

S115E HIGHWAYS ACT 1980
REVIEW OF RBWM POLICY ON STREET LICENSING
FOR STREET CAFES, GOODS DISPLAYS AND ADVERTISING BOARDS
ON THE HIGHWAY

ISSUES RAISED ARE SHOWN IN BLACK.

SUGGESTED RESPONSES ARE SHOWN IN BOLD.

The current highway licensing regime for cafe chairs and tables/merchandising of goods on the street has operated for a number of years. It is increasingly felt that the costs and procedures are not equitable. The changes proposed would optimise the street trading environment in RBWM, promoting fair competition and accountability.

Change 1: Lower the application threshold.

Currently, street cafe applicants must pay £450 per application regardless of the size of the application area or whether or not the application is successful. This fee should be lowered, which would encourage applicants and hopefully stimulate trade. In comparable historic Oxford, the application fee is currently £100.

We currently offer a £150 refund if an application is unsuccessful. Also, there is no evidence to suggest that any café owner has been deterred from applying due to the application fee for a Street Café (though it did deter traders from applying for an “A” Board Licence).

Change 2: Charge for space on the highway by rateable value.

Currently RBWM charges £100/square metre for the licensed area. It is suggested that the rate should be ‘intelligently set’ through a link to the rateable value of the land and the hours used. For example, if the rateable value of the surface area was £10/day for a business premises and the street space was used for a quarter of each day, the cost would be £2.50/day.

Pricing based on the rateable value of the applicant’s premises is something that could be considered, but the increased administration and complexity would become an extra overhead. Licensing for a part of a day would be open to serious abuse as many applicants would apply for two hours and operate for twelve. Experience has proven many times that if traders can take advantage of a situation they will do so. This would also mean an impossible task for enforcement staff.

Unless the area dimensions/number of table and chairs have changed the renewal of licences should be automatic.

This would greatly reduce the admin time and the fee could be reduced to nominal £100 for straight forward renewals.

Change 3: Charge an implementation cost to cover appropriate measures.

Licensed areas on streets should be demarcated clearly so that enforcement officers, businesses, and others are fully aware of the extent of the rights granted. The most sensible form of demarcation would be the use of brass studs imbedded into the corner points of the licensed area. Clearly this has a cost implication and would only be applicable to successful applicants. Logically, this should therefore be covered in the form of an implementation fee to be paid by successful applicants for a licence.

If this option is implemented the costs should fall directly on the business. A suitable, local contractor would have to be found.

Change 4: Control by RBWM over layout and nature of street furniture.

To a greater or lesser extent, RBWM, as the local authority, needs to be able to exercise control over furniture which includes barriers used in licensed areas. Our officers already use the '1 metre rule' to ensure that tables and chairs are not crammed and cramped within licensed spaces. RBWM should provide formal guidance on appropriate layouts for furniture and merchandising on the highway. **“Formal Guidance” is already included within our guidelines for applicants.**

In some areas of RBWM, it may be necessary to exercise controls over the type of furnishings used, the colour schemes and other elements. This is particularly important in 'Conservation areas' such as Windsor and Eton town centres. It is suggested that in these and similar areas, it should be the policy that barriers are unbranded and consist of colours from the approved palette, and that furniture also needs to be in keeping with the area.

The idea is sensible but in practice this would prove difficult to enforce – many “chains” have corporate styles/logos etc. which may not match with out requirements. However, more appropriate furniture is a good idea.

Change 5: Ensure appropriate consultation

Consultation is currently only carried out by officers where they are minded to approve licence applications.

This is not true. The only judgements made prior to full consultation are on practical matters (sight-line issues, available space inadequate etc.) so that we can advise applicants to withdraw their papers and return the application fee in full. If they wish to pursue an application against advice it would be processed accordingly.

It is suggested that ward councillors and other appropriate consultees – the town or parish council and/or the Town Partnership etc - should be consulted on all street licence applications.

Currently the RELEVANT ward Councillors are consulted, as are Parishes where appropriate. The Town Partnership are consulted via the Town Centre Manager but it would be easy enough to add these and others to the full consultee list.

Change 6: Apply these principles to both street cafes and highway merchandising

The above principles should apply in the same way to licensing for street cafes and for highway merchandising.

This is already the case.

All of the above guidelines should be available in one downloadable document available on the RBWM website.

Currently there are two Guidelines documents available via our web site; one for Street Cafes and one for both Goods Displays and Advertising Boards. Experience has shown that few applicants take the trouble to read either of these – possibly because they are quite comprehensive – so asking them to read a document twice as large could be very counter productive.

There should be a commitment from the enforcement team to inspect Windsor and Eton Town centres separately at least 6 times during the summer months and 3 times during the winter.

Greater enforcement of the 10.30pm rule on removal of furniture from the highway, and restriction as to what hour in the morning they are put out. Complaints are being made by residents that putting tables and chairs out at 6.00am is a noise nuisance. This builds on the comments already made regarding ensuring more and consistent enforcement.

Currently there are no dedicated resources in the Enforcement Team, nor is there any structured inspection programme. Without these in place it's unlikely that any improvement will be achieved. Enforcement is undertaken as/when practical and in response to complaints – greater use of PCOs and other “passing staff” could assist.

Greater support from the community wardens, CCTV and others to keep a check permits and report any infringements.

Some of these measures have been requested in the past with conflicting pressures and priorities for the staff involved this has proved rather ineffective.

A window sticker to inform any enforcement officer, community warden, etc., that a licence has been granted.

This is already in place.

Persistent infringements of licensing conditions should result in the licence being withdrawn and not being reissued within a prescribed period.

Would require an Enforcement Team.

A register of granted licences to be available to those authorised to have access.

A register in the form of a spreadsheet could be made available via the web but would require more officer time (those qualified to make changes to the web pages would be required to make changes weekly).

In the street cafe licence it would appear that there will be a waiter service. Does this apply to Coffee shops?

This element is included in the guidelines under “Other requirements ... depending on your individual application” but would most likely apply to most establishments where it refers to premises staff serving the food and drink to customers already seated as apposed to customers carrying these items to the tables themselves.

Who has the final say on whether something is or is not acceptable?

The final word is determined by the aggregate of the responses. If the majority are in favour and if any of the objections are unfounded or unfair (e.g. if it's claimed a sign affects a sight-line for motorists when actually it does not, or if a street café is rejected because it has “too many tables for the area” when the neighbouring café has exactly the same number) then the licence would be granted. If any objections are upheld (e.g. an “A” Board in its chosen position would pose a significant distraction to motorists, a Street Café proposed for an area thought to be Pedestrian Precinct is in fact still a carriageway open to traffic at certain times of the day) these would most likely be rejected following a discussion with the Head of Highways.

I did not see any indication that in the case of refusal the applicant may appeal. Has the right of appeal been dropped?

The right of appeal still exists; if it's not included currently in any of the paperwork this can be easily rectified to say that The Rights of Way and Highway Licensing Panel would consider any such appeal.

There is an issue with “A” Boards in general.

There is an issue of “A” and “B” Road restrictions to be considered for Advertising Board (i.e. Planning do not approve any advertising application where an advertisement is on or faces onto a category A or category B road. If the same policy is adopted for Advertising Boards on the highway then, together with Conservation Area and Green Belt restrictions it would probably make more sense to prohibit them entirely from the highway as has been done with most other neighbouring authorities. Almost no one applies for an “A” Board licence but the officer time taken to police them on the ground is considerable.

Consider setting an upper limit to the number of permits permitted in different areas of the town centre. There has been a growing concern from the Chamber of Commerce and individuals businesses over the proliferation of coffee shops and cafes generally in Windsor Town Centre and the increase in street furniture from permits as a result.

Members have previously wanted to support the café culture and enhance opportunities for businesses in this difficult time.