

Guidance and Conditions for the Use of the Public Road for Outdoor Hospitality

Permission to use any part of the adopted road, including the footway, for outdoor hospitality (or any use involving the placing of tables, chairs and other furniture within the public road) is granted by the issue of a permit by Moray Council as the Roads Authority, under Section 59 of the Roads (Scotland) Act 1984.

Tables and chairs placed on any part of the adopted road without such permission constitutes an obstruction and the Council will take enforcement action in such cases.

The granting of such permission Under Section 59 of the Act only relates to the occupation of the road and applicants will need to ensure that they obtain all of the necessary permits and permissions e.g. alcohol licensing.

The granting of other relevant permits/consents should not be taken as an indication that occupation of the road will be permitted.

Location

Outdoor hospitality will be considered on footways and other pedestrianised areas where there is public access.

Junction visibility splays must be maintained at all times. This may mean increasing the unobstructed footway width to accommodate this requirement. This will have an impact on proposed sites at or near junctions.

Outdoor hospitality should generally be situated adjacent to the premises from where they are intended to be serviced from the premises to the outdoor hospitality area. If the area is directly in front of the applicant's premises then a 1.5 metre wide unobstructed access corridor to the premise's entrance must be maintained at all times.

The outdoor hospitality area must be physically delineated by a removable barrier to define the operational area. No fixing or marking of any kind will be permitted on the public road. The barrier must be distinguishable and not create a hazard to other road users, particularly those with visual impairments.

The design of the barrier must solid bar elements between 100mm and 1000mm above ground level, with a low level kick board or similar which can be detected by the visually impaired using a long cane.

Materials should be lightweight and portable but strong enough to prevent collapse if accidentally walked or stumbled into. Rope barriers will not be permitted.

It is the responsibility of the permit holder to ensure that all barriers, tables, chairs etc. are removed off-street outwith the agreed operational hours, or when the hospitality area is not in use.

Furniture

The furniture should be of a sufficient quality and form of construction to ensure it will not be blown away by the wind or be easily moved to another area where it can cause a hazardous obstruction, and as a general principle plastic garden furniture is unlikely to be sufficiently robust. Where umbrellas are provided these must be fabric type (i.e. non-reflective). They must be positioned to avoid causing an obstruction/hazard by overhanging beyond the barriers or impairing pedestrian/vehicle sight lines.

Non-furniture items, such as menu boards, signs and portable gas heaters must be approved and comply with relevant safety standards, where applicable, and be retained within the limits of the barriers.

The Council reserves the right to remove any obstructions resulting from items being placed outwith the approved limit of the hospitality area. All furniture and non-furniture items must be removed at the end of each working day.

Environmental Requirements

It will be the responsibility of the operator to keep the hospitality area clean and free from litter during the permitted hours of operation.

In general, the preparation or cooking of any form of food must be carried out from within registered premises and not in the outdoor hospitality area to prevent the risk of food contamination and the uncontrolled dispersal of cooking vapours.

If the proprietor wishes to prepare or cook food within the hospitality area then consent may be required from Environmental Health to ensure compliance with Food Premises Regulations.

The operator must provide suitable and adequate lighting if it is intended that the outdoor area is used during the hours of darkness. Any lighting must be designed in such a manner as to avoid distracting or confusing drivers and pedestrians.

Requirements for Approval

It is a condition of consent that applicants remove, at short notice, all tables, chairs and associated items at any time they are requested to do so by the Council, any Statutory Undertaker or by the emergency services, in order to respond to an emergency situation (eg a burst water pipe).

Applicants should also note that consent may be suspended by the Council at any time to allow for road works, large events or for any competent reason. There will be no refund of the application fee for periods when the permitted area is not available.

Permission to operate an outdoor hospitality area will normally be granted for a 12 month period to allow the Council to monitor the operation of the facility and to ensure that the conditions are being adhered to.

Applicants must reapply on an annual basis confirming that the area to be occupied has not changed. Please ensure that you apply for any renewal at least 21 days before the expiry of any current permission.

Conditions

1. The minimum width of unobstructed space between the carriageway and the front of the outdoor hospitality area must be no less than 2.0 metres (1.5 metres if previous planning permission exists).
2. Junction visibility splays must be maintained at all times.
3. A 1.5 metre wide unobstructed access corridor to the premise's entrance must be maintained at all times.
4. Solid barriers must be approved and have solid bar elements between 100mm and 1000mm above ground level with a low level kick board or similar which can be detected by the visually impaired using a long cane..
5. Rope barriers will not be permitted.
6. All emergency routes and exits must be kept clear at all times.
7. All furniture and non-furniture items must be removed at the end of each working day. Should furniture and non-furniture items be persistently left on the public road then they may be removed by the council and the cost of removal/storage/destruction will be recovered
8. The permit requires renewal on an annual basis.
9. Applicants will be required to provide (with the application) proof of Public Liability Insurance as indemnification against all claims, injuries or accidents with cover up to a minimum of £5 million for any one event, which shall remain in force throughout the permission. This proof is also required to be provided with any subsequent applications for renewal.
10. The area occupied must be washed at the end of each working day, prior to reopening the area to the general public. The operator is required to make adequate provision for the storage and disposal of all waste and litter.
11. The preparation or cooking of any form of food is not generally permitted within the outdoor hospitality area. Any area where food will be served will be designated as 'no smoking'.
12. The hours of operation must be agreed with the Council prior to commencement of operation of an approved outdoor hospitality area. However permission will not be granted before 08.00 nor after 22.00.

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13. Applicants must remove, at short notice, of all tables, chairs and associated items at any time they are requested to do so by the Council, any Statutory Undertakers or by the emergency services.
14. Applicants will be liable for any damage to the public road resulting from the placement of furniture and non-furniture items. The costs of any repairs required as a result of damage associated with the use of the area shall be recovered by the Council.