

1 Introduction

- 1.1 In many of our towns and villages there is a desire to sit outside to enjoy the environment and streetscape while having a meal or enjoying a drink. Pavement cafés facilitate this enjoyment, encouraging people in our towns and villages to interact and make the best of the County's unique assets.
- 1.2 These guidelines provide café owners with information regarding the placement of pavement cafés on the public highway in Northumberland. While focussed on pavement cafés, these guidelines can also be applied by shopkeepers and other display installations on the public highway associated with town centre trades, including outdoor displays of greengrocery, flowers and household goods.
- 1.3 The purpose of these guidelines is to ensure that café and shop owners are aware of their legal obligations to keep the public highway clear of obstruction and clear of litter, when providing a pavement café or similar installation.
- 1.4 It should be noted that the public highway is not defined as simply the roads on which cars and other traffic drive on. The public highway includes footpaths, pavements, marketplaces, parking spaces and verges. The guidelines in this document apply to all parts of the public highway, although it should be noted that pavement cafés will only be tolerated in Northumberland on footpaths and traffic free market squares, any facilities that block roads and parking areas will normally attract immediate enforcement to remove the obstruction.
- 1.5 These guidelines replace the previously adopted Pavement Café Policy and Conditions that were adopted by the Council in 2007. The requirement to obtain a license for a new pavement café has been removed, as has the requirement to obtain planning permission. Existing licenses will be allowed to expire and will not be replaced. There are no longer any fees payable to the Council associated with establishing a pavement café, other than if the café owner chooses to receive advice on-site from the Council's officer.
- 1.6 The Council no longer requires cafés to have up to date public liability insurance prior to trading from the public highway, but this insurance remains strongly advisable in order to provide café owners with cover should an accident happen.

2 Legislation

- 2.1 The 1980 Highways Act (Section 137) provides the Council and the Police with powers to prevent an obstruction of the public highway. The Act provides the Council with a range of powers to remove such obstructions, make good any damage to the public highway that may have been caused and recover all costs from the proprietor of the café or shop in question. A fine can also be levied for obstructing the highway, of up to £1,000.

- 2.2 The Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods and Environment Act 2000) provides that it is a criminal offence to drop litter anywhere in the open air. Litter includes chewing gum, wrappers and cigarette butts. The Council can also serve a street litter control notice on the owner of any premises and on the owner of a vehicle trading from a fixed spot or highway verge. The Council can prosecute the owner if the litter control notice is not complied with. Fixed penalty notices can be issued on individuals and the owners of the retail premises, and fines of up to £2,500 can be levied. Café owners can obtain further details by reviewing DEFRA's Guidance on Part 4 of the Environmental Protection Act 1990 as amended by the Clean Neighbourhoods and Environment Act 2000.
- 2.3 If a pavement café is to involve the serving of alcohol on the public highway, then a suitable alcohol license will need to be obtained from the Council in accordance with the Licensing Act 2003.
- 2.4 Should the location of your proposed café fall within a conservation area, you should contact the Council to determine whether special arrangements apply. Contact details are found at the rear of this document.

3 Pavement Café Requirements

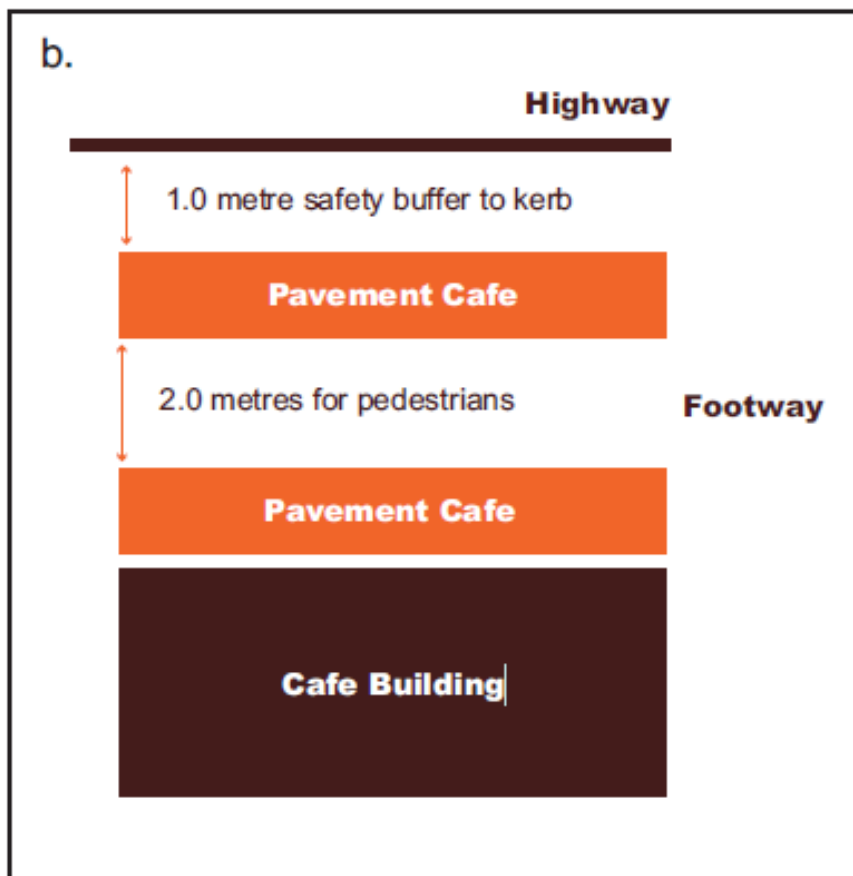
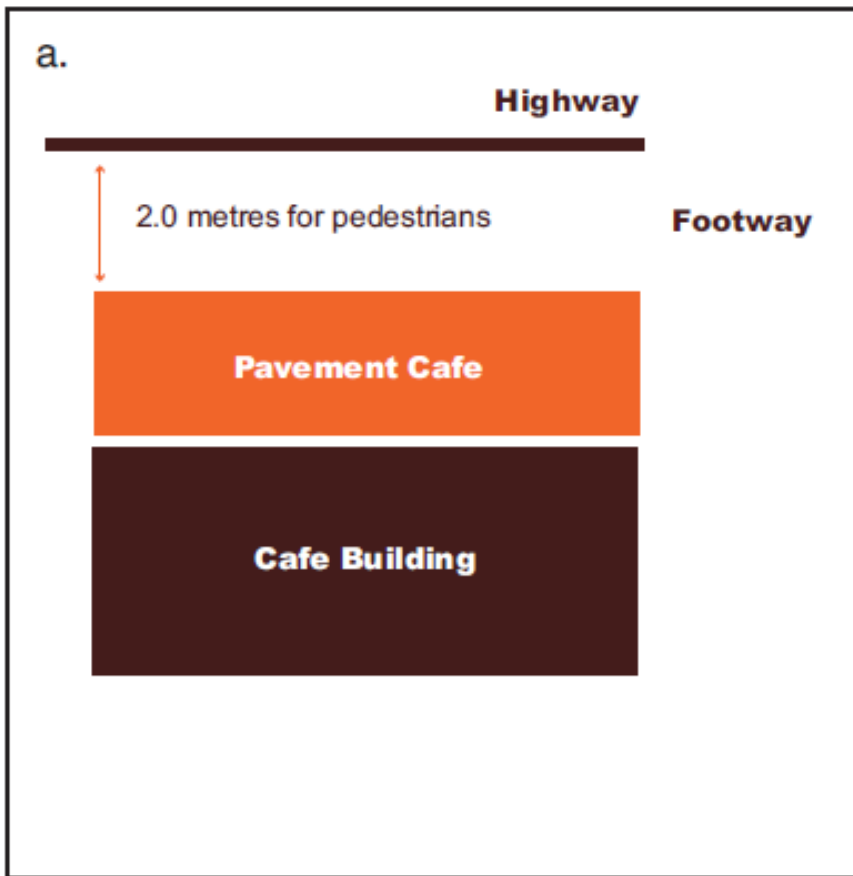
- 3.1 In order to comply with the relevant legislation and meets the Council's wider requirements to ensure that a safe and convenient network is provided to all people in our towns and villages, we set out below our requirements for pavement cafes in terms of :
- Layout and the provision of safe passage for pedestrians;
 - Requirements for ensuring that litter and other detritus is controlled
 - Other detailed requirements to ensure safe operation

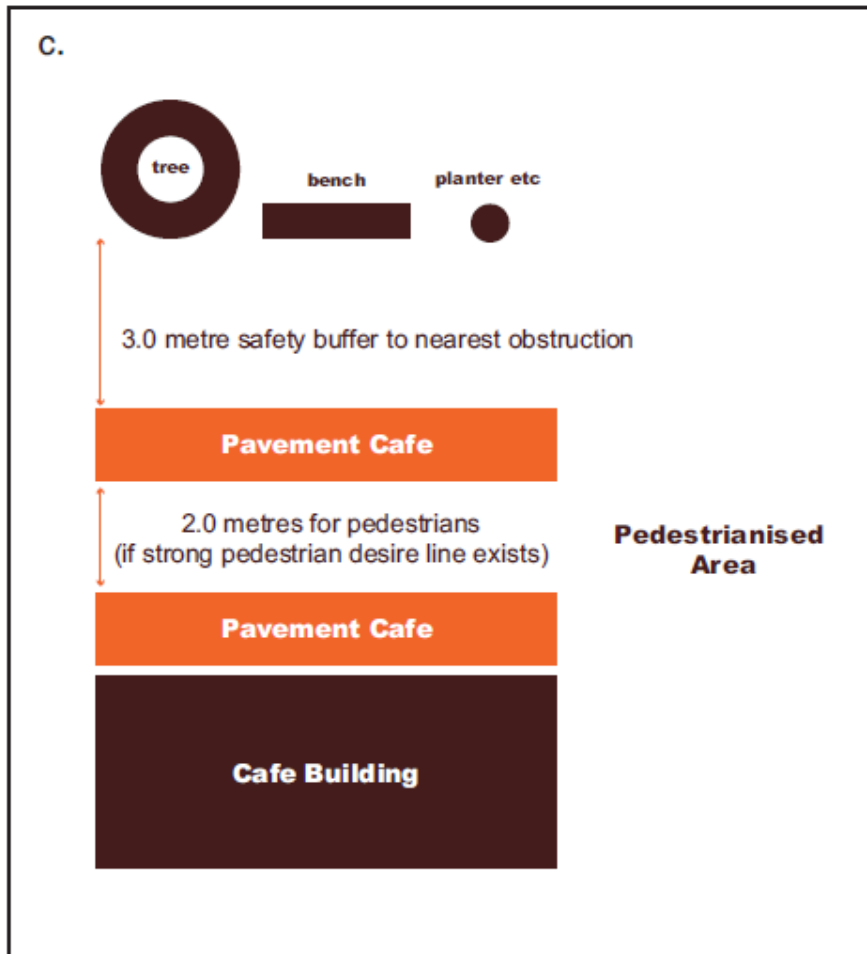
4 Café Layout Requirements

- 4.1 The public highway exists primarily for the use of pedestrians and vehicles, including parked vehicles where that is permitted, and any pavement café has to respect that primary requirement and ensure it is accommodated.
- 4.2 In practice that means that an unobstructed, step and kerb free pedestrian path of no less than 2.0 metres with width should always be made available past or through the pavement café area. In the case that the pavement café in two parts, with a 2.0 metre pedestrian route passing through it, a strip of no less than 1.0 metres will be required between the outer extent of a pavement café and the kerb edge of a vehicular route or designated parking space. In pedestrianised areas a strip of no less than 3.0 metres must be left between the outer extent of the pavement café and any other obstruction, to allow for emergency vehicle access.

- 4.3 A pavement café must be located adjacent to the building from which the café trades, and should not exceed the width of that building. The pavement café must not block any vehicular or pedestrian accesses to adjacent properties. It can extend into the footway and other areas of the highway (such as a market place) provided that no traffic routes or designated parking spaces are impinged upon. A pavement café should not normally extend further than 10 metres from the frontage of the building.
- 4.4 Figure 1 demonstrates some schematic layouts for pavements and cafés in foot way and marketplace/pedestrianised locations. The layouts are indicative and not prescriptive, pavement cafes will generally be acceptable as long as the key requirements set out in these guidelines are met.
- 4.5 It is good practice for the extents of pavement cafés to be marked by temporary fencing of a robust construction. This will allow the area of the café to be made clear to users and passers-by, will aid the safety of children using the café and to help the café look attractive and fit into the townscape. The use of fencing higher than 1.0 metres high, or of flimsy construction, or of garish colours that do not match the surrounding townscape, is strongly discouraged. These are particular issues in conservation areas. No fencing that could be hazardous to passing pedestrians, including the visually impaired should be used. It is strongly recommended that a “tapping rail” is provided at the base of the fencing for the benefit of visually impaired pedestrians.
- 4.6 The layout and positioning of a pavement café must not block sightlines for road traffic at and around junctions and intersections. Further advice regarding the sightline requirements can be obtained from the Council’s highway officers (contact details can be found at the rear of these guidelines).
- 4.7 The Council strongly recommends that tables, chairs and boundary fencing constructed of wood or metal are used, and plastic furniture avoided, in order to maintain a good quality streetscape for our towns and villages
- 4.8 When the pavement café or premises with a display on the public highway is not trading, all furniture, displays and fencing should be removed completely from the public highway and stored within the premises.

Figure 1: Indicative Pavement Café Layouts





5 Litter Control

5.1 In order to comply with relevant legislation, these guidelines recommend that:

- Tables are cleared regularly to ensure that litter does not blow into public areas, and that birds are not attracted to unattended tables. This is often best achieved by offering waitress service to patrons of the pavement café;
- A litter bin is provided within the pavement café area for use of patrons and staff;
- The area of the pavement café is swept and sluiced at the end of the day's operation, to ensure that all remaining litter and detritus that has found its way onto the public highway is removed.
- The pavement café is used solely for the consumption of food and drink- all storage of food and drink should be within the main café premises.

6 Safe Operation

- 6.1 It will be the café owner's responsibility to ensure the pavement café operates in a safe and secure manner, and that patrons do not cause a nuisance to other members of the public either in the café or passing by.
- 6.2 We would recommend that pavement cafés only operate between 9am and 9pm. Music amplified through loudspeakers is not recommended for a pavement café, indeed the Control of Pollution Act 1974 bans this in outdoor areas between 9pm and 8am. Loudspeakers for advertising on pavements are prohibited. The Council will tackle excessive noise from pavement cafés through statutory noise abatement procedures as appropriate.
- 6.3 From time to time our Highways or Streetworks teams will visit pavement cafés during operation and ensure that the guidelines in this document are being complied with. Should any offences be observed, either in terms of obstructing the highway, in terms of excessive littering or for any other reasons, the café proprietors will be notified and appropriate action taken. Repeated transgressors will be prosecuted wherever possible.

7 Advice and Contacts

- 7.1 There is no need to obtain a license for a pavement café in Northumberland. However, officers of the Council are able to provide advice to café owners in order to assist in complying with these guidelines. Ad hoc advice by telephone and email will be provided free of charge
- 7.2 In working through proposals for a pavement café, the Council strongly recommends that neighbouring traders, businesses and residents are consulted and their views taken into account. This good practice will assist in reducing the risk of subsequent complaints to the café owner, and requests to the Council for enforcement action.
- 7.3 Café proprietors may wish to meet with Council officers to discuss their proposals on site and seek views on their pavement café proposals. In such circumstances officers may charge a fixed fee of no more than £100 to undertake up to 3 site visits per pavement café within a six month period. All discussions are offered without prejudice and no liability will be accepted by the Council.
- 7.4 Key contacts for the development of pavement café proposals are as follows:
All telephone enquiries to our customer services on 0345 600 6400
or email your query for advice on:
Pavement Café layouts & enforcement - streetworks@northumberland.gov.uk
Conservation Areas - conservation@northumberland.gov.uk