

Guidance for Hospitality Venues with Seating outside

As the Road Map out of the pandemic restrictions progresses, we want to support our hospitality venues to open up and welcome people back. It is still important, however, to continue to maintain robust COVID-19 controls to reduce the risk of transmission and to ensure that you stay safe and stay open. It is therefore essential to review your Covid 19 risk assessments to ensure your staff and customers stay safe it is also important to consider the impact on local residents.

This guidance has been produced in order to outline, the issues that will need to consider when drawing up plans for serving customers outside.

Noise management

The council have a statutory duty to protect neighbouring residents from unacceptable noise. Operators of licensed premises need to be mindful that they have residents living near to them who will be getting up early for work or have young children at school. This is particularly important in the use of outside areas and where doors and windows that are normally closed are being left open to help ventilation.

In order to try and minimise the impact on your neighbours you should incorporate a noise management plan into your Covid 19 risk assessment. The noise management plan (NMP) should look at issues such as,

<ul style="list-style-type: none"> ▪ Restrictions on outdoor entertainment such as music (such activities can only be allowed if permitted on your Premises Licence or under the authorisation of a Temporary events Notice TEN) • Limiting of operation of outdoor space. Each premises is different and may suit different operation but in a closely residential area you must seriously consider the latest time outside space should be used by large numbers without causing complaints. • Staff training and procedures for dealing with noise issues. • Supervision and management of customers outside to prevent excessive noise • Use of acoustic lined jumbrellas, Marquees or gazebo`s. ▪ Use a limiter/cut off device on sound equipment 	<ul style="list-style-type: none"> • Communicate with neighbours in advance to try and diffuse any conflict - leaflet drop information/ reassurance on start and finish times & family friendly events and provide an emergency contact number should any issues arise • Restrict emptying bottle bins or putting bins out at unreasonable times • Lights should be mains operated as generators could cause noise issues. • Flexibility – issues may arise that could cause disturbances, so it is imperative that NMP's are flexible enough to incorporate rapid change and develop with experience and the practicalities that become apparent in operation. • Use of signage in outdoor spaces • Restrict use of noisy equipment, use rubber feet on bottom of chairs and tables etc.
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You should also consider other potential nuisance issues such as lights not causing excessive illumination or glare to residents or odour nuisance from any outside barbeques etc.

If complaints are received about noise or other nuisance from a licensed premises, we will contact you to discuss the complaint and what could be done to reduce noise levels. While every effort will be made to find an agreeable solution this may include needing to reduce the use of the outside space. Ultimately if it is necessary, and reasonable steps to improve matters have been tried and have failed, the Councils Anti-social Behaviour Team or Environmental Protection Team may need to take more formal action in the form of issuing a Community Protection Warning/Notice or Abatement Notice. Consideration may also be given to triggering a Review of your Premises Licence

Marquees, Shelters or other outside structures

Before spending money on an expensive shelter, you must ensure that if you are using the space as an **outdoor area**, it complies with the 50% open rule. This means ensuring the shelter will not be 'enclosed' as defined in the Smoke-free (Premises and Enforcement) Regulations 2006.

Definition of 'enclosed' and 'substantially enclosed' premises.

Premises will be considered to be **enclosed** if they have a **ceiling or roof** and, except for doors, windows or passageways, are wholly enclosed, whether on a **permanent or temporary** basis. Premises are **substantially enclosed** if they have a ceiling or roof, but there are permanent openings in the walls that are **less than half** of the total areas of walls, including other structures that serve the purpose of walls and constitute the perimeter of premises.

Put simply: **if 50% of the walls or more are missing then it is NOT enclosed, if more than 50% of the walls are present then it is enclosed.**

The gazebo or marquee side-panels will be classed as rolled down even when they are rolled up and the 50 per cent rule will be calculated on the basis that those openings are closed.

Planning Considerations

Planning permission will normally be required for the following operations and uses:

- permanent external shelter structures –whether freestanding or attached to existing buildings – where they have a material effect on the external appearance of the building
- awnings/canopies/blinds attached to buildings where they have a material effect on the external appearance of a building;
- use of any land as a beer garden or yard, where the land does not form part of the business premises;
- construction of timber decking;

You should contact planning if you are not sure if planning will be required at planning@burnley.gov.uk

Planning permission is not normally required for the following;

- Pavement and forecourt tables and chairs sited on the public highway or a private forecourt, providing there are no permanent fixtures involved (a pavement licence will be required for pavement furniture); for more information on pavement licences see link below.
- portable freestanding awnings/canopies and space heaters;
- the use of beer gardens and yards, where these are ancillary to the main pub/restaurant use and are lawfully part of the existing business;

You must ensure that any structure or equipment you are using meets health and safety and fire safety requirements. For further information contact envhealth@burnley.gov.uk. Useful information can also be found at;

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery>

<https://beerandpub.com/licensee-guidance/noise-control/>

<https://www.hse.gov.uk/coronavirus/working-safely/risk-assessment.htm>

<https://www.burnley.gov.uk/residents/streetscene/engineering-services/pavement-licence>