

LIQUOR LICENSING - GUIDANCE NOTE 1

Occasional Licences and Phase 2 of easing lockdown

The Scottish Government has announced that as part of Phase 2 of the Route Map for coming out of lockdown, bars and restaurants can reopen outdoor areas from 6th July for the purposes of serving food and alcohol, so long as physical distancing and increased hygiene routines are in place. Thereafter, businesses can open up indoor space from 15th July, again subject to physical distancing and increased hygiene arrangements.

The East Dunbartonshire Licensing Board wishes to support local businesses as much as possible within the legal frameworks that exist and where it is safe to do so. Alcohol must be licensed for on-sale consumption if it is to be sold in an outdoor area. Where the outdoor area already forms part of a Premises Licence, the area can be utilised under the current terms of that licence. However, licence holders must have written policies and procedures on physical distancing and increased hygiene measures that can be demonstrated to Police Scotland, the Council's Environmental Health Service, or Licensing Standards Officers if required.

Where the outdoor area is not currently part of a Premises Licence, the Licensing Board will permit the use of successive Occasional Licences as a temporary measure. Every attempt will be made to process applications as quickly as possible, however turnaround times are dependent on consultation responses and so cannot be guaranteed.

Under current legislation, an Occasional Licence has a maximum duration of 14 days. This cannot be extended or altered by the Licensing Board.

The Licensing Board is inviting bars and restaurants to submit a series of Occasional Licence applications at the same time to allow for the operation of outdoor area(s) continually by way of a series of consecutive Occasional Licences. Whilst these applications will be received and processed simultaneously, the grant of each new occasional licence will be subject to the licence holder complying with the terms of any previous Occasional Licence and otherwise with regulations and guidance relating to physical distancing and other public health requirements.

The 14 day duration applies to licensed premises and does not apply to Members Clubs, where the statutory rules are different. Current legislation restricts both the number and duration of Occasional Licences that a Members Club can apply for. These restrictions are as follows –

During any period of 12 months a Members Club can be granted -

(a) up to 4 occasional licences, each lasting 4 days or more; and

(b) up to 12 occasional licences each lasting less than 4 days,

Up to a maximum of 56 days in any 12 month period

This is stipulated by legislation and is not something that the Licensing Board has any discretion to change.

Application Process – (Please Refer to the Checklist at Appendix 1)

The Council and its statutory consultees are aware of the need to assist businesses in opening up post lockdown and are committed to turning around applications as quickly as possible. However the Council cannot guarantee that it will be able to process applications by a specific date, particularly with very short notice, working restrictions which impact on service delivery, and increased demand.

It is important that you complete your application and supporting paperwork as early as possible and submit it as early as you can.

The Council is recommending that premises apply for Occasional Licences **within existing policy requirements**, as this will enable applications to be processed and granted quickly. So long as the Occasional Licence application is within policy requirements and there are no objections or representations, it should be possible for the Occasional Licence to be granted within a week or so. Once granted, the Occasional Licence will be both emailed and posted to the premises.

If your application for an Occasional Licence is outwith policy requirements and/or receives any objections and/or representations, then the application will need to be decided by the Licensing Board at a hearing. This will significantly delay the progress of your application. In order to avoid this you should

- stick to the current policy requirements,
- engage with your neighbours so that they know what you are planning and how you will manage any possible impact on them,
- engage with any other relevant parties e.g if you do not own the land on which you wish to place outdoor seating and tables then you should speak to the land owner and obtain permission,
- speak to the Council's Roads Service if you are likely to encroach onto the pavement
- contact the Planning Service to find out whether your outdoor seating needs planning permission

Much of the Council's ability to turn applications around quickly will depend on how the applications are submitted, the quality of those applications, and the volume received. Paper applications will take longer to process as the mail service is currently restricted. Please do not hand in or post paper applications. Applications should be made and paid for [online](#) via the Council's website. All supporting documentation should be attached to your application or emailed to liquor.licensing@eastdunbarton.gov.uk, stating the name of your premises in the subject matter. .

Normally, applications submitted online require to be printed and sent to the applicant for wet signature, however this requirement has been temporarily waived and online applications will be accepted without the need for a wet signature.

In addition to completing the application form online, please make sure you provide details of how you intend to operate your outdoor area(s), including service of food and alcohol, toilet provision, risk assessments and the positioning of tables and chairs. These documents must include details for cleaning between customers and use of rest facilities. A basic plan of the proposed layout will also be required. These details should be sent by email to liquor.licensing@eastdunbarton.gov.uk.

Prior to submitting your plans etc, you should engage with the Council's Environmental Health Service to review operating arrangements, layouts and risk assessments etc so as to take steps to ensure that the premises can as far as possible safely accommodate customers having regard to restrictions on movement and physical distancing. If you have any queries relating to Environmental Health issues (i.e. physical distancing and increased hygiene routines) then please contact the Environmental Health Team at environmental.health@eastdunbarton.gov.uk.

As stated above, you may require other permissions from the Council, such as consent to use pavements or planning permission. Applications submitted for Occasional Licences will be shared with other Council services such as Planning, Environmental Health, Roads and Building Standards. This is not part of the statutory process but will ensure that you receive advice on all aspects of your plans.

If planning permission is required for the service of food and alcohol in an outdoor area, then a valid application for that planning permission will need to be submitted in order to prevent any planning enforcement action being taken. If you need to apply for planning permission then please do so via the Council's online planning portal. Further guidance is attached at Appendix 2. If you have any queries relating to Planning issues (i.e. whether planning permission is required etc.) then please contact the Planning Team at planning@eastdunbarton.gov.uk.

If you are not sure what to do or need premises specific advice, please contact the Licensing Team on 0300 123 4510 or at liquor.licensing@eastdunbarton.gov.uk

If you wish to make a permanent addition to your Premises Licence, you will require to make a major variation application; however, the Board will permit you to apply for successive Occasional Licences to trade in the interim.

Possible Scenarios

I have a Premises Licence for a bar. I also have a beer garden that is detailed on my operating plan and layout plan.

In this situation, then unless you want to make any changes, you are able to use your current licence in the areas that you already have licensed. However, it is your responsibility as licence holder to make sure that you comply with physical distancing and increased hygiene routine rules as set out by the Scottish Government. It is recommended that you complete a risk assessment for the safe operation of your premises considering Scottish Government Guidance and seek advice from the Council's Environmental Health Service. You should also make sure that you have obtained all other necessary consents e.g. planning permission where required.

I have a Premises Licence for a restaurant. I have an outdoor space or garden where I can lay out tables and chairs. I do not have outdoor drinking in my operating plan nor is it in the layout plan.

In this situation, you will need to apply for an Occasional Licence. An Occasional Licence can only be applied for in relation to areas that are not covered by a Premises Licence. It is recommended that you also complete a risk assessment for the safe operation of your premises considering Scottish Government Guidance and seek advice from the Council's Environmental Health Service. You should also make sure that you have obtained all other necessary consents e.g. planning permission where required.

I have a Premises Licence and I have a licensed outdoor area. I want to extend the licensed area so that it is bigger.

You can apply for an Occasional Licence for the additional outdoor space. An Occasional Licence can only be applied for in relation to areas that are not covered by a Premises Licence. It is recommended that you also complete a risk assessment for the safe operation of your premises considering Scottish Government Guidance and seek advice from the Council's Environmental Health Service. You should also make sure that you have obtained all other necessary consents e.g. planning permission where required.

Appendix 1

Application Process Checklist

This checklist has been prepared to support you in submitting an [online](#) via the Council's website.

PLEASE NOTE THAT A POSTAL APPLICATION IS LIKELY TO BE DELAYED DUE TO CURRENT POSTAL RESTRICTIONS.

- Do you require planning permission for the service of food and alcohol in your outdoor area(s) even if they are already licensed? If so, have you made a valid application via the Council's online planning portal in order to prevent any planning enforcement action being taken?
- Have you contacted the Council's Environmental Health service to seek guidance on how you intend to operate your outdoor area(s), including service of food and alcohol, toilet provision, risk assessments and the positioning of tables and chairs? Remember that these documents will have to include details for cleaning between customers and use of rest facilities and, where appropriate, will have to be emailed to the Licensing Team (liquor.licensing@eastdunbarton.gov.uk) as part of your application for an occasional licence. A basic plan of the proposed layout will also be necessary.
- Have you completed your Risk Assessments for opening? Do you have evidence of RA consultation, sharing, discussion and training with all staff?
- Have you considered what measures you need to put in place to ensure physical distancing in your business? (*e.g. Queue control measures, change to layout, signage, announcements, markings, barriers, screens, include measures for delivery of goods to your premises*)
- Have you determined the safe number of employees AND customers for your workplace and their access to facilities under current circumstances?

- Have you considered enhances hygiene measures including toilet use, cleaning regimes and sanitising procedures and the types of products required? (*Think of common hand-contact points; BS EN14476 is the standard for viricidal properties. For hand sanitisers, minimum 70% alcohol*)
- Have you considered (through Risk Assessment) the types of PPE available to employees?
- Have you filled out the application form fully and provided as much detail as possible?
- Have you uploaded a copy of your Premises Licence or Personal Licence along with the completed application form?
- Have you paid for your application online?

Appendix 2

Temporary Procedures Regarding Outdoor Seating in Relation to Planning Requirements

April 2021



Introduction

In order for cafes, bars and restaurants to re-open whilst maintaining social distancing it is anticipated that there will be increased interest across East Dunbartonshire to create new or expanded outdoor seating areas. Planning legislation allows temporary uses to take place without permission and defines temporary as those uses which are in place for no more than 28 days in a calendar year. Seating areas which are intended for this period or less would not therefore require planning permission.

Seating areas intended for longer periods would generally be considered a change of use and require planning permission. However this process requires neighbour notification and consultation so has a minimum timeframe associated with it. It is acknowledged that many businesses will need to move faster than this process allows to ensure they remain in operation. The Council is keen to support these businesses in re-opening, however at the same time a balance needs to be struck to ensure a suitable level of control over issues such as pedestrian safety and residential amenity is retained. The Scottish Government is also supportive of this approach and has advised Councils to not enforce the 28 day limit for temporary uses for 'reasonable' beer gardens or seating areas.

There is therefore a need for an appropriate approach to this issue to achieve the balance described above. This document is intended to set out the approach to this in relation to planning permission however you should note that other regulations and requirements may apply in relation to licensing, food hygiene and land ownership. Prospective applicant should make contact with the relevant teams or organisations relevant to these areas to ensure compliance with their requirements.

Temporary Procedure

For the duration of 2021 the Planning Service will take the following approach in relation to outdoor seating areas associated with cafes, bars and restaurants:

No enforcement action from the planning service will be taken against any reasonable outdoor seating areas. A reasonable outdoor seating area is considered to be one which meets the following criteria:

- A valid planning application has been received for the works and is under consideration within 28 days of it coming into operation.
- A minimum of 2 metres of pavement width is retained at all points.
- The opening hours of the seating area is restricted to 8am to 10pm daily.
- The creation of the seating area does not involve any physical works to a listed building or building within a conservation area (i.e. fixing of canopies, new wall openings etc.)
- No trees require to be felled.
- No amplified or live music takes place at any time.
- Access for emergency services vehicles is retained at all times.
- No raised stages or platforms are proposed
- Reasonable consideration is given to neighbouring businesses and residents through the design and layout of the seating area.
- Consideration for visually impaired pedestrians is given in terms of the siting and layout of tables and chairs. These should either be sited away from the building line or be encompassed with a clear continuous border that can be navigated by visually impaired pedestrians.

Where the planning application can be granted there may be specific conditions attached in relation to the duration of the use or details of its operation which applicants should ensure they comply with. The above procedure is intended to allow businesses to establish a viable way of operating temporarily and does not offer any guarantee on the outcome of the planning application. Where the proposal is found to be contrary to the policies of the Local Development Plan they will be refused and enforcement action would be taken at that point.

This policy will be reviewed in line with government and Council advice.