

North Somerset Council

REPORT TO THE LICENSING COMMITTEE

DATE OF MEETING: 5 NOVEMBER 2019

SUBJECT OF REPORT: MID-YEAR REPORT FOR THE ADMINISTRATION AND ENFORCEMENT OF ALL LICENSING REGIMES

TOWN OR PARISH: ALL AREAS

OFFICER/MEMBER PRESENTING: DIRECTOR OF DEVELOPMENT AND ENVIRONMENT

KEY DECISION: NO

RECOMMENDATIONS

Members of the Committee are invited to note some of the outcomes and highlights of the various Licensing regimes undertaken by the North Somerset Council Licensing Team.

Following a public consultation, Members are also invited to review the responses to the proposals within the revised Street Trading and Street Café Licensing Policies and new Film Classification Policy. The Committee are invited to agree a final draft of all three policies and to recommend they are referred to Full Council for adoption.

SUMMARY OF REPORT

This report provides an interim update of some of the main activities carried out by the Licensing Team within the financial year 2019/2020. Information is provided regarding the issue and maintenance of licences, enforcement activities undertaken, and implementation of responsibilities under the legislation enforced.

Officers have carried out public consultations to seek views on the revision of several policies used by the Licensing Authority in its decision making process. The report summarises the main content of responses and suggests policy amendments for discussion and agreement prior to referral for adoption by Full Council.

POLICY

2.2 Statutory and Local policies have been agreed by the Council as follows:

- Licensing Act 2003 –statement of Licensing Policy (2015-2020)
- Gambling Act 2005 – statement of principles (2019-2022)
- Sex Establishment Policy
- Street Café Policy
- Street Trading Policy
- Taxi & Private Hire Licensing Policy (2019-2023)

- Film Classification Policy (currently proposed)

These policies direct the Licensing Authority in the discharge of its responsibilities under the legislation it administers and enforces.

DETAILS

3.1 Mid-Year update

3.2 The Team continues to prioritise services delivered operating a “Traffic Lights” system in relation to licensed premises. This is a multi-agency approach to compliance and allows for targeting of problem premises with a view to supporting them back to compliance. Only one premise is currently rated “RED”, the Licence holders have been issued a formal improvement action plan monitored closely by Licensing Officers and the Police. The level of incidents noted at the premise has already significantly reduced and there is confidence that the licence holders can now run a more compliant and safe operation.

3.3 Multi-agency partnerships continue to be a real strength with a recent exercise (Operation Trader) identifying faults with taxis, waste carriers and scrap metal dealers. The Licensing team have further joint taxi-stop operations planned with Road Traffic Police officers, DVSA and HMRC both locally and at Bristol Airport in the near future.

The relationship with members of all the Responsible Authorities continues to be an asset to Licensing functions. Weston Town Centre Police team in particular continue to be very supportive and interact on a very regular basis for joint visits, intelligence sharing and a focus on reducing issues in the night time economy.

3.4 The Licensing Team are proud to be involved again with the awarding of the Purple Flag status for Weston-super-Mare. The formal assessment for this year’s award takes place at the end of November and officers are keen to share their excellent working practices and multi-agency approaches with the Purple Flag team once again.

3.5 In addition to the day-to-day assessment, issue and enforcement of licences and permits, the team are involved in an increasing number of diverse and exciting outdoor events. There has been a marked increase in the number of food festivals across the district this year with more planned in 2020. There are also new music events planned for Weston seafront and Ashton Court. Added to the recent confirmation that National Pride will be held in North Somerset in 2021, there will be some both exciting and challenging licensing activities ahead.

3.6 Policy Reviews

3.7 Film Classification Policy

A public consultation was carried out between 22nd July 2019 and 13th October 2019. There were no responses received with either negative or supporting comments and the Committee are therefore asked to recommend the policy for adoption.

3.8 A final draft copy of the proposed Film Classification Policy is shown at **Appendix 1**.

3.9 **Street Trading**

3.10 A public consultation was carried out between 22nd July 2019 and 13th October 2019. The following responses were received during that period:

Comments only		
Respondent	Comment	Action
Backwell Parish Council	No comments to add	None
Long Ashton Parish Council	No comments to add	None
Anonymous	The revised policy is fit for purpose	None

RED text (*Appendix 2*) – spelling and grammatical corrections, non-contentious changes accommodated.

Respondent	Comment	Action
Council Senior Legal Advisor	1.8 – suggestion of additional wording to objectives section	Agreed, added to document at 1.8 (a) (b) (c)
Wrighton Parish Council	1.3 - Spelling mistake	Corrected
	2.3 - Spelling mistake	Corrected
	Appendix B.3 – grammatical errors in sentence construction.	Corrected
Nailsea Town Council	4.4 – request inclusion of Town and Parish Council as consultee on renewals	Agreed, added to document at 4.4(c)
Anonymous	2.2 – clarification of goods sold on a shop frontage being associated with the usual business	2.2 (e)ii – “usual” added to the wording for clarification.
	Appendix B.7 – reference only to CCTV being in Weston town centre. Request to widen and mention officer patrols	Amended wording to reflect district wide CCTV coverage and officer foot patrols
	Appendix D.9 – out of date wording regarding television and recording devices	Wording amended to read “sound or music amplification equipment”
	Appendix D.25 – states June, should be July	Corrected

BLUE text (*Appendix 2*) – Points for discussion

Respondent	Comment	Action
Anonymous	1.3 – reference to “licensed” streets only applies in WsM town centre, this requirement should be district wide?	Suggest broadening wording to encompass all permits and licences
	3.2 – application requirements seem onerous for fetes, school fairs etc.	Suggested additional wording

Anonymous	5.12 – Deposit of 50% of application fee returned if application is refused. Suggestion that this is a sunk-cost?	Removal of 5.12. Alteration to wording to clarify charging and refunds at 7.4.
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3.11 Members of the Committee are invited to discuss the content of the responses and to agree any changes within the final draft.

3.12 Street Café

A public consultation was carried out between 22nd July 2019 and 13th October 2019. The following responses were received during that period:

Comments only		
Respondent	Comment	Action
Wrington Parish Council	Fully support Policy	None
Backwell Parish Council	No comments to add	None
Anonymous	Strong support for the policy and for promoting the safety and enjoyment of visitors.	None
Anonymous	Concerns that the scheme is just an income stream for the Authority.	None – the scheme is a cost-recovery regime only.
Anonymous	Consideration should be given to the allowance and placement of A-Boards	Wording added re containment. NC has separate A-Board Policy.
Long Ashton Parish Council	Suggest reduction in terminal hour for residential areas.	Considered but maybe difficult to define areas.

RED text (*Appendix 3*) – spelling and grammatical corrections, non-contentious changes accommodated

Respondent	Comment	Action
Cllr Davies (Leader)	Difference in timings noted between Appendix B.1 and those stated in 7.7	Agreed, added to document at 1.8 (a) (b) (c)
Locking Parish Council	Addition of requirement to provide ashtrays in smoking areas.	Already within policy at 6.3
North Somerset Council	Clarification should be added in section 4 regarding required measurements for items placed in the street café area.	Agreed – wording changed in 4(c)
Development and Regeneration Manager	Wording regarding alcohol at section 4.8 is poorly worded and needs clarification.	Agreed, wording changed at 4.8.
	Clarification within 4.9(f) regarding planning permissions for advertising .	Agreed, wording altered as no advertising permission needed for temporary structures.

	References to planning may need further content.	Suggest add link to planning enquiries at and remove references to planning not directly related to Street Café licensing (4.9b)
North Somerset Council Access Officer for the disabled	References to Equality Act 2010 and associated wording requires updating.	Agreed, wording changed at 1, 2.1,4.9(c), 6.3, 9.6, App C

BLUE text (Appendix 3) – Points for discussion

Respondent	Comment	Action
Cllr Davies (Leader)	Would like to remove permissions for Patio and outdoor heaters due to environmental impact.	Point for discussion.
Cllr Petty	Would like to remove permissions for Patio and outdoor heaters due to environmental impact.	Point for discussion
Clevedon Town Council	Would like to remove permissions for Patio and outdoor heaters due to environmental impact.	Point for discussion
Cllr Davies (Leader)	Wishes to add a requirement for all street cafes to be smoke-free	Point for discussion
Cllr Petty	Wishes to add a requirement for all street cafes to be smoke-free	Point for discussion
Anonymous	Wishes to add a requirement for all street cafes to be 75% smoke-free	Point for discussion
Cllr Bell	Expressed concerns around enforcement of smoke-free requirements, could be considered too coercive a response to public health issue of smoking.	Point for discussion
Anonymous	Zoning of smoke-free areas will not be enforceable due to smoke drift.	Point for discussion
Locking Parish Council	Wish to see a requirement added for use of china and reusable glass/plastic rather than any	Suggest additional wording to this effect.

	single use cardboard and plastics in external areas	
Cllr Petty Cllr Bell Anonymous	Wish to see a condition preventing single use plastics being used in street café areas.	Suggest additional wording to this effect.
Locking Parish Council Anonymous	Wish to see a requirement added for food and drink served to external areas to be unwrapped, plated etc to minimise litter issues.	Suggested additional wording to this effect.
Clevedon BID	Wish to abolish the fees and revert to a “light touch” approach. Commented that the scheme is expensive and an administrative burden to struggling small businesses.	Point for discussion.

3.13 Members of the Committee are invited to discuss the content of the responses and to agree any changes within the final draft.

CONSULTATION

4.1 Public consultations were carried out in the period since the last report was heard by the Licensing Committee in relation to revised policies for both the Street Trading and Street Cafe regimes. Consultation was also carried out in relation to the introduction of a new Film Classification Policy.

FINANCIAL IMPLICATIONS

5.1 The Authority continues to use suspension powers for non-payment of fees. Recovery of outstanding fees is a priority.

Costs

5.2 Costs for the administration of licensing regimes, monitoring of compliance of permissions and the policies that accompany them are off-set against the fees charged to applicants.

Funding

5.3 The team continues to review the costs of each licensing regime to ensure the appropriate fees are levied to maximise cost recovery for the Local Authority.

LEGAL POWERS AND IMPLICATIONS

6.1 The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the service. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder

Partnerships and the Vehicle and Vehicle Standards Agency (DVSA) towards the promotion of any licensing objectives.

6.2 In undertaking its licensing function, the Licensing Authority has regard to the following legislation:

- Town and Police Clauses Act 1847
- Transport Act 1980 & 1985
- Road Traffic Acts The Local Government (Miscellaneous Provisions) Act 1976, as amended
- Environmental Protection Act 1990
- Health Act 2006
- The Smoke-free (Premises and Enforcement) Regulations
- The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007
- The Equality Act 2010
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002

6.3 The Licensing Authority also has regard to any other relevant legislation, strategies, policies and guidance in its decision-making.

RISK MANAGEMENT

7.1 Regularly reviewing licensing policies and practices reduces the risk to the Authority.

Using a risk-rated approach to both proactive and reactive enforcement allows the team to focus resources in problem areas, promoting public safety.

Ensuring MoU agreements are in place with external partner agencies also help to strengthen roles and responsibilities surrounding Licensing work.

EQUALITY IMPLICATIONS

8.1 It can be noted that the proposed revisions to the Street Café policy have regard to the required provisions for disabled persons and the general issue of accessibility. This is to ensure that legal requirements and best practice standards are updated.

8.2 An Equality Impact Assessment was carried as part of this report in relation to the Street Café policy. This is attached at **Appendix 4**.

CORPORATE IMPLICATIONS

9.1 No corporate implications noted as part of this report .

OPTIONS

10.1 Having considered the content of the draft policy documents; and having taken into account the content of responses received during the period of public consultation, the Committee are requested to:

1) Agree the content of the final (draft) policies for:

- Film Classification Policy
- Street Trading Policy 2020 – 2024
- Street Café Policy 2020 – 2024
- The representations made.

2) Recommend that the policies are adopted by Full Council.

AUTHOR

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APPENDICES

APPENDIX 1 – Film Classification Policy (Draft)
APPENDIX 2 – Street Trading Policy (Draft) 2020-2024
APPENDIX 3 – Street Café Policy (Draft) 2020 - 2024
APPENDIX 4 – Equality Impact Assessment

BACKGROUND PAPERS

None



Film Classification Policy 2019

North Somerset Council, Licensing Team, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Tel: 01934 426 800

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Foreword

The Council, as the Licensing Authority, is responsible for authorising the public exhibition of films.

Section 20 of the Licensing Act 2003 (the Act) states that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board of Film Classification (the BBFC) or by the Licensing Authority itself.

The purpose of this Policy is to set out the formal procedure for the Licensing Authority to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions or requests to reclassify films.

The policy is being introduced to encourage the already diverse and thriving creative community in North Somerset to show locally created films at licensed premises.

A public consultation process was carried out with the policy being agreed by the Full Council for approval on

The Authority will look to review this policy regularly and will amend the content in light of any legislative or other relevant changes.

1. Introduction

- 1.1 North Somerset Council, the licensing authority for the District of North Somerset, has produced this Film Classification Policy in accordance with Section 5(1) of the Licensing Act 2003.
- 1.2 The Act requires that the licensing authority carry out its various licensing functions so as to promote the following four licensing objectives:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 1.3 Each objective is of equal importance and there are no other licensing objectives. These four objectives are of paramount consideration at all times and are considered in more detail in North Somerset Statement of Licensing Policy 2015-2020.
- 1.4 The Film Classification Policy is concerned primarily with the following two licensing objectives, the former being the most relevant:
- The protection of children from harm.
 - The prevention of crime and disorder;
- 1.5 The BBFC states two over-riding principles which this policy supports:
- To protect children and vulnerable adults from potentially harmful or otherwise unsuitable content
 - To help children and families choose what's right for them and avoid what's not
- 1.6 Where a premise seeks or intends to exhibit film(s), that venue must be covered by a Premise Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003. Under The Act, the definition of the exhibition of a film is "the exhibition of moving pictures."
- 1.7 The provision of the exhibition of a film(s) is exempt from regulation by the Licensing Act 2003 if **either**:
- It consists of, or forms part of, an exhibit put on show for any purposes of a museum or art gallery (the LA03 does not define a museum or art gallery so the ordinary meaning of the term is taken)
- or:**
- Its sole or main purpose is to:
 - (a) demonstrate any product,
 - (b) advertise any goods or services (excluding the advertising of films), or
 - (c) provide information, education or instruction

It should be noted however, that advertisements for goods or services require clearance from The Cinema Advertising Association (CAA). From 1st April 2016 the CAA is the sole clearance body for commercial advertising in cinemas.

1.8 Reasons for Classification

The Licensing Authority, when authorising film(s), shall at all times take into account the Guidance issued under section 182 of the Licensing Act 2003 (the National Guidance).

1.9 The Licensing Authority may be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) in the following circumstances:

- (a) a distributor of a film may appeal against the decision of the BBFC and request that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions); or
- (b) An independent party may request that the Licensing Authority reclassifies/authorises the film for local screening (with recommendations on age restrictions).

1.10 In addition, the Licensing Authority may be requested to authorise the showing of an unclassified film(s). This normally occurs in the following cases:

- A film festival covering a specific period of time
- A one off screening of a film
- A trailer for a film

2. Protection of Children from Harm

In accordance with paragraph 10.31 of the National Guidance, the Licensing Authority shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the licensing objectives.

Paragraph 2.41 of the National Guidance states:

“The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.”

3. Principles in determining film classifications

3.1 BBFC Classification

The BBFC classifies films in accordance with its published Guidelines, which are based on extensive research into public opinion and professional advice. A copy of these guidelines is shown at **Appendix A**.

The National Guidance under Section 182 of the LA03 recommends that:

“ Licensing Authorities should not duplicate the BBFC’s work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.”

- 3.1.2** The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system, and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s).

It should be noted however that the Licensing Authority is not obliged to follow these guidelines.

- 3.1.3** Where a licensed premise seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film. The procedures outlined later in this document will be followed.

3.2 Human Rights

The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. Material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or has been created through the commission of a criminal offence.

3.3 General Policy

- 3.3.1** Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
- 3.3.2** Any authorisations for the exhibition of film(s) issued by the Licensing Authority shall only apply when the film(s) is exhibited within North Somerset Council and does not affect the authorisation or recommendations in any other borough.
- 3.3.3** Once authorised by the Licensing Authority a film will be authorised for a particular showing or festival only subject to the recommendations imposed by the Licensing Authority (unless further application for re-classification is made). Details of the authorisation including any recommendations shall be available from the Council’s Licensing Team.
- 3.3.4** The Licensing Authority will consider each authorisation on its own merit and may impose additional and more specific recommendations where it deems necessary in order to comply with the Protection of Children from Harm Licensing Objective.

3.3.5 The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.

3.3.6 Where the Licensing Authority has determined to refuse authorisation of a film(s) clear and concise reasons shall be given.

4. Procedures for authorisation requests for approval of films already classified by the BBFC

4.1 Applications for authorisation of films already classified by the BBFC shall be referred to and determined by the Licensing Sub Committee on behalf of the Licensing Authority. This Sub Committee shall consist of three Members of the Licensing Committee.

4.2 Applications should be submitted in writing to the Licensing Department using the film synopsis form shown at **Appendix B**.

An application for authorisation should include the following information:

- (a) the film maker;
- (b) such recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
- (c) any existing classification issued by an existing classification body, whether within or outside the UK;
- (d) a synopsis identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film. Where an applicant seeks an authorisation allowing exhibition of the film to persons 18 years and over only, a detailed synopsis will not be required;
- (e) if known, a legitimate and legal internet site where the film, or a portion of the film is available to view without charge;
- (f) any proposals on age restrictions for viewing the film that the applicant intends to impose; and
- (g) details of how age restrictions will be enforced.

4.3 In accordance with the National Guidance all requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant.

If DVD format is not possible then arrangements will be made for a suitable venue to view the film. This will allow the Licensing Sub Committee time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions the Licensing Authority may impose. In any event, all requests should be submitted in writing to the Licensing Authority a minimum of **28 days** before the proposed screening.

4.4 Where an individual or organisation not connected with the film(s) requests reclassification of a BBFC classified film, they are not expected to provide a copy of the film(s).

The Licensing Authority will then make suitable arrangements to view the film. It is also accepted that in these circumstances, it may not be possible to give **28 days'** notice before the proposed screening.

- 4.5 All requests must be accompanied by detailed reasons for the request. Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.
- 4.6 The Sub Committee will view the entire film and assess it against the BBFC guidelines and National Guidance. The Sub Committee shall issue a Notice of Determination of the authorisation within **5** working days from the date of viewing.
- 4.7 The Licensing Authority will then formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 4.8 Requests must be relevant to the Protection of Children from Harm licensing objective and not frivolous, vexatious or repetitive. Requests may also be relevant to the Prevention of Crime and Disorder licensing objective but only in relation to the contravention of the current interpretation of the Obscene Publications Act 1959 or any other relevant legislation.
- 4.9 In line with the National Guidance, where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.

Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.

- 4.10 In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall have regard to National Guidance, e.g.:
 - *Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme*
 - *Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.*

5. Procedure for authorisation of films which have not been classified by the BBFC or North Somerset Council

- 5.1 Application for authorisation will in the first instance be considered by officers under delegated powers. Any request to authorise an unclassified film may however be referred by the Licensing Manager to the Licensing Sub-Committee for determination.
- 5.2 Applications should be submitted in writing to the Licensing Authority a minimum of **28 days** before the proposed screening.

5.3 An application for authorisation should include the following information:

- (a) the film maker;
- (b) such recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
- (c) any existing classification issued by an existing classification body, whether within or outside the UK;
- (d) a synopsis identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film. Where an applicant seeks an authorisation allowing exhibition of the film to persons 18 years and over only, a detailed synopsis will not be required;
- (e) if known, a legitimate and legal internet site where the film, or a portion of the film is available to view without charge;
- (f) any proposals on age restrictions for viewing the film that the applicant intends to impose; and
- (g) details of how age restrictions will be enforced.

5.4 In accordance with Annex D, Part 5 of the National Guidance all requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made for a suitable venue to view the film. This will allow the Licensing Department time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions the Licensing Authority may impose.

In any event, all requests should be submitted on the Licensing Authority's application form a minimum of **28 days** before the proposed screening.

5.5 The Licensing Department, whilst viewing the film(s) will have regard to BBFC Guidelines and National Guidance and shall issue a Notice of Determination of the application within **5** working days from the date of the viewing.

5.6 When considering all such requests the Licensing Sub-Committee will pay particular attention to the Protection of Children from Harm Licensing Objective.

5.7 In line with of the National Guidance, where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.

Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.

5.8 In these circumstances, the licence holder will be required to display, in a conspicuous position, a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall adopt the example as laid out in the National Guidance:

- *Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme*
- *Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.*

- 5.9** In order to ensure the promotion of the Protection of Children from Harm and Prevention of Crime and Disorder licensing objectives, the Licensing Authority will formally advise the licence holder and applicant of any recommendation(s) on the restriction on the age of access for children to the film(s). This may also include any relevant notices required to be displayed by the licence holder inside and outside the premises. The licensed premises hosting the exhibition of film will be expected to comply with these recommendations.
- 5.10** The Licensing Authority recognises the principle that adults should be free to choose their own entertainment and will not normally override this principle -as such requests shall not normally be refused. However, in all cases the Licensing Authority will expect the applicant to follow the BBFC's Guidelines for 18 and R18 restricted films.

APPENDIX A

BBFC guidelines

<https://bbfc.co.uk/sites/default/files/attachments/BBFC%20Guidelines%202019.pdf>

APPENDIX B

FILM SYNOPSIS

Film Name		Produced	
Showing			
Film Synopsis – (please provide general outline of the film including its context, overall tone and impact. Also advise if any of the matters below may be considered mild, moderate, strong or very strong in nature and their frequency)			
General Description			
Discrimination			
Drugs			
Horror			
Imitable Behaviour			
Language			
Nudity			
Sex			
Theme			
Violence			
Premises Policies			
Child Protection Policy			
Staff Policy			
Feedback Procedures			
Notice Provisions			
Usher Provision			
Proposed Age Restriction			

In order to recommend an appropriate restriction of access for children, the authority requires information to be provided by the proposed exhibitor –

- A synopsis of the film programmes(s) giving sufficiently detailed and accurate information on any potentially controversial issues such as – discrimination, drugs, horror, imitable behaviour, language, nudity, sex, theme, violence and in particular anything considered over 18 – R18 for example.
- Information of active and thorough Child Protection Policies including any permission processes required to be obtained for children to appear in any film exhibition.
- Information on how staff are informed on policies and matters that may be significant at the time of the exhibition.
- Information on feedback and evaluation processes
- Information as to the steps that will be taken to display notices inside and outside the premises so that persons entering can readily read them and be aware of the classification attached to the film.
- Information on the use of sufficient ushers/stewards (minimum 18 years old) to be in attendance at the entrance to the viewing room at all times, to ensure that only children who may view the film or exhibition are permitted access.

DISPLAY OF NOTICES

You will be advised of the notices to be displayed inside and outside the premises when the authority notify you of the classification. The notices will be on the lines of –

PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME. CONTAINS (INSERT DESCRIPTION OF CONTENT OF FILM SUCH AS 'MILD LANGUAGE AND COMIC ACTION')

When you have completed this form, it must be submitted a minimum of 28 days before the proposed showing to:
Licensing Department
North Somerset Council
Walliscote Grove Road
Weston Super Mare
BS23 1RS

Tel: 01934 426800

Email: Licensing@n-somerset.gov.uk

Useful contact details

Licensing Team

North Somerset Council
Walliscote Grove Road
Weston Super Mare
BS23 1UJ

01934 426800

licensing@n-somerset.gov.uk

British Board Film Classification

BBFC
3 Soho Square
London
W1D 3HD

020 7440 0299

helpline@bbfc.co.uk

Cinema Advertising Association

Corinthian House
279 Tottenham Court Road
London W1T 7RJ

020 7199 2433

submissions@cinemaadvertisingassociation.com



Street Trading Policy 2020-2024

North Somerset Council, Licensing Team, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Tel: 01934 426 800

Key to changes

RED Text	<ul style="list-style-type: none">• Corrections• agreed non-contentious changes
BLUE Text	<ul style="list-style-type: none">• Points for discussion

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Foreword

This policy sets out North Somerset Council's requirements for street trading. It details and describes our roles and responsibilities in relation to the administration and regulation of street trading activities within North Somerset.

The street trading legislation, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, was adopted by the Council on 21 July 2010. The development of a single, county-wide street trading policy and necessary administrative and regulatory processes and procedures took place, culminating in a public consultation exercise and the eventual adoption of the policy by the Council

1. Introduction & Scope

- 1.1 This policy has been developed to assist persons applying for Street Trading Consents or Licences in North Somerset. It was agreed by the Full Council on the ----- and sets out the standards for determining applications and the enforcement of street trading activities in the North Somerset area.
- 1.2 The Council has designated all of its administrative area (with the exception of High Street and the Big Lamp Corner area of Meadow Street in Weston-super-Mare) as Consent Streets for street trading purposes. High Street and the Big Lamp Corner area of Meadow Street in Weston-super-Mare have been designated as Licence Streets.
- 1.3 Applicants wishing to ~~trade in a Licence Street~~ **have a Street Trading permit or licence** will be expected to consider additional factors to ensure that the unit enhances the area and complements the street scene. Factors to consider include:
 - a) Visual appearance
 - b) Type of goods being sold
 - c) Location of the unit
- 1.4 North Somerset Council will apply this policy to street trading activities in its area to ensure consistency of decision making. However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.
- 1.5 The purpose of this street trading policy is to provide a decision making framework for the consideration of applications for street trading consents and to create a street trading environment which is sensitive to the needs of the public, provides diversity and consumer choice, and enhances the character, ambience and safety of the local environment.
- 1.6 North Somerset Council is a Unitary Authority in Somerset covering approximately 145 square miles (38,955 hectares) with a population of 204,400 (Office for National Statistics Mid-Year Estimates 2012).

1.7 A map of the North Somerset District, to which this policy applies, is shown at **Appendix A**.

1.8 This policy facilitates the administration of applications for street trading consents and licences. Central to the council's policy are a number of objectives which are set out below:-

- a) **Public Safety** - applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they would achieve that. The location of the proposed street trading activity should not present additional risks to the public in terms of road safety, obstruction and fire hazard. The term "public" refers to both customers frequenting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 5 on site safety assessment criteria and observations made by the Highways Authority.
- b) **Prevention of Crime and Disorder** - applicants should consider when making their application how they will protect the public and local residents from crime and anti-social behaviour. The proposed activity should not present a risk to public order. This is likely to be more of an issue in respect of applicants wishing to trade at later hours.
- c) **Prevention of Public Nuisance** - applicants should consider when making their application how they will control the level of noise or other nuisances emanating from the pitch. Consideration will be given to measures taken to reduce the risk of nuisance from noise, refuse, vermin, fumes and smells.

2. What is Street Trading?

2.1 Street Trading is defined as the selling, exposing or offering for sale of any article in a street. As the definition of "street" includes any land to which the public have access without payment, private land to which the public has free access is also included. Street trading law and associated policy therefore can extend to events off the highway that are conducted on private premises.

2.2 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that the following activities are not 'street trading' and, therefore, prior consent of the Council is not required:

- (a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871 (see point 2.6).
- (b) anything done in a market or fair; the right to hold which was acquired by virtue of a grant (including presumed grant), or acquired or established by an enactment or order.
- (c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- (d) trading as a news vendor i.e. the sale, exposure or offer for sale of newspapers or periodicals, except from a stall or receptacle that exceeds the dimensions set out in schedule 4 of the Act.
- (e) trading which:
 - i) is carried on at premises used as a petrol filling station; or

- ii) is carried on at premises used as a shop or in a street adjoining premises so used as part of the **usual** business of the shop.
- (f) selling things, or offering or exposing them for sale, as a roundsman.
- (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway.
- (f) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
- (g) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

2.3 Consents and Licences will be issued according to the following categories:

A	Single Standard Pitches	Individual units for daily, weekly, quarterly or annual use. Tiered fee structure for licence streets, commercial areas, other highway sites.
B	Event Pitches	An organised block consent for units at events within North Somerset Council's administrative area. Refer to point 3.5.
C	Farmers Markets	Will typically sell locally produced fruits, vegetables, meats, cheeses, drinks etc with produce from within a 25 mile radius of the market.
D	Craft Markets/Street Fairs	Examples of such include school fairs/ fetes and Christmas Markets, small stalls, fundraisers etc.
E	NSC Concession holders	A formally tendered concession agreement with North Somerset Council where holder requires occasional additional units.

Fees for each category will be stated within the Council's published fees and charges and subject to annual review.

2.4 The following Street Trading activities have been deemed by North Somerset Council to not require the payment of fees to the Council:

- (a) Fetes or community events held **solely** for charitable purposes where there is **no** private financial gain for an individual or company.
- (b) Non-Commercial Car Boot Sales (i.e. events organised by organisations that will not involve private gain for an individual or company).

(c) Sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it.

2.5 A trader acting as a 'roundsman' will only require a Street Trading Consent or Licence where trading continues for more than 30 minutes with no return to the same location in the same day.

2.6 A pedlar is someone who travels and trades on foot, going from town to town or house to house selling goods such as pictures and household goods or offering their skills in handicrafts. A person trading in a static position for longer than 10 minutes will be treated as a Street Trader and not a pedlar. A pedlar must hold a certificate granted by a chief constable. Guidance notes for pedlars are shown at **Appendix B**.

3. Submitting an application

3.1 An application for a Street Trading Consent or Licence must be made to North Somerset Council in writing. [Street Trading Application](#) forms are available via the North Somerset Council website.

3.2 The applicant is **normally** required to submit the following documents and fees with the application:

- a) A completed Street Trading application form.
- b) A deposit of 25% of the full fee for an annual Consent or Licence. Fees for all other periods will require submission of the full fee with the application.
- c) A map of the trading site to a minimum of 1:1250 scale. The map should clearly identify the proposed site.
- d) A colour photograph of the stall, van, barrow, cart etc that will be used for the street trading activity.
- e) A copy of the certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000.
- f) Evidence of a formal commercial waste transfer agreement
- g) Written permission from the owner of the land where the street trading is to be carried out on land which is not a public highway.

3.3 The following documents are required to be submitted when renewing a Street Trading Consent or Licence:

- a) A completed Street Trading application form.
- b) The full fee unless the renewal is for an annual Consent or Licence.
- c) A copy of the certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000.
- d) Evidence of a formal commercial waste transfer agreement.

3.4 An application for a Street Trading Consent or Licence will not be entertained where permission of the landowner for the proposed trading site to carry out street trading has not been provided, for whatever reason.

3.5 Applications falling within categories B – E (Section 2.3) may be made by submission of one block consent for each event held.

The organiser in receipt of a block consent will become responsible for all the individual trading activities, including the collection and payment of the relevant fees to the Council, where appropriate.

Applications for block consents must also include Third Party & Liability Insurance covering all traders, or individual insurance for all traders. Food hygiene and Gas safety certification for all traders must also be provided. A site plan showing the maximum number of expected traders and an indication of the type of goods being sold must be supplied with all block applications. A final list of all the confirmed traders to be covered by the block consent must then be provided (with supporting certification) a minimum of 5 working days before the consent is used.

A separate application will still be required for each further event held.

- 3.6** The Licensing Act 2003 requires persons selling hot food between the hours of 2300 and 0500 hours to hold a Premises Licence. This requirement is in addition to the requirement to hold a Street Trading Consent or Licence. Further details on the application process are available from the Licensing Office.

4. Consultation

- 4.1** Before a Street Trading Consent or Licence is granted the Council will carry out a formal consultation process. Consultees will include the following:

- a) The Highways Authority for North Somerset Council
- b) Avon and Somerset Constabulary
- c) North Somerset Council Food/ Health and Safety Team
- d) North Somerset Council Environmental Protection Team
- e) North Somerset Council Ward Members
- f) The appropriate Parish or Town Council
- g) The land owner of the proposed street trading site if it is on private land

- 4.2** The consultation period will be dependent on the duration of the Consent or Licence. The consultation period will commence upon receipt of all the necessary documentation required in section 3.2.

Licence duration (days)	Consultation period (days)
1-6	7
7-14	14
15 +	28

- 4.3** For new applications of 15 days or more, applicants are also required to display a notice at the site for a period of at least 28 days. The notice must contain the following information:

- a) Trading name of the business
- b) Location being applied for

- c) Date application made
- d) Proposed goods to be sold
- e) Proposed days and times of trading
- f) The date which comments can be received by the Licensing Authority
- g) How comments can be made to the Licensing Authority in relation to the application

4.4 The consultation period for applications to renew Licences or Consents will be 14 days and the Council shall consult with the following:

- a) Avon and Somerset Constabulary
- b) North Somerset Council Food/ Health and Safety Team
- c) **The appropriate Parish or Town Council**
- d) Any other person or organisation deemed necessary

4.5 Written observations from any consultee and occupiers of nearby properties (within 100 metres of the proposed site) will be taken into consideration when determining an application made to the Council.

5. Determining an application

5.1 The Licensing Authority will use the criteria listed below in the determination of Street Trading Consents or Licences. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case though will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

5.2 Commercial Need

Consideration will be given to the number of other traders in the vicinity of the application site. The presence of other like trading outlets and the proximity of schools shall be taken into consideration. Fast-food vendors will not normally be permitted to trade within 500m of a school. On lay-bys and trading estates there shall be no other street trading consent granted within 500 metres of an existing consent.

5.3 Sustainability and Product Type

The applicant should set out measures to reduce the environmental impact of the proposed activity. Wherever possible food traders will be expected to use biodegradable materials in connection with the packaging of food served to members of the public. **Single use plastics will not be permitted.**

5.4 Suitability of Trading Unit

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity shall comply with all primary legislation including:

- a) Food Safety Act 1990
- b) Food and Hygiene (England) Regulations 2013 as amended

- c) Health and Safety at Work etc Act 1974 and any regulations made under this Act.
- d) Environmental Protection Act 1990

5.5 Suitability of the applicant

When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a permission including:

- a) Persistent refusal or neglect in paying fees due to the council for a street trading consent or licence or for any other charges due for services rendered by the council to the applicant in his capacity as the holder of a street trading consent or licence.
- b) The Council will not grant a Street Trading Consents or Licences to persons under the age of 17 years.

5.6 Permitted trading hours

The Council will consider each application on its merits before agreeing permitted trading times. Any trading between 2300 – 0500 hours will be subject to a separate application under the Licensing Act 2003 where hot food or refreshments are proposed to be sold.

5.7 Location of trading unit

The proposed trading operation should complement the trading area in which it is situated. In assessing this criterion consideration should be given to the type and nature of locality, the type of street trading that will be carried out and the visual appearance of the trading operation being proposed.

5.8 Street Trading Consents or Licences from static locations will **not be granted where:**

- a) A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
- b) Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- c) There is a conflict with Traffic Orders such as waiting restrictions, or
- d) The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- e) The trading unit obstructs the safe passage of users of the footway or carriageway, or
- f) The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- g) The site does not allow the Consent or Licence Holder, staff and customers to park in a safe manner, or

h) The street 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.

5.9 Where the Council refuses an application the applicant will be informed in writing of the reasons for not granting the application. Decisions of the Licensing Committee and rights of appeal in relation to Street Trading Licences will be accordance with the provisions set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

5.10 There is no right of appeal to the Magistrates Court against decisions of the Council in relation to Street Trading Consents under the Local Government (Miscellaneous Provisions) Act 1982. A person aggrieved by a decision of the Licensing Committee may make an application to the High Court for Judicial Review of the decision. There are strict time limits for making such applications. For further information about the potential grounds for Judicial Review and the procedure for making an application, applicants should seek legal advice from a solicitor as soon as they receive notice of the decision.

5.11 If an application is refused; either at grant or renewal of a Street Trading Licence, any person aggrieved may appeal to the magistrates court against the decision so long as the reason for the decision falls within one of the categories designated under paragraph 3 (6) (d) – (g) of the Local Government (Miscellaneous Provisions) Act 1982. There is no right of appeal where refusal is based on grounds in 3 (6) (a) – (c). of the Act. A right of appeal must be exercised within 21 days of the date when the decision to refuse a licence was notified to the applicant or licence holder.

~~**5.12** Where a deposit has been made with an application, 50% of this deposit will be refunded to the applicant in the case of an application not being granted.~~
Moved to new section

6. Objections to an application

6.1 Where there are no relevant representations made, the application will be deemed as granted and issued by officers under their scheme of delegated Authority.

6.2 The application will be referred to the Council's Licensing Committee for determination if relevant objections are received against the granting of a Street Trading Consent or Licence from any of the following:

- a) Occupiers of property within 100 metres of the proposed site.
- b) North Somerset Council Ward Members (who can object as an individual or on behalf of constituents).
- c) Parish or Town Councils.
- d) Police or Highway Authorities.
- e) North Somerset Council Food/ Health and Safety or Pollution Teams.
- f) The land owner of the site proposed to be used for street trading.

6.3 Officers will assess the objections to determine their relevance based on the following criteria:

- a) Potential, or actual, nuisance to a property occupier from noise, fumes or smells.
- b) Whether any road safety issues have been identified.
- c) Compliance with food and health and safety legislation.
- d) Concern of public order problems resulting from the proposed street trading activity.
- e) Whether there are any fire safety issues present.
- f) Whether the objection is relevant, vexatious or repetitive.

6.4 If a relevant objection is made against an application for a Street Trading Licence or Consent, the applicant will be contacted to discuss the reasons for a potential refusal of the application. During this discussion the applicant will be informed of the criteria from this policy which are considered to have not been met and they will be given an opportunity to discuss any relevant matters in relation to the application.

If after this discussion the applicant still wishes to continue with the application, the application will be referred to the Licensing Committee for determination.

6.5 If a written objection from the person or organisations listed above is received and deemed appropriate, the application will be referred to the Licensing Committee for consideration and determination.

6.6 Persons making written objections will also be informed of a decision to refer an application to the Licensing Committee and notified of the date of the hearing of the application.

6.7 If an applicant refuses an offer of discussing the application with officers, they will be notified of a referral to the Licensing Committee for determination of the application.

6.8 The person making a representation against an application or an existing Street Trading Consent or Licence to the Licensing Committee will normally be expected to attend the hearing. The applicant can be represented by a solicitor, or supported by a friend or colleague. The Licensing Committee will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.

6.9 In determining an application the Licensing Committee will consider presentations from the applicant, a person or organisation making an objection and the Council's Licensing Officer. Applicants and persons making objections to an application should notify the Council's Democratic Services Section at least five working days in advance of the meeting of any witnesses they intend to call and details of any evidence (written, photographic or other material or media) they intend to present at the hearing.

6.10 Where objections have been raised to the granting a Street Trading Consent or Licence the Licensing Committee will consider the objections or representations

made. Only persons who have raised objections to the application will be allowed the opportunity to address the Licensing Committee and ask questions relating to the application. Letters of objection that have been received by the Council will be published in full in advance of a meeting where a contested application is being considered. The letters of objection will also be sent to the applicant.

6.11 The Licensing Committee will consider all the evidence presented to it during the hearing and members may ask questions of the applicant, officers and persons making an objection. After hearing the evidence presented to it, the Licensing Committee will retire and come to a decision on the application. When a decision has been reached the Committee will inform the applicant of their decision, and the reasons for coming to that particular decision. The decision of the Licensing Committee will be confirmed in writing to the applicant within 5 working days of the meeting at which the application was considered.

6.12 The Licensing Committee will always strive to ensure that when it is considering an application that all persons get a fair hearing through:

- a) Considering each case on its merits.
- b) Using these guidelines to assess applications where it is felt appropriate.
- c) Dealing with the application in a balanced and impartial manner.
- d) Ensuring that the rules of natural justice are applied in any hearings held.
- e) Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Committee and present information for consideration in support of their objection.

7. Issue of Street Trading Consents & Licenses

7.1 Street Trading Consents or Licences will be issued for a maximum period of 12 months. Annual Consents or Licences issued will be renewable on the 1st July of any particular year. Shorter term Consents or Licences may be issued on a weekly basis.

7.2 In all cases when a Consent or Licence has expired, and an application has not been submitted to the Council for renewal, a new application will be required. In such cases the application will be subject to the full consideration process outlined in this policy.

7.3 The Consent Holder will not be permitted to sub-let or transfer this Consent, but may surrender it to the Council at any time.

7.4 Fees for each category will be stated within the Council's published fees and charges and subject to annual review.

Fees for Annual Consents or Licences may be paid either in full in advance or on a three monthly basis with the fees being due on the first of April, July, October and January. **All other applications must be accompanied by the full fee.**

If an application is refused any fees paid on application will be returned, less an administration fee.

If an annual licence or permit is surrendered, consideration will be given to refunding fees for any remaining months paid for in advance. No refunds will be available for any other length consents or licences.

- 7.5** Failure to maintain payments of the fee on a three monthly basis will be a breach of the conditions attached to the Consent or Licence. If fees paid on an instalment basis are not made to the Council, the Consent or Licence issued by the Council will be considered for revocation. It is essential that traders electing to pay on an instalment basis ensure that such payments are made on the due dates.
- 7.6** On approving the application the Council will issue a Street Trading Consent or Licence to which conditions will be attached. The conditions attached to the Consent or Licence form part of the approval to carry out street trading in North Somerset and must be complied with at all times. Failure to do so could lead to the Consent or Licence being either revoked, or not renewed.
- 7.7** Additional conditions may be added on a case by case basis and be requested by any of the stated consultees or by the Licensing Committee. These may include specific terms such as days and hours when the street trading is permitted, and goods that may be sold.
- 7.8** A copy of the Council's standard conditions, which are attached to Street Trading Consents, are shown at **Appendix E**.
- 7.9** Annual consents or licences will be subject to a three month probationary period.

8. Conditions & Enforcement

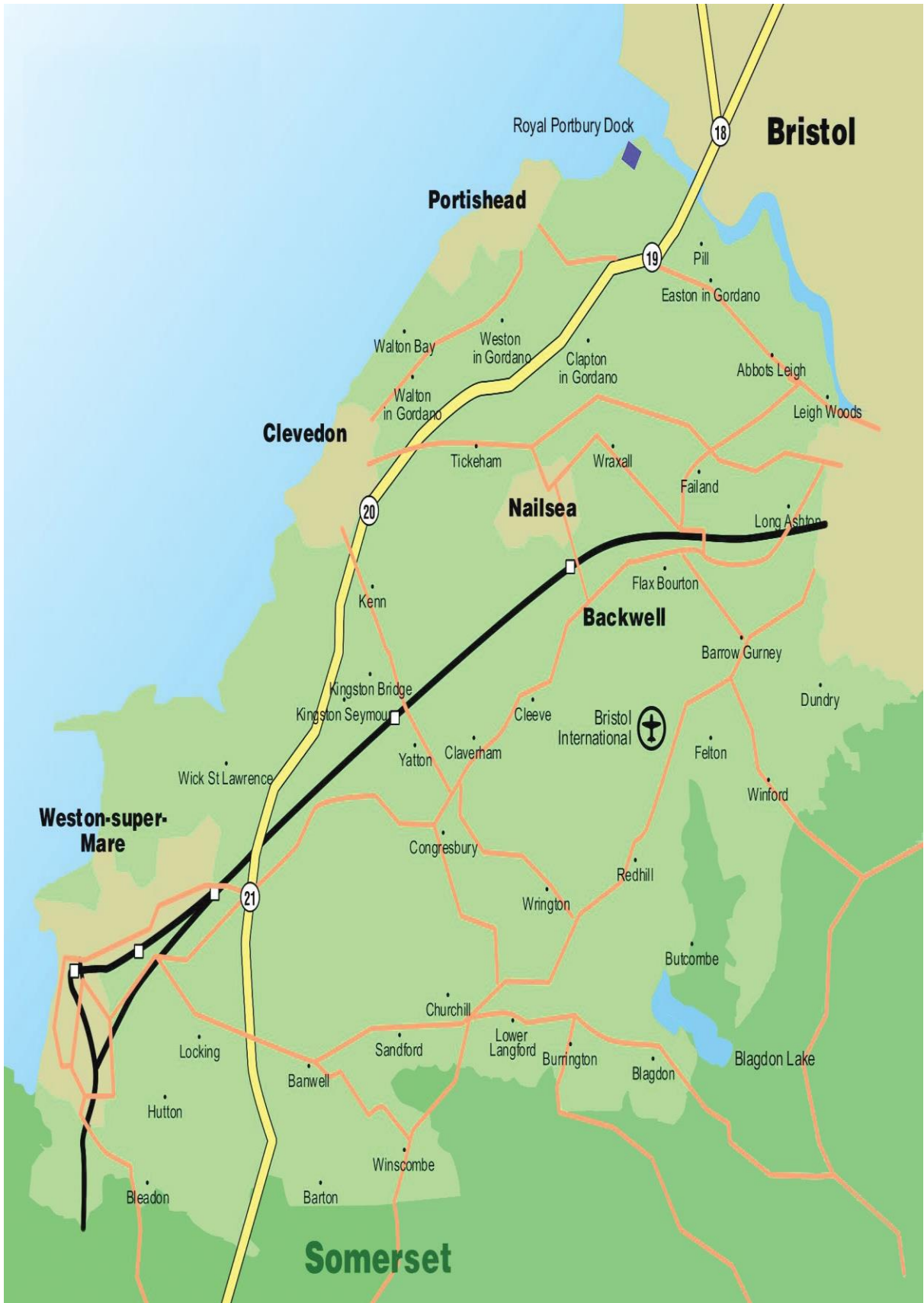
- 8.1** North Somerset Council will actively enforce the provisions of the Street Trading Scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Council Enforcement Protocol, copies of which are available free of charge. If you require a copy please contact the Licensing Team. Contact details are shown at **Appendix F**.
- 8.2** The following principles will be adhered to when carrying out street trading enforcement activities:
- a) **Openness:** The Council will be open about how it enforces the legislation in relation to street trading. It will consult with interested parties and ensure that officers discuss compliance failures or problems with persons experiencing difficulties.
 - b) **Helpfulness:** The Council will work with people to advise on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers.

- c) **Proportionality:** The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk or wider public benefit. Officers will have regard to the human rights of all parties involved in its enforcement activities.
- d) **Consistency:** The Council will carry out its duties in a fair, equitable and consistent manner. Officers will have regard to national Codes of Practice and guidelines and the contents of this document.

8.3 North Somerset Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of Street Trading Services you should in the first instance contact the Licensing Team Manager.

8.4 If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

APPENDIX A – MAP OF NORTH SOMERSET



North Somerset Council is applying a clearer and more modern definition of pedlary to enable genuine pedlars to continue to trade. The definition is taken from the recent Government consultation on Street Trading and Pedlary and recent case law. The guidance is given below:

1. As a Pedlar you must 'go from town to town' so you must not frequent the same town every day.
2. As a pedlar you must 'travel and trade on foot' so you should not use a motor vehicle to carry your goods to and around North Somerset.
3. A pedlar can remain static in the same location for a maximum of 10 minutes after arrival. As a pedlar, you should then move on (at a reasonable speed) to a location which is at least 50 metres away from the first location, and again you should not remain in that second location for more than 10 minutes. ~~You cannot immediately return to the first location since you cannot return to a location you have previously occupied within three hours. Nor can you occupy a location within 50 metres of any location he has occupied during the previous 3 hours.~~ **You cannot immediately return to the first location, nor to any other location which you have occupied within 50 metres or within the previous three hourly period.** These requirements are intended to keep a pedlar trading while on the move.
4. However, we do recognise that a pedlar may be approached by potential customers during the 10 minute period mentioned above but you may be unable to conclude the transaction with that customer during that period. Similarly, we recognise that a pedlar may be approached by potential customers while travelling from one location to a location at least 50 metres away. Since we do not want to place unreasonable restrictions on a pedlar's ability to do business, there is an exception to the above limitations to enable a pedlar who is approached in this way to remain in his location beyond the 10 minute period or to stop to conclude those transactions. Once all such transactions have been concluded (or aborted) the pedlar must continue to move away immediately.
5. So, if as a pedlar you are not actively making a sale or being approached by a customer at the 10 minute cut-off point, you must immediately start to move away from the location towards a location at least 50 metres away from that location. If while on the move to your next location, you are approached by a customer, you may stop to deal with that customer. But, as soon as the sale is concluded, you should continue on the move towards your next location (unless, of course, you are approached again by another customer on your way there).
6. Pedlars should not use large, wheeled trolleys or similar as a device to carry and expose for sale all, or the vast majority of goods as these can cause an obstruction of the highway which is an offence under Section 137 of the Highways Act 1980.
7. You should be aware that ~~Weston super Mare town centre is~~ **many areas of North Somerset are** monitored by CCTV (Closed Circuit Television) **and officer foot patrols.**
8. Pedlar's Certificates can be obtained from Avon & Somerset Police, Town Hall, Walliscote Grove Road, Weston super Mare, BS23 1UJ at a cost of £12.25. It is an offence to peddle without a certificate and an offence to lend a certificate or use someone else's. The Council, in partnership with Avon & Somerset Police, will take

formal action against illegal Street Trading under Paragraph 10(1) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

APPENDIX C – GLOSSARY OF TERMINOLOGY

Within the terms of the North Somerset Council's Street Trading Consent Scheme the following definitions apply:

The Council	Means the North Somerset Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street.
Street	Includes: (a) Any road, footway, beach or other area to which the public have access without payment. (b) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	Means a street in which street trading is prohibited without the consent of North Somerset Council.
Licence Street	Means a street in which street trading is prohibited without a licence granted by North Somerset Council.
Consent/Licence	Means a consent or licence to trade on a street by North Somerset Council.
Consent Holder	Means the person or company to whom the consent to trade on a street has been granted by North Somerset Council.
Licence Holder	Means the person or company to whom a licence to trade on a street has been granted by North Somerset Council.
Authorised Officer	Means an officer employed by North Somerset Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

Street Trading Conditions

Appendix D

GENERAL CONDITIONS

1. A copy of this Consent shall be kept onsite by the holder and available for inspection by an authorised officer of the Council, or a Police officer.
2. The Consent Holder shall not sub-let or transfer this Consent or any part thereof, but may surrender it to the Council at any time.
3. The Consent Holder shall observe and comply with any directions in relation to the use of the street or public place by a duly authorised officer of the Council.
4. Nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent
5. The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy for a minimum of 5 million pounds to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
6. This Consent does not infer or grant exclusive right rights to the holder for use of the location specified in the permission. If at any time at the permitted trading location other statutory bodies or organisations require access and use of the location to carry out emergency or other remedial works, they shall be afforded such access for such time as the required works need to be completed.
7. The Council may vary the Conditions attached to the Consent at any time, subject to reasonable notice being given to the Consent Holder.

SITE CONDITIONS

8. The Consent Holder when operating on a static site shall have access to suitable and sufficient sanitary accommodation for both the Consent Holder, and any persons employed in the street trading activity. The sanitary accommodation arrangements shall be approved by the local authority.
9. The Consent Holder shall not use any ~~television, tape recorder or other device for the reproduction of sound~~ **sound or music amplification equipment** whilst trading which is audible beyond 5 metres from the site.
10. The Consent Holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever except with the previous consent in writing from the Council.
11. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without the approval of the Council.
12. The Consent Holder shall make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street, or place or fix equipment or markings of any description in the said surface except with the previous consent from the Council in writing.
13. The Consent Holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Council and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
14. The Consent Holder shall keep his trading position and the area within 25m of the pitch in a litter free condition during the permitted hours and also leave the same in a litter free condition at the end of each daily period of use under the terms of this Consent.
15. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.

16. Litter and Trade Waste arising from the activities of the Consent Holder shall be removed from the site on a daily basis. The consent holder shall have in place a formal commercial waste transfer arrangement.
17. The Consent Holder shall make such provision as is necessary to prevent the deposit in any street or public place of solid or liquid refuse and shall not discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
18. Any special costs, other than those legally required to be borne by the Council, incurred in preparing a pitch fit for purpose shall be borne by the applicant.

TRADING CONDITIONS

20. The Consent Holder shall not carry out street trading activities other than those permitted by the Consent.
21. The Consent Holder shall not trade outside the time and days permitted by the Consent.
22. The Consent Holder shall keep on any van, cart, barrow or other vehicle or stall, a street trading consent document that has been issued by the Council.
23. The Consent Holder shall not trade in such a way that is likely to cause:
 - a) undue obstruction to any part of any street or public place.
 - b) any injury to any person using the street or public place.
 - c) damage to any property in the street or public place.
24. The Consent Holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity. Noise from equipment used in connection with consented street trading activity shall not be audible inside nearby residences so as to be deemed a Statutory Nuisance.
25. All street Trading fees are due in advance on the 1st ~~June~~ **July** of any year. Annual fees may by agreement be paid by instalments. Failure to pay an annual or instalment fee will render the consent holder liable to action by the Council to revoke this consent
28. Static street trading units, vehicles or other equipment associated with the street trading activity shall be removed from the site at the cessation of trading each day.

LEGAL PROVISIONS

30. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his employees or agents from any legal duty or liability.
31. At all times the Consent Holder shall comply with the appropriate primary legislation in force.

REVOCAION OR SURRENDER OF CONSENT

32. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
34. The holder shall return this Consent to the North Somerset Council immediately on revocation or surrender of the Consent.

Useful contact details

Licensing Team

North Somerset Council
Walliscote Grove Road
Weston Super Mare
BS23 1UJ

01934 426800

licensing@n-somerset.gov.uk

Food, Health and Safety Team

Castlewood
Tickenham Road
Clevedon
BS21 9AX

01934 634 633

foodandsafety@n-somerset.gov.uk

Avon and Somerset Police Licensing

Weston-super Mare Police Station,
PO Box 441,
Weston-super-Mare
BS23 1WS

01934 638 211

northsomersetpoliceliquorlicensingteam@avonandsomerset.police.uk

Environmental Protection Team

Town Hall,
Walliscote Grove Road,
Weston-super-Mare
BS23 1UJ

01275 884 882

environmental.protection@n-somerset.gov.uk



Street Cafe Policy

2020 - 2024

**North Somerset Council, Licensing Team, Town Hall,
Walliscote Grove Road, Weston-super-Mare, BS23 1UJ**

Key to changes

RED Text	<ul style="list-style-type: none">• Corrections• agreed non-contentious changes
BLUE Text	<ul style="list-style-type: none">• Points for discussion

Contents	
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4.7	Smoke-free legislation <u>Amendments</u> Additional wording regarding smoke-free designation <u>Point for discussion</u> Should permits require smoke-free areas/percentage smoke-free or no requirement at all.
4.8	Alcohol in Street Cafes <u>Amendments</u> Change of wording for clarification
4.9	Furniture Design
4.9(a)	Tables and Chairs
4.9(b)	Parasols <u>Amendments</u> Removal of wording for clarification
4.9(c)	Barriers and planters
4.9(d)	Patio heaters <u>Point for discussion</u>
4.9(f)	Advertising <u>Amendments</u> Change of wording for clarification
5	Fees and charges <u>Amendments</u> 5.2 – additional wording regarding smoking areas
6	Managing the Street Café <u>Point for discussion</u> Additional requirements re single use plastics and reusable crockery.
7	Operation
7.7	Hours of operation <u>Amendments</u> Hours altered to match conditions
8	Application Requirements
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1. Introduction

Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life and interest to an area.

North Somerset Council permits tables and chairs to be placed on the Highway outside restaurants, cafes and public houses.

This is to support and encourage the use of amenities on the highway and recognises that their provision can make a positive contribution to the local economy by maximising the use of public space. It is also hoped that the area of North Somerset is made more attractive by providing facilities for people, who visit, work or live in North Somerset.

This policy is intended to help businesses understand where the placing of objects or structures on the highway might be permitted. Any Street Café permissions are required to be maintained to a high standard and enforcement action will be taken to ensure that obstruction to the highway is kept to a minimum.

Whilst The Council wishes to encourage pavement cafes, it is important that they are properly located and managed. This is ensure that they meet the standards we expect in North Somerset and that they do not obstruct the highway nor create a hazard for pedestrians, especially for **visually impaired** blind, partially sighted and other disabled people.

2. Legal Framework

2.1 Street Cafés are covered by regulations made under the Highways Act 1980 S.115. The area for any Street Café permission must be a highway as defined by Section 115A of the Highways Act 1980.

2.2 Both operators of street cafes, (on private forecourts or the highway) and the council itself must comply with the Equality Act 2010. It requires that all disabled people are able to physically access any street café and freely use the highway.

2.3 The Licensing Authority may grant a person permission to use objects or structures on the highway which would otherwise be known as an obstruction.

The objects or structures are termed “amenities” and although no strict statutory definition is given, could include such things as:

1. Tables, chairs and parasols;
2. Planters;
3. Barriers, screens or enclosures to contain tables, chairs and/or outside designated smoking areas etc.
4. “A” Boards or other advertising boards.

2.4 This permission applies if the objects or structures on the highway are for a purpose which will result in the production of income, to provide information or for advertising.

- 2.5 The Licensing Authority has the power to impose conditions on permissions granted under this legislation.
- 2.6 The legislation also requires a council to publish a notice before any permissions are granted and gives it powers to serve notice where the permission granted is breached, requiring not only remedy of the breach but the recovery of any expenses plus interest incurred where the council remedy the breach themselves.
- 2.7 Anyone without lawful authority or excuse, who in any way wilfully obstructs the free passage along a highway commits an offence(s) contrary to section 137 of the Act.
- 2.8 In cases where there is any doubt about the ownership or responsibility in relation to a “highway” applicants should seek their own legal advice prior to making any Street Café application.

3. General considerations

3.1 Street Cafes on Private Land

This policy relates only to Street Cafés on a public highway. Cafés on private land are not covered by the Highways Act legislation. ~~However although a Street café on private land may not need a permit, it may require planning permission if the structures and fittings are not of a temporary nature.~~

Land previously deemed to be in private ownership may have become part of the highway if the public have enjoyed access over it for at least twenty years or if the Council has formally adopted the land. Before proceeding with an application the applicant must check with Council [Planning Services](#) to establish if planning permission is necessary.

3.2 Right of Access

Authorised Officers of the Council and the Police shall have access to a Street Café at all reasonable times for inspection purposes.

4. Designing the Street Café

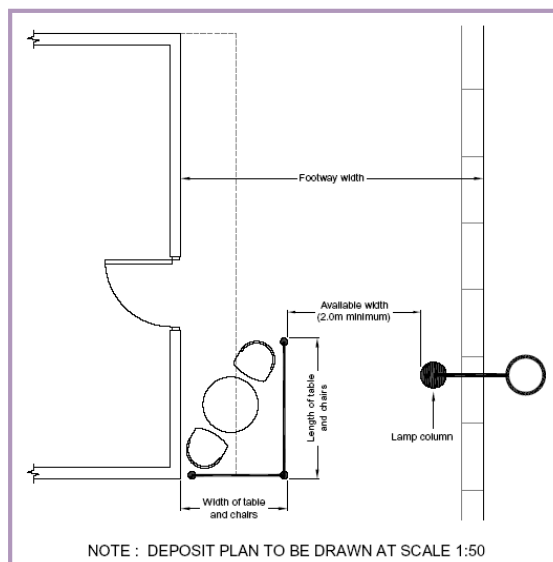
4.1 The overall objectives of a Street Café will be:

1. To make the district attractive to visitors and residents.
2. To protect the safety of users of the highway and users of the café.
3. To ensure that access for emergency services is maintained

4.2 Size and layout

The size of any café area will depend on the type of usage and the available space. Public safety will be paramount as a principle; however each application will be determined on its own merits. There must always be sufficient room for pedestrians and others to use the footpath taking into account street light columns, waste bins and any other street furniture. Access to fire hydrants must also be maintained.

- 4.3 The layout of the proposed Street Café will be dependent upon the characteristics of the site outside of the premises, particularly the space available (taking into account the needs of other users), and it is not appropriate for this Policy to set a standard size for the Street Café.
- 4.4 A minimum of 2 metres must be maintained between the outer edge of the Street Cafe and the edge of any street furniture or defined carriageway. This is to allow safe movement of persons and any aids such as wheelchairs or prams that are required. Additional width may be required in areas with high pedestrian or vehicular traffic.
- 4.5 The area should take into account other needs of the area such as kerbside parking, pedestrian routes and crossing points. These must all be identified within any plan.
- 4.6 An example of a layout plan is shown below:



4.7 Smoke free Legislation

The layout of the street café should ensure that smoke does not enter into the main 'enclosed' premises by virtue of people smoking within the street café.

This may be achieved by:

1. Providing pedestrian routes between the main 'enclosed' building and the street cafe;
2. Restricting smoking in the areas of the street café that are close to the main 'enclosed' building;
3. Keeping all opening windows (facing onto the street café) closed;
4. Providing any doors facing onto the street café are fitted with self-closing devices;
5. Any other equivalent or equally effective measure(s)

An applicant may choose to designate part, or the whole Street café a non-smoking area, but will then need to determine how they will seek to enforce this.

Wording here if required following discussion.....

For further information on the Smoke free Regulations please contact the North Somerset Council Food and Safety Team on: 01934 888888

4.8 Alcohol Guidance

The purpose of setting up street cafes is to attract people to North Somerset, to enjoy a relaxed and continental style of eating/drinking not merely to extend licensed premises, this will be borne in mind when applications are considered.

The Licensing Act 2003 provides a regime for the control of the sale or supply of alcohol, regulated entertainment and late night refreshment.

If alcohol is to be sold or supplied as part of a street café operation, additional permissions will be required under the Licensing Act 2003. Advice on this can be found on the [Council's website](#).

~~Whilst consumption is not a licensable activity, holders may need to seek advice and apply for variations to incorporate "additional" areas where a licensable activity is likely to take place.~~

~~Although licensing law is not the primary mechanism for dealing with the control of persons away from licensed premises, licensees do have a duty of care for the behaviour of persons immediately outside or adjacent to their premises.~~

4.9 Furniture Design

a) Tables and Chairs

These shall be robust and of good quality. They should also be separate and of a design to allow use by disabled or wheelchair users. The design should complement the area they are used in. Picnic style tables with fixed benches will not be acceptable.

The Council reserves the right to reject applications where inappropriate furniture is proposed. Full details of proposed furniture shall be required upon submission of the application, including dimensions, material and a photograph or drawing of the proposed furniture.

b) Parasols

If parasols are to be used, then their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

Parasols, when opened, should be safely secured and contained entirely within the boundaries of the street café to ensure they do not cause an obstruction or present a danger to any user of the street café or any other users of the highway.

The design and colour of parasols will not be restricted to a particular type but they should be made of high quality materials and fabric and be of a uniform design and colour. The base of the parasol must not cause a trip hazard in the street café area.

~~Canopies, awnings, blinds etc. which are to be attached to the building may require advertisement consent or planning permission.~~

~~It will not normally be necessary to obtain planning permission for Street Cafés on the highway. However, advice should be sought from North Somerset Council Planning Services.~~

c) Means of Enclosure

The council requires the tables and chairs placed on a highway to be contained by means of a 'barrier'. This is to:

- Contain the tables and chairs so that the area is distinguishable to pavement users;
- Prevent "drifting" of the furniture or barriers outside of the authorised area;
- To assist blind and visually impaired pedestrians.

Barriers should :

- Have a solid horizontal bar/element at appropriate height(s) **a minimum of 150mm** above ground level so as to be detectable by a stick **visually impaired person using a mobility cane** ("tapping rail")
- Not exceed 1.5 metres in height ~~. unless otherwise authorised by the Council;~~
- Be removed entirely from the highway when outside of the times authorised by the permit. It must be therefore lightweight in construction or portable but robust enough to withstand winds or being pushed over;
- Compliment the surrounding area. Any designs must be authorised by the Council
- Be supported by suitable 'feet' that do not cause a trip hazard to pedestrians particularly ~~partially sighted~~ **visually impaired** people;
- Must not block any emergency exits.
- Hoops or post chain type barriers and low level objects will not be acceptable

Planters

- **These offer a simple robust solution to providing a barrier which requires less maintenance, monitoring in poor weather and offer an opportunity to create an attractive outdoor space.**
- These must be lightweight enough to be removed daily, but stable enough to resist weather conditions. Wheeled planters are acceptable so long as they are able to be locked into position whilst in use.
- Planters must also comply with tapping rail requirements **(150mm above ground level)** and be ~~a minimum of 1 metre high overall~~ **between 1m and 1.5 in height.**

d) Patio Heaters

Patio or similar external space heaters are not permitted within street café areas.

Street Café operators who currently have this permission may continue to use them until the expiry of any current permit but will not be permitted to use them on renewal or grant of any new street café permits.

~~If patio heaters are to be used, then their dimensions, and materials must be specified as part of the application and their proposed location shown on the site layout. A full description of the equipment and detailed risk assessment must be submitted with the application.~~

~~It will be the responsibility of the applicant to notify their insurers of the use of such equipment and approved in accordance with the terms of the policy of public liability insurance. In considering the application the Council shall have regard to the inherent safety of the equipment, its location, storage of Liquid Petroleum Gas cylinders, maintenance and training arrangements.~~

e) Lighting

The applicant for a Street Café permit should, if intending to open beyond dusk, carefully consider the level of lighting in the proposed area. Whilst street lighting may be perfectly adequate for a public highway, it may need supplementing to allow the Street Café to operate safely. Any additional lighting equipment and supply must be specified in the application to enable its impact upon the highway to be considered

f) Advertising

An element of advertising may be incorporated in the establishment of a street café, **for example as part of parasol and barrier design**, but shall require the prior approval of North Somerset Council.

To maintain a quality street environment, advertising for **the** business operating the street café will be encouraged, **rather than that of third party sponsors**.

~~In some instances, this may require advertising consent. Applicants should discuss this with the Council's planning department.~~

5. Fees and Charges

5.1 The fees for a Street Café Permit are reviewed by the Council on an annual basis, and any changes made will take effect from the 1st April each year. The fee **MUST** accompany the initial application. These fees are as per the Council published fees and charges.

5.2 Annual fees are **per table** placed on the public highway **per year**.

If the premises wishes to operate the street café as a "Smoking Area" after 2300 hours an additional annual fee per year will be payable.

5.3 Fees are due on an annual basis from the date of the grant of the Street Café Permit

An initial administration fee is payable in addition to the table fees, as follows:

- Up to 5 tables on the public highway
- 6-10 tables on the public highway
- 11 or more tables on the public highway

There are also fees for both a minor and full variation application.

- 5.4** For the purpose of calculating fees, a table shall be no more than 2 metres wide and 2 metres deep.

6. Managing the Street Café

6.1 Insurance

The applicant is required to indemnify the Council against all actions, demands, costs, charges or expenses arising from the use of the highway under the permission granted. The Council therefore requires the permit holder to take out third party public liability insurance to the sum of at least £5,000,000.

6.2 Safety

The permission holder must ensure that all equipment and services comply with all relevant legislation and statutory requirements.

When not in use the furniture, barriers and other permitted equipment must be stored securely.

Only the correct amount of furniture specified in the permit may be out within the permitted area.

6.3 Environmental Implications

The Street Café area must be kept clear of litter and clean at all times. Evidence of a scheduled cleaning record shall be provided on request.

Ashtrays or similar receptacles must be provided in areas where smoking takes place. Serious consideration should be given to division of Street Café areas, where space permits, into smoking and non-smoking sections and to be clearly marked.

Single-use plastics shall not be used within the street café area. Reusable crockery and cutlery should be used together with polycarbonate or shatterproof glasses. Pre-packaged foods should be unwrapped and plated before serving to minimise litter.

External public address systems shall not be permitted. The playing of live or recorded music may also be subject to statutory control and applicants should make their own enquiries accordingly. Applicants should fully address and control any potential nuisance(s) caused by their patrons. Inappropriate or anti-social behaviour within the permitted area may lead to enforcement action.

It is imperative that the needs of neighbours, nearby residents or businesses including all agencies are fully considered including companies that require access to the highway for maintenance repair.

All A-Boards must be **wholly** contained within any Street Café Area.

7. Operation

- 7.1 The provision of a Street Café must be carefully managed to ensure that the public are not put in danger of injury or harm.
- 7.2 A pre-licensing visit will be made to each premise upon receipt of an application for the grant, renewal or variation of a Street Café permit, to discuss the application process, the proposed operation of the cafe etc. to provide advice and information to the applicant.
- 7.3 Once the Street Café permit has been issued, a further visit will be made to the premises to review the practical day-to-day operation of the café.
- 7.4 The Council will carry out periodic inspections to make sure that all the terms and conditions of the permit are being observed.
- 7.5 Permits will be granted for a maximum of one year and are renewable annually.
- 7.6 Permits for new sites will be subject to a three month probationary period.
- 7.7 Hours of operation will be determined on the application merits. Normally the following hours will apply:
 - Licensing hours for street furniture will be granted between the hours of 08:00 hours to 23:00 hours.
 - All furniture should be removed between the hours of 23:00hrs to 08:00hrs
 - Where the premises is licensed under the Licensing Act 2003, barriers can remain in place until either the premises close, or no later than 04:00hrs to create a “smoking area”. No furniture other than **space heaters and** parasols should be present in the “smoking area” and neither alcoholic drinks, bottles nor glassware should be present in this area after 23:00hrs.
- 7.8 Where a smoking area is permitted it will be required to be covered by CCTV and by SIA door staff and comply with smoking regulations.
- 7.9 During normal working hours table service is highly recommended and customers should be seated.
- 7.10 The permit issued by the authority may be issued electronically for the holder to print and display. A copy of the permit must be displayed on the premises in a position where it is visible to patrons
- 7.11 A copy of the Permit and plan must be kept on the premises at all times and be available for inspection.
- 7.12 When the area of a street café has been agreed, a definitive plan of the area showing the boundaries and the dimensions will be attached to, and form part of, the permit.

8. Application Requirements

8.1 No tables, chairs or other furniture should be placed upon the highway until the application is determined and the applicant has been advised of the outcome.

8.2 Incomplete applications will not be accepted.

8.3 Applicants are required to submit the following at the time of application:

- A completed and signed application form
- The correct fee for the number of tables plus any administration fee
- An up-to-date location plan (1:1250 scale) showing the outline of the proposed Street Café.
- Site layout plan (1:100 or 1:50 scale) showing the proposed boundary, kerb, building lines, enclosure barriers, points of access, table and seating layout, location of parasols, heaters etc.
- Photographs, drawings and measurements of proposed furniture,
- A sample copy of the café menu,
- A copy of valid public liability insurance (£5 million)

9. Determination of applications

9.1 All applications will be considered on their own merits.

9.2 Valid applications will be subject to 28 days of public consultation before a decision is made. A public notice will be placed by the applicant at or near to the proposed premises, detailing the proposals including the times and days of intended operation.

9.3 Valid applications will also be referred to relevant departments within the council, Avon and Somerset Constabulary, Avon Fire and Rescue services, **the appropriate Town or Local Parish Council**, and any other agencies it deems appropriate for comment. Applicants may wish to hold discussions with these parties, to resolve any issues raised during consultation, prior to a decision being made.

9.4 Any comments received, which remain unresolved, will be assessed for relevancy by licensing officers and if deemed appropriate will cause the application to be put before the licensing sub-committee.

9.5 Where no relevant representations are received, or relevant representations are resolved by negotiation, applications may be approved by licensing officers under delegated authority arrangements.

9.6 Permits will not **normally** be granted where:

- A significant effect on road safety would arise either from the siting of the tables and chairs, or from customers visiting or leaving the permitted area,
- Where there are concerns over the recorded level of personal injury accidents in the locality where the tables and chairs will be sited,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,

- There is a conflict with Traffic Orders, such as waiting restrictions,
- The site obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use,
- The tables and chairs obstruct the safe passage of users of the footway or carriageway, **in particular disabled or older people.**
- 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.
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage and collection of all refuse associated with their business
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage of all tables and chairs off the highway without impeding any access or egress from the premises.

10. Determination of an Application by Licensing Committee

- 10.1 Where relevant comments are received in respect of an application, and are not resolved by negotiation, the application will be put before a licensing committee for determination.
- 10.2 Both the applicant and the person making comments will be advised of the hearing time and date, and provided with a copy of the report to be made to the sub-committee.
- 10.3 Both parties will be given the opportunity to address the sub-committee, and ask each other questions of fact, before a decision is made on the application. The sub-committee may also ask questions of any party that they feel relevant to the determination process.
- 10.4 The sub-committee may grant the application, grant it subject to conditions, or refuse the application. Reasons for any conditions or a refusal will be provided to the applicant. Written confirmation of the decision will be sent to all parties within 7 days of the sub committee hearing.
- 10.5 There is no right of appeal against the Councils' decision regarding the determination, suspension or revocation of any Street café permissions.

11. Renewals

- 11.1 It is the responsibility of the permission holder to ensure that renewal applications are made prior to the expiry of an existing permit, in order for permissions to continue uninterrupted.
- 11.2 Should a renewal application be received after the expiry of a previous permit, it may be treated as a new application, attract a higher fee and require additional information to be supplied.
- 11.3 Renewals in respect of previous permits must be made by submission of a completed renewal form together with evidence of the required insurance, and the appropriate renewal fee.

11.4 All renewal applications will be subjected to such consultation as the Licensing Authority sees fit. If there have been no alterations since the issue of a permit and the Authority have received no complaints about the operation of the Street Café, the presumption will be to renew the permission.

12. Variations

12.1 Minor Variation

If any of the changes detailed below are required for an existing permit, a Minor Variation application needs to be applied for:

- Change of permit holder's address
- Reduction of licensed hours
- Reduction in size of permitted area
- Decrease in number of tables/seating capacity
- Change to authorised furniture/barrier design or type
- Change of premises name

Applicants will be required to provide sufficient documentation to confirm any changes in name or address and specifications of any newly proposed equipment.

A fee is payable for a minor variation.

Once submitted, a minor variation application will be determined within 14 days, and a replacement permit provided.

12.2 Full Variation

For any of the changes below to an existing permit, a full variation application needs to be applied for:

- Extension of permitted hours
- Increase in size of permitted area
- Increase in number of tables.

Applicants will be required to provide sufficient documentation to confirm any changes, and specifications of any newly proposed equipment.

A revised site plan and layout will be required with the application.

A fee is payable for a full variation.

Once submitted, a full variation application will be determined within 14 days, and a replacement permit provided.

13. Surrender/Cancel Permit Application

To surrender or cancel a Street Café Permit, written notification shall be required.

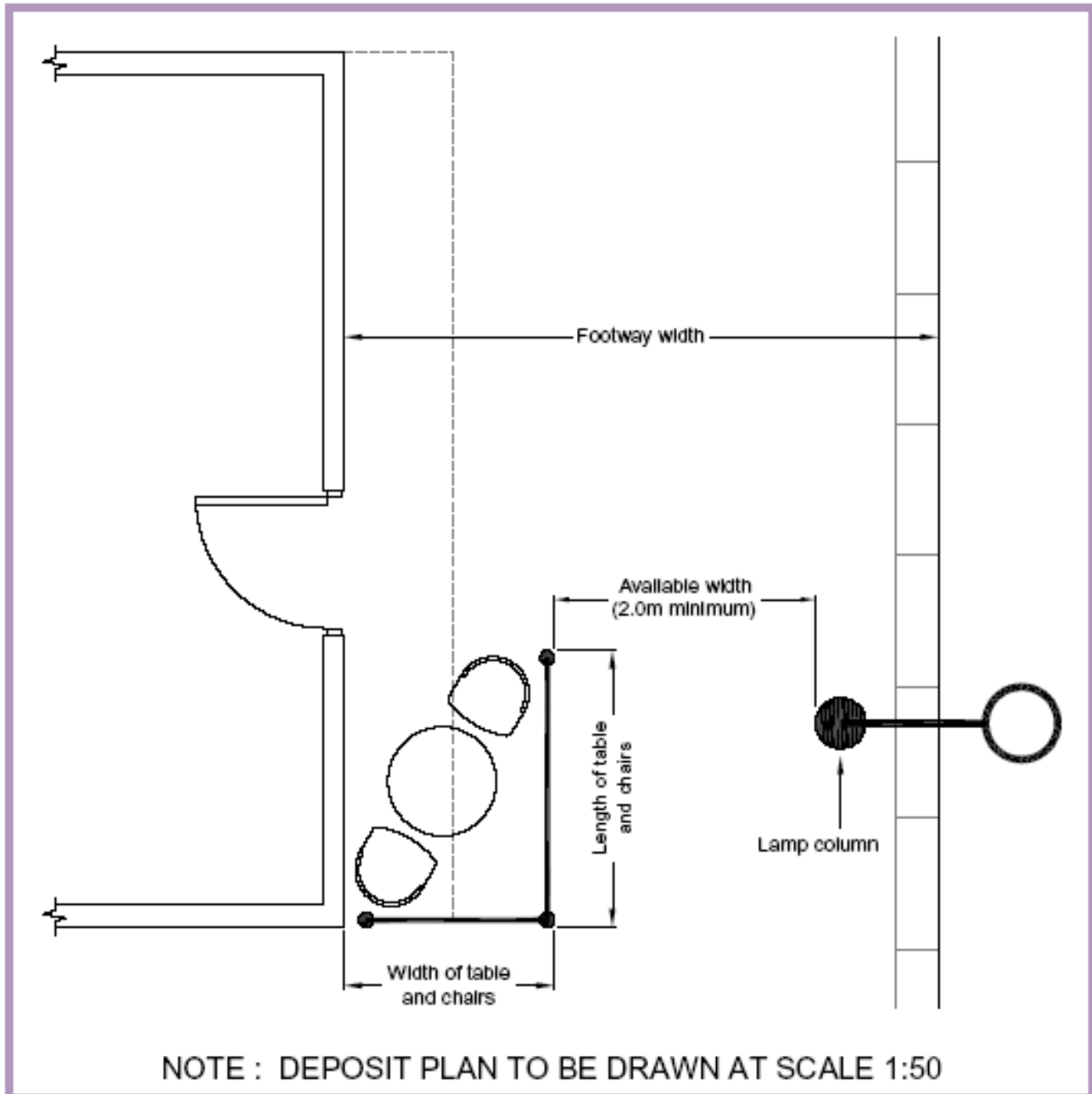
Once a Street Café Permit has been surrendered it cannot be reinstated **and any further street café permissions would require a new application.**

14. Compliance/Enforcement

- 14.1 It is recognised that well-directed enforcement activity by the council benefits not only the public but also responsible business operators.
- 14.2 North Somerset Council will actively enforce the provisions of the Street Café scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Council's Enforcement Protocol, copies of which are available free of charge. If you require a copy please contact the Licensing Team.
- 14.3 The following principles will be adhered to when carrying out street cafe enforcement activities:
- a) **Openness:** The Council will be open about how it enforces the legislation in relation to street trading. It will consult with interested parties and ensure that officers discuss compliance failures or problems with persons experiencing difficulties.
 - b) **Helpfulness:** The Council will work with people to advise on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers.
 - c) **Proportionality:** The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk or wider public benefit. Officers will have regard to the human rights of all parties involved in its enforcement activities.
 - d) **Consistency:** The Council will carry out its duties in a fair, equitable and consistent manner. Officers will have regard to national Codes of Practice and guidelines and the contents of this document.
- 14.4 North Somerset Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of Street Café licensing you should in the first instance contact the Licensing Team Manager.
- 14.5 If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.
- 14.6 Where non-compliance with this policy, the standard conditions, or any conditions attached to a permit is observed licensing officers may by notice require that any breach is remedied or under take works to remedy a breach and recover the cost plus interest from the permit holder.
- 14.7 Any unauthorised highway use, constituting an unreasonable obstruction will be investigated and enforcement action taken where necessary.
- 14.8 In the case of a severe breach and lack of co-operation by the permit holder the permission may be immediately rescinded and the street furniture removed by the council.

APPENDIX A

Street Café design and layout – example plan



APPENDIX B

Standard Conditions in respect of Street Café Permits

1. Permitted hours, between ~~10.00 a.m.~~ 08:00hrs. and 23:00hrs. unless otherwise indicated.
Permitted days – All week

Where the permit allows additional provisions for a controlled smoking area, permitted hours for this activity shall be between 23:00hrs and 04:00hrs the following day.

Duration of permission – one year from the grant of the Permit

Permitted location as outlined in red on attached drawing

Permitted furniture or equipment – Tables, chairs and umbrellas

2. The Holder shall at all times ensure that the Street Furniture shall not be placed outside of the Permitted area.
3. The Holder shall at all times ensure that the Street Furniture in use is of the type and description detailed in the Application for a Permit.
4. The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the North Somerset Council.
5. The holder(s) shall return this Permission to the Offices of North Somerset Council immediately on revocation of this Permission.
6. The holder shall have in force public liability insurance of no less than £5 Million pounds single event cover and shall provide the Council with a copy of this both on application and renewal of permission.
7. The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
8. The holder(s) shall ensure that a copy of these conditions is at all times on prominent display within the permitted location.
9. NON-COMPLIANCE with any Condition of this permission resulting in any complaint to the Council or to the Police will render the holder(s) liable to a written Notice under Section 115K of the Highways Act 1980 and failure to comply with such Notice immediately AND ANY SUBSEQUENT breach or non-compliance as aforesaid shall render the holder(s) liable to a written Notice under Condition 27 hereof REVOKING this permission forthwith.
10. No alcohol shall be consumed within the Permitted area unless a Premises Licence has been issued by the Licensing Authority under the Licensing Act 2003 for the Premises to which the Permitted area relates.
11. The holder(s) shall ensure that all drinking glasses in which drinks are served shall be of either plastic or strengthened glass and that no drink shall be served in a glass bottle from which it is intended or likely that a customer will drink.

12. The holder(s) shall ensure that adequate supervision is provided over the permitted area during the times of operation in order to comply fully with these conditions.
13. The Holder shall ensure that music played within the Permitted area shall not cause a nuisance and annoyance and if requested by any employee of the Council and/or a police officer the Holder will reduce the volume and/or cease playing the music completely.
14. The holder(s) shall not make any excavations or indentations of any descriptions whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
15. The holder(s) shall (if required) before exercising the privilege granted by this permission place removable physical barriers within the perimeter of the area coloured red in the attached plan and shall ensure that such barriers are removed at the end of each daily period of use and at the expiry, surrender or revocation of this permission.
16. The holder(s) shall not place on the highway any furniture or equipment or advertisement other than as permitted by the Council and must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.
17. The holder(s) shall not assign underlet or part with any interest or possession given by this Permission or any part thereof but the holder(s) may surrender it at any time.
18. The holder(s) shall maintain the area shown on the plan attached to this Permission and outlined in red and the immediately adjacent area in a clean and tidy condition during the permitted hours and shall leave the same clean and tidy condition and unobstructed at the end of each daily period of use and on revocation or surrender of this permission.
19. The holder(s) shall provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items, together with those for cigarette waste. These must be emptied daily.
20. The holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the end of each daily period of use and at the expiry, surrender or revocation of this Permission.
21. The holder(s) shall suspend the operation of any permission granted at the request North Somerset Council to enable any street works to be carried out on or near the permitted location.
22. The Holder shall make no claim or charge against the Council in the event of the Street Furniture being lost stolen or damaged in any way from whatever cause.
23. This permission may be revoked in writing by the North Somerset Council at any time and the North Somerset Council shall not in any circumstances whatsoever be liable to pay any compensation or refund any fees to the holder(s) in respect of such revocation.
24. The Holder shall not make any claim against the Council for any loss of earnings revenue or profits which may occur in the event that this Permit is withdrawn either temporarily or permanently for any reason whatsoever.

25. In the event of early termination of this Permit by either party for whatever reason none of the Permit Fee will be refunded to the Holder.
26. This permission shall continue for a period of one year from the date of issue unless terminated by either party beforehand.
27. No additional provisions for external controlled smoking areas shall be granted unless the premises has a valid licence to sell alcohol under the Licensing Act 2003.
28. Where the permit allows for additional provisions for a controlled smoking area, this area shall be covered by CCTV installed at the premises. The area shall also be supervised at all times by a member of staff holding a valid Security Industry Authority (SIA) licence.

Final Draft

APPENDIX C

USEFUL CONTACTS

Service	Postal Address	Telephone Number
Avon and Somerset Constabulary	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	101
Avon Fire and Rescue Service	The Fire Station Milton Avenue Weston-super-Mare BS23 3JS	0117 926 2061
North Somerset Council		
Licensing Team (Licensing Authority)	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	01934 426 800
Streets and Open Spaces (Highway Authority)	Castlewood Tickenham Road Clevedon BS21 9AX	01934 888 802
Environmental Protection Team (Nuisance Issues)	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	01275 884 882
Food and Health and Safety Team	Castlewood Tickenham Road Clevedon BS21 9AX	01934 634 504
Planning (Development Control)	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	01275 888 811
Disability and Equality Access Officer for Disabled People	Disability Equality Access Officer The Town hall Weston-super-Mare BS23 1UJ	01934 634 989

North Somerset Council

Initial Equality Impact Assessment

1. The Proposal

Service area:	Licensing
Lead Officer:	Sioux Isherwood
Links to budget reduction proposal? (Yes/No):	No
Date of assessment:	17/10/2019

Description of the proposal:

Review of the current Street Café Policy to include legislative changes and refresh content.

Summary of changes:

The Policy will not fundamentally change but will incorporate new requirements in relation to additional smoking areas. It will update references to equality legislation and offer clarification to applicants in relation to measurements of furniture, use of single use plastics and application processes.

2. Customer equality impact summary

Will the proposal have a disproportionate impact on any of these groups?

Impact Level Insert X into one box per row, for impact level and type.	Impact Level				Impact type		
	High	Medium	Low	None	Positive	Neutral	Negative
Disabled people		X			X		
People from different ethnic groups				X		X	
Men or women (including pregnant women or those on maternity leave)				X		X	
Lesbian, gay or bisexual people				X		X	
People on a low income				X		X	
People in particular age groups				X		X	
People in particular faith groups				X		X	
People who are married or in a civil partnership				X		X	
Transgender people				X		X	
Other specific impacts, for example: carers, parents, impact on health and wellbeing. Please specify:				X		X	

3. Explanation of customer impact

Whilst Council wishes to encourage pavement cafes, it is important that they are properly located and managed. This is ensure that they meet the standards we expected in North Somerset and that they do not obstruct the highway nor create a hazard for pedestrians, especially for visually impaired and other disabled people. This policy review seeks to further protect users of street café areas by ensuring applicants consider access and equality issues and consider the environmental impact of their activities.

4. Staff equality impact summary

Are there any staffing implications for this proposal?

Yes No

Explanation of staff impact

If yes, please describe the impact including the number of posts that could be affected? State whether they are currently vacant or filled permanently or temporarily.

6. Review and Sign Off

Directorate Equality Group

When was this assessment reviewed by the Directorate Equality Group? << insert date here >>

Is a further detailed equality impact assessment needed?

Yes No

If 'yes', when will the further assessment be completed? << insert date here >>

Service Manager:

Date:

Please ensure this EIA is approved by Service Manager prior to circulation.

If this assessment identifies a potential medium or high impact, then a Full Equality Impact Assessment needs to be completed