



Pavement Café policy

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WARRINGTON
Borough Council



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Pavement Café Policy

1. Purpose of the Policy

- 1.1 The purpose of this policy is to highlight the requirements and standards expected of pavement café operations within Warrington and to guide those wishing to establish and/or operate pavement cafés through the licensing process.
- 1.2 The Council recognises that Warrington has much to offer by the way of creating an environment that makes the Borough attractive to visitors and residents alike.
- 1.3 With extensively pedestrianised areas and weather permitting, the addition of good quality pavement cafes can contribute to a relaxed and sociable style of eating and drinking indicative of a modern cosmopolitan society.
- 1.4 Warrington Borough Council will apply this policy to pavement café activities in its area to ensure consistency and fairness. However, each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

2. What is a Pavement Café?

- 2.1 For the purposes of this policy, pavement cafes are considered to be the provision of facilities for refreshments to be consumed and/or served on a public highway.
- 2.2 The definition typically covers the provision of tables and chairs within a designated area on a public highway.

3. Regulations

- 3.1 The Council regulates pavement cafes under section 115c of Part VIIA of the Highways Act 1980.
- 3.2 The administration and enforcement of pavement cafes will be the responsibility of the Licensing Authority.
- 3.3 Regulations state that;

“...a Council shall have the power to provide, maintain and operate facilities for...refreshment...on a highway...”
- 3.4 It is an offence to deposit items on the highway without authorisation and the Council is empowered to prosecute offenders under the Highways Act 1980 and the Town Police Clauses Act 1847.
- 3.5 Tables and chairs placed on a highway without permission are an illegal obstruction and the Council will take enforcement action to remove such obstacles.

4. Exemptions from the need to obtain a licence

- 4.1 The regulations governing pavement cafes make it clear that only areas on a public highway are to be licensed.
- 4.2 Those seeking a pavement café where the land is in private ownership, and has not been adopted by the Council, will not be required to obtain a licence. See also 7.2.6

5. Local Restrictions

- 5.1 Certain locations are able to accommodate pavement seating, however there are other areas where pavement seating cannot be accommodated due to:
 - (a) width restrictions;
 - (b) obstructions;
 - (c) very heavy pedestrian use routes;
 - (d) the potential to cause nuisance issues and
 - (e) the proximity of residential properties.
- 5.2 Each application will be considered on its own merits and the Council reserves the right to refuse an application if it is considered inappropriate.
- 5.3 Environmental issues may mean that in some locations, pavement cafes would not be appropriate, whilst in other areas the environmental impact could be controlled by conditions attached to the licence.
- 5.4 The Council will normally only accept an application for a pavement cafe if the business is associated with and in the proximity of a premises which is a predominantly food and or/ non-alcoholic drink led establishment.
- 5.5 The sale of food and drink from a temporary stall or take away will not be acceptable.
- 5.6 Table service must be from the premises where the food is prepared and sold.
- 5.7 Licensed premises under the Licensing Act 2003, who are predominantly alcohol led, will not normally be approved unless the applicant can demonstrate that it will have a positive impact on the proposed area.
- 5.8 Pavement café licences granted for certain areas within the Borough may not be able to trade on days of the year where a community event is taking place e.g. Warrington Walking Day. The Council will notify a licence holder of any such event as soon as is practicably possible and reserves the right to suspend the licence for any given period when such an event takes place. See also condition 16 of Appendix 2.

- 5.9 Where repair or maintenance of the pavement/highway is to be undertaken, the Council reserves the right to suspend the licence for any given period when such activities are to take place. The Council will notify the licence holder of any such works as soon as is practicably possible. See also condition 6 of Appendix 2.

6. Smoking

- 6.1 We want Warrington to be a place where people aspire to live, work and do business and for our environment to be clean and safe. We would therefore encourage all applications for a pavement café licence to consider the provision of a suitable smoke free environment.
- 6.2 The Council recognises that it is ultimately a commercial decision for each business, having regard to the wishes of their patrons and their own policies as to whether to allow smoking within the pavement café area; however we would encourage all businesses to introduce appropriate plans to ensure that patrons are protected from second hand smoke, and that no- smoking areas are introduced where it is appropriate to do so.
- 6.3 It is illegal to smoke or allow smoking in 'enclosed' or 'substantially enclosed' premises, therefore any smoking shelter or covered area has to be less than 'substantially enclosed'. This means that more than 50% of its sides must be permanently open.

7. Making an application

7.1 Introduction

- 7.1.1 In considering any application for the grant or transfer of a pavement café licence, the following issues will be taken into account before determination:

- **Public order:**

The licensed area should not present a risk to good public order in the locality in which it is situated.

- **Public nuisance:**

The licensed area should not present a substantial risk of nuisance from noise, rubbish, potential for the harbouring of vermin, smells or fumes to households and businesses in the vicinity of the proposed licensed area.

- **Public safety:**

The location of the licensed area should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers using the licensed area and other members of the public using the street.

- **Crime & Disorder:**

The proposed trading activity should comply with the relevant legislation governing pavement cafes and any other relevant regulations imposed on the applicant.

- **Needs of the area:**

It is important that pavement cafes complement the designated area. Each application will be considered on its merits and it should be noted that in certain circumstances a licence may not be granted.

7.2 Required Permissions

7.2.1 There are 5 main types of permission, which must be obtained before an application can be submitted for a pavement café.

7.2.2 Licensing Act 2003 Premises Licence

- (a) To serve alcohol at a pavement café, a premises licence under the Licensing Act 2003 must have been granted to the operator of the café.

7.2.3 Food Safety & Health & Safety Registration

- (a) Food businesses are required by law to be registered by the Council's Food, Health & Safety Team.
- (b) All food operators must comply with the relevant regulations imposed on them by the Council.
- (c) Applicants should contact the Food Safety Team on 01925 442645 for details of registration.

7.2.4 Planning Permission

- (a) Where applicable, planning consent may be required for the proposed licensed area including some forms of furniture such as the use of canopies and umbrellas and/or the extension of the curtilage of the property. Change of use of the land may also need to be considered.
- (b) Applicants may also be required to obtain Listed Building Consent on some premises and should seek advice before submitting an application.
- (c) Applicants should be aware that during any planning application, issues that would be considered are similar to, but not limited to, Sections 5.1, 5.2 & 5.3 of this policy.
- (d) Applicants should contact the Development Management office on 01925 442819 or alternatively visit the website at www.planningportal.gov.uk for general advice.

7.2.5 Public Liability Insurance

- (a) The Council will require all applicants to take out third party public liability insurance in the sum of at least £5,000,000.

7.2.6 Private Landowners Consent

- (a) The café should obtain the private landowners consent. The Café should also bear in mind that the Council may also be a private landowner, where it owns non adopted land adjacent to the highway, and a separate landlord's consent or licence may be required.

7.2.7 The grant of a pavement café licence shall not be deemed to give any approval or consent which may be needed under any byelaw, enactment or regulation other than cafes under section 115c of Part VIIA of the Highways Act 1980. For the avoidance of doubt this includes the requirement to seek and obtain planning permissions and or/advertisement consent.

7.3 Defining the area (Size & Layout)

7.3.1 Outdoor seating areas should be located to minimise disturbance to pedestrian routes.

7.3.2 The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops and pedestrian crossings.

7.3.3 Pedestrians' needs must be paramount and they should not be diverted from their main route.

7.3.4 The area should not conflict with accesses or dropped crossings required for the free passage of normal road users.

7.3.5 The means of access to the enclosed area will only be approved if adequate provision has been made for customers with disabilities as defined in the Disability Discrimination Act.

7.3.6 The defined area should be enclosed, to contain the tables and chairs, by lightweight barriers that can easily be removed in case of emergencies.

7.3.7 Tables and chairs must be positioned to allow safe passage for pedestrians, wheelchair users, prams, the blind and partially sighted.

7.3.8 When in use the area should be made distinguishable from other pavement users and particularly the blind and visually impaired pedestrians.

- 7.3.9 The barriers used to enclose the area shall be removed from outside the licensed area when the pavement café is not intending to operate within the licensed period.
- 7.3.10 The route left available to pedestrians on the highway shall be straight and free from obstruction and will normally not be less than 2 metres wide.
- 7.3.11 All emergency exits and routes must be kept clear.
- 7.3.12 Every effort should be taken to avoid damage to the highway or adjoining property. Any works undertaken or damage caused by any activity in connection with the pavement café operation will be recharged to the licence holder and could result in suspension or revocation of the licence.
- 7.3.13 The above list is not exhaustive and the Council reserves the right to refuse to grant a licence where it has appropriate reason to do so.

7.4 Furniture

- 7.4.1 Where possible the furniture to be used should reflect existing structures and features within the street scene. Where relevant, consideration should be given to furniture utilised at adjoining premises to provide an overall enhanced street environment.
- 7.4.2 The furniture to be used should be of a high quality and uniform style and should be designed for outdoor use.
- 7.4.3 Plastic tables and chairs will not be approved.
- 7.4.4 Details of the furniture to be used will be required as part of the application process and the Council reserves the right to reject an application that proposes to use inappropriate furniture.
- 7.4.5 Where umbrellas and parasols are used, they are to be positioned so as to avoid overhanging outside the enclosure or impairing vehicle sight lines. Umbrellas and parasols must remain closed in periods of high winds. (Please note that additional planning consent will be required for the use of umbrellas/parasols as part of the pavement café area).
- 7.4.6 Where canopies are to be used, the Council's planning department must be consulted before an application is submitted and an agreement reached on the use of any such canopy at the pavement café.
- 7.4.7 Any patio/space heaters must be specified as part of the application form and their proposed locations shown on the site layout plan. Any heaters must be adequate for outdoor use. Where heaters are powered by gas, the connections, including the regulator, hose and clips must be fit for purpose and checked on a regular basis.

- 7.4.8 No advertisements, other than company names or logos, will be permitted to be displayed on furniture forming part of the pavement café. Applicants should consult with the Council's planning department prior to submitting an application, to enquire if Advertisement Consent is required.
- 7.4.9 Additional/adequate litter-bins will be required within the pavement café area. These bins are to be provided for customer use only in respect of litter from the pavement café and are not to be used as a commercial waste receptacle.
- 7.4.10 Non-furniture items such as menu boards, A-Boards, signs and any unacceptable clutter or intrusion will not be allowed.

7.5 Trading Hours

- 7.5.1 In general, pavement café licences will be granted between the hours of 09.00hrs and 22.00hrs Monday to Sunday.
- 7.5.2 Applicants may apply to trade outside these hours, but will need to demonstrate to the Council that it is appropriate to do so.
- 7.5.3 Consideration must be given to the local area, for example an area with a high concentration of residential properties.
- 7.5.4 The Council reserves the right to specify permitted hours of trading that are less than those outlined above if local circumstances dictate there is a need.
- 7.5.5 The Council reserves the right to alter the trading hours on a licence at any given time.
- 7.5.6 All pavement cafes must have all barriers, furniture and any other item associated with the licensed area removed from the highway and into a secured location within 30 minutes of the terminal hour of the licence.

7.6 New Applications

- 7.6.1 New applications will be determined following a consultation period of 28 consecutive days. Applicants will be required to provide the following documents and fees with their application form:
- (a) A completed and signed pavement café licence application form.
 - (b) The application form should be accompanied by the full fee in its entirety either by cheque/postal order made payable to Warrington Borough Council, or by credit/debit card by calling 01925 442119.
 - (c) A site layout plan to a scale of 1:100, which shows up to 2 metres around the curtilage of the proposed area and should clearly show the following information:

- Access points
 - Entrances/exits to the premises within or adjacent to the proposed area
 - Position of the building line
 - Boundaries
 - Position of the kerb line adjacent to the proposed area
 - Dimensions of the seating area
 - Table and chair arrangement
 - Location of trees, lamp posts and other street furniture within 2 meters of the licensed area
 - Plan and elevations of barriers/enclosure
 - Details of any additional lighting to be used
 - Fire Hydrants within 2 metres of the proposed area
 - Umbrella/parasol arrangement
 - Litter bins within 2 metres of the proposed area
 - Commercial waste receptacle storage areas where these are outside the licensed area.
 - The position of residential properties in the immediate area of the proposed café.
- (d) Full details, including metric dimensions, materials and colours of the proposed furniture and umbrellas/parasols, ideally accompanied by photographs, illustrations or drawings.
- (e) Full details, including metric dimensions, materials and colours of the proposed barriers to be used to enclose the area, ideally accompanied by photographs, illustrations or drawings.
- (f) Full details of any additional lighting to be used, including dimensions and photographs.
- (g) Full details of any heating appliances to be used, including dimensions and photographs.
- (h) An original certificate of insurance that covers the pavement café activity for third party and public liability risks of £5,000,000.
- (i) A copy of any planning consent granted in respect of the proposed licensed area (where applicable).
- (j) A copy of any listed building control consent granted in respect of the proposed licensed area (where applicable).
- (k) A management plan detailing how the applicant will control the proposed licensed area meeting the criteria outlined in section 7.1.1 of this policy.
- (l) A copy of the landlords consent, lease or licence if the land includes any private non adopted land.

7.7 Renewal Applications

- 7.7.1 Pavement café licences will be renewed automatically on the anniversary that the licence was first granted.
- 7.7.2 There is no prescribed fee for the renewal of a licence.
- 7.7.3 If there have been any justified complaints and/or enforcement issues during the period that the licence is in force, the licence may not be renewed.
- 7.7.4 Should the appearance or character of layout of the area materially change, the licence may not be renewed.

7.8 Transfer Applications

- 7.8.1 Licence Holders who would like to sell their premises, including the licensed pavement café area, must ensure that the new owners of the premises apply to the Council for a transfer of the pavement café licence.
- 7.8.2 Applicants should note that no other changes are permitted to be made to the pavement café licence other than the new name and address of the holder of the licence.
- 7.8.3 Applicants are unable to transfer the pavement café licence from one business (premises) to another.
- 7.8.4 Applicants should supply the following documentation to the Council:
 - (a) A completed and signed pavement café licence application form.
 - (b) The application form should be accompanied by the fee in its entirety either by cheque/postal order made payable to Warrington Borough Council, or by credit/debit card by calling 01925 442119.
 - (c) An original certificate of insurance that covers the pavement café activity for third party and public liability risks of £5,000,000. This must be in the name of the new licence holder.
 - (d) The original licence granted to the previous holder of the pavement café & any private landlords consent licence or lease.

7.9 Variation Applications

- 7.9.1 There is no facility under the Highways Act for a Pavement Café Licence to be varied in any way once granted.
- 7.9.2 Any variation to a Pavement Café Licence will be dealt with through the New Application process identified at section 7.6.

8 Consultation, Public Notice & Representations

8.1 Consultation

8.1.1 Before a pavement café licence is granted the Council will consult with and seek written observations from:

- The Licensing Authority
- The Planning Authority
- The Highways Authority
- The Property & Estate Management Department
- Environmental Health (Noise)
- Food Safety/Health & Safety
- Town Centre Management Section (where applicable)
- Street Scene Services
- Public Health
- WBC Ward Members
- Portfolio holder for Regulation & Protection
- Cheshire Constabulary
- Cheshire Fire & Rescue Service
- Neighbouring property occupiers including businesses (where applicable)
- CCTV Unit
- Parish Council Clerks

8.1.2 The Council will consult with the above consultees on behalf of an applicant for a new application where appropriate to do so and may take into account any representation made.

8.1.3 Where the proposed area falls within the boundary of Warrington Town Centre, the Council will also consult with the Town Centre Management section and CCTV Unit.

8.1.4 Where appropriate, the Council will consult with adjoining property owners on an application for a new pavement café licence, if it is considered that they may be materially affected by the proposed area to be licensed.

8.1.5 The Council will consult with Cheshire Constabulary on applications to transfer a pavement café licence on behalf of an applicant.

8.1.6 The consultation period for a new application will be 28 consecutive days beginning with the day after the application is received by the Council.

8.1.7 The consultation period for the transfer of a pavement café licence will be 14 consecutive days beginning with the day after the application is received by the Council.

8.2 Public Notice

- 8.2.1 As part of your application for a new pavement café licence, applicants are required to display a public notice advertising their application.
- 8.2.2 Public Notices must be clearly visible from the outside of the business/premises that the pavement café area is associated with.
- 8.2.3 Public notices must be printed on A4 white paper and be in the prescribed format as specified at Appendix 3 of this policy.
- 8.2.4 Public notices must be displayed at the business/premises within one working day, beginning with the day after the application is submitted to the Council.
- 8.2.5 Public notices must be displayed for the full 28 consecutive day consultation period.
- 8.2.6 If public notices are not correctly displayed, an application may be rejected.
- 8.2.7 The prescribed public notice can be found at Appendix 3 of this policy.

8.3 Representations

- 8.3.1 A representation is an objection that can be received against an application for a new or a transfer application for a pavement café licence.
- 8.3.2 Representations can be made during the 28 consecutive day (new applications) or 14 consecutive day (transfer applications) consultation period.
- 8.3.3 Representations can be made by the following:
- A consultee as indicated in section 7.1.2 of this policy;
 - A business or body in the vicinity of the proposed pavement café area;
 - Any other person with a relevant interest in the proposed pavement café area.
- 8.3.4 A representation must be relevant to the application and must not be vexatious or frivolous.
- 8.3.5 Representations should concern themselves only with matters relevant to the application itself.
- 8.3.6 The relevant delegated officer will determine whether a representation is relevant and not vexatious or frivolous.

- 8.3.7 Where relevant representations are received and validated by the delegated officer, the representations will be put before the Licensing-Sub Committee who will determine the application. Please see section 12 of this policy.

9 Fees

- 9.1 The Council recognises the need for a pavement café society culture within Warrington and will take this into account when setting its fees.
- 9.2 The Council's Licensing Committee will set fees for applications for a new licence and the transfer of a licence. The sum will be set at a level that is considered to be fair for all wishing to take advantage of a pavement café society.
- 9.3 The fees will be reviewed annually and reported to the Licensing Committee in the annual Fees and Charges report.
- 9.4 The Council will consult with all interested persons on the setting of its fees.
- 9.5 Applications to renew a pavement café licence, will not incur a fee.

9.1 Failure to Pay

- 9.1.1 If a bank dishonours a cheque, this will result in the rejection of the application by the Council, unless payment of the outstanding fee is made by credit/debit card or cash.
- 9.1.2 Payment by instalment is not permitted for a pavement café licence.

9.2 Refunds

- 9.2.1 Applications that are rejected either by delegated officers of the Council or by members of the Licensing Sub-Committee, will be entitled to a refund of the application fee.
- 9.2.2 Partial year refunds will not normally be offered for those applicants whose licences are surrendered or revoked part way through the licence period.

10 Determination of the application

10.1 Assessment of the area

- 10.1.1 The proposed pavement café area can be inspected by an authorised officer of the Council at any time during the application process.
- 10.1.2 Licences **will not** normally be granted where any of the following may apply:

- There are concerns over the recorded level of personal injury accidents in the locality where the tables and chairs will be sited or:
- There would be a significant loss of amenity caused by traffic, noise, rubbish, the potential for the harbouring of vermin, odour or fumes or:
- The site obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use or:
- The tables and chairs obstruct the safe passage of users of the footway or carriageway or:
- The area to be licensed interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities or:
- The site does not allow the licence holder, staff and customers to park or load & unload in a safe manner or:
- The trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

** Please note that this list is not exhaustive and the Council will take such matters as it sees appropriate into consideration when assessing the suitability of a proposed area**

10.2 Needs of the area

10.2.1 It is important that pavement café licences complement the surrounding area. Each application will be considered on its own merits against the criteria outlined in section 7.1.1 of this policy.

10.3 Permitted Trading Hours

10.3.1 Hours of trading will be assessed in accordance with section 7.5 of this policy.

10.3.2 The Council will consider the needs of an individual area in terms of public order, public nuisance, public safety & crime and disorder.

10.3.3 The Council retains the right to specify permitted hours of trading if local circumstances require it.

10.4 Persons under the age of 18 years

10.4.1 The Council will not grant a pavement café licence to persons under the age of 18 years.

10.5 Relevant Representations

10.5.1 Where the delegated officer of the Council has received and accepted a relevant representation(s) (please see section 8.3 of this policy) against a new or a transfer application for a pavement café licence, the application will be referred to the Licensing Sub-Committee for determination. Please see section 12 of this policy.

11 Refusal of applications

11.1 New application

11.1.1 New applications that are considered by delegated officers as being unsuitable under this policy will be rejected.

11.1.2 Where the Council refuses a new application, the applicant will be informed in writing of the reasons for not granting the application.

11.2 Renewal application

11.2.1 Where justified complaints have been made and/or enforcement issues have arisen, the licence may not be renewed.

11.2.2 Where the Council refuses to renew a licence, the applicant will be informed in writing of the reasons.

11.3 Transfer application

11.3.1 Applications received that do not meet the criteria set out in section 7.8 of this policy will not be accepted.

11.4 Failure to pay

11.4.1 If a bank dishonours a cheque, this will result in the rejection of the application, unless payment of the outstanding fee is made by credit/debit card or in cash.

11.5 Appeals

11.5.1 There is no right of an appeal for the refusal of an application in relation to a pavement café licence

12 Approval of Applications

12.1 New Pavement Café Licence

12.1.1 Where a new application for a pavement café licence is received and no relevant representation has been received the application will normally be granted.

12.1.2 Pavement café licences will be issued indefinitely beginning on the date on which the licence is first granted.

12.1.3 A licence may be suspended or revoked by the Council at any time during the lifetime of the licence.

12.1.4 When granting a licence for a new pavement café, the Council will attach mandatory conditions. (Please see Appendix 2 of this policy).

- 12.1.5 The mandatory conditions attached to the licence must be complied with at all times. Failure to do so could constitute an offence, and the licence could be suspended or revoked.
- 12.1.6 The Council may attach additional conditions where it has reason to do so at any time during the licence period.
- 12.1.7 The addition of conditions to any licence will be communicated in writing to the licence holder and will take effect from the date of the notification letter.
- 12.1.8 The pavement café licence cannot be varied and any change in licence holder must be communicated to the Council on an application to transfer a pavement café licence. Please see section 7.9.2.
- 12.1.9 On approving the application, the Council will issue a pavement café licence.

12.2 Renewal of a Pavement Café Licence

- 12.2.1 Pavement café licences are issued with an indefinite expiry date.
- 12.2.2 Renewal of a licence is automatic subject to a review of the fees and charges which will take place annually.
- 12.2.3 The Council will only re-issue a licence where details concerning the licence holder have changed.

12.3 Transfer of a Pavement Café Licence

- 12.3.1 Where an application is received for the transfer of a pavement café licence, and no relevant representation has been made by Cheshire Constabulary, the application will normally be granted.
- 12.3.2 Any mandatory or additional conditions attached to this licence will remain in force for as long as the licence remains valid.
- 12.3.3 On approving the application, the Council will transfer the pavement café and issue a new licence on the terms existing at that time.

13 Licensing Sub-Committee

- 13.1 At the end of the 28 consecutive day (new application) or the 14 consecutive day (transfer application) consultation period, a delegated officer will review any representation(s) received against an application.
- 13.2 If representations are considered to be relevant, the application will be referred to the Licensing Sub-Committee for determination.

- 13.3 A copy of the relevant representation(s) will be sent to the applicant in writing to allow them the opportunity to address the representees concerns.
- 13.4 The applicant will be invited to attend the Licensing Sub-Committee and offered the opportunity of addressing members of the Committee, to support their application.
- 13.5 The representee(s) will be invited to attend the Licensing Sub-Committee and also offered the opportunity of addressing members of the Committee, to support their representation.
- 13.6 Members of the Licensing Sub-Committee will then determine the application as follows:
- grant the application and issue a licence;
 - grant the application with modifications (i.e. alteration to trading hours etc.);
 - attach additional conditions to the licence;
 - refuse the application.
- 13.7 The Council will then issue a notice of determination of the application to the applicant and any representees in writing.
- 13.8 If granted, the Council will issue a new pavement café licence or will transfer an existing pavement café licence.
- 13.9 There is no right of appeal against a refused application.

14 Enforcement of Pavement Cafes

- 14.1 Warrington Borough Council will actively enforce the provision of the pavement café scheme within its area in a fair and consistent manner.
- 14.2 Persons trading without a pavement café licence and who are not exempt (see section 4 of this policy) will be the subject of enforcement action.
- 14.3 Each pavement café licence holder will be the subject of compliance checks: these will be combined with any routine food hygiene inspection where possible.
- 14.4 The Council will endeavour to respond to complaints about the operation of a pavement café as soon as practicable.
- 14.5 Pavement café licence holders must allow access to Authorised Officers of the Council and other authorised persons at all reasonable times. Council officers will carry with them and produce on request official identification.

15 Complaints against this Service

- 15.1 Warrington Borough Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of pavement cafes you should contact us on 01925 442590.
- 15.2 If the matter cannot be resolved, advice will be given on how to further your complaint under the Council's Complaints Scheme.

16 Policy Review

- 16.1 This policy took effect on 27th January 2015. The Council will review the policy whenever it is considered that relevant issues have arisen.

Definition of terms used in this policy

Within the terms of Warrington Borough Council's Pavement Café scheme the following definitions apply:

The Council means Warrington Borough Council

"Pavement Café" is defined in paragraph (1) of Section 115C of the Highways Act 1980-hereinafter "the Act" as:

"...facilities for ...refreshment on a highway to which this part of this Act applies".

Designated Area includes:

- (a) any road, footway or other area to which the public have access without payment having the legal status of a highway and;
- (b) a service area as defined in Section 329 of the Highways Act 1980, and also includes any part of a street.

The Licensing Authority means the elected members of the Licensing Committee of Warrington Borough Council.

Licensed Premises means premises authorised under the Licensing Act 2003 for the sale of alcohol, late night refreshment and or regulated entertainment.

Licensed Area means an area defined under the Highways Act 1980 that has been granted a pavement café licence in which tables, chairs and other items may be placed.

Licensed Period means the hours a pavement café may open to trade to members of the public.

Commercial Waste Receptacle means a bin that is used solely for commercial waste.

Terminal Hour means the hour that the pavement café must be closed to members of the public.

Consultation period means the timeframe within which an objection can be received against an application.

Consultees are the bodies that the Council will consult with on an application.

Relevant Representation means an objection received against an application that has been approved and accepted by the relevant designated officer of the Council.

Authorised Officer means an officer employed by Warrington Borough Council and authorised by the Council to act in accordance with the provisions of the Highways Act 1980.

Relevant Designated Officer means an officer employed by Warrington Borough Council and authorised by the Licensing Committee of the Council to carry out the provisions of the Highways Act 1980.

Interested Persons means any person who would be affected either directly or indirectly by a pavement café licence (e.g. local businesses, residents etc.).

Licensing Sub-Committee is a meeting of elected members from the Licensing Committee of the Council.

Pavement Café Licence is an authorisation to place tables, chairs and other items on the highway granted by the Council, pursuant to Section 115C of the Highways Act 1980.

Mandatory Condition is a condition attached to every pavement café licence which must be complied with at all times.

Additional Condition is a condition that does not form part of the mandatory conditions but is attached to a licence to address individual concerns regarding an application or applicant.

Representee is a person that has lodged an objection against an application with the Council.

Licence Holder means the person or company to whom the licence has been granted by Warrington Borough Council.

Notice of Determination is the written outcome of an application that has been presented before the Licensing Sub-Committee.

Other Authorised person is any person employed by Cheshire Constabulary or Cheshire Fire & Rescue Service.

Refreshment means hot or cold food and drink.

**Warrington Borough Council
Mandatory Conditions attached to a
Pavement Café Licence**

1. The granting of a pavement café licence applies only to the applicant in respect of the premises concerned and is outside of and in addition to a licence to sell alcohol. Where alcohol is sold a premises licence under the Licensing Act 2003 will be required.
2. Any changes to any part of the pavement café (including furniture, other items, the area or operating hours) is strictly prohibited under the terms of this licence.
3. All customers using the pavement café will be required to be seated.
4. Pavement café licences are issued in the name of the operator/licence holder. If the operator/licence holder changes, the licence holder is obliged to transfer the pavement café licence to the new operator/licence holder.
5. The licence holder shall indemnify the Council against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred in consequence of the use or presence of the chairs and tables and other objects.
6. Where repair or maintenance of the pavement/highway is to be undertaken, the Council will endeavour to give the licence holder notice. The Council will not be liable for any loss of earnings whilst repair/maintenance is carried out. The licence holder must allow the Council reasonable access for such works.
7. The licence holder must, as soon as reasonably practicable upon identification, notify the Council's Highway section of any repair/maintenance work required to the highway surface, up to 1 metre, within or around the licensed area.
8. It will be the responsibility of the licence holder to keep the licensed area clean and free of litter, during licensed/operational hours. Commercial waste from the licence holder's operations must not be disposed of in the litterbins provided by the Council or in the litterbins provided by the licence holder in the licensed area. Licence holders are expected to comply fully with their obligations under the Environmental Protection Act 1990 (section 34 Duty of Care) with respect to commercial waste produced on the premises and receptacles provided for that purpose will not be stored within the licensed area. The Licence holder is responsible for the cleaning of the

pavement café area and any area where Commercial Waste bins are stored within 1 metre of the boundary of the licensed area.

9. The Licence holder shall make no claim or charge against the Council in the event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause.
10. The licence holder shall make no charge for the use of the chairs or tables or other objects.
11. Tables and chairs shall not be affixed to the highway and should not be stored on the highway when they are not in use, e.g. during inclement weather or before or after the pavement café is open.
12. Furniture should be safely stored away from public areas in such a location where it is safe, secure and unable to be accessed by members of the public.
13. The licence holder will be responsible for any damage, including stainage, to the highway. The permanent surface reinstatement shall be carried out to the requirements of the Highways Assets Department of Warrington Borough Council, at the licence holder's expense and guaranteed for a minimum period of two years.
14. The licence holder shall be responsible for any rates, taxes and other outgoings which may be charged.
15. The licence does not authorise any unlawful interference with the convenience of persons using the highway or affects the rights of owners of the premises adjoining the highway or the rights of the Utility Companies.
16. The Council shall be entitled to suspend the licence on a temporary basis on the occurrence of a special event or any other circumstance, which the Council considers to necessitate a temporary suspension.
17. The licence holder shall be permitted to set out tables and chairs (with or without umbrellas/parasols) in the area as outlined on the plan attached to the licence. The subletting of the permission granted by the licence is prohibited.
18. Any table chair, umbrella or other such item used in connection with the pavement café shall be kept in good condition and so presented as to not detract from the appearance of the street.
19. Only those items detailed in the application submitted to the Council may be used as part of the pavement café.
20. The licence holder shall comply will all statutory regulations including the need to seek the appropriate planning permission.
21. The licence holder shall comply with all statutory regulation including the need to seek the appropriate listed building control consent.

22. The Council reserves the right to suspend/revoke the licence in the event of any breach of any term or condition.
23. The licence holder shall ensure that the pavement café area is properly supervised by a member of staff at all times the pavement café is open.
24. The licence holder may only use the pavement café area for the purposes of consuming refreshments in connection with the business only and not for any other purpose.
25. The licence is granted for an indefinite period and will be renewed annually.
26. All pavement café licences are subject to inspection by an authorised officer of the Council to ensure compliance with conditions.
27. A copy of the pavement café licence must be kept on the premises at all times and be available for inspection by an authorised officer or other authorised person.
28. The licence holder is solely responsible for the conduct of patrons/customers within the pavement café area.
29. Patrons are prohibited from consuming alcoholic drink bought from the premises, for consumption on the premises, outside of the pavement café area.
30. Advertising on barriers and furniture items will be limited to the name of the premises only subject to any Advertisement Consent required from the Council's planning section.
31. In premises where alcohol is served, all alcoholic drinks must be served in polycarbonate or shatterproof glasses where available.
32. No amplified music or sound is allowed in the pavement café area.
33. Licence holders are required to obtain public liability insurance covering the business for up to £5,000,000 at all times the pavement café is operational. It is the responsibility of the licence holder to forward up to date copies of insurance certificates as and when they expire. Failure to comply with this condition can constitute an offence under the pavement café policy and enforcement action can be taken.
34. Where gas heaters are used, the connections, including the regulator, hose & clips must be fit for purpose and checked on a regular basis.
35. The grant of a pavement café licence shall not be deemed to give any approval or consent which may be needed under any byelaw, enactment or regulation other than cafes under section 115c of Part VIIA of the Highways Act 1980. For the avoidance of doubt this includes the requirement to seek and obtain planning permissions and/or advertisement consent.

**HIGHWAYS ACT 1980
PART VIIA: PROVISION OF AMENITIES ON CERTAIN HIGHWAYS
SECTION 115C: PROVISION OF RECREATION &
REFRESHMENT FACILITIES BY COUNCIL**

**PUBLIC NOTICE
APPLICATION FOR A NEW PAVEMENT CAFÉ LICENCE**

Notice is hereby given that I _____

have made an application for a new pavement café licence at premises known as:

on the _____ to Warrington Borough

Council to allow tables and chairs to be placed on the highway.

The application, if granted, will authorise the use of the pavement café for the following days and times:

A consultee or any other person may make representation which must be in writing about this application to the following address no later than:

To the Licensing Section, New Town House, Buttermarket Street, Warrington, WA1 2NH

A record of the application is contained in the licensing register kept by Warrington Borough Council which is available for inspection free of charge at the above address or at www.warrington.gov.uk between 09.00am and 16.00pm Monday to Friday

This notice must be displayed continuously on or near the premises to be licensed, where it can be read outside the building, for a period of 28 days from the date of the application.