



Charnwood Borough Council
Guidance on Smoking Shelters
and Premises



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APPENDIX 1: SMOKING SHELTER CALCULATIONS

APPENDIX 2: SHISHA SMOKING IN COMMERCIAL PREMISES (ADDITIONAL GUIDANCE)

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July 2013
Charnwood Borough Council

Acknowledgements

Most of the information contained in these guidelines has been developed by Ellesmere Port and Neston City Council, Gateshead Council, Leicester City Council and are reproduced here with their knowledge. Information has also been provided by the Planning Officers Society. Pictures of different types of shelters/enclosures have been reproduced here from various commercial websites but this should not be taken as an endorsement of any particular type or make.

INTRODUCTION

If you are considering putting up a smoking shelter we advise you to contact us Charnwood Borough Council before you take any action to ensure that the shelter meets with building, health and safety, environmental and planning legislation. That means avoiding unnecessary costs from poor planning and design of workplace smoking shelters.

This document outlines the key principles set by the borough council when granting planning permission to businesses wishing to put up smoking shelters, plus building regulations, to assist design and management. Officers from the borough council will happily discuss any plans before you submit them. A list of contact names and numbers is included at the end of this guidance to help you.

LEGAL CONSIDERATIONS

Health Act 2006 Requirements

Section 1(2) of this Act applies to the smoking of tobacco or anything which contains tobacco, and being in possession of lit tobacco or anything lit which contains tobacco, or being in possession of any other lit substance in a form in which it can be smoked. Smoking shisha is therefore included in this definition.

The Act prohibits smoking in enclosed and substantially enclosed parts of virtually all premises that are open to the public or are used as a place of work by more than one person. Shisha premises need to comply with requirement.

Under the new Smokefree (Premises & Enforcement) Regulations 2006 nearly all public places and work places that are enclosed or substantially enclosed must be smoke-free from the 1st July 2007.

What is an 'Enclosed premises'?

Premises will be considered to be "enclosed" if they have a ceiling or roof, and except for doors, windows or passage ways are wholly enclosed, whether on a permanent or temporary basis.

What is a 'substantially enclosed' premises?

Premises will be considered to be substantially enclosed if they have a ceiling or roof, but there are openings in the walls which are **less** than half of the total wall area, including other structures that serve the purpose of walls and constitute the perimeter of the premises. When working out the area of an opening, no account can be taken of openings in which doors, windows or other fittings can be opened or shut.

Under the new Smokefree (Premises & Enforcement) Regulations 2006 nearly all public places and work places that are enclosed or substantially enclosed must be smokefree.

Health and Safety at Work etc Act 1974 Requirements

This requires dutyholders to ensure, so far as is reasonably practicable, that the

premises and any equipment or substance used there is safe and without risks to health. This includes making the workplace safe; ensuring any equipment is safe and adequately maintained; preventing risks to health; safe working practices are followed; identifying any potential hazards; providing employees with suitable information, instruction, and training; and preventing or controlling exposure to substances that may damage health.

The Regulatory Reform (Fire Safety) Order 2005

The Responsible person has a duty under the order to ensure that a Fire Risk Assessment has been carried out for the premises. The Fire Risk Assessment must identify all sources of ignition, fuel and what measures have been introduced to reduce the risks to all relevant persons.

Further information can be found by going to www.communities.gov.uk/firesafety

Legislation to Prevent Underage Purchase or Use of Tobacco Requirements

It is an offence to sell any tobacco product to persons under the age of 18 years and a statutory sign displaying the statement "It is illegal to sell tobacco products to anyone under the age of 18" must be displayed at every premise at which tobacco is sold by retail.

Tobacco is a constituent of the majority of products supplied for use in shisha establishments, or sold from their premises for personal use elsewhere and therefore these businesses must comply with these requirements.

In addition there is specific legislation relating to controlling supply of illicit, incorrectly labelled and non duty-paid tobacco which also apply to shisha products.

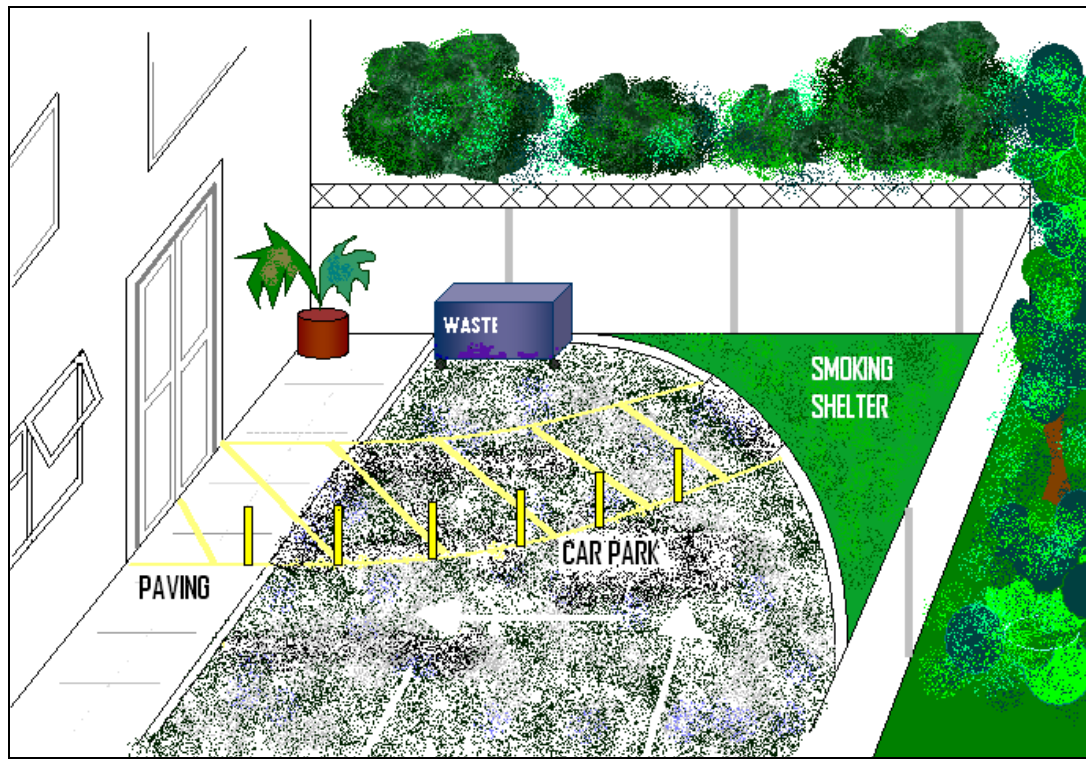
You should put in place systems to ensure that staff ask for proof of age where there is uncertainty and recommend you adopt a Challenge 21 policy. Staff training and monitoring should be carried out and a "refusals log" set-up for use by staff every time a sale is refused. This log will help you monitor that your staff are asking for proof of age.

If you sell packets of smoking mixtures containing tobacco for use in shisha pipes, every package must be labeled with a statutory Government health warning.

LOCATION CONSIDERATIONS

This is probably the most sensitive issue. Where the shelter is sited will have an effect on adjoining properties and uses (this includes commercial premises as well as dwellings). This is particularly important with historic buildings and buildings in Conservation Areas.

Location of the proposed smoking shelter is extremely important to get right at the planning stage, as putting right any mistakes will be costly.



Think about how people will enter and leave the smoking shelter. For safety reasons, people should not have to reach it by crossing a road, car park or delivery bay. Where this isn't possible, accident prevention measures must be put into place. Examples include: -

- Barriers to walkways
- One way system
- Personal protective equipment (for employees only)
- Hatched out flooring

Also, the use of shelters will increase the amount of times external doors are used to access/egress these areas. This may lead to noise nuisance issues with adjoining premises and also smoke ingress back into the building. This can be avoided by the provision of an acoustic/ventilated lobby. This can be achieved by providing two sets of doors that are off-set, for any external doors predominantly used as an entrance or egress to smoking areas. These doors should be fitted with self-closures.

LICENSING CONSIDERATIONS

Smoking Shelters that are to be built on licensed premises for customers and staff should be aware of restriction within their licence, particularly involving outside areas.

It is strongly advised that Premises Licence holder looks carefully through their licence as most premises in the borough have conditions relating usage of beer gardens and external areas. These conditions have to be taken into account when designing and installing smoking shelters.

Conditions and Licence Restrictions

Below is typical licence conditions applied to a number of licensed premises.

“Management should ensure that the external drinking areas are only utilised between 10:00 and 23:00”

“Use of the beer garden shall not be permitted between the hours of 23:00 and 10:00”

Conditions such as these have been put on the majority of licensed premises with external drinking areas to prevent public nuisance. Late at night background noise levels are low, meaning noise travels greater distances and can be more of a concern. People drinking in a beer garden rarely causes a nuisance to adjoining premises but during more sensitive periods at night, for example, when neighbours may be trying to sleep, complaints of noise nuisance and disturbance could be received.

Licence Variation

If you do want customers to be able to drink and smoke outside your premises after the times stated in conditions on your licence then you will need to apply to the Council for a variation.

Please be advised that by applying for a licence to allow drinking outside until late in the evening or early in the morning, you may receive objections from residents and from responsible authorities such as Environmental Health and the Police.

All planning applications for smoking shelters are subject to comment by the Environmental Protection Team and the Occupational Health and Welfare Team both within Regulatory Services. Where the siting of a smoking shelter could be a source of public nuisance there is likely to be objection. Early consultation is highly recommended.

NUISANCE & ANTI-SOCIAL BEHAVIOR CONSIDERATIONS

Where possible smoking shelters should be sited away from private housing where smoke and noise may become an environmental issue (see Noise/Nuisance).

It should be noted that any public nuisance caused in a beer garden by customers is the responsibility of the Premises Licence Holder or Designated Premises Supervisor.

It is the responsibility of staff at the premises to ensure noise from all external areas is kept to a minimum. Display posters asking customers to keep noise to a minimum.

Please be aware that the Licensing Act 2003 has brought in new powers for both Enforcement Agencies and residents to have a say in how licensed premises operate. Residents now have the ability to call for a "Review" if they are affected by any of the Licensing Objectives:

- Prevention of Public Nuisance
- Prevention of Crime and Disorder
- Protection of Children from Harm
- Public Safety

This could include noise from an outside smoking shelter, smoking area or beer garden whether alcohol is being consumed or not. A review could lead to stricter conditions, reduction in operating hours or ultimately a revocation of the licence.

To avoid problems with neighbours and licensing issues please take into account the following advice:

- Smoking shelters should be placed away from housing and if possible with some form of insulation (wall, vegetation etc) between customers and residents to help mitigate the noise.
- Speak to your neighbours, advise what you plan to do and get their suggestions
- Look through your license carefully and check what you are licensed to do, do you require a variation?
- Display posters to keep noise to a minimum in external areas
- Speak to your customers and advise them that they need to keep noise to a minimum in external areas, and advise them of the reason why.
- Ensure smoking shelters are secure to avoid misuse by customers after the premises are closed.

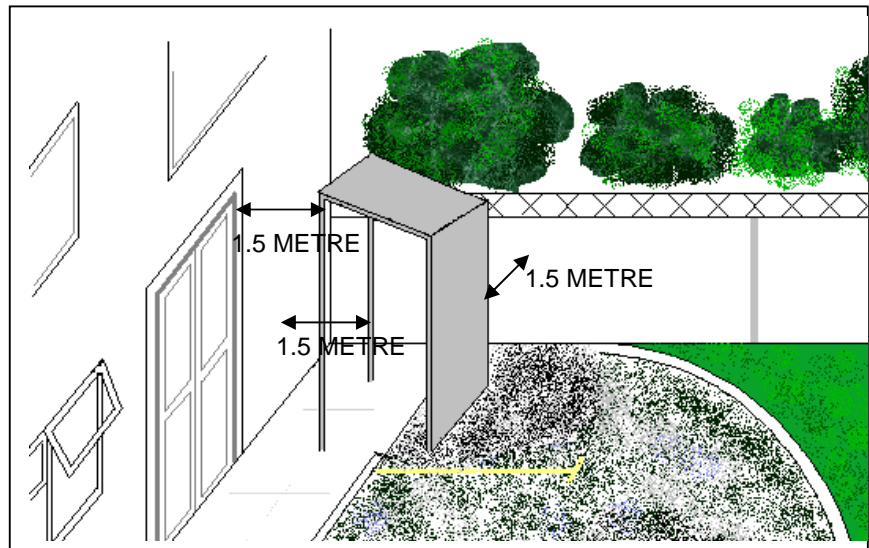
Anti-social Behaviour

Licensed premises often attract youths during evening periods. Try and ensure smoking shelters are monitored, covered by CCTV or secure to ensure youths do not congregate in these areas during or after operational hours (see Security Section).

Noise/Nuisance

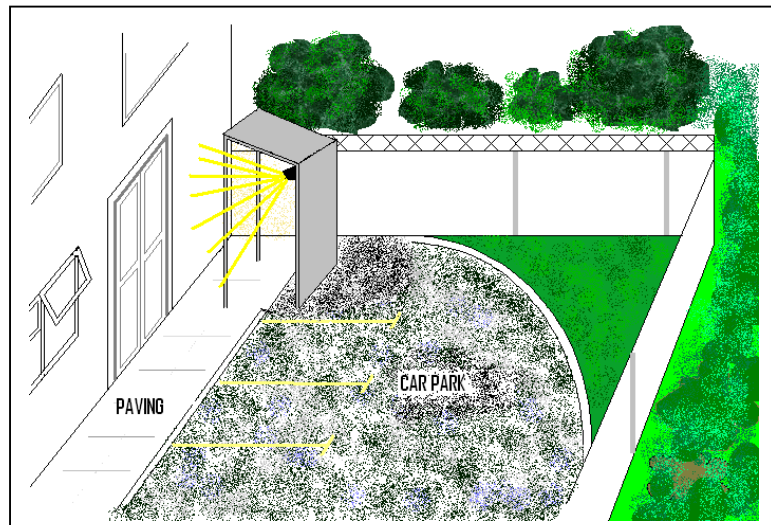
The smoke free legislation will increase the amount of times external doors are used for entrance and egress. If you operate premises with regular entertainment, be aware that this will increase the amount of noise escaping. To avoid causing a noise nuisance to adjoining premises, an “acoustic (ventilated) lobby” should be provided. This can be achieved by providing doors that are off-set, for any external doors predominantly used as an entrance/egress to smoking areas. These doors should be fitted with self-closures. This will help minimise the amount of noise that escapes when people go outside to smoke and limit the ingress of smoke back into the building.

All shelters should be faced inwards to reduce noise. However to meet the regulations any edges of the smoking shelter must be at least one point five (1.5) metres away from any enclosed structure, such as walls or hedges. The example opposite is acceptable.



Security and Lighting

Pay attention to lighting outside and inside the shelter, especially if it will be used at night to allow safe access to the shelter. Lighting can also be a statutory nuisance. You should also think about the direction of lighting and where possible face it away from any private housing. A suitable example is shown opposite.



Litter

a) On or inside Premises

The Workplace (Health, Safety and Welfare) Regulations 1992 requires every workplace shall be kept sufficiently clean and ensure that waste materials are not allowed to accumulate.

b) Outside premises/Public Highway

The Litter (Fixed Penalty Notices) Order 1991 makes it an offence to throw cigarette butts on the floor, which could result in a fixed penalty notice of £50. Duty holders should display signs stating this and asking people to use the ashtrays provided. This will not only benefit the individuals who may be unaware of the offence but also the duty holder who will have to clear up less cigarette ends.

c) The Future

In addition, litter created by employees around their workplaces, including discarded cigarette ends, could become the responsibility of businesses to clean up as part of government proposals currently being considered. These proposals would widen the range of premises which face Street Litter Control Notices to include all types of eating and drinking venues and office buildings. This would give local authorities the power to require the occupiers or owners to clear up litter in the immediate area of their premises, including that created by their customers, and to install disposal facilities or risk a fixed penalty notice of up to £110.

Licensing Implications

Any premises constructed on licensed premises for customers and staff should be aware of restrictions within their licence, particularly involving outside areas. It is strongly advised that the Premises Licence holder looks carefully through their licence BEFORE allowing smoking on the premises as there may have conditions relating to its use. You are advised to look through your license carefully and check what you are licensed to do and also if you require a variation?

SAFETY CONSIDERATIONS

For all smoking shelters you must consider the safety of its users and also any property kept inside. The personal safety of the shelter's users is paramount and must be considered through all aspects of design, construction and maintenance. Where possible the shelter should be in sight of staff for example close to an (unopened) window. Consider CCTV to be able to record any criminal activities as evidence. If CCTV is installed in these areas the appropriate signs should be displayed.

The use of the structure should be adequately controlled from any licensed premises during opening hours; its misuse after opening hours should be sufficiently controlled to avoid nuisance to nearby properties.

Duty holders must consider the likelihood of children and young adults congregating in the areas and put measures in place to prevent this from happening, particularly out of hours. These would include building the shelter from shatter proof glass and to avoid seating. If it is reasonably foreseeable that children and young adults will try to use these areas, duty holders must try to make the shelter unattractive to them.

Heath and Safety

In licensed premises it is advisable that you have a no glass policy for external smoking shelters in order to prevent glasses from breaking and causing a hazard. If you cannot have a no glass policy you must have a glass collection, which clearly states who is responsible for collecting the glasses and how often they are to be collected. It is advisable to train all of the staff to look out for broken glass and to clear it away in a safe manner as soon as possible.

Food Safety

Any establishment at which there is food or drink of any type or quantity must be registered under food law **before** it opens. Businesses wishing to trade in Charnwood must complete and return to Charnwood Borough Council Regulatory Services Food Safety Team a standard registration form. This can be obtained from the Food Safety Team Tel 01509 634656 or completed online at <http://www.charnwood.gov.uk/pages/registrationforsettingupabusines>

Ashtray

All smoking shelters must be provided with metal (or other fire retardant material) ashtrays suitable for outdoor use, that is made from non-perishable metal.



Free standing ashtrays (such as floor ash bins or ash and general rubbish bins) will only be allowed if they are fixed to either the floor or the shelter's structure itself and if there is no alternative.

Good examples of ashtrays appropriate for a smoking shelter are shown here. They are metal in construction and their design restricts oxygen flow and so discourages fires.



Heating/Lighting

If you wish to provide heating or lighting in a smoking shelter you must fully consider all the health and safety implications.

Where possible you must provide permanently fixed radiant heaters positioned so that they can not be tampered with or pose a burning danger to those within the shelter. It would be preferable that the heating levels can be altered (by trained employees only), so a suitable temperature can be reached.



Where possible it is advised that gas heaters should not be used, as these can be easily tampered with and poses an additional fire hazard due to the gas cylinder supply. However, where there is not other option the duty holder must complete a risk assessment in accordance with current legal requirements.

Fire Prevention

You must

- have a fire risk assessment and it must be written if they employ more than five or have a license in force.
- have means of tackling a fire i.e. fire extinguishers and have persons that are trained to use them.
- have an adequate means of raising the alarm in the event of fire, and that it either cuts out amplifiers or can be heard over the loud music.
- provide emergency lighting and signage if required.

In addition

- Furnishings and drapes need to meet the required regulations so as not to ignite very easy. They should be flame retardant material or treated.
- Any LPG cylinders should be stored upright where they can not fall over and all connections and pipes should be tested to ensure no leaks.
- Radiant heaters and the like must not be placed too close to drapes, furnishing and where people can come into contact. Consider the use of tunnels to pipe the hot air into the public areas.

Fire Extinguishers

It is recommended that at least one two litre water fire extinguisher should be placed as close as possible to the nearest door/exit to the main building from the smoking shelter.

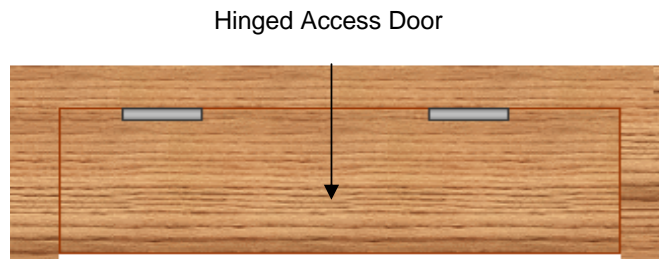
Visibility and Appearance

The duty holder must consider if the proposed site will be visible to the street scene and how it relates to the design of the building that it is attached to and those nearby. Think about the activities and behaviour of the shelter's users being seen from other properties. [Development Management can provide assistance – see information below]

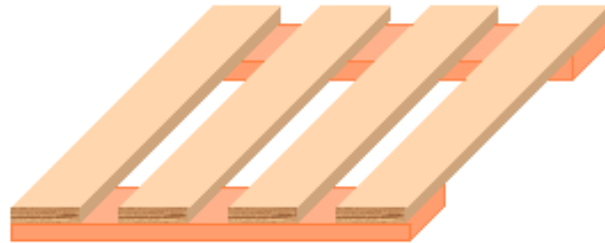
Material/Fabric

Where possible a shelter should be made from coated metal to prevent fire and be weather resistant. Plastic should be avoided, but where its use is unavoidable it should be fire resistant.

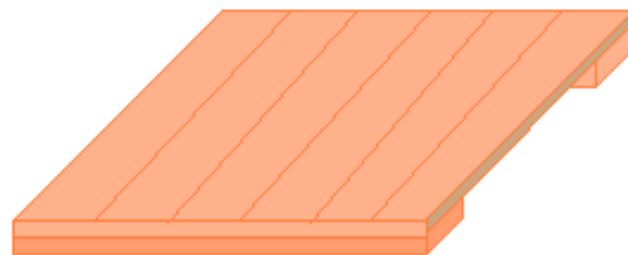
Additionally wood should be avoided, but where wood is necessary to the design, such as for decked smoking areas, all precautions must be taken to avoid the risk of fire through a build up of waste. Therefore any raised decking area must be fully enclosed, with access underneath to ensure any waste can be cleared regularly.



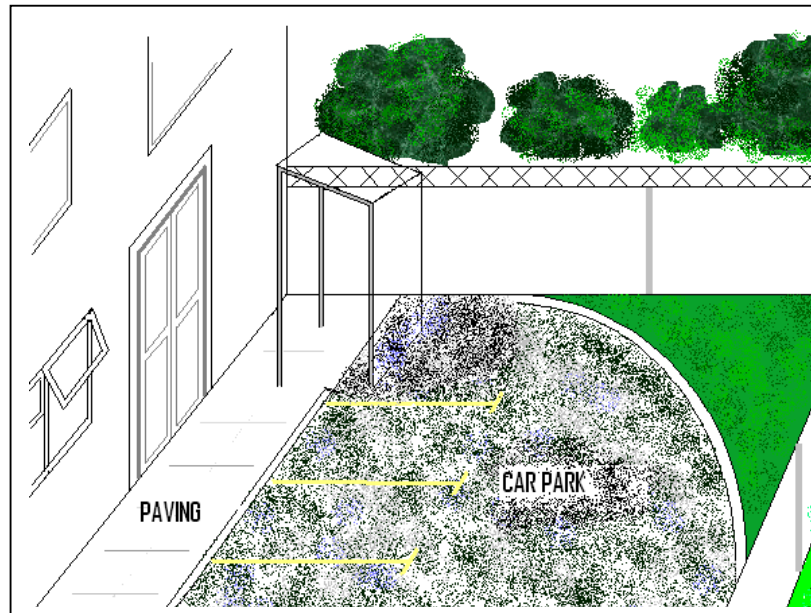
The decking should be installed to avoid gaps between the flooring board to prevent lit 'butts' falling below. The decking in the example below would **not** be suitable as butts could fall through the gaps. .



A satisfactory example of decking is illustrated below:



Where possible walls should be made from shatter proof glass, so it is possible to see into the shelter (to avoid any unwanted, illegal activities taking place).



Car parking areas may create blind areas close to shelters and so should be avoided.

EQUAL ACCESS CONSIDERATIONS

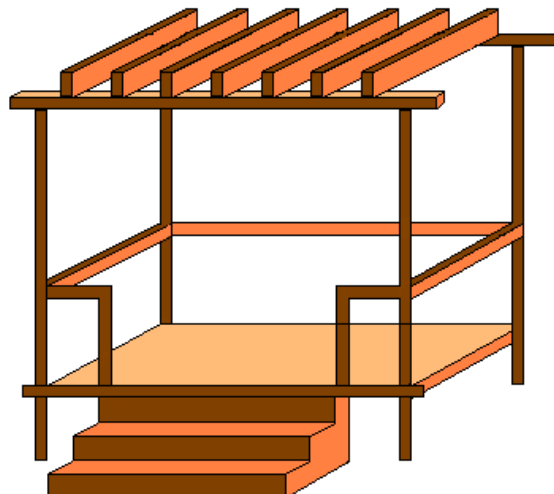
Disability Discrimination Act

The smoking shelter must be suitable for everyone to use. The design must consider wheelchair users and therefore have safe access. It must also consider visual and hearing impairments, and consider the following: -

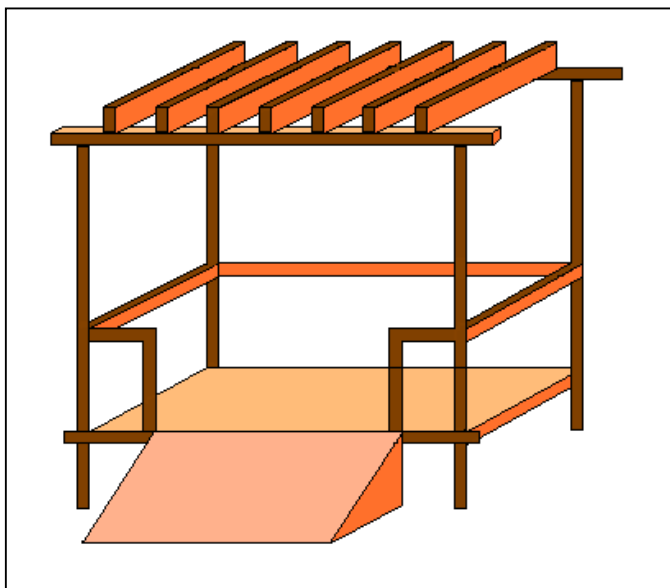
- Any steps must have their edges highlighted with paint
- Safety and information signs should be in large print or Braille (where possible)
- Signs must be positioned where everyone can notice them.

Examples: -

This would not be a suitable smoking shelter as it does not allow access for wheelchairs.



However a suitable example would be: -



PLANNING/BUILDING CONTROL CONSIDERATIONS

Planning

Most smoking shelters and similar structures will require planning permission and some times approval under the Building Regulations (see below) as well as approval under the Smoke Free Premises regulations 2006. Due to the number of issues involved in considering any application, and in order to save time and expense for all concerned, council officers would welcome discussion of any proposals before they are submitted (see Further Information below).

Planning advice and permission can be sought through Charnwood Borough Council Development Management Section using the following link:-

http://www.charnwood.gov.uk/pages/planning_and_development

When considering shelter applications the planners will consider amongst other things: the location; the structure design, visual intrusion, loss of outlook, light pollution, the siting of adjacent doors/windows/air intake systems etc, secondary smoke infiltration into adjacent properties, and loss of parking spaces.

NB Planning permission will not normally be required portable freestanding awnings/canopies, umbrella type shelters, and space heaters.

Building Control

In certain circumstances the Building Regulations 2000 (as amended) may apply. Exemptions to this are defined in Regulation 9 – Schedule 2 Exempt Buildings and Work. The relevant exemption classifications that smoking shelters could fall under is:

CLASS VI: Small detached buildings

1. A detached single storey building, having a floor area which does not exceed 30m², which contains no sleeping accommodation and is a building that:

- (a) Has no point which is less than one metre from the boundary of its curtilage; or
- (b) is constructed substantially of non-combustible material.

2. A detached building, having a floor area not exceeding 15m² and which contains no sleeping accommodation.

CLASS VII: Extensions

The extension of a building by the addition at ground level of,

- (a) Any 'partially enclosed' conservatory, porch, covered yard or covered way; or
- (b) A carport open on at least two sides;

where the floor area of that extension does not exceed 30m², provided that in the case of a conservatory or porch, which is wholly or partly glazed, the glazing satisfies the requirements of Part N of Schedule 1.

Where a shelter falls outside the above classifications, a Building Regulations application must be submitted.

Construction

Under the Construction (Design and Management) Regulations 2007 a construction project is notifiable if the construction phase is likely to involve more than—

- (a) 30 days; or
- (b) 500 person days

If the construction of a smoking shelter falls under this category the CDM coordinator must notify the Health and Safety Executive immediately on 0845 3450055.

Assessment of Compliance

The 50% 'open' rule will be calculated based on the area of open spaces within the planned shelter, including all lattice and trellis work. Consideration will be paid to any future changes to the shelter such as plants that grow up any trellis, thus reducing the open spaces. All of the above should be considered for safety and compliance.

OTHER CONSIDERATIONS

We recommend duty holders assess all the economic risks involved in putting up, running and maintaining the shelter. Examples are listed below:-

- Cost of lighting/heating – think about installing dimmer lights and thermostatically controlled heating
- Planning/building control permission
- Closure for construction
- Extra insurance
- Any licence changes needed
- Maintenance, for example cleaning glass roofs, vandalism etc
- Keeping the shelter free of litter and preventing littering to the surrounding area.

Maintenance

All shelters should be adequately maintained and cleaned to make sure they are safe and hygienic.

HM Revenue & Customs Requirements

Please note HM Revenue & Customs require that where the Shisha product contains tobacco, then the owner of the Shisha business must be able to satisfy HMRC to the legitimacy of the Shisha product on sale. The Shisha tobacco product must carry the relevant health warnings, have been properly imported with all UK taxes paid.

The owner of the business must be able to provide HM Revenue & Customs the documentation/invoices showing that the products are legitimately sourced.

The duty on tobacco shisha was increased on 23 March 2011 to £84.98 per kg and the VAT rate now is 20%. If the product is imported from outside the EU then import VAT and excise duty applies. You should consider whether the price you are buying at is credible in relation to this and be able to provide supporting documentation.

If you cannot satisfy HM Revenue & Customs to the legitimacy of the Shisha product, you could face penalties including the seizure of the product and prosecution.

If you require further advice you can contact HM Revenue & Customs helpline on 0845 010 9000 or see the following website;

<http://www.ntpd.lacors.gov.uk/lacors/core/page.do?pageld=178630>

OVERALL

The onus is on you, as the business proposer, to show this Authority how you intend to comply with all of the above requirements.

Without such detailed information, the proposal will be deemed not to comply.

PLANNING CONSENT - IMPORTANT

Planning consent on its own DOES NOT mean that the shisha premises complies with smokefree and health and safety legislation. If you have any smokefree or other queries then please contact any of the teams listed below.

CONSTRUCTION CONSIDERATIONS

Acceptable Designs



Smoking Shelter compliant



Smoking area / outside marked area



Smoking Shelter compliant

No Glazing



Shelter next to entrance



Unacceptable Designs





With Glazing



TOP TIPS

1. Consult with Charnwood Borough Council at a very early stage BEFORE any works are carried out
2. Ensure that ALL parts of the proposal are at least 50% open, unless they are to be smokefree areas. The latter must display the statutory 'no-smoking' sign
3. Ensure that smoking areas and smokefree areas are properly separated to avoid smoke getting into smokefree areas by the use of lobbies, suitable separation distances, ventilation etc
4. Any smokefree areas in your proposal must remain smokefree at all times (and not just when the premises is open/trading)
5. All operable doors and windows, posts, trellis, blinds, louvre, slats, roller shutters, seating, furniture, plants etc on the boundary/perimeter will be classed as walls (or part thereof) for the purpose of the 50% rule
6. Ensure safety precautions are put in place in relation to lighting shisha coals, minimising risks to staff from the harmful effects of second-hand-smoke, mouth piece hygiene etc
7. Prevent sales of tobacco/shisha to under 18s by ensuring your staffs are adequately trained, adopt a Challenge 21 policy and keep a refusals log.
8. Any amplified music or voice (radios, TV, background music etc) on your premises must not cause a noise nuisance to your neighbours
9. Ensure that you DO NOT allow any person to smoke in an enclosed part of your premises. This is the responsibility of the person in control of the premises, normally the business owner. Currently, a fine of up to £2500 can be levied against the person in control for this offence. In addition, each smoker (your customer) could be issued with a fixed penalty notice of £50
10. Take steps to ensure those employees and any other persons, ie contractors, maintenance persons, local authority officers etc that come onto the premises are not exposed to the harmful effects of second-hand-smoke
11. Where proposals contain separate smoking/smokefree areas, toilets, reception areas, shisha preparation areas, catering areas etc then these areas will normally be treated a separate areas when considering the 50% rule
12. The business should have suitable insurance, documentation (policies, risk assessments, training records etc) and arrangements (labelling, signage, trained staff, safety systems, emergency equipment/procedures etc)

MORE INFORMATION

Further Information

Smoke Free Legislation Information

Website: <http://www.smokefreeengland.co.uk/>

Tel: 0800 169 169 7

Useful Contacts (Charnwood Borough Council):

Development Management

Tel: 01509 634737 / 01509 634744

Email: development.control@charnwood.gov.uk

Building Control

Tel: 01509 634934 / 01509 634757

Email: building.control@charnwood.gov.uk

Noise and Lighting: Environmental Protection

Tel: 01509 634636

Email: env.health@charnwood.gov.uk

Licensing

Tel: 01509 634562

Email: licensing@charnwood.gov.uk

Health and Safety

Tel: 01509 634628

Email: occupational.health@charnwood.gov.uk

We stress that if you are considering having a smoking shelter you should contact the appropriate officers for advice as soon as possible.

APPENDIX 1 – SMOKING SHELTER CALCULATIONS

Enclosed/Open Calculation

The calculation to establish if an area is open enough to allow smoking is as follows:

Measure the whole of the perimeter, excluding the roof and floor (that is, work out the TOTAL area of the four walls).

Measure the TOTAL area of ALL ENCLOSED PARTS of the four walls (again, exclude the roof and floor)

To determine whether smoking will be permitted within this structure the percentage of ENCLOSED (E) over TOTAL (T) perimeter areas must be calculated as shown below:

$$\frac{E}{T} \times 100 = \% \text{ Enclosed}$$

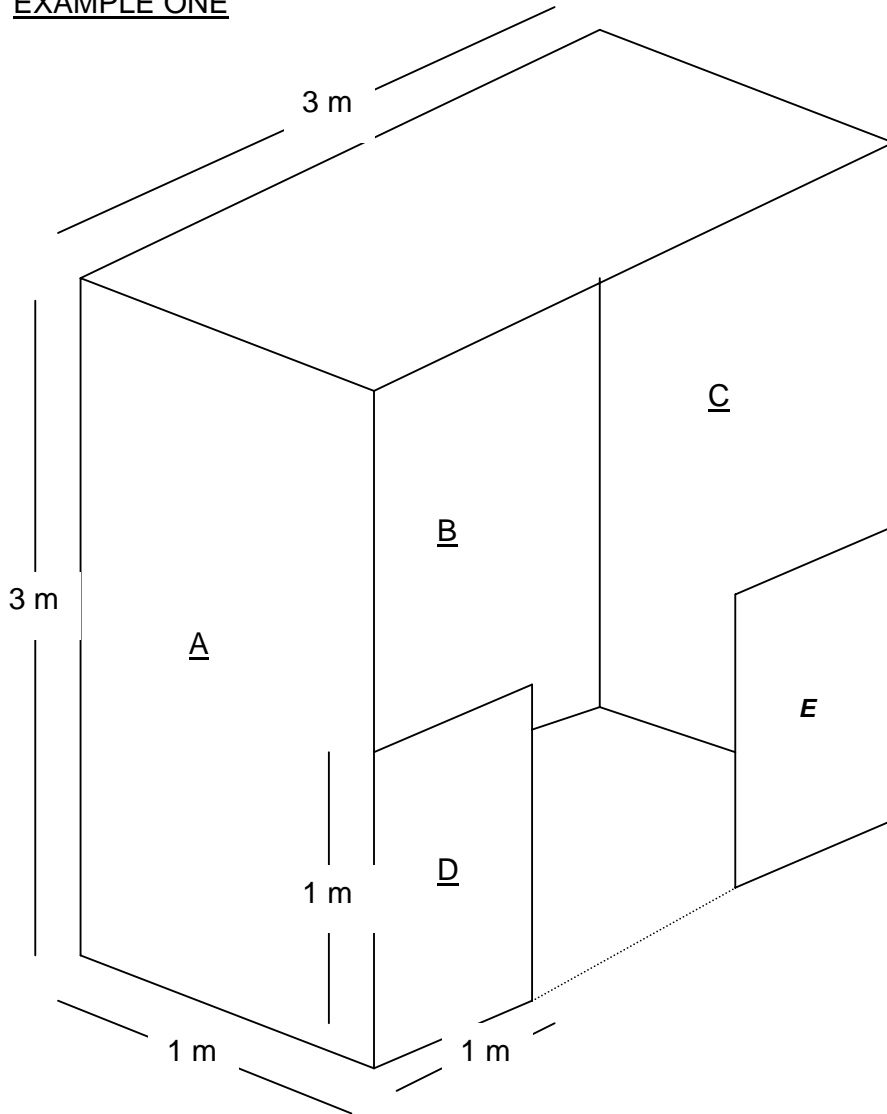
If the percentage calculated is MORE THAN 50% then smoking WILL NOT be permitted.

For the purposes of all of the above calculations, any openings (such as doors and windows) are considered to be enclosed areas.

We suggest that you stick strictly to this guidance to make sure the shelter you are planning fully meets with this new law.

To help you a number of worked examples are given below.

EXAMPLE ONE



Enclosed area

| | |
|--------|--|
| Area A | $3\text{m} \times 1\text{m} = 3\text{m}^2$ |
| Area B | $3\text{m} \times 3\text{m} = 9\text{m}^2$ |
| Area C | $3\text{m} \times 1\text{m} = 3\text{m}^2$ |
| Area D | $1\text{m} \times 1\text{m} = 1\text{m}^2$ |
| Area E | $1\text{m} \times 1\text{m} = 1\text{m}^2$ |

Enclosed area = 17m^2

Area of perimeter

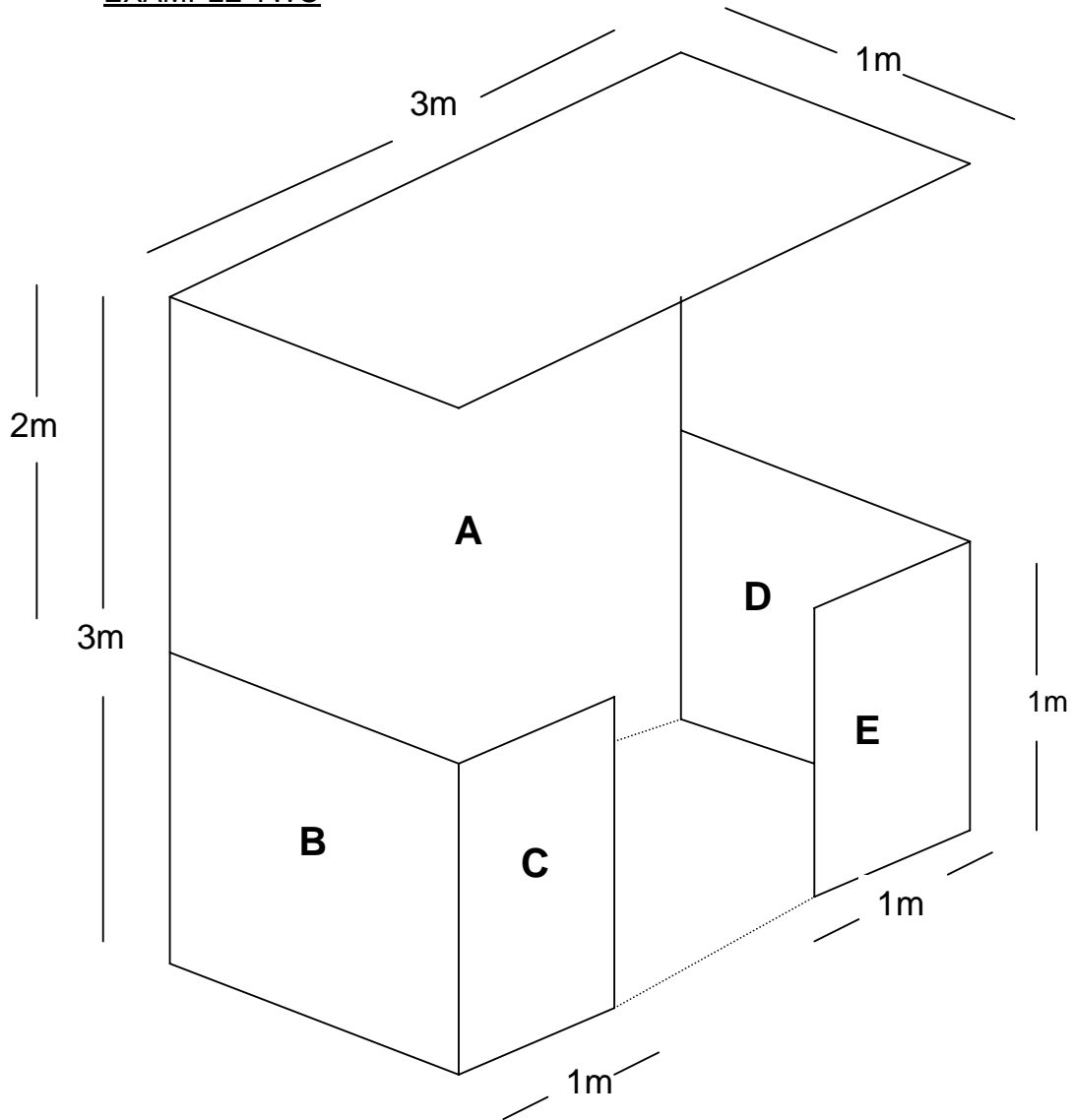
Sides x 2 = $1\text{m} \times 3\text{m} \times 2 = 6\text{m}^2$
 Front & back $3\text{m} \times 3\text{m} \times 2 = 18\text{m}^2$

Area of perimeter = 24m^2



$\frac{17}{24} \times 100 = 62.9\%$ Enclosed - **NOT ACCEPTABLE**

EXAMPLE TWO



Enclosed area

| | |
|--------|---|
| Area A | $3\text{m} \times 3\text{m} = 9\text{ m}^2$ |
| Area B | $1\text{m} \times 1\text{m} = 1\text{ m}^2$ |
| Area C | $1\text{m} \times 1\text{m} = 1\text{ m}^2$ |
| Area D | $1\text{m} \times 1\text{m} = 1\text{ m}^2$ |
| Area F | $1\text{m} \times 1\text{m} = 1\text{ m}^2$ |

Enclosed area = 13 m^2

Area of perimeter

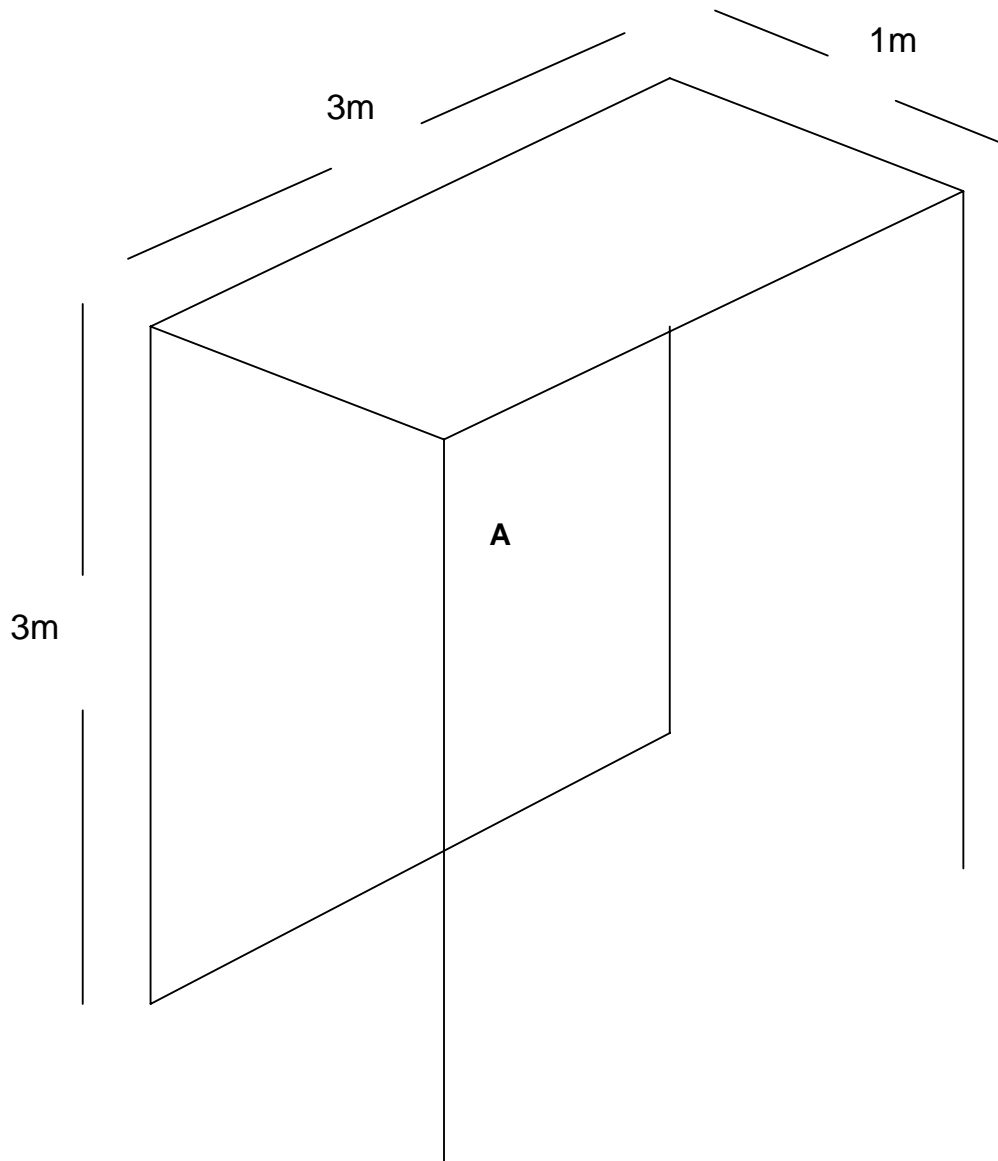
| | |
|--------------|--|
| Sides x 2 | $= 1\text{m} \times 3\text{m} \times 2 = 6\text{ m}^2$ |
| Front & back | $3\text{m} \times 3\text{m} \times 2 = 18\text{ m}^2$ |

Area of perimeter = 24 m^2



$\frac{13}{24} \times 100 = 61.9\%$ Enclosed – **NOT ACCEPTABLE**

EXAMPLE THREE



Enclosed area

Area A $3\text{m} \times 3\text{m} = 9\text{m}^2$

Enclosed area = 9m^2

Area of perimeter

Sides $\times 2 = 1\text{m} \times 3\text{m} \times 2 = 6\text{m}^2$
Front & back $3\text{m} \times 3\text{m} \times 2 = 18\text{m}^2$

Area of perimeter = 24m^2



$\frac{9}{24} \times 100 = 37.5\%$ Enclosed **ACCEPTABLE**

APPENDIX 2 – SHISHA SMOKING IN COMMERCIAL PREMISES (ADDITIONAL GUIDANCE)

In addition to the main guidance above the following needs also to be considered by businesses proposing to construct/open a shisha premises. Firstly, businesses considering providing shisha on their premises need to be clear that any such proposal will be treated differently to a normal smoking shelter provided for use by businesses for their staff/customers. This is because in traditional smoking shelters trade is not generally carried out AND smokers are not encouraged to stay in the smoking area (with family & friends) for extended/indefinite periods by the provision of indoor comforts such as furniture, entertainment, catering etc.

To explain, smoking shelters referred to in legislation/guidance are predominantly the type where businesses are providing an external 'smoking shelter' with little or no furniture, heating, lighting etc for employees/customers to smoke in for very 'short periods'. In essence, customers/employees spend very little time in the shelter and so they and others have very limited (if any) exposure to the harmful effects of second-hand-smoke. The following is further information to consider when setting up a shisha lounge.

Where can customers smoke?

No smoking is permitted within enclosed or substantially enclosed public places or workplaces because of the Smokefree laws (sometimes called the "smoking ban"). These laws apply to smoking through waterpipes whether or not the shisha product being smoked contains tobacco, so unless your business has access to a legal smoking area you will not be able to supply shisha in waterpipes.

Waterpipes can be smoked in the open air where there is no roof or ceiling above the smoker. They can also be smoked in some circumstances where there is a roof or ceiling, but only if at least half of the walls of the structure are permanently open. For example, two walls closed and two walls open as long as **50% of the total wall area is open**. Any opening that can be closed – for example by a door, window or shutter – is counted as closed. Charnwood Borough Council can provide more detailed advice.

If you construct a shelter for shisha users, it may **require planning permission**. Please contact us for advice **prior** to any construction

How can I ensure the safety of employees and customers?

Supplying shisha will involve additional **risks which you should assess and control**. Risk assessments must be documented (written down) where you employ 5 or more staff. Risks include infectious diseases, burning charcoal and spillages. Staff should be trained to control the risks and respond to incidents. Pay attention to staff being exposed to second hand smoke when collecting glasses, serving at tables and working in areas where shisha is taking place. You may be putting staff at risk and that risk needs assessing.

You should also take the additional risks into account when completing the **Fire Risk Assessment** for the premises. You can get more guidance on these requirements from the Leicestershire Fire and Rescue Service: 0116 2872241. Fire exits should be unlocked and clear and properly signposted.

To minimise the transference of infection, waterpipe mouthpieces and hoses should be **thoroughly cleaned and disinfected** between users. Disposable mouthpieces are recommended. If your staffs light the pipes they should use their own personal mouthpiece and then put a clean one onto the pipe.