

Planning Guidance Note

A Planning Advice Note on Smoking Shelters and Other Features

Background

- Smoke free legislation in the Health Act 2006 comes into force England at 6am on Sunday 1 July 2007 to create smoke-free places and to protect workers and public from harmful effects of passive or secondary smoke. The ban introduces a statutory smoking ban in “enclosed” and “substantially enclosed” premises

Purpose of this Note

- To provide planning guidance on the provision of facilities for smokers, in the context of compliance with the new health legislation, but please note this guidance note is not a definitive interpretation of the law.
- To advise on the need for planning permission and the factors to be taken into account in deciding whether or not such permission will be granted.

The Need for Planning Permission

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

- permanent external smoking shelter structures - whether freestanding or attached to existing buildings
- awnings / canopies / blinds attached to buildings - will almost always have a material effect on the external appearance of a building
- pavement and forecourt tables and chairs sited on the public highway or a private forecourt

- use of any land as a beer garden or yard, where the land does not already form part of the business premises
- construction of timber decking
- stub-out bins on the front of premises

Planning permission will normally **not be required** for the following operations and uses:

- 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

Where there is any doubt about the need for planning permission you should check with the Council’s Development Control service before proceeding
Tel: (0191) 433 3426 or (0191) 433 3428

Lawful Development Certificate or Planning Application?

You can check the need for planning permission formally by submitting an application for a certificate of lawful proposed development, or informally by seeking advice from Development Control.

Application forms for a certificate of lawful development, or for planning permission, can be downloaded from the Council’s website on www.gateshead.gov.uk, or obtained from Development Control. A fee is payable, details of which are available from the web site by clicking on the planning section and following through to the forms, fees and charges subsection.

Detailed guidance on the submission of applications, including a specimen application form, is available from Development Control and on our website at www.gateshead.gov.uk

Applications for smoking shelters should demonstrate that the structure would not be “substantially enclosed”.

Applications will also require a Design and Access Statement, which should set out in the context and scale of the proposals, the design considerations in the context of the building and the wider context as well as any accessibility issues.

Planning applications for smoking shelters and related structures would normally take up to 8 weeks to determine from the time we receive a valid application.

Material Considerations

All planning decisions are based upon planning policies contained within the Council’s adopted development plan, related guidance, and any other material considerations.

When assessing a planning application for a shelter, awning or similar structure, the Council will seek to ensure that the facilities are well-designed and sensitively sited in a way that:

- enhances the street scene, and
- protects the safety and free flow of pavement users
- has no detrimental impact on the amenity of neighbouring residents

In particular:

- is the shelter / awning or other structure in a prominent location?
- is the structure well designed, using appropriate materials, and in character with the existing building?
- will the location / siting of the shelter / awning have any adverse amenity impact in terms of:
 - visual intrusion
 - character and appearance of the area
 - loss of outlook
 - overlooking of adjacent residential premises
 - light pollution

- siting adjacent to doors / windows/ air intake systems - whether within or adjacent to the premises
- secondary smoke infiltration into adjacent residential or commercial premises
- introduction or intensification of activity and disturbance near noise sensitive premises, particularly in the late evening
- will the siting of the shelter / awning result in loss of parking spaces, with associated impact on parking problems in the vicinity?
- will the shelter / awning obstruct or block an adjacent public footpath or road to the detriment of pedestrian or traffic safety?

Canopies / shelters / heaters and similar structures sited on the public highway or on other public spaces are unlikely to be permitted

Proposals affecting premises in a conservation area, or affecting a listed building, will be particularly sensitive. The design of any smoking -related structure shelter would need to be of exceptional quality if it were not to affect the character or setting of a listed building, or the character or appearance of a conservation area.

If planning permission is granted, conditions may be imposed to restrict, for example, the transmission of music or any other amplified sound to any noise-sensitive boundary, or hours of operation (although more likely to be addressed under licensing provisions). In some cases, temporary permission may be granted to allow the review of any impact in sensitive locations.

Advertisement Consent

If you propose to provide new external signs, for example, to direct customers to smoking shelters, you may need to make a separate application for Advertisement Consent. Application forms and guidance can be downloaded from the Council’s website www.gateshead.gov.uk

The main concerns in deciding whether to grant consent will be:

- highway safety - for example, would the sign cause obstruction to pedestrians or traffic? and

- amenity - would the sign be visually obtrusive - particularly in a conservation area, or on a listed building - or add to advertisement clutter?

Contact Us

This advice note is intended as a guide to a complicated process. You should seek further information and advice from the Council's Development Control Service and our planning information officers on 0191 433 3426 or 433 3428.

You can also visit the Council's website on www.gateshead.gov.uk, or the Planning Portal at www.planningportal.gov.uk