find the right solution.
**General Requirements**

Pavement cafés may be sited on the pedestrian public highway but must not cause an obstruction to the general public, present a trip hazard, or place obstacles which are hard to see or detect properly with a white cane. Obstruction of the public highway is a criminal offence, which could result in legal proceedings. Where facilities are proposed to be located near to a road junction, care must be taken not to obscure visibility for passing traffic.

It is not normally necessary to obtain planning permission or a licence, provided the main premises connected to the pavement are designated for either Class A3 (Restaurants and Cafés) or A4 (Drinking Establishments) use. Generally, planning permission is required if any permanent fixtures are proposed, and advice should be sought from the relevant Local Planning Authority. Installations may be required to be removed at short notice to allow for street markets, festivals and events where a road closure order has been issued for such a purpose, repairs are to be undertaken or statutory services, such as utility companies, require access to their infrastructure.

If you are contemplating a pavement café or other business activity on the pavement, it is advised that you discuss any such proposals with Worcestershire County Council (as the Local Highway Authority) and with the relevant Local Planning Authority, prior to installation. Worcestershire County Council will help steer you through this guidance and will liaise with the relevant Local Planning Authority, to ensure that proposals are fully considered.

**Size and Layout**

In most cases, particularly where recesses in the building-line or where existing pedestrian flows suggest so, the pavement café area should be located adjacent to the building, placing the pavement that is to be left available for pedestrian access ‘outside’ the seating area. However, in some instances it can be better to locate the pavement café area away from the building, thus placing the pedestrian access between the building and the seating area. If the proposed area fronts adjacent or other properties, prior consent from these owners/occupiers will be required and in all cases businesses should first liaise with neighbours.

Typically, pavement café areas will be situated parallel to the main premises frontage. In all cases a continuous, uninterrupted route must be left available allowing all users, including pedestrians who have a disability, additional needs or who are pushing buggies or wheelchairs, to freely and safely pass the business.

A minimum distance of 1.8m must be kept clear of the kerb line on most roads, subject to agreement. Busy roads or pavements, or the proximity of such features as pedestrian crossings, loading bays or street furniture might require greater clearance to be given, whereas quiet, low-speed roads might require less clearance.

Similarly, the display of goods outside premises is welcomed, as long as a continuous 2 metre width minimum footway is provided. Street trading controls do not apply in this case, as long as the offer is made directly outside of the premises offering the goods for supply.

In all cases, emergency exits and routes from buildings, and those associated with the highway must be kept clear at all times.
Means of Enclosure

All pavement cafés should be enclosed with barriers to mark the cafe area and to reduce the risk of accidents to both customers and other pedestrians. When not in use, or outside of the trading period, barriers must be removed. The only exception is where planning permission has been obtained and arrangements for permanent/semi permanent barrier systems have been made.

Materials for the barriers need to be selected on the basis that they are strong and robust enough to withstand collapse if accidentally stumbled into. As barriers need to be portable, the materials used should also be lightweight. Fabric barriers are not normally permitted due to safety issues as weather conditions can sometimes make these unsafe. Some mesh fabrics or part fabric barriers which allow the wind to pass through may be suitable.

The design of the barrier system must compliment the character of the surrounding area. We would encourage businesses to work together so that a similar look can be achieved but obviously allowing for distinctive approaches for individual premises. Also, businesses should be aware that special provisions may apply to some areas, for example, a higher specification may be required in a conservation area, reflecting its special character. Please contact the Local Planning Authority for more details.

All barriers should have solid/fixed rails that run both horizontally and vertically, with the upper and lower rails set at 1000mm and 100mm above ground level respectively. Rope barriers are unsuitable for this purpose.

Planters can be used as an effective and attractive means of enclosure, but must be capable of being removed outside of the trading period if planning permission has not been obtained. In certain circumstances, existing street railings or other suitable items of street furniture may offer an appropriate means of enclosure.
Furniture and Equipment

Furniture should be of a high quality, uniform style and suitably robust for outside public use. Plastic garden furniture and/or picnic tables are unsuitable for this purpose and should not be used. It is recommended that businesses work together to agree a common theme/style that has sufficient flexibility to give a distinctive feel for individual premises.

Where fabric barriers are used, these must be non-reflective with small logos displaying the name of the establishment up to 450 by 150mm in size. Brewery and/or product branding is not permitted. Umbrellas and outdoor heaters are to be positioned to avoid impairing any vehicle sight lines and must not overhang the edge of the enclosure. They must be suitably secured and balanced to withstand reasonable winds.

All items contained within the enclosure must be portable such that they can be removed from the public highway outside of trading hours, or in the event of an emergency.

Environmental Requirements

In some locations, poor air quality (due to traffic emissions) makes it inappropriate to site pavement cafés. In other areas, consideration needs to be given to the proximity of bus stops and taxi ranks, not only from the aspect of air quality, but also taking the movements of vehicles and people into account.

It is the responsibility of the pavement café operator to keep pavement and café areas free of all litter during the hours of operation, whether the litter is generated by the café itself or is blown in from elsewhere. In urban areas where Gulls are a nuisance, café operators must ensure that all litter and food waste is cleared away as soon possible.

All pavement café operations must comply with the relevant alcohol licensing, food safety and toilet requirements relating to the main premises. Further advice may be sought from the relevant teams at Worcestershire Regulatory Services in relation to these requirements. This will be particularly relevant if you are, for example, a takeaway food outlet considering the option of providing a pavement seating area, as there may be other legal provisions that apply which do not normally impact upon your business. The Regulatory Service will help you to understand what, if anything, you need to do to meet these requirements.

In all cases the operator must hold Public Liability Insurance which is valid for the pavement café area, as well as the premises. Please check with your insurer that the activities are covered.

Advice for pedestrians

Anyone who feels that a pavement café area (or other business activity) is not in compliance with this guidance should bring their concern to the attention of the business operator in question. Where this might not be possible, such concerns should be raised with Worcestershire County Council.
Smoke-Free Legislation Guidance

The introduction of smoking legislation in July 2007 made it illegal for customers to smoke inside premises. Customers can legally smoke within the confines of a designated pavement seated area, although this is at the discretion of businesses. It is also at the business owners’ discretion whether or not the smoking of e cigarettes is permissible. If you operate a pavement café, the following will apply:

- Pavement cafés are exclusively for the use of paying customers who have to be seated for the consumption of food or drink. The same principle will apply to smokers of both cigarettes and e cigarettes, in that pavement café areas are for the use of paying customers only and they must be seated.

- Customers who are seated within the pavement café area and chose to smoke will not be in breach of the smoke-free legislation (i.e. it will not be an offence for them to smoke).

- It is at the discretion of the premises manager/operator of a pavement café to designate either all or any part of a pavement café area as ‘smoking’ or ‘non-smoking’ and whether or not to include use of e cigarettes in any ‘non-smoking’ designation. Where such designations are made, they must be managed in accordance with these guidelines (e.g. litter/cigarette butt free).

- For further clarity as to how the smoking controls apply to aspects of business operation, contact Worcestershire Regulatory Services for advice, or visit the WRS website (www.worcsregservices.gov.uk)

- If a premises manager or pavement café operator is considering providing authorised areas for customers to smoke cigarettes and/or e cigarettes, such as a gazebo or an external covered area, these will normally be designated as structures, and so subject to planning and/or building regulations.
Contact Details for Further Information and Guidance:

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