

LONDON BOROUGH OF ENFIELD

**LONDON LOCAL
AUTHORITIES ACT 1990**

**STREET TRADING
POLICY**

17 September 2008



CONTENTS

Section	Title	Page
PART A - PROCEDURE		
1.	Introduction - - - - -	3
2.	Application Process - - - - -	3
3.	Consultation - - - - -	3
4.	Duration of Licence - - - - -	4
PART B - PLANNING		
5.	Planning Permission Policy Statement - -	5
PART C – LICENCE CONDITIONS		
6.	Pedestrian Movement and Space Standards - -	7
7.	Marking Out of Licensed Areas - - -	8
8.	Hours of Operation and Removal - - -	8
9.	Use of Barriers - - - - -	8
10.	Safety and Design of Tables & Chairs - - -	9
11.	Safety and Design of Other Equipment - - -	10
12.	Other Conditions - - - - -	10
PART D - SEASONAL & FARMERS MARKETS		
13.	Additional Requirements - - - - -	12
APPENDIX	List of Licensed Streets - - - - -	13

PART A TABLES AND CHAIRS : APPLICATION PROCEDURE

1. INTRODUCTION

- 1.1 There is a demand for cafés, restaurants and pubs to place tables and chairs outside their premises on the footway ('highway'). Accommodating this demand within the borough can pose problems for the Council because of the relative narrowness and the number of people using the highways.
- 1.2 A Street Trading Licence ('tables & chairs licence') is required to place tables and chairs on the highway. This policy lists the tables and chairs licence conditions (Sections 6 - 12). The licence sometimes requires Planning Permission, this policy also includes guidance on the planning process (Section 5).
- 1.3 If a tables & chairs licence is granted, enough space must be left on the highway for pedestrian access, street furniture and other obstructions such as trees.

2. APPLICATION PROCESS

- 2.1 The granting of both Planning Permission and a tables & chairs licence shall be covered in by a stream-lined application. This will enable the Council to consider and address relevant issues relating to both planning and licensing. A single fee will be payable. Applicants should consider all relevant matters outlined in Sections 5 – 12 (below) before submitting their application.
- 2.2 Applicants should also note the formal consultation process outlined in Section 3 (below).

3. CONSULTATION

- 3.1 The applicant will publish a site notice giving details of the application for a tables & chairs licence and Planning Permission as well as serving copies of that notice on owners and occupiers of nearby premises owners and occupiers of nearby premises likely to be materially affected by the proposal ('interested parties') and will invite representations to be made within 28 days thereof.
- 3.2 Interested parties will be advised that their consent cannot be unreasonably withheld (but consent may be subject to reasonable licence conditions), and that if they intend to refuse consent or to request conditions, then a reply stating their reasons is required within the 28 day notice period specified in the public notice. Business competition is not a reasonable ground to withhold consent.

- 3.3 Consultation will also be made with the Council's Planning and Transportation Department, the Metropolitan Police Service and the Enfield Business & Retailers Association.
- 3.4 In the absence of any response from an interested party, the Council will proceed with the determination of the application on the grounds that consent has been given.
- 3.5 If an interested party expressly refuses consent (or requests unreasonable conditions) the Council's Licensing Sub-Committee will determine the application. A right of appeal against a decision of the Sub-Committee is normally to the Magistrates' Court.
- 3.6 If a tables & chairs licence is granted, it must be prominently displayed in the window of the premises where the tables and chairs are located.
- 3.7 Any application, which does not include an adequate plan will not be considered.
- 3.8 It will be the responsibility of the licence holder that the conditions of the tables & chairs licence are complied with.
- 3.9 If the licensed tables and chairs (and any associated objects) subsequently cause an obstruction to pedestrians, or interfere with the safe and efficient operation of the highway, the Council has powers to modify the terms of the tables & chairs licence (by issuing a revised licence) to ensure that the highway continues to function in a safe manner.

4. DURATION OF LICENCE

- 4.1 The tables & chairs licence normally lasts for a year.
- 4.2 An application for renewal should be made at least one month before the licence is due to expire if the licence holder wishes to continue uninterrupted use of the facility.

PART B TABLES AND CHAIRS : PLANNING GUIDANCE

5. PLANNING PERMISSION POLICY STATEMENT

- 5.1 The placing of tables and chairs outside premises on the public highway sometimes requires planning permission because it involves a change in the use of the land.
- 5.2 Applications for planning permission to place tables and chairs outside an eating or drinking premises fall into two categories of uses A3 or A1(d) in the Town and Country Planning Use Classes Order, which are described below :
- 5.2.1 A3 uses – premises selling food and drink for consumption on the premises or selling hot food for consumption off the premises (i.e. restaurants, cafes, public houses, hot food takeaways).
- 5.2.2 A1(d) uses – premises selling sandwiches or other cold food for consumption off the premises.
- 5.3 The placing of tables and chairs at the location should not significantly harm residential amenity and :
- 5.3.1 if evening use is proposed, the location should be in a town centre close to other premises open in the evening and where there is significant pedestrian activity.
- 5.3.2 if daytime use is proposed, the location should be in a town centre, local shopping centre or other area of predominantly commercial activity where there is significant pedestrian activity.
- 5.3.3 if there are residential properties nearby, the Council will seek to ensure that the proposal will not result in unreasonable noise and nuisance by people using the tables and chairs.
- 5.4 The Council will only grant planning permission if the placement of tables and chairs on the footway (including any means of enclosure that may be required) will not :
- 5.4.1 cause obstruction to pedestrians, prams and wheelchairs;
- 5.4.2 put the safety of pedestrians at risk;
- 5.4.3 have a negative effect on the character and appearance of the area; or
- 5.4.4 reduce the amenity of properties in the area.
- 5.5 The Council requires all applications to be accompanied by a plan clearly showing where the tables and chairs will be placed.
- 5.6 Such premises can also have a small proportion of their sales for consumption on the premises without the need for planning permission. However, the introduction of additional seating outside can sometimes change the nature of the premises into a restaurant or café (classified as A3 in the Use Classes Order) and may require planning permission for the change of use of the premises as a whole.

- 5.7 The effects on people in the surrounding area (e.g. residents, businesses or visitors) are very important when considering a planning application for the placing of tables and chairs on the public highway. These effects include :
- 5.7.1 congestion on the footway;
 - 5.7.2 increased parking congestion in the area; and
 - 5.7.3 noise and disturbance generated by the tables and chairs.
- 5.8 The effect of the proposed tables and chairs on the appearance of the premises and adjacent buildings as well as on the character of the area in general will be taken in account. This is particularly important in the case of applications affecting listed buildings and Conservation Areas. In these cases, the design, materials and colour of the furniture and other items placed on the highway may be governed by planning conditions.

PART C TABLES AND CHAIRS : LICENCE CONDITIONS
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6. PEDESTRIAN MOVEMENT AND SPACE STANDARDS

- 6.1 The Council will require sufficient space for pedestrian movement. This will take into account :
- 6.1.1 the high flow of pedestrians (on the borough's busier highways);
 - 6.1.2 the needs of people with limited mobility including those who use walking aids, wheelchairs or mobility scooters;
 - 6.1.3 people with children in buggies or prams; and
 - 6.1.4 people with impaired sight.
- 6.2 It is essential in all cases that a minimum width of unobstructed highway to the line of the front face of the kerb or the line of any fixed structure (such as a lamp column or litter bin) is free for safe and convenient pedestrian movement. This would normally be at least 2 metres, but in locations where there is a high flow of pedestrians (even if only during short periods in the day) a greater width may be required.
- 6.3 The highways on major shopping streets need to be kept unobstructed and as such may be unsuitable for the placement of tables and chairs. Tables and chairs are unlikely to be appropriate opposite or close to a pedestrian crossing or dropped curb.
- 6.4 The provision of service to the tables and chairs, including customers serving themselves, must take place within the licensed area. The need for such service should be taken into account when considering the proposed number and layout of tables and chairs.
- 6.5 Tables and chairs will normally only be permitted directly next to premises.
- 6.6 Access for wheelchairs to the tables must be provided.
- 6.7 Emergency access must not to be obstructed.
- 6.8 Steps will need to be taken to ensure that the highway is not obstructed by customers, standing between tables, chairs and the kerb.

7. MARKING OUT OF LICENSED AREAS

- 7.1 The licensed area for tables and chairs may be marked out on the ground, unless clearly visible dividing lines already exist. Where this is deemed appropriate, the Council's contractors will mark out the areas (and remark them when necessary). The cost of which will be added to the licence fee.
- 7.2 The areas will be marked with studs in black or dark grey lines. Other methods may be used in keeping with the locality, which will have to be specifically approved and directly supervised by the Council, which may require bonds deposited against the costs of reinstatement.

8. HOURS OF OPERATION AND REMOVAL OF TABLES AND CHAIRS

- 8.1 Tables and chairs must be removed from the licensed area at a specified time, which will vary according to individual circumstances.
- 8.2 The Council will not usually approve applications for the use of tables and chairs beyond 11pm even if the applicant has the relevant licences and permissions to operate (within the premises) until a later time.
- 8.3 Service at the tables and chairs must finish at such time before the specified time as will allow for them to be removed by the specified time.
- 8.4 As the tables and chairs will need to be removed, large benches and picnic tables with seating attached are unlikely to be approved.

9. USE OF BARRIERS (IF APPLICABLE)

- 9.1 Temporary barriers may be used to enclose the licensed area for tables and chairs but they must meet the requirements listed below.
- 9.2 Permanent barriers marking the licensed area are not suitable, as the area remains part of the public highway.
- 9.3 The barriers must define the side boundaries of an area occupied by tables and chairs and must extend from the building to the front of the licensed area. An appropriate corner barrier must define the outer corner of the licensed area.
- 9.4 Barriers must fill the area measuring between 100 mm to 800 mm from the ground. They must not measure higher than 900 mm from the ground.
- 9.5 Barriers must be railed, either vertically or horizontally and be complementary to the existing premises frontage.
- 9.6 If a property is a listed building or is in a Conservation Area, barriers will only be permitted if they are in keeping with the property or area.

- 9.7 In all other areas, the Council will consider proposals of other colours of railings, provided that they do not adversely affect the general appearance of the building or area.
- 9.8 The barriers must not put the safety of pedestrians at risk. Sharp edges and corners are not acceptable.
- 9.9 Damaged barriers must be replaced immediately.
- 9.10 Fixing for barriers must not protrude above ground level when the barriers have been removed.
- 9.11 Barriers should not be capable of falling over or of being blown over.

10. SAFETY AND DESIGN OF TABLES AND CHAIRS

- 10.1 Tables and chairs must be designed to be suitable for intense outdoor use. The use of plastic patio furniture, for example, is unlikely to be approved.
- 10.2 Tables and chairs must be stable and adequately designed so they cannot be blown over by the wind.
- 10.3 Tables and chairs must be maintained in a safe condition so they do not present a risk to the public.
- 10.4 Other design features to be considered in the choice of tables and chairs are :
 - 10.4.1 rubber feet to reduce the noise when the furniture is moved;
 - 10.4.2 shelves below the tabletop and 'Chelsea Clip' bag hooks to prevent the theft of customers' bags and coats (the layout of the furniture should also minimise the opportunity for theft); and
 - 10.4.3 round-back chairs should be used in preference to square-back chairs to reduce the ability to hang bags and coats on the back where they are particularly vulnerable to theft.
- 10.5 The design of the proposed furniture must be submitted with the planning and licence applications, with details of its dimensions, materials and the manufacturer's specification. Manufacturers' brochures and photographs will usually be sufficient. In some cases, an example of the furniture may need to be made available for inspection.

11. SAFETY AND DESIGN OF OTHER EQUIPMENT

- 11.1 Tables and chairs must be kept free of loose-sheet advertising (such as menus) and napkins, which are likely to be blown away by the wind and generate litter.
- 11.2 The placement of menu stands is allowed if they are stable and do not present a safety hazard. The position of menu stands must be shown on the proposed layout plan submitted with the application.
- 11.3 If umbrellas are used they must be of a minimum height of 2.4 metres.
- 11.4 The installation of barbecues, rotisseries, ice cream machines, drinks machines and other equipment for the sale of food and drink for consumption off the premises will not normally be approved.
- 11.5 The Council will not authorise the use of patio-heaters.

12. OTHER CONDITIONS

- 12.1 The licence holder must not interfere with the surface of the highway.
- 12.2 The licence holder, if requested by the Council, must provide mobile litter bins in positions and at times specified. Applicants and their employees must not dispose of any refuse in permanent litter bins provided by the Council.
- 12.3 The licence holder will be required to keep the area of licensed highway free from litter and detritus, including cigarette ends by sweeping or washing the area during and at the end of the trading day.
- 12.4 The trading area shall not exceed the dimensions specified on the licence and any pitch limits marked on the ground during trading hours.
- 12.5 The licence holder shall trade only from the position indicated on the licence.
- 12.6 The licence holder must remove the tables and chairs immediately if requested to by the Council, its contractors, statutory undertakers or the Police, and must not replace them until they have been authorised to do so by the requesting authority or the Council.
- 12.7 The Council can revoke the tables & chairs licence at any time upon giving the applicant seven days' notice in writing of the reasonable grounds of the revocation. This notice shall be deemed to be sufficiently served if addressed to the applicant and sent by post or left at the premises. Following the notice period, all tables and chairs must be removed, and in default, the Council may remove the tables and chairs and recover its costs from the applicant. The licence holder will have the right of appeal, against the revocation, to the Licensing Sub-Committee.

- 12.8 If the Council serves a notice on the applicant requiring him/her to take steps necessary to remedy any breach of the terms of the tables & chairs licence, and the applicant fails to comply with the notice the Council may itself take steps required by the notice and recover any costs incurred from the applicant.
- 12.9 The applicant must obtain written consent of frontages of the property adjoining the piece of public highway the applicant wants to use and that this written consent must clearly state that there is an agreement to the placing of tables and chairs.
- 12.10 Consent given is without prejudice to, and shall not be construed as derogating from, any of the rights, powers and duties of the Council pursuant to any of its statutory functions or in any other capacity and, in particular shall not restrict the Council from exercising any of its powers or duties under the Highways Act 1980 (as amended).
- 12.11 The licence holder shall not place any item on the highway or attempt to exercise any permission unless he/she has obtained both a valid licence to place the said objects on the public highway and has a current licence and planning permission for the land use.
- 12.12 The licence holder shall be responsible for any rates, taxes and other charges which may be levied in connection with the licensed area.
- 12.13 The licence holder must notify the Council of any permanent change of address as soon as it occurs.
- 12.14 The licence holder must not use, or permit to be used, on the licensed area or within the immediate vicinity any equipment to produce, generate or amplify sound. The applicant must ensure that the activities or actions of persons using the licensed area do not disturb nearby occupiers.
- 12.15 The licence holder must indemnify the Council against any claim arising from this use of the highway up to £3 million for any single event, and shall provide and display such insurance cover as required by the Council.
- 12.16 The Council will attach conditions to tables & chairs licences, as outlined above.
- 12.17 The Council reserves the right to cancel any licence if a breach of the conditions occurs.

PART C SEASONAL & FARMERS MARKETS : LICENCE CONDITIONS

13. ADDITIONAL REQUIREMENTS

- 13.1 The licence holder shall cause all refuse arising from the market to be placed in suitable containers supplied by him, and shall cause them to be removed to or emptied, from time to time, as may be necessary into any vehicle or container provided by the licence holder for the purpose.
- 13.2 All waste shall be transferred and disposed of by a registered waste carrier and appropriate waste transfer notes shall be provided to the Council on request.
- 13.3 The licence holder shall keep the area around his stall predominantly free of litter, ensure that all waste water is collected in a secure container and disposed of or discharged legally and in such a manner so as not to cause a nuisance.
- 13.4 Any arrangements the Council makes in respect of cleansing of street trading areas does not absolve a licensed street trader or his assistant(s) of his responsibilities under the Environmental Protection Act 1990 (or any subsequent or superseding legislation).
- 13.5 Stalls must be of such a design to fit within the pitch size and must not exceed 2.5 metres in height. High-risk food stalls, refreshment stalls and trailers must also be able to be fully contained within the pitch dimensions specified in the licence and must have a removable tow bar if used. Where necessary the stall or trailer must comply with the Food Safety Act 1990 and Food Hygiene (Market Stalls and Delivery Vehicles) Regulations 1996 and have received prior approval for their use by the appropriate authority.
- 13.6 A stall must be placed on the designated pitch area. Where the use of an adjacent site has been authorised the stalls can be placed together, but a wider gangway must be created on either side of the double site which must be kept clear of obstruction at all times.
- 13.7 The use of a back sheet or side sheets is permitted provided they are manufactured in the same material and colour as the awning or from a clear (uncoloured) transparent material, or from a plain white material.
- 13.8 No fittings or accessories shall be attached to the stall that would be likely to cause damage to the street or represent a health and safety hazard to any person.
- 13.9 A stall from which high-risk food (non-pre-packed) is sold must be suitably screened from the risk of contamination.

13.10 Any awning sheets, covers, screens, clips, ties or any other construction or means of support are secured in such a manner so that they do not cause a health and safety hazard or nuisance to any person.

APPENDIX – HIGHWAYS TO BE DESIGNATED AS ‘LICENCE STREETS’

Aldermans Hill N13	Haselbury Road N9 & N18
Ashfield Parade N14	Hertford Road EN3 & N9
Baker Street EN1	High Road N11
Bounces Road N9	High Street EN3 & N14
Bowes Road N11 & N13	Hoe Lane EN3
Bramley Road N14	Lavender Hill EN2
Brimsdown Avenue EN3	Lincoln Road EN1 & EN3
Broadway (The) N14	London Road EN1
Bullsmoor Lane EN1, EN3 & EN8	Main Avenue EN1
Bury Street West N9	Montagu Road N9 & N18
Bush Hill Parade EN1	Nightingale Road N9
Cannon Hill N14	Ordnance Road EN3
Chase Side EN1, EN2 & N14	Percival Road EN1
Chaseville Park Road N21	Queen Annes Place EN1
Cheapside N18	Ridge Avenue N21
Church Street EN1	Savoy Parade EN1
Cockfosters Road EN4	Silver Street EN1
Colmans Parade EN1	Southbury Road EN1
Crescent West EN4	St Marks Road EN1
Crown Lane N14	St Onge Parade EN1
Fore Street N18 & N9	Station Road N11
Forty Hill EN2	Tottenham Road N13
Galliard Road N9	Town (The) EN2
Green Lanes N13 & N21	Westerham Avenue N9
Green Street EN3	Winchmore Hill Road N14 & N21
Green (The) N14 & N21	Windmill Hill EN2