**Temporary consent to place tables and chairs and/or offer for sale of goods on the Highway (COVID-19)**

Torbay Council recognises that cafes, restaurants and pubs may find it desirable to place tables and chairs outside their premises, on paved or pedestrianised areas that are public highway as this may assist with accommodating customers whilst following social distancing guidelines.

To assist the recovery of businesses in Torbay, the Council originally introduced a free temporary consent scheme authorising the use of public highway and spaces for the purpose of providing a seating area for customers. However this has been replaced by the Business and Planning Act 2020, a government scheme for Highway land, (Pavement Café Consents). This is the guidance required to make that application.

**Applications for use of the Highway under the Business and Planning Act 2020**

The Business and Planning Act 2020 allows for Pavement café Consent to be applied for highway land only. Torbay Council has provided an application form on the website, and there are mandatory requirements and discretionary requirement to the scheme.

**New Applications**

The applicant will be required to make an application on the provided application form. The day after the application is lodged, the applicant needs to put up a site notice for 5 consecutive days in such a location that it can be seen by passers-by. A template notice is provided on the webpage.

There is a fee of £100 per application. Any agreed Consent will be granted until 30th September 2022, unless the applicant seeks a shorter period.

The application will be assessed as quickly as possible, and if considered to be in line with the Covid19 guidance, is safe and not affecting the ability for pedestrians to pass whilst socially distancing and not affect other land uses, a temporary consent will be issued.

If the application is not addressed with within 14 days then tacit approval is given under the Business and Planning Act 2020. We would prefer, however, to work within the spirit that Torbay Council has approached helping businesses, that if concerns are raised about timescales that in the first instance you contact Torbay Council via the tempopenspace@torbay.gov.uk email address.

If objections are received during the formal consultation, or complaints are received regarding the temporary period, the consent maybe be terminated, or the temporary withdrawn until such time that the objections and/or complaints are resolved.

**Changes to existing licences**

Businesses who have existing pavement café licences and wish to consider expanding the area to accommodate customers, whilst following social distancing guidelines, will be able to follow the same process.

A temporary informal consent will be issued for the expanded area if the application is considered to be in accordance with the guidance notes, safe and not unduly imposing on the ability for pedestrians to pass whilst socially distancing.

**Guidance notes for applicants**

* In order to access your application quickly please complete the form with as much detail as possible. Incomplete applications forms or missing additional documentation will be rejected.
* You must provide a plan of the proposed area. The plan does not have to be professional draw, but must clearly show the area of highway you require.
* Applicants are requested to provide photographs of the area. Smart phone or google street view images are acceptable.
* Applicants must also seek consent of any operating business directly in front of the proposed area and to the two sides as well as placing a five day site notice in a prominent space. Photographs are required to show the site notice in situ. If subsequently it is found that this is not the case and Torbay Council receives a complaint from either business, Torbay Council reserves the right to immediately withdraw any consent to use its land.
* Each application for a Pavement Cafe consent will be assessed on its own merits in accordance with Torbay Councils ‘Pavement café Policy’, though with the shorter timescales being applied.
* A minimum 2m width of unobstructed footway must remain available to passing pedestrians (taking into account street furniture, street lights etc.) In areas of high foot fall more than 2m of unobstructed highway may be required to allow for social distancing of pedestrian traffic.
* It will be the applicants’ responsibility to assess the layout of the customer seating area in relation to any government social distancing guidelines. Barriers with tapping bars could be required. You will be advised during the application process of any specific requirements you may need to adhere to.
* Plastic garden furniture or picnic benches are not permitted. Tables and chairs should be selected to ensure:
* that you can store them securely on your premises
* that their visual impact is in keeping with the area
* they are easy to clean, and are kept clean
* they do not pose any risk to the public
* Gazebos or any type of canopy covering are not permitted except for parasols.
* You may wish to consider the use of **parasols** as part of your street café. Parasols need to be securely fastened. They must be high enough (minimum 2.1m) not to injure pedestrians and must not overhang the highway beyond the consent area.
* Patios heaters may be allowed but applicants will be asked to provide additional safety documentation.
* Furniture must not be stored on the highway outside of the times specified on the licence or when the premises are closed.
* A-boards whilst permitted must be kept within the temporary consent area or if applicable in your existing consent area.

If the available space on a highway is in high demand to facilitate social distancing of pedestrian traffic and other highway users, then it might not be possible to grant a consent. The Councils ask applicants to be respectfully and mindful of other users so that all pedestrians and consent holders can comply with social distancing guidance.

* Amplified music either live or recorded is not permitted on public Highways.
* If a consent holder does not comply with the terms and conditions of the consent it will be withdrawn. Any furniture or other articles placed on the highway will be removed by the Authority and the owner charged for removal and storage.