**PAVEMENT CAFE GUIDANCE**

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**HIGHWAY CONSIDERATIONS**

**Sept 2024**

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**PAVEMENT CAFÉS GUIDANCE – HIGHWAY CONSIDERATIONS**

# Purpose

* 1. Footways are provided for the safe and efficient movement of people separate from all traffic on the road and it is this separation that contributes to the attractiveness of our town and city centres and public realm, making them inclusive places for everyone to visit without concerns for their safety and wellbeing. The purpose of this guidance is to highlight the importance of a consistent approach across all council areas in relation to the accessibility of footways and assist DfI staff, Councils and stakeholders in assessing Pavement Cafés licence applications in relation to highway considerations.

# Scope

* 1. This document deals primarily with the unobstructed footway widths adjacent to pavement cafés on public pavements and it covers issues such as acceptable footway width to be maintained, the siting of furniture and other equipment associated with the operation of the pavement café.
  2. This guide should be used by DfI staff to assess the suitability of Pavement Café licence applications from October 2024.

# Background

* 1. The Licensing of Pavement Cafés Act (NI) 2014 was developed by the former Department for Social Development (DSD) to make provision for the regulation by District Councils of the placing of furniture on public areas for use for the consumption of food or drink. The Bill received Royal Assent on 12 May 2014.
  2. As part of the provision for implementation of the legislation DSD, now Department for Communities (DfC), published guidance (1) to be available to Local Councils and Licensee Applicants. A key component is that councils will be required to consult with DfI Roads on any proposals for pavement cafés before a license is issued. The DfC guidance also provided some information of the minimum standards that are likely to be acceptable in relation to highway considerations.
  3. While the operation of Pavement Cafés can provide commercial opportunities for local businesses, Councils must ensure that the needs of pedestrians and other street users are not detrimentally affected.
  4. When responsibility for the implementation of Pavement Café legislation passed to Councils, they established a Licensing Forum for Northern Ireland working group to develop and agree a consistent approach to issuing of licenses. The Forum has produced a general ‘Guidance for Applicants’ document to assist those intending to make a Pavement Café license application. A copy of this guidance is included in *Annex A* of the DfC Guidance (2).
  5. This DfI Guidance is designed primarily to assist local DfI staff when assessing pavement café applications. It will also be made available to assist Licensing Applicants and Councils with preparing applications in relation to the highway considerations of pavement cafés. This DfI Guidance is intended to provide additional guidance and shall supersede the sections of the published DfC guidance relating to highway considerations.
  6. Any DfI Roads approval in relation to Pavement Café licenses will confirm that the highway considerations have been assessed and do not contradict existing DfI guidance on preferred footway widths as specified in ‘*The Design Manual for Roads and Bridges –– CD 143 Designing for walking, cycling and horse-riding (3) - formerly DMRB, TA 90/05’*.
  7. Licensing stakeholders must still adhere to the remainder of the DfC guidance. DfI approval on highway considerations will not supersede any other statutory requirements required by the Licensee such as Section 75 of the *Northern Ireland Act* (4) or any other legislation.
  8. Councils will have the final decision on the approval of a license application based on the evidence available and the location of a proposed Pavement Café.

# Location & Layout

* 1. A pavement café shall generally be located immediately adjacent to the existing premises and should not extend beyond that premises frontage. However, where a pavement café is to be located remotely from a Licensee’s premises, additional requirements must be satisfied (see Section 6).
  2. The provision of a pavement café must never discourage the use of the footway by pedestrians or other users.
  3. The **minimum footway width should be 2.0m** unless modified by the conditions indicated in sections 4.4-4.11 below.
  4. The minimum footway width may need to be greater than 2.0m in areas with medium/high pedestrian footfall. The Pedestrian Comfort Guide for London (8)(9) can be used as guidance to determine the clear footway width for recorded high pedestrian flows. A minimum comfort level of A+, A or A- is required. Note. The terminology and assessment process used in the Pedestrian Comfort Guide for London is unrelated to terminology in this document, assessors should be mindful in how they use the assessment information.
  5. Where 2.0m minimum footway width is achievable, no consideration shall be given to reducing this width.
  6. Pavement cafés will not be permitted in areas where people queue or congregate (e.g. bus stops, cash points, pedestrian crossings etc) or adjacent to busy loading bays, unless a **minimum** **footway width of 2.0m** can be maintained along the length of the premises frontage. DfI assessors should carefully consider the need to recommend increased footway width at these locations or in areas of high footfall. Where a bus shelter is provided, this width will be measured from the back of the shelter.
  7. Pavement cafés will not be permitted adjacent to cycle lanes unless **a minimum footway width of 2.0m** can be maintained between the cycle lane and café.
  8. Where an application for a pavement café licence details a footway width of less than 2.0m the applicant must demonstrate that, in addition to the council led criteria for the provision of a pavement café, there is minimal risk of impediment to footway users. Any justification for a reduction in the footway width should address the following as a minimum.
     + The nature of the area where the pavement café is being considered (by DfI assessor),
     + Any reduction of the minimum clear footway width of 2.0m over a length greater than 6.0m will not be permitted.
     + Recorded number of footway users over weekday and/or weekends at rush hour periods. (by applicant). Guidance on timings of surveys can be found in The Pedestrian Comfort Guide for London(8). Appendix 1 of this document give a simple guide to how the survey should be conducted.
     + Any locations where footfall is measured to be over 600 pedestrians per hour will not be considered for a reduction in footway width less than 2.0m.
     + A spot check of observed footway user volumes to corroborate the recorded figures. (by DfI assessor).
     + A comfort level check should be completed using The Pedestrian Comfort Guide for London (8).
  9. Unless the applicant can adequately demonstrate that the proposed footway width has minimal risk of impediment to footway users then the assessor shall recommend refusal.
  10. A clear footway width of at least 1.5m may be acceptable over short distances to bypass street furniture or other obstructions of short length (<2m) without justification. However, this is only permitted up to a maximum of two obstructions per 10m length of footway and applicants should aim to maximise the unobstructed footway width at all times.

* 1. The remaining footway adjacent to the pavement café must present a straight, obvious, and unobstructed route for pedestrians. Additional footway width 0.45m (resulting in a minimum footway width of 2.45m) may also be required in areas of on-street parking or loading bays where the opening of vehicle doors may present a hazard or cause inconvenience to footway users or drivers.
  2. Any part of a pavement café, including A-boards, menu boards, enclosures etc. cannot be located within vehicular visibility splays of a road junction. Visibility requirements are dependent on the speed of the road and the volume of traffic using a junction. Further information of the requirements can be found in ‘*Development Control Advice Note 15* (7) *– Vehicular Access Standards’ (*[*DCAN 15*](http://www.planningni.gov.uk/de/index/policy/supplementary_guidance/dcans/dcan15.htm)*).*  Where a pavement cafe is proposed in the vicinity of a junction, further advice should be sought from DfI Roads.
  3. No part of a pavement cafe (enclosure, furniture, parasols, heaters etc) should obscure or partially obscure any traffic signs giving orders, warnings, directions, information or similar. Equally, no part of a pavement café should obstruct tactile paving, or any other infrastructure provided to assist those with sight loss or a visual impairment. Pavement cafés should be located a minimum of 3.0m from junctions or tactile paving and should not impede footway users access to the tactile paving/crossing point.
  4. Emergency exits must be kept clear at all times and a pavement cafe cannot be located over emergency apparatus such as a fire hydrant. Applicants should consult with the relevant emergency services to determine if other restrictions apply.
  5. Pavement cafés should not be located over or abutting street furniture such as benches.
  6. Applicants should provide a Proposed Café Plan (scale not less than 1:100) showing the location and dimensions of the proposed pavement café area (or areas) associated with the premises.

# Pavement Cafés in Pedestrian Areas

* 1. Where it is proposed to provide a pavement cafe in a pedestrianised area, the required unobstructed width should be determined taking account of pedestrian or vehicular activity in liaison with the Council. As a minimum, a **4.0m unobstructed route** must be maintained to allow for pedestrians, emergency vehicle and service vehicle access. This minimum unobstructed widthmay be increased in areas of high pedestrian or vehicular activity in liaison with the Council and DfI Roads.
  2. A pavement cafe or combination of pavement cafés cannot occupy more than 50% of the available width within a pedestrianised area. E.g. a 10m wide pedestrian area can only accommodate, as a maximum, either a single 5m wide pavement café or two 2.5m wide pavement cafés on each side of the main thoroughfare. Consideration of potential future pavement café applications must form part of the assessment.
  3. The location of pavement cafés in pedestrianised areas must ensure the clear pedestrian route is in line with adjacent contiguous routes and not introduce significant direction changes for pedestrians or vehicles.

# Pavement Cafés Remote from Premises

* 1. Remote pavement cafés should not be located in such a way that the main pedestrian desire lines or vehicular routes are obstructed.
  2. Remote cafés should be positioned a minimum of 0.45m from the roadside kerb edge where applicable and maintain a minimum unobstructed footway width of 2.0m or more between the pavement café and main premises, as determined by the assessor.
  3. There is no requirement for a minimum clearance of 0.45m where the pavement café is adjacent to or utilising a parklet.
  4. Exposed cabling, ducting or similar between the Licensee’s premises and a remote pavement cafe at ground level or at a height of less than 5.1m above the ground will not be permitted.

# Pavement Café Enclosures

* 1. A pavement cafe must be fully enclosed using a continuous barrier to ensure that moveable furniture does not spread across pedestrian routes causing an obstruction. The gap in the barrier which people use to access the café/premises should be a minimum of 1.0m wide. The barrier should be a minimum of 1m in height and consist of a solid panel or other screening to define the licensed area. It should also contrast with the colour of the pavement. The use of posts and ropes is not permitted.
  2. The enclosure must incorporate a solid detectable lower rail or edge not higher than 150mm above ground level and a solid detectable upper rail or edge not higher than 1000mm for use by those with sight loss or a visual impairment who use a cane. The barrier should have no sharp or protruding parts. Post bases should not protrude beyond the outer edge of the enclosure.
  3. A pavement cafe should never be positioned such that pedestrians have to pass through tables and chairs.
  4. Enclosures should be sufficiently sturdy to withstand wind loading or accidental collisions by pedestrians or other pavement users, however, they must not be fixed to the surface and should be capable of being moved when required.
  5. The use of planters for enclosures is acceptable provided they conform to the requirements set out above including the provision of a tap rail and can be easily moved for access if required.

# Other Considerations

* 1. Umbrellas, parasols, heaters or similar must not extend beyond the area of the pavement café and should also be properly weighted and not have a highly reflective material/coating. Menu boards, A-boards, hanging baskets or similar must be positioned within the area of the pavement café and not provide an additional obstacle to footway users.
  2. Any part of a pavement café must not impede footway drainage.
  3. The provision of awnings, canopies, blinds or similar may require planning permission. However, such covers should not extend beyond the footprint of the pavement cafe.
  4. All elements of the pavement cafe (furniture, enclosures etc) must not be fixed to the pavement and must be removable within 20 minutes of a request from DfI Roads or other Statutory Authority (such as a utility company), the licensee will remove all elements of the pavement cafe to allow for a safety inspection of the highway surface, street lighting, cabinets, chambers or underground services. There can be no claim for compensation as a result of any disruption to facilitate this work. Licensees are responsible for informing the Council that such work is to be carried out.
  5. The Licensee will facilitate any work considered necessary by DfI Roads or other Statutory Authority as a result of a safety inspection or other identified fault.
  6. If it is considered by DfI Roads that any damage to the highway surface has occurred as a result of the operation of the pavement cafe then the Licensee is required to either undertake the necessary repairs, in compliance with the specified requirements, within a reasonable time or, if agreed, reimburse DfI Roads for completing the repairs.
  7. The Licensee must ensure that they have sufficient public liability insurance in place to indemnify against all losses and claims in respect of death of or injury to any person or loss of or damage to any property which may arise out of or in consequence of using the footway or other adopted area for a pavement cafe.

# Appendix 1 – pedestrian counts

* 1. Pedestrian counts are only necessary if the applicant is proposing to reduce the clear footway width to **less than 2.0m. Where possible 2.0m should be used.**
  2. Pedestrian counts should be carried out at a fixed point adjacent to the proposed pavement café for intervals of 1 hour. E.g. 08:00 to 09:00 or 09:00 to 10:00 etc.
  3. The count should be a simple tally of the number of pedestrians passing a fixed point within that hour.
  4. The count should be undertaken during the following periods;
* High Streets - Peak Pedestrian Time: Saturday 14:00 to 18:00, although weekday flows often have similar levels.
* Office and retail - Peak Pedestrian Time: Weekday 08:00 to 10:00 or 16:00 to 19:00.
* For additional information please refer to the Pedestrian Comfort Guidance for London.(8)
  1. For applications where the clear footway width is less than 2.0m, pedestrian count information should be included in the application or during initial meetings with council officers, to inform the suitability of the site for further consideration.
  2. Once the pedestrian count has been verified, The DfI Assessor will complete the comfort level check following a verification of the data received from the application. The check will be completed considering street furniture or other influencing factors such as static pedestrian data or loading bays.

# Reference Documents

1. DfC - Guidelines to the Licensing of Pavement Cafés Act (Northern Ireland) 2019 - [https://www.communities-ni.gov.uk/publications/guidelines-licensing-pavement-cafés -act-northern-ireland-2014](https://www.communities-ni.gov.uk/publications/guidelines-licensing-pavement-cafes-act-northern-ireland-2014)
2. DfC Guidance Annex A - Licensing Forum for Northern Ireland – A Guide to Applicants - [https://www.communities-ni.gov.uk/publications/guidelines-licensing-pavement-cafés -act-northern-ireland-2014](https://www.communities-ni.gov.uk/publications/guidelines-licensing-pavement-cafes-act-northern-ireland-2014)
3. The Design Manual for Roads and Bridges –– CD 143 Designing for walking, cycling and horse-riding (formerly DMRB, TA 90/05) - <https://www.standardsforhighways.co.uk/dmrb/search?q=cd%20143&pageNumber=1>
4. Northern Ireland Act 1998; Section 75 - <http://www.legislation.gov.uk/ukpga/1998/47/section/75>
5. ECNI - Effective Section 75 Equality Assessments: Screening and Equality Assessments - <https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/S75Advice-ScreeningEQIA.pdf>
6. Inclusive Mobility - A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure- [Inclusive mobility: making transport accessible for passengers and pedestrians - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians)
7. Development Control Advice Note 15 – Vehicular Access Standards’ ([DCAN 15](http://www.planningni.gov.uk/de/index/policy/supplementary_guidance/dcans/dcan15.htm)) - <https://www.planningni.gov.uk/de/index/policy/supplementary_guidance/dcans/dcan15.htm>
8. Pedestrian Comfort Guidance for London- <https://content.tfl.gov.uk/pedestrian-comfort-guidance-technical-guide.pdf>
9. Pedestrian Comfort Spreadsheet calculator <https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fplanning.data.tfl.gov.uk%2FPedestrian%2520Comfort%2520Level%2520calculator.xls&wdOrigin=BROWSELINK>

**Further Reading**

* IMTAC; Report on the IMTAC Pedestrian Workshop held on 5th February 2020 (dated May 2020) - <https://www.accessibletravelni.org/your-experiences/putting-people-first-report-on-the-imtac-pedestrian-workshop-held-on-5th-february-2020/>
* IMTAC; Evaluating the Impact of the Introduction of Pavement Café Licensing on the Mobility of Disabled People and Older People in Northern Ireland (dated July 2019) - <https://www.imtac.org.uk/publications/evaluating-impact-introduction-pavement-cafe-licensing-mobility-disabled-people-and>
* IMTAC - Comments from IMTAC on DfI Roads Pavement Cafés Draft Guidance – Highway Considerations (dated January 2018) - [https://www.imtac.org.uk/publications/comments-imtac-dfi-roads-pavement-cafés -draft-guidance-highway-considerations](https://www.imtac.org.uk/publications/comments-imtac-dfi-roads-pavement-cafes-draft-guidance-highway-considerations)