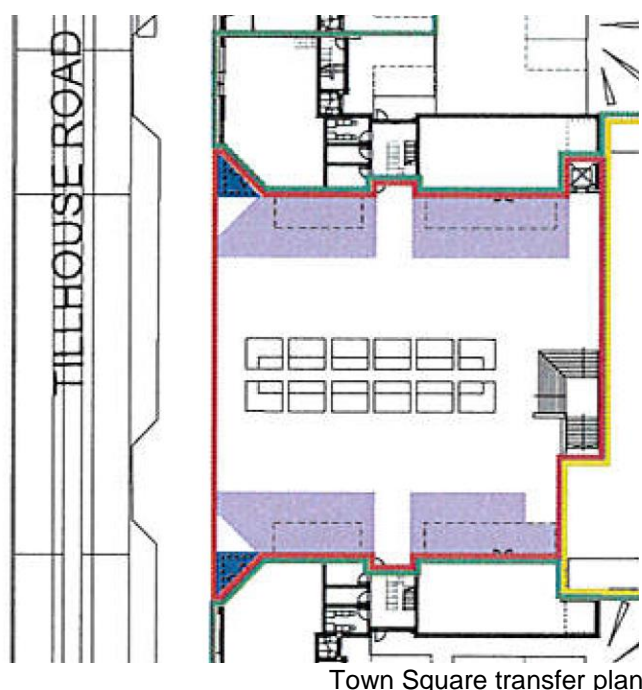


## **TOWN SQUARE OUTDOOR SEATING GOVERNANCE AND CHARGING**

### Introduction

The construction of the Town Square in the first tranche of the town centre development is nearing completion. The Town Square will be transferrable to the Town Council when it is completed.

The land transfer plan (below) indicates outdoor seating areas for those ground-floor retail units which front the Town Square in the purple highlight:



The government introduced a process under the Business and Planning Act 2020 for establishments such as cafés, restaurants and bars to apply for a licence to place furniture on the public highway to safely provide additional outdoor seating which includes paved or pedestrianised areas. However, if the land in question is private (i.e. unadopted) land, businesses do not need a pavement licence but do need permission from the landowner.

Other regulatory frameworks still apply such as the need for alcohol licenses and the need to comply with registration requirements for food businesses.

This report recommends the creation of a permission process for business owners to place tables and chairs on the Town Square when the latter has transferred to the Town Council.

## Considerations

Although [Devon County Council](#) no longer issues permanent licences for street cafés, their 2019 guidance for street cafés is attached to this report. All temporary licenses which East Devon District Council had granted expired in September 2024. Both the County Council and the District Council used to charge businesses £100 per licence application. The information regarding pavement licences on both councils' websites appear out of date.

On 15 October 2024, East Devon District Council's licensing team advised that:

"Pavement licensing now falls to the district councils, so any applications for a pavement licence on public land will come to East Devon District Council. If the land is privately owned and the persons have permission from who owns the land, then in most cases a licence will not be required. We deal with these licences on a case-by-case basis, so it is difficult at this stage [...] to confirm whether or not a licence will be required. However, looking at the report the outdoor areas will be owned by Cranbrook Town Council, and therefore any outdoor seating permissions will fall to them.

We are currently working with [Devon County Council] and the other district councils across the county to have a Devon wide policy and guidance [and] will be able to feed back more information to you once the draft versions have been discussed and amendments proposed."

## Proposed Application Process

Applications must be made in writing either by emailing [clerk@cranbrooktowncouncil.gov.uk](mailto:clerk@cranbrooktowncouncil.gov.uk) or by posting a hard-copy application to the Council's address at the Younghayes Centre. Applications must include all the necessary documents listed below and include a £100 fee which is non-refundable.

Outdoor seating permissions are valid for 12 months and can be renewed.

Businesses must apply by submitting the following:

- covering letter confirming their contact details
- evidence of public liability insurance for a minimum of £5 million
- evidence of having contacted neighbouring businesses and occupiers prior to applying to the Town Council and explain in their covering letter how they have taken any issues around noise and nuisance into consideration
- pay the fee of £100
- submit colour photographs, brochures or drawings showing the design, dimension, colour and materials of the tables and chairs they propose to use
- submit a map of the business premises, outlined in blue with the outdoor seating area applied for marked in red (example below)

## Sample map outlining the business premises with the new area applied for



This plan shows the business premises outlined in blue and the proposed seating area outlined in red

- provide a detailed plan and layout showing the precise location and proposed setting out of the tables and chairs
- sign a copy of the schedule of local conditions for Town Square Outdoor Seating Permission (please see the appendix below)

Cranbrook Town Council will:

- acknowledge receipt of the application

[does the Council wish to follow the following steps?:]

- start a public consultation process
- send a consultation notice which must be fixed to the premises in a publicly visible position. Notices must remain in place for ten working days, beginning the day after the applications is accepted by the Town Council. Businesses need to send dated photographic evidence that the notice is in place.
- visit the location to check the notice. If the notice is not clearly displayed, the consultation will stop. A new application and fee will be required to start again.
- determine the application after taking into account any representations received during the application.

### **Recommendations**

a) To adopt the provisions in Devon County Council's guidance for street cafés dated July 2019 for local use.

b) To adopt the application process contained in this report.

c) To adopt the schedule of local conditions for Town Square Outdoor Seating Permission.

## **SCHEDULE OF CONDITIONS FOR TOWN SQUARE OUTDOOR SEATING PERMISSION**

1. These Local Conditions are considered to form part of the Town Square Outdoor Seating Permission upon grant by Cranbrook Town Council.
2. Permission is personal to the named permission holder who shall be the person who completes the Application.
3. The outdoor seating permission granted shall remain valid for a period of 12 months and shall remain in force only for such period of time as the permission holder remains occupier of the Premises or until revoked by the Council, or surrendered to the Council by the permission holder.
4. The outdoor seating permission and furniture authorised shall only extend to the agreed area as set out in the plan annexed to the Application or such other plan as agreed by Cranbrook Town Council in granting the outdoor seating permission ("the Outside Area") and shall not extend beyond this area. No unauthorised obstructions are to be placed in the said area or on the adjacent public highway.
5. The tables and chairs shall be of such a design as may be approved by Cranbrook Town Council as set out in the outdoor seating permission Application and shall be kept in good repair and condition at the permission holder's expense.
6. Should a gazebo or marquee be permitted by the outdoor seating permission and used by the permission holder the following conditions apply:
  - i. Heavy ballast weights must be used at each leg to withstand uplift forces from wind. Calculations from the manufacturer, supplier or installers to show the weight requirements for each leg must be obtained and complied with.
  - ii. Anchorage should also prevent lateral movement of the structure. Ropes to anchorage points must not obstruct movement around or within the structure
  - iii. The permission holder should be aware of the design wind load of the structure, and have a procedure for monitoring weather forecasts, and making safe by removal of covers any structure likely to be put at risk by high winds
  - iv. The structure must be British fire-rated BS 5438 and/or BS 7837 (or any replacement standard) and marked accordingly, the permission holder must carry out a fire risk assessment of the structure.
  - v. Domestic garden gazebos and old style market gazebos cannot be accepted as they are not structurally safe for use in public areas.
  - vi. Gazebos/stall coverings/marquees must be kept visually appealing and compliment the character of the area
7. The permission holder shall make no permanent or temporary fixtures to or excavations of any kind in the surface of the Town Square which shall be left undisturbed when the tables and chairs are not in use.
8. The Outside Area will be suitably managed by competent staff, i.e. to control the use of the Outside Area, to return trays, clear crockery and refuse and to maintain the area to as high a standard as is required inside the premises and to ensure that the conditions in this outdoor seating permission are complied with at all times the Outside Area is in use.

9. The permission holder shall not display any advertisement, signboards, nameplate, inscription, flag, banner, placard, poster, signs or notices on the Outside Area unless such item is included within the Application.
10. The permission holder shall make no claim or charge against Cranbrook Town Council in the event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause.
11. All drinks served for consumption in the Town Square shall be served in reusable plastic/polycarbonate or similar containers, no glasses or bottles are to be permitted in the Town Square.
12. The Outside Area must be solely used by customers seated at tables and for consumption of food or drink supplied from the premises to which the outdoor seating permission relates.
13. Permission holders are encouraged to make the Outside Area smoking free but it is a condition of the outdoor seating permission that where smoking is permitted the permission holder must make reasonable provision for seating where smoking is not permitted. This provision must be as set out in the Application and must be in accordance with the guidance issued by the Secretary of State such guidance being shown at the following address or such other updated guidance as may be issued.
14. The Town Square must not be used for BBQs, firepits or other cooking apparatus.
15. The Town Square may only be used during the hours specified in the Application and in the absence of any specific hours being shown in the Application, the Outside Area shall not be used after 10.00pm. In the event that the Premises Licence relating to the Premises provides for an earlier closing time than either the outdoor seating permission or this condition, the earlier time shall take precedence over the outdoor seating permission and these Local Conditions.
16. The permission holder shall not sublet or share possession of the tables and chairs or the area covered by the outdoor seating permission.
17. The permission holder must ensure that it provides an outside lidded refuse bin to enable refuse generated within the Outside Area to be easily deposited. The refuse collected in this refuse bin must be disposed of by the permission holder at the permission holder's expense.
18. Waste from the permission holder's operations must not be disposed of in the litter bins provided by Cranbrook Town Council, all waste from the permission holder's operations must be disposed of at the expense of the permission holder and not at any cost to be incurred by the Council.
19. The permission holder must ensure that the Outside Area is kept clean and clear of refuse and litter throughout the period during which the Outside Area is operated. Refuse and litter deposited on the Town Square in the vicinity of the tables and chairs and other objects must be removed frequently throughout each day by the permission holder at the permission holder's expense or at more frequent intervals as may be required by or under the Environmental Protection Act 1990. The permission

holder must ensure that the surface of the pavement is kept clean at all times and should have particular regard to the removal of grease, fat deposits and similar to ensure that the surface does not present a hazard to users of the Town Square.

20. The permission holder shall remove the tables and chairs and other objects from the Town Square and the Outside Area outside specified trading hours and immediately if required to do so as to permit works in or the use of the Town Square by the Town Council, the police, fire and ambulance services, any statutory funeral director or utilities operator or builders' vehicle, hearse and furniture removal van.

21. No alcohol shall be consumed in the Outside Area unless a licence has been issued by the relevant authority in advance or in compliance of an existing licence granted.

22. The permission holder shall at all times be responsible for ensuring that the Outside Area is only used by customers of the permission holder, to ensure that proper supervision and control is exercised over the Outside Area at all times not to permit any drunkenness or rowdy, unseemly or disreputable behaviour to take place on the Licensed Area.

23. The permission holder shall at all times be responsible for ensuring that customers and visitors permitted or otherwise to the Outside Area do not use the Outside Area for any illegal purpose or for any purpose or in a manner which may cause loss, inconvenience distress or alarm, or could be or could become a nuisance (whether actionable or not) to occupiers of neighbouring properties or members of the public.

24. The permission holder shall at all times be responsible for ensuring that the tables on the Outside Area are cleared promptly of any dirty and used cutlery and crockery and are wiped down regularly and any spillages in the Outside Area are properly cleaned immediately.

25. The permission holder shall be responsible for any rates taxes and other outgoings which may be charged.

26. It is a condition of this outdoor seating permission that clear routes of access along the Town Square must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people. The permission holder must comply with the Guidance of the Secretary of State with regard to the needs of disabled people and the recommended distances required for access by disabled people, such guidance being shown at the following address or such other updated guidance as may be issued.

27. Where Cranbrook Town Council deem it necessary to place or replace any demarcation markings on the Town Square surface, the permission holder will be liable for the costs incurred and for the maintenance and replacement costs which will be undertaken by the Council.

28. Musical entertainment whether amplified or not will not be permitted in the approved area unless a Temporary Event Notice is in place in relation to the area included in the outdoor seating permission.

29. Failure to comply with the terms or any breach of terms of the outdoor seating permission will result in the Council serving notice on the permission holder to rectify the fault. A continued failure may result in the Council rectifying the fault with the costs incurred being recharged to the permission holder. The outdoor seating permission can also be revoked at the discretion of Cranbrook Town Council.

30. Any changes to the area of structures and furniture requires submission of a new application and appropriate fee, there being no means for variance of a granted outdoor seating permission.

31. No refund of fees shall be provided upon grant of a properly issued outdoor seating permission or in the event of revocation or surrender of the outdoor seating permission.

32. The permission holder must at all times comply with all laws, Government and Health and Safety guidance, regulations and requirements in respect of their operations.

33. The permission holder must ensure that they have all planning permissions and all other consents, licences, permissions, certificates, authorisations and approvals whether of a public or private nature which shall be required by any competent authority for the intended use of the Outside Area.

34. The permission holder shall indemnify Cranbrook Town Council against all actions proceedings claims demands and liabilities which may at any time be taken made or incurred in consequence of the use of the tables and chairs and other objects. For this purpose the permission holder must take out and keep in place, at the permission holder's expense, a policy of public liability insurance approved by the Council in the sum of at least £5 million in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.