

Guidance on the provision of refreshment facilities on the highway by persons other than councils

1. Introduction

You can only provide and operate a refreshment facility on the highway with permission from West Cheshire and Chester Council as highway authority. However, the Council will only grant you permission if you comply with certain criteria and provide proof of any other permissions (or exemptions) that may be required.

This guidance has been produced to help you to apply for permission from the Council and understand the criteria and the other permissions which may be applicable.

2. General criteria

(a) Designated Area

You will only be allowed to provide a refreshment facility within a designated area operated and serviced from your existing premises. In proposing the extent of the designated area you should have consideration for the following:

- It should be located adjacent to your premises and contained within its frontage.
- It should not discourage pedestrians from using a footway or cause them to make sharp deviations to their route.
- It should not conflict with accesses or dropped crossings.
- It should not obstruct the sight lines of drivers or pedestrians or obscure highway signs.
- It should leave a clear width of highway available for use by pedestrians and emergency vehicles. Generally, this should be 1.8m on footways, 2.3m on footways with a bus stop or, in pedestrianised areas, 1.85m or 1/3rd of the highway width from the centre line (whichever is the greater). These may be increased or decreased depending on the particular circumstances (e.g. where there are high pedestrian volumes, particularly wide highways, refreshment facilities on both sides, etc.)

You should be aware that, in some cases, there will be no scope to give permission for a refreshment facility because of the above and your application may be refused.

You will be required to allow the emergency services or the owners of apparatus access to the designated area at any time. You will be required to comply with the instructions of the Council, Police, Fire Officer, Statutory Undertakers or any other person or body with a statutory interest in this respect. Under such circumstances you will have no recourse to a claim for loss of trade.

(b) Barriers

The designated area must be delineated and guarded by portable barriers approved by and maintained to the satisfaction of the Council and the local planning authority. These should be reasonably rigid, designed to resist being blown over by the wind or passing traffic and have:

- A smooth panel/handrail (of at least 150mm depth) fixed at a height of between 1m and 1.2m above ground level.
- A tapping rail (of at least 150mm depth) fixed at a height no more than 200mm above ground level.

The barriers should be of contrasting colours (such as black and white or other colour combinations) so that they can be easily identifiable by the visually impaired but do not overly dominate the street scene.

You will be required to keep the designated area clean and tidy at all times and should to manage it so that used crockery and cutlery, refuse and spillages are removed promptly. Please be aware that you could be charged for the cost of making good any damage to, or disturbance of the highways consequent to the use of the refreshment facility.

(c) Hours of operation

Permission for the refreshment facility will only be valid between specified times. Outside of these times, you will be required to remove the refreshment facility and all furniture, fittings, barriers, umbrellas, awnings, etc. associated with it, and store them inside your premises. Permission may be revoked if you do not adhere strictly to these time restrictions.

(d) Indemnity

You will be required to indemnify the Council against all losses and claims for injury or damage to any person or property which may arise out of the provision of the refreshment facility. For this purpose, you must provide proof that you have taken out an insurance policy in at least the sum of £2,000,000 (two million pounds) for one incident with the number of incidents unlimited with an insurance company to be approved by the Council.

3. Other permissions which may be required

You may be required to obtain other permissions in order to be able provide and operate a refreshment facility. The Council will require proof of such permissions (or exemption from permission) before giving you a licence.

There may be fees or charges made for making applications and/or the granting of any of these permissions. Therefore, before you submit your application, it is recommended that you seek the advice of Council, as they may be able to provide advice on specific cases before an application is made.

Although this will not guarantee that you get the permission, it may help you to avoid paying any fees or charges for an application that is likely to be refused. It is also a good idea to discuss your proposal with all your neighbours, as they may be included in the consultation process used when assessing an application.

The other permissions that you may be required to obtain include:

(a) Planning Permission

Planning permission may be required from your local planning authority where there is a material change of use of land. The local planning authority will bear in mind the need to protect residents of nearby properties from unreasonable nuisance and may therefore refuse or attach conditions or limitations to your application (e.g. restricted hours of operation).

(b) Listed Building Consent

A refreshment facility and its associated furniture will not be allowed to adversely affect the special architectural or historic character of a listed building or the Conservation Area in which it may lie. Therefore, you may be required to obtain listed building consent for any work to a listed building, internally or externally or where the environment of an adjacent listed building is affected by the proposal.

(c) Premise Licence

In order to serve alcohol as part of a refreshment facility, the area you propose to use must be included in the premise licence required for the supply of alcohol on that premises. Therefore you may need to apply for an amendment to your premise licence if this is not included. However, the Council reserve the right to object to any application for such a premise licence.

4. Application process

As previously stated, it is recommended that you seek the advice of the Council before you submit your application. To consider your proposal, the Council will require you to submit the following at least 3 months prior to the date on which you wish start:

- A completed copy of the application form.
- 6 copies of a location plan to a scale of 1:1250, clearly marking the existing premises and the proposed designated area edged and hatched in red.
- 6 copies of a site plan to a scale of no less than 1:100 showing the exact location and dimensions of the designated area and it's associated furniture (in the case of a pedestrian area, the line of the opposite frontages must to be shown).
- Proof of indemnity, in the form of a valid insurance policy.
- A cheque made out to Cheshire West and Chester Council for the initial licence charge.

In order to avoid a delay in the processing your application, you may also wish to provide the following required documents at the time of your application:

- Proof of planning permission or exemption.
- Proof of listed building consent (where applicable)
- Proof of premise licence (where applicable)

When you have submitted the above, your proposal will be sent for consultation to the emergency services, local planning authority and premise licensing authority. If your proposal is to provide and operate a refreshment facility on a highway which is not pedestrianised, the Council must also publish a notice at the location and serve a copy on the owners or occupiers of premises which are materially affected. The Council must allow 28 days from the publication of this notice for representations to be made.

Your proposal, the views of all the consulted bodies and any representations received will then considered by your local highways office who will accept (with or without special conditions) or refuse your application. If your application is accepted, you will be issued with a licence.

You will be required to display a legible copy of your licence, in a conspicuous position on your premises, adjacent to the refreshment facility so that it can be inspected by the Council or any other person with an interest at any time.

Your licence will be valid for a period of twelve months from the date of issue and must be renewed annually. Licence renewals should be sought at least 2 months prior to the expiry of the existing licence. You will be required to pay an additional charge for these annual renewals and the Council reserves the right to revert to the initial charge should the renewal charge not be paid prior to the expiry of the existing licence.