

**Report to the Chief Officer (Highways and Transportation)**

**Date: 01 April 2014**

**Subject: Street Café Licensing in Otley – Leeds House – Market Place, Leeds, LS21 3AQ**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Otley & Yeadon	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. This report seeks approval of a Street Café Licence application for Leeds House , Market Place, Otley, LS21 3AQ
2. Plans showing the proposed layout of the street café area are shown in the attached unnumbered drawing.
3. There are some particular local requirements which are highlighted in the report and incorporated into the draft licence attached.

**Recommendations**

4. The Chief Officer (Highways and Transportation) is requested to;
  - i) note the contents of the report;
  - ii) and approve the application from Leeds House, for a licence to operate a street café on the highway at Market Place, Otley LS21 3AQ ,as shown on the attached unnumbered drawing, to expire on the 31st March 2015 and that future licences be renewed annually, subject to satisfactory operation, and with approval from The Chief Officer (Highways and Transportation).

## **1 Purpose of this report**

- 1.1 To consider an application for a licence under Section 115E of the Highways Act 1980 to operate a street café on the highway at Market Place, Otley, LS21 3AQ.

## **2 Background information**

- 2.1 Whilst it is acknowledged that street cafes enhance the attractiveness and vitality of the city or district centres, it is important that they are properly administered and managed, in particular, that they do not obstruct the highway or create a hazard for pedestrians, especially for the visually impaired and pedestrians with mobility issue.
- 2.2 In recognition of the need to ensure that street cafés are satisfactorily controlled, the City Centre Committee, in 1990 approved a detailed street café policy which requires street cafes to be licensed by Leeds City Council under Section 115E of the Highways Act 1980.
- 2.3 This same policy is adopted for the licensing of street cafes in other areas outside of the city centre.

## **3 Main issues**

- 3.1 Obstructions on the public highway can be particularly problematic for visually impaired pedestrians and pedestrians with mobility issues. The visually impaired need to be confident that obstacles can be easily located and avoided. Street cafes which are enclosed and managed in accordance with the approved guidelines will help facilitate access and keep the area safe for all.
- 3.2 Adequate circulation space is to be maintained within the street cafes to allow access for all users including those using wheelchairs and walking aids.
- 3.3 This application relates to Leeds House, Market Place, Otley who propose to place tables and chairs on an area of the market square on Market Place, outside their own premises only. The application is for 8 tables and 20 chairs. The street café has already been in operation without a licence and there have been no reported issues.
- 3.4 Please see attached proposed street café layout plan (unnumbered drawing), a photograph of the frontage of the building and a draft of the proposed licence.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Highways and Transportation Officers have been consulted on the proposed application and the identified issues resolved. Due to the high level of footfall in the area Market Place is inspected for defects once a month, with any defects identified repaired the following day. On these occasions Leeds House will be informed so that the area can be kept clear whilst inspections and repairs are carried out. The licence includes a condition to reflect this point.

- 4.1.2 It was also noted that advertising logos were present on the table parasols. These must be removed to comply with a condition of the licence.
- 4.1.3 Highways Development Services Officers have been consulted on the proposed layout no issues were highlighted.
- 4.1.4 Access officers were consulted and they identified that the entrance opening should be reduced as the enclosure barriers would be used as 'tapping rails' by long cane users. The access officer advises that a width of 1.8m would be acceptable. The layout plan has been amended accordingly.
- 4.1.5 It was also requested that the distinctive, stone paved footway that crosses through the market square must remain totally unobstructed at all times. The layout agreed ensures that this footway is unaffected.
- 4.1.6 Notices were posted on the highway adjacent to the proposed street café area on 19<sup>th</sup> August 2013 for the stipulated 28 days and no objections were received.
- 4.1.7 West Yorkshire Police have been consulted and no problems were identified.
- 4.1.8 Elected members for Otley and Yeadon were also consulted and in general were supportive of the application. They did however raise the following issues;
- i) The effect that the street café serving alcohol would have on the Designated Public Places Order currently in place in the area. The Police confirmed that this is not an issue as the street café licence strengthens the controls.
  - ii) The licence needs to be clear and unambiguous to reflect the specific local concerns particularly with respect to the days of operation to avoid market days and other events. The draft licence attached to this report includes specific conditions to cover these points. It has also been circulated to the Elected Members for Otley and Yeadon and their issues have been incorporated into the conditions of the draft licence. No further issues have been identified.
- 4.1.9 Markets Services have been informed and have no issues provided the licence excludes market days and Farmers Market Sundays.
- 4.1.10 Otley Town Council and Town Partnership have been informed and return no objections

## **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An 'Equality, Diversity, Cohesion and Integration' screening document has been completed, and an impact assessment is not required. The document is attached as Appendix 1.
- 4.2.2 The street café policy is reviewed annually and changes made to the policy should any comments/feedback be received which causes a sufficiently negative affect on the operation of the street café, and street users.

- 4.2.3 Consultation with the Leeds City Council Accessibility Officer takes place to ensure proposals do not negatively impact on disabled and visually impaired users, when applications are received.
- 4.2.4 Street cafés must always be enclosed with barriers and with tapping rails attached to assist visually impaired city centre users.
- 4.2.5 The street café policy is reviewed annually and changes made to the policy should any comments or feedback be received which causes a sufficiently negative affect on the operation of the street café, and street users.
- 4.2.6 Continued promotion of positive impact of street cafes so that more street café applications will be received, if it is shown that they do not cause any obstructions and that they are welcomed by street users in the area that they are located.

### **4.3 Council policies and City Priorities**

- 4.3.1 This application complies with the street café guidelines as laid out in the Street Café Policy 2013/14.
- 4.3.2 Improving vitality and attractiveness of the city and contributing to becoming the 'Best City'.

### **4.4 Resources and value for money**

- 4.4.1 Street Café Licensing has no impact on capital funding.
- 4.4.2 Fees accompanying applications are based on the administration and legal costs incurred in the preparation and issue of the licences. From the 1<sup>st</sup> April 2011 both application and renewal fees are based on the business's rateable value and size of both the premises' internal area and the proposed external street café area. Each business's fee will therefore be different.
- 4.4.3 The change is designed to reflect the value of the outside space, so that business's in fringe areas of the city pay less per square metre than business's in more high profile areas.
- 4.4.4 The application fees will be £440. A street café licence renewal fee is payable annually on the 1<sup>st</sup> April and will be no less than the fee paid on application.
- 4.4.5 There will be an additional cost of Network Management Officers time in ensuring that licensees comply with the conditions of the street café licence. As there are not expected to be many street cafes operating outside of the city centre, this can be absorbed into the normal day to day duties of these officers.
- 4.4.6 Currently the income accrues to Legal Services and Network Management to offset administration costs.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The street café licences are granted under Section 115E of the Highways Act 1980.

## **4.6 Risk Management**

- 4.6.1 The application contains no request to use items determined as risky in the Street Café Policy and as such no risk assessments have been requested.

## **5 Conclusions**

- 5.1 All relevant consultations have taken place and the site layout of the street café has now been agreed to be acceptable. It is now recommended that the Board consider approval of the application.

## **6 Recommendations**

- 6.1 The Chief Officer (Highways and Transportation) is requested to;
- i) note the contents of the report;
  - ii) and approve the application from Leeds House for a licence to operate a street café on the highway on the market square of Market Place, LS21 3AQ, as shown on the attached unnumbered drawing, to expire on the 31st March 2015 and that future licences be renewed annually, subject to satisfactory operation, and with approval from The Chief Officer (Highways and Transportation).

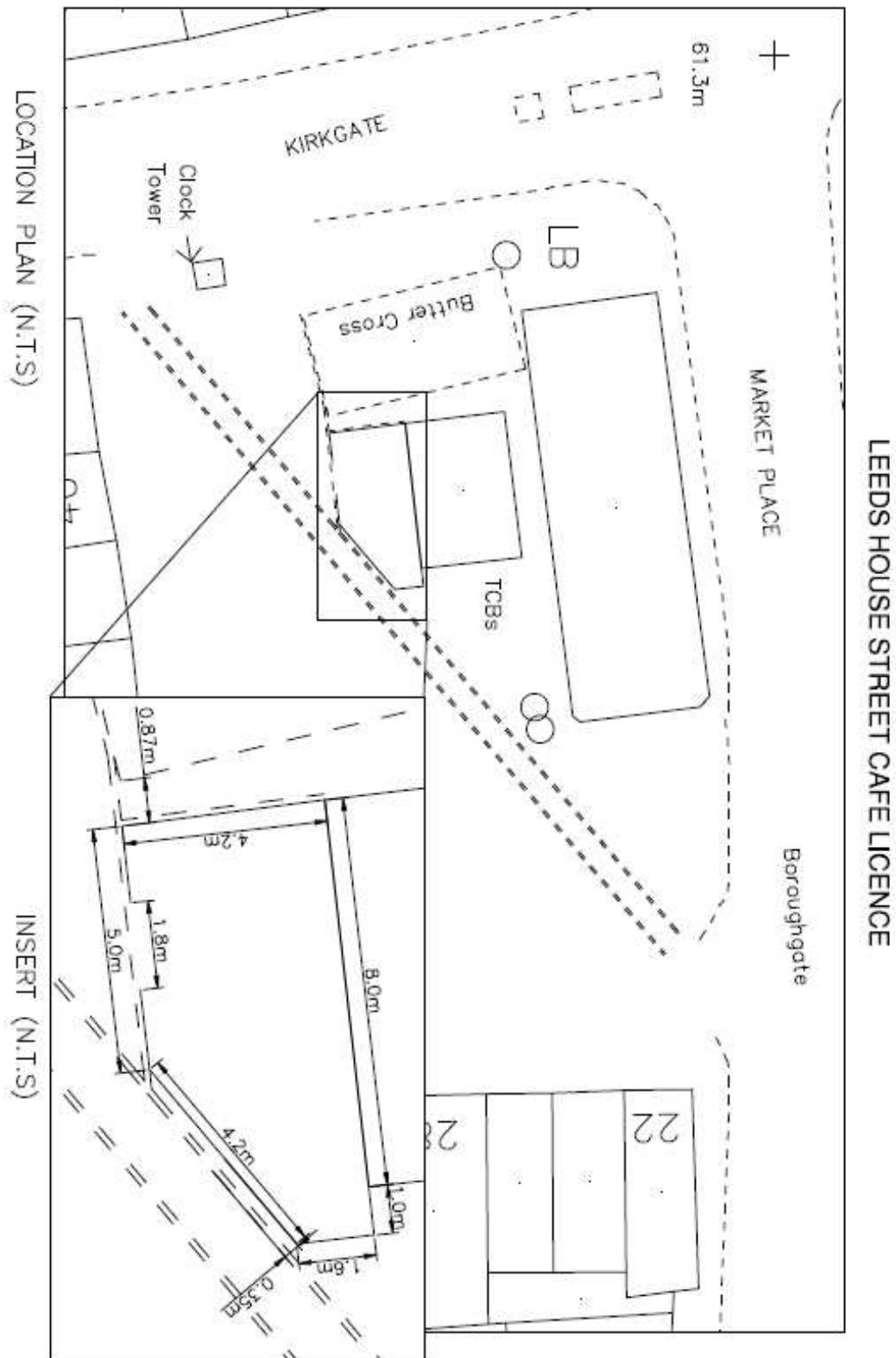
## **7 Background documents<sup>1</sup>**

- 7.1 Leeds House Café Layout Plan
- 7.2 Site photograph
- 7.3 Leeds House Café draft licence
- 7.4 Equality, Diversity, Cohesion and Integration screening document

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

# Leeds House Café – Layout Plan



Leeds House Café – Site Photograph



Dated

day of

2014

**LEEDS CITY COUNCIL**

**AND**

**LEEDS HOUSE**

**LICENCE**

**Under the provisions of  
Section 115E  
Highways Act 1980 in  
relation to the provision of refreshment  
facilities on  
Market Place  
Otley  
Leeds  
LS21 3AQ**

(Reference [H&T/SC/2014xx])



HIGHWAYS ACT 1980 – SECTION 115E

LICENCE TO PLACE STRUCTURES IN THE HIGHWAY FOR THE PROVISION OF  
REFRESHMENT FACILITIES

1. Leeds City Council as Highway Authority for the Highway mentioned below (hereinafter referred to as “the Council”) acting by Gary Bartlett, Chief Officer (Highways & Transportation) hereby grants to **Leeds House** (hereinafter referred to as the “Licensee”) under the provisions of Section 115E of the Highways Act 1980 a Licence to provide and maintain a seating area. The seating area shall consist of **20 chairs** and **8 tables, of which a third will be designated Smoke Free**, for the purpose of refreshment on the Highway known as **Market Place, Otley , Leeds LS2 3AQ** (“the Highway”) shown on the attached plan edged red (hereinafter called “the refreshment area”) upon the terms and subject to the conditions hereinafter specified.
2. These conditions are based on the attached document “*STREET CAFÉ POLICY*” (hereinafter called “the guidelines”) and these guidelines may be taken into account by the Council determining any issue which is not specifically covered by this Licence.
3. The Licensee shall ensure that all persons employed by him / her or acting under his / her directions also comply with these conditions.
4. The Licensee shall pay to the Council an annual licence fee to be determined by the Council being a sum not less than **£440.00**.
5. Subject to the provisions of Clause 14 the refreshment area will only be open for use as a refreshment area between the hours of **10:00 and 17:00 Mondays, Wednesdays, Thursdays and Sundays (excluding the Farmers Market on the last Sunday of every month)** (hereinafter called “the refreshment period”) and shall not open for use as a refreshment area at any other time unless prior written consent has been obtained from the Council for such other times as the Council at its discretion may determine as being acceptable.
6. The refreshment area shall not exceed the dimensions specified on the attached plan and the Licensee shall not encroach beyond the refreshment area. The designated walkway which incorporates flags and adjacent edging blocks that crosses Market Place must not be encroached and remains completely unobstructed at all times.
7. The Licensee shall not alter or amend the boundaries or the approved layout of the refreshment area, including the proposed 1.8m access opening, unless prior written consent has been obtained from the Council.
8. Only furniture approved by the Council shall be used by the Licensee. The Licensee shall ensure that all furniture is of an approved design, is safe, stable,

fit for the use intended and properly maintained. The Licensee shall not alter or amend the design or specification of the approved tables, chairs, parasols, enclosure barriers or planters unless prior written consent has been obtained from the Council.

9. All tables, chairs and other furniture, including parasols shall be contained within and shall not extend beyond the refreshment area. These must only contain the name of the café. The advertisement of any other companies cannot be permitted.
10. The Licensee shall at its own cost maintain the refreshment area in a clean and tidy condition and shall remove all refuse which is generated by customers of the refreshment area within an area of approximately 5 metres around the site or as otherwise directed by the Council. Spillages and breakages or any other obstructions to the Highway must be removed immediately.
11. The Licensee shall maintain the entire street café including the refreshment area as designated one third Smoke Free and as such, each table in that area shall have a 'No Smoking' sign placed on it. On tables where smoking is permitted in the street café an ashtray shall be provided.
12. The Licensee shall not dispose of any refuse in the permanent litter bins provided by the Council.
13. All tables and chairs placed in the refreshment area shall be kept in a clean and tidy condition and used glasses, plates, cutlery, uneaten food, and all other articles and litter thereon shall be removed, immediately on vacation of each table by customers.
14. All tables, chairs and other equipment shall be removed from the refreshment area, stored within the licensee's property, and the refreshment area swept and thoroughly washed within 30 minutes following the end of the refreshment period.
15. No alcoholic beverage shall be sold or supplied by the Licensee for consumption within the refreshment area unless the appropriate Premise Licence (Licensing Act 2003) has been obtained. The hours will be restricted to the periods approved under the Licensing Act 2003.
16. In the event that the refreshment area encroaches upon that part of the Highway available by vehicular traffic, that part of the refreshment area shall not be occupied by the Licensee unless the affected part of the Highway has been closed to vehicular traffic and shall be vacated prior to re-opening of the said section of Highway to vehicular traffic.
17. The Licensee shall be registered in accordance with regulations made under Section 19 of the Food Safety Act 1990.
18. No fixtures to or excavation of any kind shall be made in the surface of the Highway which shall be left entirely undisturbed.

19. The Licensee shall indemnify the Council against all damage caused to the Highway as a consequence of its use by the licensed operation.
20. The Licensee or his/her business shall not cause or permit any noise nuisance disturbance or annoyance to other users of the street to the occupiers of any adjacent land or building or to the Council or the general public.
21. The refreshment area shall be used solely for consuming refreshments and for no other purpose and the Licensee will only allow refreshments ordered and purchased from **Leeds House** to be enjoyed within the refreshment area.
22. The whole of the adjacent Highway shall remain open for pedestrian use at all times and shall not be obstructed by use of the refreshment area.
23. The Licensee shall not place any wheeled refuse containers, beer kegs, bottle crates, A-boards, advertising signs, or any other unsightly or unauthorised items within or adjacent to the refreshment area or on any adjacent Highway and shall immediately remove any other item determined to be unacceptable by the Council.
24. The Licensee shall not promote or authorise or permit others to promote **Leeds House** or events taking place within **Leeds House** by illegal fly posting or by the distribution of handbills or flyers in any street or public place without the prior written consent of the Council.
25. The Licensee shall immediately comply with any request to move or remove completely any tables, chairs or other items within the refreshment area by the Council, Police, Fire Officer or other Emergency Service in the interests of public safety or otherwise (for example, but not by way of limitation, sporting or major events, building operations or on occasions when there are demonstrations, public unrest and disorder, bomb warning or fire alert) or for inspection, maintenance and repair of the Highway and/or Highway equipment and no claim shall be made against the Council, Police, Fire Officer or other Emergency Service in respect thereof.
26. The Licensee shall indemnify and keep indemnified the Council from and against all actions demands costs charges or expenses arising out of or in connection with the use of the refreshment area and for this purpose shall take out an insurance policy in at least the sum of £2,000,000 for any one accident without limiting the number of claims arising out of any one accident with an insurance company of repute to be approved by the Council and shall produce such policy and the receipt for the premium thereof to the Council on request.
27. Subject to the provisions herein relating to earlier determination, the Licence hereby granted shall remain in force from the date hereof until March 31<sup>st</sup> 2015 and may at the Council's sole discretion be renewed annually on 1<sup>st</sup> April thereafter on payment of the appropriate fee.

28. At the expiration or early termination or suspension of this Licence pursuant to the provisions of this Licence the Licensee shall remove all tables, chairs and other items placed on the refreshment area by the Licensee at its own cost.
29. The location plan, the site plan, the agreed enclosure barrier design and the guidelines shall all form part of this Licence. A copy of this Licence and the attached plans and guidelines must be kept in the Licensee's premises and made available for inspection at any time by officers of the Council, the Police or Fire Service.
30. This Licence is personal to the Licensee and shall not be assigned by the Licensee.
31. The Council may temporarily suspend the licence in the interest of public safety or otherwise, for example (but not by way of limitation), for building operations, street works or public events (including Town Council events) taking place on the Highway and no claim shall be made against the Council in respect thereof.
32. Either party may terminate this Licence its absolute discretion at anytime upon giving twenty one days written notice of such termination and in such circumstance no part of the licence fee be refundable.
33. Notwithstanding clause 32 above the Council may immediately terminate this Licence without notice in the event that the Licensee breaches any of the conditions of this Licence including any document forming part of this Licence and in such circumstance no part of the licence fee be refundable.
34. In the event that the Licensee fails to comply with the conditions of this Licence the Council may undertake any measures or works in default and to recover the cost of doing so from the Licensee.
35. On the termination of this Licence the Licensee shall remove all tables, chairs and other items of street furniture and shall make good the Highway to the satisfaction of the Council at its own expense within a period of 14 days where any damage has been caused to the Highway.

Signed by the said **GARY BARTLETT**

On behalf of the Council

Signed by the Licensee

in the presence of

# Appendix 1

## Equality, Diversity, Cohesion and Integration Screening



As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions. Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.
- whether or not equality, diversity, cohesion and integration is being/has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

<b>Directorate:</b> City Development	<b>Service area:</b> City Centre Management
<b>Lead person:</b> Andrew Smith	<b>Contact number:</b> 0113 2474719

**1. Title:** The Street Café policy within the City Centre

Is this a:

**Strategy / Policy**
                         
  **Service / Function**
                         
  **Other**

**If other, please specify**

**2. Please provide a brief description of what you are screening**

The Council's Street Café policy within the City Centre.

**3. Relevance to equality, diversity, cohesion and integration**

All the council's strategies/policies, services/functions affect service users, employees or the wider community – city wide or more local. These will also have a greater/lesser relevance to equality, diversity, cohesion and integration.

The following questions will help you to identify how relevant your proposals are.

When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation and any other relevant characteristics (for example socio-economic status, social class, income, unemployment, residential location or family background and education or skills levels).

Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?	X	
Have there been or likely to be any public concerns about the policy or proposal?	X	
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		X
Could the proposal affect our workforce or employment practices?		X
Does the proposal involve or will it have an impact on <ul style="list-style-type: none"> <li>• Eliminating unlawful discrimination, victimisation and harassment</li> <li>• Advancing equality of opportunity</li> <li>• Fostering good relations</li> </ul>	X	

If you have answered **no** to the questions above please complete **sections 6 and 7**

If you have answered **yes** to any of the above and;

- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to **section 4**.
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5**.

<b>4. Considering the impact on equality, diversity, cohesion and integration</b>
<p>If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.</p> <p>Please provide specific details for all three areas below (use the prompts for guidance).</p> <ul style="list-style-type: none"> <li>• <b>How have you considered equality, diversity, cohesion and integration?</b> (think about the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected)</li> </ul> <p>This policy has been developed in consultation with the Council's Access team, Highways Services and City Centre Management. It aims to ensure that street cafes encourage city centre users with mobility issues to more easily access and enjoy living, working and/or visiting the city centre. As such, this policy positively advances equality of opportunity and further detail of this is provided below:</p> <p>Consultations have taken place with Highways Officers, Leeds City Council Access Officers, Elected Members, and Leeds City Council Partnership Board on developing the Policy.</p> <p><u>Application Process</u></p> <p>The existing policy ensures that applications for street café licences will be available in</p>

alternative formats and any reasonable requests to supply in alternative formats will be met.

A generic street café inbox is available for any communication, and any comments/queries with regards to street café licences.

Visits to new applicants to discuss any proposals and to assist with any information that may be needed, where English may not be the first language or literary issues arise, to make the application process more effective and to answer any queries or comments.

### Application Assessment

All plans are assessed and consultation takes place with highways officials to ensure that circulation around the street café is always available for those with limited mobility, wheelchairs and pushchairs.

Site notices are posted onsite for 28 days to make all businesses and members of the public aware of application proposals, with copies of the application and proposals made available for viewing, in line with Leeds City Council Policy, allowing anyone to comment.

Leeds City Council Access Officers represent all groups and are made aware of site notices being posted. If the street café is approved and we receive negative feedback from visually impaired or disabled users after approval then action would be taken to resolve any issues or concerns raised.

Site notices will also be posted on the City Centre Leeds website.

Any adverse comments or feedback will be taken on board and actioned, including potentially suspending or removing a café licence where required.

Consultations with the Leeds City Council Accessibility Officer takes place to ensure proposals do not negatively impact on disabled and visually impaired users, when applications are received.

### Granting Applications

As part of the licence process Highchairs must be available in all café's that are granted a licence.

Street cafes must always be enclosed with barriers and with tapping rails attached to assist visually impaired city centre users.

Dependant on the location and to prevent any obstacles, the street café will either be in line with other street furniture in the area, 2 metres away from the building or the street café will be placed at the building line to assist with accessibility for all users.

The street café policy insists that at least 1/3 of the street café is completely smoke free, so that users can choose which area they wish to use.

The street café policy is reviewed annually and changes made to the policy should any

comments/feedback be received which causes a sufficiently negative affect on the operation of the street café, and street users.

- **Key findings**

(think about any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another)

Street café 's are welcomed into the city centre, with consultation taking place with the applicants and Leeds City Council Highways Officers to ensure that the street café is in a location that will not affect any other street users and will not cause any obstruction or access issues to anyone who visits, works or lives in the City Centre.

- **Actions**

(think about how you will promote positive impact and remove/ reduce negative impact)

Continued promotion of positive impact of street cafes so that more street café applications will be received, if it is shown that they do not cause any obstructions and that they are welcomed by street users in the area that they are located.

Should an application be approved, and negative feedback be received once the street café is in place then all necessary actions required to resolve the situation would be taken, including suspension of the street café licence.

**5. If you are not already considering the impact on equality, diversity, cohesion and integration you will need to carry out an impact assessment.**

Date to scope and plan your impact assessment:	N/A
Date to complete your impact assessment	N/A
Lead person for your impact assessment (Include name and job title)	N/A

**6. Governance, ownership and approval**  
Please state here who has approved the actions and outcomes of the screening

Name	Job title	Date
John Ebo	Deputy Head of Service, CCM	18.01.2012

**7. Publishing**  
This screening document will act as evidence that due regard to equality and diversity has been given. If you are not carrying out an independent impact assessment the screening document will need to be published.



Please send a copy to the Equality Team for publishing	
<b>Date screening completed</b>	
<b>Date sent to Equality Team</b>	
<b>Date published</b> (To be completed by the Equality Team)	