



**PLACING OBJECTS
OR STRUCTURES ON THE HIGHWAY
(HIGHWAYS ACT 1980 PART III)**

**FOR THE PURPOSE OF PROVIDING
REFRESHMENTS**

Scope

The placing of objects or structures on the highway is controlled by the provisions of Part VIIA of the Highways Act 1980 and applies to all public highways. Whatever the position with regard to the ownership of the land, the issue that must be determined is whether the land forms part of the highway over which the public has a right to pass or repass, or whether it is a private area over which the public has no right of access except by consent.

In the case of privately owned land, if the public has, without interruption, for a period of 20 years enjoyed the right to pass or repass then the land is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to so dedicate it. Consent is therefore required.

The onus is on the landowner to produce evidence to rebut any deemed dedication. If no substantiated rebuttal or formal application for consent is made, the Council will perform its statutory duty to protect and assert the rights of the public over the highway and take action to prevent any unauthorised obstruction.

An extract of Section 31 of the Highways Act 1980 is attached at Appendix A.

Licence Periods

The days and times are at the discretion of the Dover District Council/.

Procedure

1. The Application Form should be completed and returned with a site plan clearly showing the dimensions of the area of highway on which furniture is to be sited and the proposed layout of the furniture together with the Requisition (Appendix C) requiring details of all persons with an interest in the applicant's property. If you wish to discuss the site layout, please contact the Highways Management Unit (extension 2440).
2. Administration to:-
 - (i) Consult the Highways Management Unit, the local Police and Chamber of Trade before referring the matter to the Council for consideration in principle and
 - (ii) Determine all those people who have an interest in premises that are materially affected by the proposal.
3. If an application is approved in principle, local consultation will take place allowing 28 days for representations to be made.
4. If any representations are received details, will be forwarded to the applicant for comment and the matter will then be referred back to the Council for further consideration.

5. If no objections are received or if approval is given after consideration of objections, the licence will be prepared.

Enforcement

The Council will keep the operation of a licence under review and any failure to comply with licence conditions could result in the Council carrying out rectification works and recharging the cost to the licensee or even terminating the licence.

HIGHWAYS ACT 1980 - PART III

Dedication of way as highway presumed after public use for 20 years

31. (1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.
- (2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.
- (3) Where the owner of the land over which any such way as aforesaid passes:-
- (a) has erected in such manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a highway, and
 - (b) has maintained the notice after 1st January 1934, or any later date on which it was erected,
- the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.
- (4) In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) above, so, however, that no injury is done thereby to the business or occupation of the tenant.
- (5) Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as a highway is, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as a highway.
- (6) An owner of land may at any time deposit with the appropriate council:-
- (a) a map of the land on a scale of not less than 6 inches to 1 mile, and
 - (b) a statement indicating what ways (if any) over the land he admits to have been dedicated as highways;

and, in any case in which such a deposit has been made, statutory declarations made by that owner or by his successors in title and lodged by him or them with the appropriate council at any time:-

- (i) within six years from the date of the deposit, or
- (ii) within six years from the date on which any previous declaration was last lodged under this section,

to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgement of such previous declaration, as the case may be, are in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.

- (7) For the purposes of the foregoing provisions of this section "owner", in relation to any land, means a person who is for the time being entitled to dispose of the fee simple in the land; and for the purposes of subsections (5) and (6) above "the appropriate council" means the council of the county [metropolitan district] or London borough in which the way (in the case of subsection (5)) or the land (in the case of subsection (6)) is situated or, where the way or land is situated in the City, the Common Council.
- (8) Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public or statutory purposes to dedicate a way over that land as a highway if the existence of a highway would be incompatible with those purposes.
- (9) Nothing in this section operates to prevent the dedication of a way as a highway being presumed on proof of user for any less period than 20 years, or being presumed or proved in any circumstances in which it might have been presumed or proved immediately before the commencement of this Act.
- (10) Nothing in this section or section 32 below affects [section 56(1) to the Wildlife and Countryside Act 1981 (which provides that a definitive map and statement] are conclusive evidence as to the existence of the highways shown on the map and as to certain particulars contained in the statement) [. . .]
- (11) For the purposes of this section "land" includes land covered with water.



Application for a Street Furniture Licence

1. Applicant

Full name

Date of birth

Address including postcode

Telephone number(s)

Mobile number

Email address

2. Business

Name

Address including postcode

Telephone

3. Licence Required

From (month)

To (month)

Days

Between the times

and

Number of tables

Number of chairs

Brief description of type and quality of tables and chairs

Please also provide photos if possible

4. Additional Information

Do you have toilets for customers to use?

Yes

No

If yes, please say how Many?

Have you sought the advice of the environmental health officer in respect of food hygiene and health and safety matters?

Yes

No

Have you ever been refused a street furniture Licence in this or any other areas?

Yes

No

If yes, please give details

**PLANNING PERMISSION MAY BE REQUIRED
PLEASE TELEPHONE 01304 872042.**

5. Declaration

I enclose

Plan showing dimensions of area of highway and proposed layout of street furniture

Copy of Public Liability Insurance

Fee: £75 Application Fee or £35 For Annual Renewal.

I declare that I have checked the information given on this application form and to the best of my knowledge and belief it is correct.

Signature

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Date

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Notes

1. If any person makes a false statement or omits any material particular in giving the foregoing information knowingly he may be guilty of an offence and liable to prosecution. In addition the licence may be revoked forthwith.
2. Please complete this form on a computer or in block capital letters and return it to
Licensing
Dover District Council
White Cliffs Business Park
Dover CT16 3PJ

For Office Use Only

Date		Time		Officer	
Receipt number				Fee	£
Licence number				Issue date	

Permission to Place Objects or Structures On a Highway

Standard Conditions

1. The area on which objects or structures may be placed will be defined and no object or structure shall be placed on any part of the highway outside that area.
2. Termination shall be by one month's notice in writing by either side unless the licensee breaches or fails to observe conditions in which case the Council may revoke the permission forthwith without notice.
3. Limitation upon period that structures may be placed on the highway.
4. The objects or structures shall not be used for any purpose other than for providing refreshment for the benefit of the public.
5. The permit holder shall ensure that all persons using the area are seated at all times on the seats provided.
6. No nuisance or annoyance shall be caused to any adjoining premises.
7. The objects or structures shall be of good and sufficient quality and shall be kept in good and sufficient state of repair.
8. The area shall be kept clean and tidy and shall be cleansed and washed if necessary on each occasion at the end of each permitted period. Failure to do so could result in the Council carrying out such works in default without notice and recharging the full cost thereof to the permit holder.
9. Any permit issued is personal to the permit holder and cannot be assigned or transferred.
10. The permit holder shall be responsible for all accidents, claims, damages, injuries, loss or liability occasioned by reason of:-
 - (a) placing of the objects or structures on the highway or any defects therein.
 - (b) the acts or defaults of the permit holder or his servants, contractors, agents or workmen arising out of the grant of this permit.
 - (c) the causing of any nuisance.

11. The permit holder shall indemnify and save harmless to the Council and its officers and servants from and against any claim in respect of injury, damage or loss arising out of the grant of this permit (unless the injury, damage or loss is attributable to the negligence of the Council or its officers or servants) and for this purpose shall take out at his own expense a policy of insurance in the joint names of the permit holder and the Council in the sum of £5 million (Five million pounds) at least and shall produce to the Licensing Section or other proper officer for the time being of the Council the receipt for the current premium whenever called upon to do so.
12. In the event of emergency the Council may ask the permit holder to remove the objects or structures or may itself remove them from the permitted area for such period or periods as it deems necessary without liability for any injury, damage or loss arising therefrom.
13. Any permit approved does not convey approval to place any other object or structure on the highway or obviate the necessity to obtain any planning permission or street trading consent or any other statutory approval.
14. The permit is renewable each year at a fee determined by Dover District Council, currently £35.