

Shelters for Smokers – Information to help businesses prepare for going smoke-free

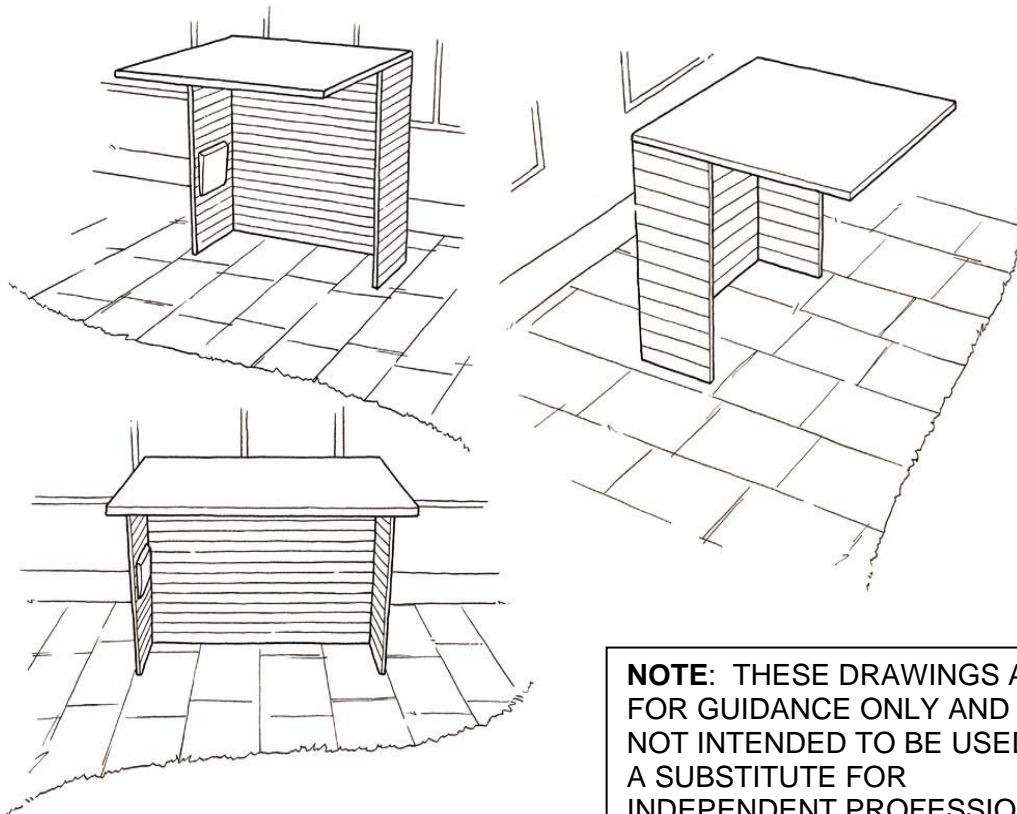
Do businesses have to provide a shelter for smokers?

Businesses do not have to provide a shelter, but they might want to have one for their staff or customers to use.

If I want to provide a permanent smoking shelter for my staff or customers what should I do?

You should:

1. Contact the Council's Planning Services for their advice and the necessary forms to apply for planning approval, because in most cases any permanent structure that is erected for smoking will require planning permission.
2. Check to see if the shelter will require Building Regulation approval. In most instances, provided the shelter is detached and of a modest size, no Building Regulation permission will be required. If however, the floor area of the shelter exceeds 15m² there may be restrictions if the shelter is within 1m of a boundary. Any shelter over 30m² will require Building Regulation Approval. Also contact Building Control if your intended shelter is to be attached to another building.
3. To avoid a costly mistake, carefully check that the design of the smoking shelter will comply with the requirements of the Smoke-Free (Premises and Enforcement) Regulations 2006. To comply with these Regulations the smoking shelter must not be wholly enclosed, or substantially enclosed. In practice this means that for a smoking shelter to comply with the law, it must not have sides that enclose more than 50% of the shelter. An example of a smoking shelter that could comply with the Regulation's 50% rule is shown in the drawings below:



NOTE: THESE DRAWINGS ARE FOR GUIDANCE ONLY AND ARE NOT INTENDED TO BE USED AS A SUBSTITUTE FOR INDEPENDENT PROFESSIONAL ADVICE

4. Carefully consider the proposed location of the smoking shelter. Things that you need to consider are:
 - a. Could noise from people using the smoking shelter cause problems to people in neighbouring properties?
 - b. Could there be light pollution to people in neighbouring properties if the shelter has lights for night time use?
 - c. If the shelter is erected with one of the open sides against a wall or a solid fence it may not comply with the 50% rule.
 - d. Is the proposed location of the shelter safe for users? This could be a problem if the shelter has to be erected in a car park.
 - e. Could the location of the shelter cause problems with smoke entering nearby buildings through windows or vents?

Is planning approval required to use a parasol, jumbrella or a gazebo as a smoking shelter?

Parasols, jumbrellas and gazebos may not require planning approval if it can be shown that their erection does not involve any building operations (and therefore not development).

If parasols, jumbrellas or gazebos are going to be used as smoking shelters you should consider the points mentioned in 4(a) to (e) and also consider the following additional points:

- Is the material used fire retardant? This will be particularly important if patio heaters are provided for smoker's comfort.
- Is the parasol, jumbrella or gazebo sufficiently robust that it will not collapse on top of people who may be using it in windy weather?
- Is the parasol, jumbrella or gazebo secured so that it will not blow away?
- Does the gazebo have fold down sides? If it does, it may not comply with the 50% rule.

Can customers of pubs or clubs that have a premises/club licence, drink in the smoking shelter?

Only if the existing premises/club licence permits drinking outside the licensed premises, for example in a pub garden. Licensees that want to include a smoking shelter in their premises/club licence may apply to the Council for a variation to their existing licence.

Where can I get advice?

For guidance on making a planning application contact the Planning Department - telephone 01362 656870 or by email: planning@breckland.gov.uk

For guidance on Building Regulations contact the Building Control Department - telephone 01603 430100 or by email: building.control@breckland.gov.uk

For guidance on the 50% rule contact Environmental Health - telephone 01362 656870 or by email: healthandsafety@breckland.gov.uk.

For guidance on premises/club licensing contact the Licensing Team on 01362 656870 or by email: licensingteam@breckland.gov.uk

For guidance on anything to do with Smoke-Free England telephone 0800 1691697 or visit website: smokefreeengland.co.uk/stayinformed

For the latest smoke-free information from the Council visit our website at: www.breckland.gov.uk.

E-mail your enquiries to: healthandsafety@breckland.gov.uk

To speak to an officer, or to arrange an advisory visit telephone: 01362 656870.

Note: This guidance was agreed by representatives of the seven Norfolk Local Authorities in March 2007 and will be regularly reviewed in light of changes to legislation, unforeseen implications of the introduction of the smoking ban etc. This guidance was produced whilst the Regulations were in draft form so you should also consider taking your own legal advice.