

A guide to applying for
permission to place
Tables & Chairs on the Highway

2012 / 2013

Education and Enterprise
Regulatory Services
Licensing Services

Introduction

The purpose of this guide is two fold:

- To detail the criteria applicants are expected to meet for the provision of tables and chairs outside premises; and
- To assist those considering making an application for permission to place tables and chairs on the highway:
 - determine if their premises will be favourably considered for such permission; and
 - understand the application process.

Where a permit is issued this will be under Section 115E of The Highways Act 1980. Applications will be considered for premises which are classified as A3, A4 or A5 in the Town and Country Planning Use Classes Order.

The application process involves both legal and non-legal procedures, hence the need to follow the guidance in this document and on the application form which needs to be completed by all applicants.

Each application is considered on its own merit and no definitive timescale for consideration of applications can be given. However, due to the consultation process involved, consideration of an application will take a minimum of 6 weeks.

Who to Contact:

For general advice and information please contact Licensing Services on 01902 551155 or licensing@wolverhampton.gov.uk

Overview

City of Wolverhampton Council will consider applications from any appropriate premises in relation to permission to place tables and chairs on the highway.

Applicant's attention is drawn to Wolverhampton City Centre being an "Alcohol Exclusion Zone."

Footways are provided primarily for the convenience and safety of pedestrians. Where permission under this procedure is granted it will be essential to ensure that tables and chairs provided do not cause a problem for other users of the street, enhance the area and benefit the business.

The criteria to be considered, details of which follow, are:

- Size, layout and level access
- Means of enclosure
- Furniture type
- Disability Discrimination Act 1995, Amended 2005 - having regard for the requirements of Section 21
- Environmental and other requirements including Health & Safety
- Applying for a permit.

All permits are valid from 1 April to 31 March and will have to be renewed from 1 April each year, irrespective of the date of issue.

Public liability insurance in the sum of £5 million will be required to cover the area specified for the provision of tables and chairs.

The permit may be temporarily suspended by the Council to facilitate events and works as required. Where possible, notice will be given in writing to the permit holder.

The fee for a Tables and Chairs permit is £25 and is non refundable, irrespective of date of application.

General Considerations

The guidelines in this document apply to a highway and falls within the scope of Part VIIA of the Highways Act 1980.

The criteria for consideration of applications and the policies approved by the Council for issuing a Tables and Chairs permit have been incorporated into conditions that are automatically attached to permits.

These conditions are detailed at the back of this guidance document. The criteria for consideration of applications are now explored in more detail.

Size and Layout

The following factors should be considered prior to the submission of any application:

- Available space for siting of tables and chairs;
- Access for disabled people;
- Type of premises permit will apply to;
- Street and/or pavement width where premises are;
- Character of street;
- Use of other premises in the street;
- Pedestrian flow;
- Vehicular flow (if applicable);
- Existing street furniture and street trading consents;
- Proximity to residential properties; and
- Not to obstruct emergency exits or fire hydrants.

If an area is pedestrianised or part pedestrianised, there is potentially more scope to site tables and chairs compared with a proposed location adjacent to a vehicle carriageway.

Where seating areas are proposed they should be adjacent to the premises front, unless permission is granted by adjacent properties.

The following detailed measurements are provided in order to ensure pedestrians, particularly blind and visually impaired people, wheelchairs, mobility vehicles, push chairs and emergency vehicles are not obstructed by any permitted tables and chairs:

Fully Pedestrianised Street

- I. A minimum clear path, which should be level, even and measure at least 2.3 metres in width must be maintained for pedestrians.
- II. If access is required for emergency vehicles, the clear width between the enclosure(s) on either side of the street should be increased to 5.1 metres to allow pedestrians to stand clear of the emergency vehicles.

Partially Pedestrianised Street

- I. Permitted tables and chairs may be placed on the footways at times when the street is closed to traffic.
- II. Where the highway has a single surface, the permitted enclosure shall not extend beyond the line of bollards or surface treatment marking the carriageway from the footway.
- III. If the carriageway is less than 5.1 metres wide, there should be at least 5.1 metres clear between enclosures on either side of the street.

Streets with Carriageways and Footways

- I. If the footway measures more than 3.6 metres wide, the area for the enclosure should leave a minimum of 2.3 metres available footway width, however each case will need to be dealt with on its own merits.

The layout of furniture will only be approved if adequate provision has been made for disabled customers in terms of seating and circulation.

An example of an acceptable layout plan to be submitted with any application is enclosed as part of this document. Submitted plans will be included with the permit when issued and must include scale measurements and any ancillary items such as parasols/umbrellas or heaters.

Means of Enclosure

When in use the area permitted for tables and chairs will need to be enclosed to delineate the permitted area. This will make the area distinguishable to other street/pavement users, and will particularly assist visually impaired pedestrians. Supports for the enclosure must not create a hazard for users or pedestrians. All walkways within the enclosure, and in particular that from the point of access to the enclosure to the door of the premises must be no less than 1.2 metres wide. (see example layout attached page 11).

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 1000mm up to a maximum of 1200mm above ground level. Rope barriers are not 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).

No roof to the enclosure is permitted and the enclosure shall be removed when the permit is not in force.

Furniture Type

The furniture should be of high quality, of a uniform style and free standing. Tables should be round or have rounded corners. There should be a reasonable provision for disabled people i.e. seat heights of 450-475mm from floor and consideration to the provision of seats with and without armrests to assist elderly and disabled people. Plastic chairs and/or picnic tables will not normally be approved.

Where umbrellas are used these must be non-reflective. They can display livery but certain types of advertising may require additional planning consent and guidance should be sought from Development Control (01902 551155).

Parasols/Umbrellas are to be positioned so as to avoid overhanging outside the permitted area and impairing vehicle sight lines or causing injury to pedestrians.

Ancillary items such as menu boards (other than A Boards), signs and portable heaters are also included in the approval process and must be contained within the enclosure. If you propose to use portable heaters you must submit a risk assessment with your application. Please note that all additional items must be specified on the plan attached with the application.

It is the responsibility of the permit holder to ensure:

- I. that all chairs and tables are in good repair and are stable; and
- II. that any parasols/umbrellas are fully secured to the ground and weighted to prevent them being dislodged by the wind.

Disability Discrimination Act 1995, Amended 2005

Applicants are reminded that they have a duty, under Section 21 of the Disability Discrimination Act 1995, Amended 2005 to improve access to goods and services for disabled customers. Two guidance booklets which can help are “Bringing the DDA to life for small shops – A café case study” and “Bringing the DDA to life for publicans” These are available, free of charge, from The Commission for Equality and Human Rights;- Tel: 08457 622633 or download from www.cehr.org.uk.

Environmental and Other Requirements

In certain areas of the city the quality of air from traffic fumes makes it inappropriate to site tables and chairs externally. Please consider proximity to bus stops and taxi ranks from the customer’s point of view and avoid making an application near to known traffic congestion hotspots.

It will be the responsibility of the permit holder to keep the permitted area clean and free of litter during licensed hours and to ensure any litter generated from the permitted area is immediately cleared if it is blown or thrown outside the area.

All food premises are registered with Wolverhampton City Council, Regulatory Services, Food and Environmental Safety and must comply with relevant food safety requirements.

Applying for a Permit

In the first instance contact Licensing Services, Civic Centre, St Peters Square, Wolverhampton, WV1 1DA. The telephone number is 01902 551155.

The guidelines and considerations within this document need to have been carefully considered.

The application form for the Tables and Chairs permit needs to be completed, signed, and submitted with the appropriate fee (which is non refundable should the application be refused), before the process of assessing the application can begin.

If it is a new application or if there are any changes to the details of the existing permit then the application should be accompanied by an acceptable table and chair layout and if umbrellas, parasols or other ancillary items are to be used, details of where they are to be positioned.

Once the application has been received, the Council will post notice of the application on the frontage of the premises concerned.

The notice will contain the Council's contact details for any person wishing to object to the application within a consecutive period of 28 days.

The Council will also issue a copy of the notice to neighbouring premises likely to be materially affected who can choose to withhold their consent to the application.

The following will be consulted on the application:

- City of Wolverhampton Council Transportation Network Management
- West Midlands Police
- Environmental Health
- Planning
- Disability Access Officer
- The owners and occupiers of any premises appearing to the Council to be likely to be materially affected.
- West Midlands Fire Service (in the event that the application includes the provision of portable heaters)

The Group Manager with responsibility for Licensing Services will determine the application. If the application is unsuccessful an appeal against the decision can be made to the Assistant Director Regeneration.

CITY OF WOLVERHAMPTON COUNCIL

TABLES AND CHAIRS PERMIT - TERMS AND CONDITIONS

The Council has the power to grant a person permission to provide and operate facilities for refreshment on a highway under **Section 115E of the Highways Act 1980**. Subject to the following conditions a person to whom permission has been granted must be aware of, and comply with, the requirements of the Section.

Condition Number	Condition
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 issued 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.
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: <ul style="list-style-type: none">• 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 the Councils directions 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.

Condition Number	Condition
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 shall be valid until the 31 st day of March following the issue of the permit.
14.	The permit holder is responsible for obtaining all other consents and permissions in connection with the proposed extension of their business onto the highway including where appropriate, any amendment to their existing Licensing Act licence.
15.	The permit must be displayed in a prominent position as near as reasonably possible to the permitted area.
16.	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.
17.	Any electric lighting must be installed by a competent person and conform to IP65 for outdoor use.
18.	The hours of trading shall be as determined on the permit.
19.	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.
20.	All items placed on the highway shall be free-standing. No drilling or excavation of the highway shall be permitted.

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.

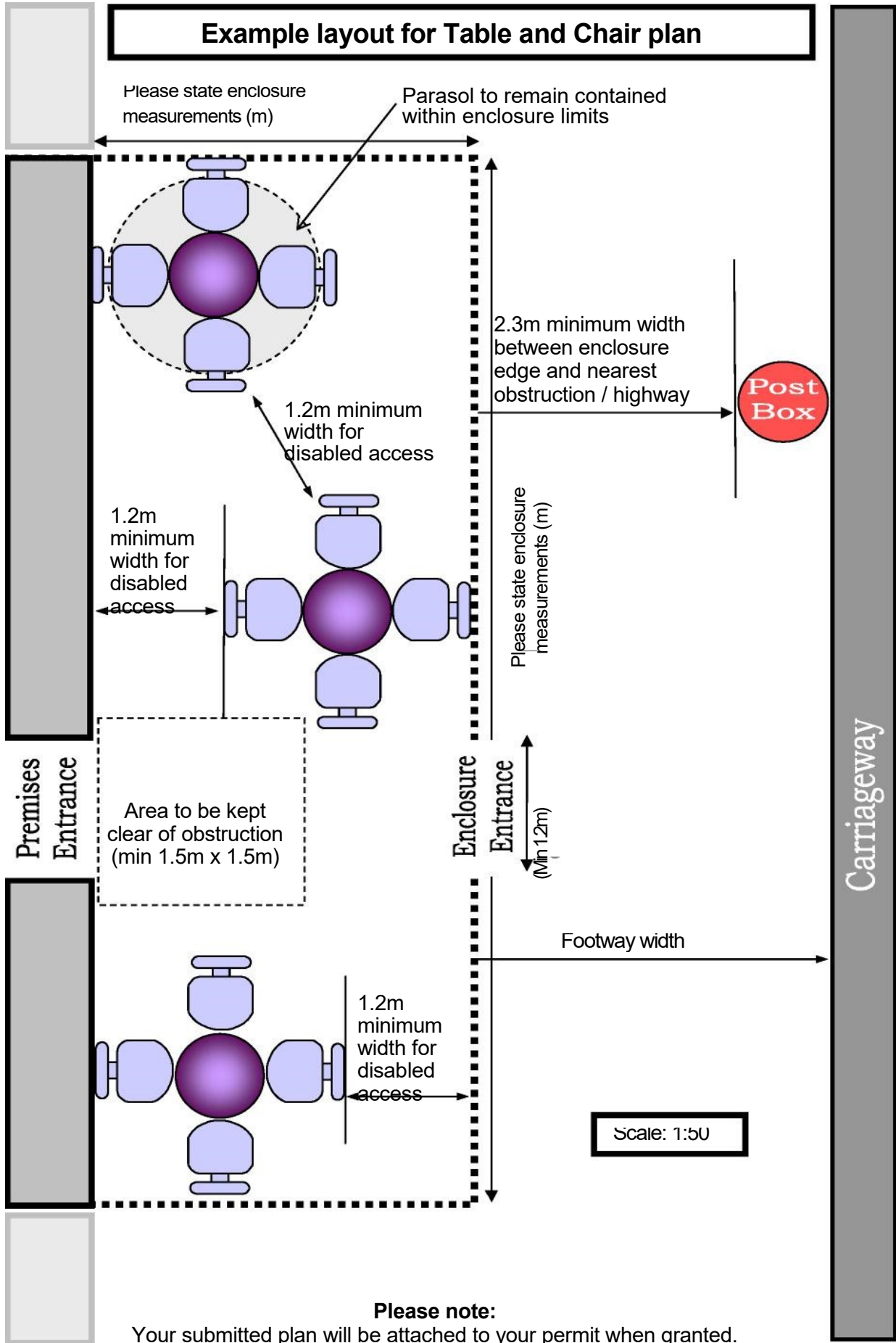
The following is taken from the Highways Act 1980 in respect of failure to comply with the terms of the permission to place tables and chairs on the highway:

(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.

Example layout for Table and Chair plan



NOTE: DEPOSIT PLAN TO BE DRAWN TO SCALE 1:100 OR 1:50

Application for a Tables and Chairs Permit under
The Highways Act 1980 – Section 115

Checklist of Required Supporting Documents

Please tick the checklist boxes to ensure that you provide the appropriate supporting documents. These should be up-to-date and accurate and show fully and clearly what you are applying for.

Please note that if any of the required documents are omitted then the application may be returned.

Required for all applications	√
Copy of third party public liability insurance certification.	
A cheque for £25 made payable to City of Wolverhampton Council, must accompany the application form and is non refundable.	
Required if it is a new application OR if there are any changes to the existing permit	
Two copies of a 1:1250 scale location plan on which the premises and the proposed area to site the tables and chairs are clearly outlined.	
Two copies of a 1:100 or 1:50 scale site plan showing: <ul style="list-style-type: none"> • The building line of the application premises and adjacent buildings • The location of the kerb line • The distance between the building line and the kerb line • The precise boundary of the proposed permitted area giving exact metric measurements of the width and depth of the area • The location of all accesses on your frontage including fire exits • The location of existing obstructions within or near to the permitted area e.g. lamp posts, bollards, trees, etc., • The size and location of the proposed tables, chairs and other furniture • The size and location of enclosure barriers. 	
Photographs, brochures or scaled drawings showing design, dimensions, colour and materials of the tables and chairs you propose to use.	
Photographs, brochures or scaled drawings showing design, dimensions, colour and materials of the proposed means of enclosure.	
If appropriate, photographs, brochures or scaled drawings showing design, dimensions, colour and materials of the parasols/umbrellas you propose to use. Their proposed locations must also be shown to scale on the site plans.	
If appropriate, photographs, brochures or scaled drawings showing design, dimensions, colour and materials of the space heaters you propose to use. Their proposed locations must also be shown to scale on the site plans.	
If portable heaters are to be used a risk assessment must also be provided.	
If appropriate, letters from your neighbour(s) confirming their agreement to the use of the area in front of their premises for your equipment.	