

Business and Planning Act 2020 – Pavement Licence Conditions

The Pavement Licence must be displayed on the premises with a plan of the agreed layout of the temporary Pavement Licence Area.

Standard Conditions

1. The granting of this consent is for the period up to and including 30 September 2021, and for the purpose of assisting business due to the Covid-19 pandemic and the effects on business continuity. It does not act as any precedent for any future use of the highway for placing of tables and chairs or street furniture.
2. The Pavement Licence is non-transferable and valid only in relation to the premises stated on the Pavement Licence itself.
3. Except with the prior written approval of the Council, only the facilities detailed on the Pavement Licence are to be placed on the public highway, and the facilities are only to be placed on the public highway between the times detailed on the Pavement Licence in the permitted area specified in the Pavement Licence and as shown on the plan for the Pavement Licence.
4. No other items may be placed on the highway within the Pavement Licence Area other than that approved in accordance with the application and the Pavement Licence when granted. If the premises has a Pavement Licence, then any Advertising Board must be contained within the agreed seating area and not outside the area.
5. All electrical supplies and electrical appliances (including lighting) must be battery or mains powered and meet all applicable standards for outdoor use. Generators are not permitted. Patio heaters and additional lighting must not be used without a written Risk Assessment and prior written consent from the Council.
6. All furniture used in connection with the Pavement Licence shall be regularly cleaned and sanitised in accordance with Covid-19 guidance and kept in good state of repair and must be subject to daily checks.
7. No emergency exits must be blocked or restricted in use by the placing of the furniture on the highway.
8. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs and must not protrude beyond the Pavement Licence Area.
9. A width of 2m clear space should be maintained on the pavement but where this is not possible the national condition will apply (see 35) Clear access to the entrance of the adjoining premises must always be maintained, including access for disabled people.
10. The Pavement Licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval of the Highway Authority. The Pavement Licence holder will be responsible for any damage, including any stainage, to the highway during the operating hours of the Pavement Licence.
11. The maximum permitted hour of operation for the Pavement Licence Area are between the hours of 8am and 11pm or as set out on the Pavement Licence

12. The Pavement Licence holder must comply with all requirements of the government's latest guidance on social distancing any related regulations, in response to the Covid 19 pandemic.
13. Failure to pay the Pavement Licence fee 120 days after the Pavement Licence has been granted will mean the Pavement Licence will be revoked.
14. The Council is empowered to remove and store or dispose of furniture from the highway, at the cost of the Pavement Licence holder, if it is left there outside the permitted hours, or should any conditions of the Pavement Licence be breached. The Council will not be responsible for its safekeeping.
15. The Pavement Licence holder will hold a Public Liability Insurance indemnity policy throughout the term of the Pavement Licence for the value of £5 million.
16. The Pavement Licence holder is not to make or cause to be made any claim against the Council in the event of any property of the Pavement Licence holders becoming lost or damaged in any way from whatever cause.
17. Furniture must be removed from the public highway within 30 minutes from the end of the permitted period each day. When the Pavement Licence is not in use, all tables and chairs and other furniture must be removed from the public highway.
18. The Pavement Licence holder must ensure that the Pavement Licence Area is properly supervised by a member of staff to ensure that tables can be immediately cleared and cleansed on customers finishing their meals/drinks whilst in operation.
19. The Pavement Licence holder shall be responsible for keeping the Pavement Licence Area in a clean and tidy condition. Under your duty of care you must ensure that any waste produced is handled safely and in accordance with the law. You must keep all waste safe, prevent it from escaping from your control and ensure that it is only handled or dealt with by persons that are authorised to deal with it.
20. The Pavement Licence holder must remove all furniture connected with the Pavement Licence from the licensed area on request of the Council if required for:
 - (a) Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by the Council, the local highways authority or any statutory undertaker or other person authorized by the Council.
 - (b) Use by emergency services.
 - (c) Events as permitted by the Council
 - (d) Any other reasonable cause.Where possible, the Council will give 7 days notice to the Pavement Licence holder. The Council and/or The Highway Authority will not be liable for any loss of earnings arising out of use of a Pavement Licence whilst complying with request.
21. In some instances it may be that no notice can be given for immediate repair work to the pavement or nearby highway or for some events. The licence holder is expected to work positively with the Council on these occasions and co-operate on the removal of the furniture.
22. The Council will not be liable for any loss of earnings whilst repair/maintenance is carried out. The Pavement Licence holder must allow the Council reasonable access for such works.

23. The Pavement Licence holder is responsible for the conduct of customers and staff within the Pavement Licence Area. Unruly or rowdy behaviour which is not controlled is not acceptable, and may lead to the revocation of this Pavement Licence.
24. Seating should be provided for all customers using the Pavement Licence Area.
25. No television screens, amplified music, sound or broadcast of sporting events or sports commentary is allowed in the Pavement Licence Area without the authorisation of the Licensing Authority.
26. Smoking of Tobacco/ Vaping and use of any smoking device (e.g. e-cigarettes) is not permitted within the Pavement License Area except with prior written consent from the Local Authority, and at least one 'no smoking' sign shall be visibly displayed within it. If smoking is permitted within the pavement Licence Area, ashtrays must be provided and emptied at regular intervals.
27. No food or drink shall be prepared in the Pavement Licence Area without prior written approval from the Council.
28. The granting of a Pavement Licence consent applies only to the applicant in respect of the premises concerned and is outside of and in addition to a Licence to sell alcohol. Where alcohol is sold a premises Licence under the Licensing Act 2003 must already be in place.
29. In premises where alcohol is served, all alcoholic drinks are required to be served in polycarbonate or shatterproof glasses if requested by the Licensing Authority.
30. This consent can be revoked at any time if one or more of the following issues occur:
 - A breach of licence condition occurs (whether or not a remedial notice has been served)
 - A risk to public health or safety is identified (for example people are being permitted to breach social distancing guidelines)
 - The highway is being obstructed – other than within the permitted area
 - Anti-social behaviour or public nuisance is taking place
 - The consent holder is found to have made a false or misleading statement on their application or found not to have complied fully with the advertising process.
 - The designated highways area or any part of that area, has become unsuitable for use, for example if a pedestrianised area is reopened to traffic.
31. The Council may impose conditions whether or not they are published upfront. Any additional conditions will be supported by a clear justification for the need of a condition which is in addition to any published local conditions.

NATIONAL CONDITIONS

Considering the need for Disabled people

Clearance/Obstruction

32. Section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users, a

minimum of 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway.

33. The positioning of furniture should not discourage pedestrians from using the footway. The available route must be entirely clear and not pass through an area with tables and chairs.

Barriers

34. Where a need to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture is identified by the Licensing Authority, consideration must be given to the colour contrast and a tap rail for long cane users of the barriers to be used.
35. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the Pavement Licence applies, for example wooden tubs of flowers. However, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway; these must have been agreed by the Licensing Authority before being placed on the Highway.

Furniture

36. Where possible furniture should be non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind.

Designated Smoking/Non Smoking Areas

37. Clear 'smoking' and 'non-smoking' areas must be in place, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012
38. Pavement Licence holders should provide a minimum 2M distance between non-smoking and smoking areas, wherever possible.
39. No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.