



North Warwickshire  
Borough Council

# Pavement Licensing Policy 2024-29

DRAFT

Effective:

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## **1. Introduction**

The Business and Planning Act 2020 successfully introduced a mechanism for premises serving food and drink such as bars, restaurants and pubs, to place furniture on the pavement to help the hospitality industry recover from the coronavirus lockdown and social distancing restrictions.

The Pavement Licensing regime was temporarily extended until March 2024 when the Levelling Up and Regeneration Act 2023 made permanent the provisions set out in the Business and Planning Act 2020 that streamlined the process to allow businesses to secure these licences quickly.

However the Levelling Up and Regeneration Act introduces a number of changes. Previously the Business and Planning Act allowed a maximum application fee of £100, a streamlined consultation determination period for applications and for licences to be valid for up to 12 months. Now, the fee for applying for a licence under the Business and Planning Act process is capped at £500 for first time applications and £350 for renewals and the public consultation period and licence duration has been extended.

The new Act also confirms that applications for Pavement Licences should where possible be made under these provisions as opposed to Pavement licences granted by Warwickshire County Council, the Highways Authority, under Part 7A of the Highways Act 1980.

## **2. Scope**

### **2.1 Definition of pavement café**

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

### **2.2 Eligible Businesses**

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

Businesses that do not use their premises for the sale of food or drink, for example salons, are ineligible. Though they can apply for permission to place furniture on the pavement under the Highways Act 1980.

### **2.3 Eligible Locations**

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footways restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

A pavement licence does not grant the right to permanently close a road. To do so, a pedestrian planning order made under section 249(2) or 249(2A) of the Town and Country Planning Act 1990, extinguishing the right to use vehicles on the highway, is required. Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people.

## 2.4 Type of furniture permitted

The furniture which may be placed on the pavement include:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

Furniture that is not removable and used in connection with the outdoor selling or consumption of food or drink are not permitted by a pavement licence.

Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.

Applicants that wish to place non-removable furniture onto the highway must apply for permission under the Highways Act 1980.

## 2.5 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

## 2.6 Interaction with Part 7A of the Highways Act 1980

Part 7A of the Highways Act 1980 already provides a mechanism for local authorities to grant businesses permission to place objects or structures on the highway for any of the following:

- (i) for a purpose which will result in the production of income;
- (ii) for the purpose of providing a centre for advice or information; or

(iii) for the purpose of advertising.

However the Levelling Up and Regeneration Act 2023 Schedule 22, Paragraph 11 now sets out that if a Business applies for a Pavement Licence from North Warwickshire Borough Council, then they cannot apply for a permission under the Highways Act 1980.

### **3. Application and Determination of Pavement Licences**

#### **3.1 Submission of the Application**

An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted with the application:

- a completed Application Form
- the required fee, paid by credit or debit-card
- proof of the applicant's identity and right to work
- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that the applicant wishes to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence;
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied for;
- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- (if applicable) evidence of consent from neighbouring frontage(s) to use footway space outside their property
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, and
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

#### **3.2 Fees**

The fee for applying for a licence under the Business and Planning Act process is capped at £500 for first time applications and £350 for renewals.

The Council will use an established methodology to review these fees annually, however fees have been set at £150 for new applications and £120 for renewals for 2024/25.

Application fees must accompany the application in order for the application to be considered valid and for the consultation period to commence.

The fee is an 'application' fee for the processing of the application. The fee will not be refunded if the application is withdrawn, refused or if a licence is surrendered or revoked

before expiration.

### 3.3 Consultation

Applications are consulted upon for 14 days, starting with the day after the day on which a valid application was made to the Council.

The Council will publish details of the application on its website at [www.northwarks.gov.uk](http://www.northwarks.gov.uk).

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are no detrimental effects from the application the Council will consult with:

- North Warwickshire Borough Council Environmental Health Team.
- North Warwickshire Borough Council Planning
- Warwickshire Fire & Rescue Service
- Warwickshire Police (including Police Licensing Officer and Designing Out Crime Officer)
- The appropriate Local Ward Councillor(s)
- The appropriate Parish or Town Council

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

### 3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of compliance with the site notice requirement must be supplied to the Council. The Council would also expect the applicant serves a copy of the site notice on immediate neighbours to make them aware of the application.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- state the end date of the consultation (14 days starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 1.

### 3.5 Site Assessment

The following matters will be taken into account by the Council in considering the suitability of the proposed application:

- public health and safety – including a balanced consideration for security implications, particularly the risk to groups of people from interaction with hostile vehicles, and the creation of large crowds in public spaces. Additionally, the impact of several pavement licences in an area may result in larger, distributed, or dense crowds of people.
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour, excessive noise and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings, and its users, taking account of:
  - considerations under the no-obstruction condition including the cumulative impact of multiple pavement licences in close proximity, in particular considering the needs of disabled people, see section 3.6 below,
  - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles,
  - whether there are other permanent street furniture or structures in place on the footway that already reduce access,
  - the impact of access and egress to the premises
  - the impact on any neighbouring premises
  - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.2 of [Inclusive Mobility](#), and
  - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and take any issues around noise, and nuisance into consideration as part of the proposal.

### 3.6 Ensuring the needs of disabled persons

When determining whether furniture constitutes an unacceptable obstruction the Council must consider the needs of disabled people.

In order to do this, the Council will consider the following matters when setting conditions, determining applications and when considering whether enforcement action is required:

- Section 3.2 of Inclusive Mobility - gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. The Council is aware of the restricted nature of some of the streets in the borough and therefore will take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, 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. Advertising boards are not included in the definition of furniture within the pavement licensing regime, therefore, should not be used as a barrier;
- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs;
- the cumulative impact of multiple pavement licences in close proximity to each other and if there is specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people;
- so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

Section 149 of the Equality Act 2010 places a duty on the Council to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who do not and foster or encourage good relations between people who share a protected characteristic and those who don't.

### 3.7 Determination

Once the application is submitted the Council has 28 days from the day after a valid application is made (excluding public holidays) to consult on and determine the application. This consists of 14 days for public consultation, and then 14 days to consider and determine the application after the consultation period has ended.



If the local authority determines the application before the end of the determination period, the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application,
- impose conditions on any licence granted, or
- refuse the application.

If the local authority does not determine the application within the 28 day period, the application will be deemed to have been granted subject to any published local or national conditions.

Applications will normally be determined by an Officer with the appropriate delegation due to the determination period as set out in the Act resulting in timing difficulties in convening a Regulatory Sub-Committee.

### 3.8 Approval of Applications

North Warwickshire Borough Council supports the aims of the Business and Planning Act and wishes to help promote economic growth and a 'café culture' in its area and will therefore seek to grant applications for licences where possible.

However this aim has to be balanced with the need to ensure the issuing of pavement licences does not put public health or safety at risk, does not lead to antisocial behaviour or public nuisance and ensures that the public, particularly those with disabilities such as sight impairment are unhampered when walking along streets.

The Council will consider the criteria contained within these guidelines in determining applications and will treat each case on its merits.

On approving the application, the Council will issue a Pavement Café Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Café Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement licences between 09:00 and 23:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

### 3.9 Licences Deemed to be Granted

The Council aims to determine all applications within the determination period provided by the Act. That means that applications will be granted or refused within the period of 14 days beginning with the first day after the public consultation period.

If the Council does not make a determination by the end of the determination period, the Act provides that the licence is deemed to have been granted for two years and the business can place the proposed furniture such as tables and chairs within the area set out in the application for the purpose or purposes proposed.

### 3.10 Licence Duration

If the Council determines an application before the end of the determination period (which is 14 days, beginning with the first day after the end of the public consultation period, excluding public holidays) the duration of the licence will be specified.

The expectation from the Guidance is that local authorities will grant licences for two years unless there are good reasons for granting a licence for a shorter period, such as plans for future changes in use of road space.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for two years.

### 3.11 Refusal of Applications

If the site is deemed unsuitable for a Pavement licence, or if relevant representations are made which cannot be mitigated by imposing conditions, then the application may be refused.

The Council may refuse an application on other grounds including (but not limited to) where the granting of the licence would put at risk public health or safety, lead to antisocial behaviour or public nuisance or unreasonably hamper pedestrian's ability to move freely.

The Council will notify applicants of the reasons for refusal following determination.

There is no statutory appeal process against a decision to refuse an application.

## 4. Conditions

### 4.1 Local Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application and representations received on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition to the extent that it is inconsistent with it.

### 4.2 National Conditions

The national conditions relating 'no obstruction' and provision of 'no smoking' areas applies to all Licences. The National conditions are shown in Appendix 3.

### 4.3 National No Obstruction Condition

Section 3.6 above provides guidance on ensuring the needs of disabled persons and consequently the no-obstruction condition.

### 4.4 National No Smoking Condition

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside.

It is important that businesses can cater to their customers' preferences. The National Conditions impose a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been placed on the highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area.

The Council will not prescribe how businesses will wish to cater for their customers, however ways of meeting this condition could include:

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

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

## 5. Enforcement

### 5.1 General Principles of Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police. The Council will normally seek to rectify any issues arising as a consequence of the activities authorised by a pavement licence by engaging in informal discussions with the licence holder in the first instance.

Obtaining a Pavement Licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, applicants must ensure all such permissions, etc. are in place prior to operating.

All enforcement activity will be undertaken in line with the principles set out in the Regulator's Code and the Council's Enforcement Policy.

### 5.2 Breaches of Pavement Licence Conditions

If the Council considers that a licence-holder has breached any condition of the licence, the authority may:

- revoke the licence, or
- serve a notice on the licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is so specified.

If a licence-holder on whom an enforcement notice is served fails to comply with the notice, the Council may:

- revoke the notice, or
- take the steps itself and recover the costs of doing so from the licence holder.

The Council may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
  - There are risks to public safety.
  - the highway is being obstructed (other than by anything permitted by the licence);
  - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night or litter is not being cleaned up;
  - it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
  - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

### 5.3 Removal of Unlicensed Furniture

The Levelling Up and Regeneration Act introduces a new provision allowing the Council to deal with unlicensed Pavement Café facilities.

In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, The Council can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, the Council may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the Council can dispose of the furniture by sale or other means and retain the proceeds.

## 6. Review Procedures

Now there is a permanent Pavement Licensing regime, the Council's Policy has been updated to reflect the new procedures in place and revised Guidance published by the Department for Levelling Up, Housing and Communities in April 2024.

This Policy will be reviewed from time to time should changes occur in relevant legislation or guidance, or the nature of Pavement licences generally, or as a result of local considerations within the North Warwickshire Borough. In any case the Policy will be reviewed after a period of 5 years following adoption.

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**Site Notice Template for display by an applicant for a Pavement Licence.**

**Section 2 of the Business and Planning Act 2020.**

I/We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to North Warwickshire Borough Council for a 'Pavement Licence' at:

*(postal address of premises)*

known as

*(name premises known by)*

The application is for:

*(brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink))*

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

Licensing  
North Warwickshire Borough Council  
The Council House  
South Street  
Atherstone  
CV9 1DE  
[Licensing@northwarks.gov.uk](mailto:Licensing@northwarks.gov.uk)

by: *(last date for representations being the date 14 days after the date the application is submitted to the local authority (excluding public holidays))*

The application and information submitted with it can be viewed on the Council's website at:

Signed .....

Dated *(date the notice was placed which must be the same date as the date of application)*

## **Pavement Licence Standard Conditions**

1. The Holder(s) of this Licence is not permitted to carry out the activities authorised by this Licence otherwise than strictly in accordance with the Licence and these Conditions.
2. The Holder(s) shall produce a copy of this Licence on demand when so required by a Police Officer or an Officer of the Council authorised in writing under the Act.
3. The Holder(s) shall return this Licence to the Council at Council House, South Street, Atherstone, Warwickshire, CV9 1DE immediately on revocation of this Licence.
4. The Holder(s) shall not cause any unnecessary obstruction of the highway or danger to persons using it and shall not permit persons to gather in the Licensed Area so as to cause a nuisance or annoyance or danger to any person lawfully using the highway. A clear width of 1.5m of footway (or any other distance specified in your Licence) is to be left for the safe passage of pedestrians.
5. The Holder(s) shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst carrying out the activities authorised by this Licence unless otherwise permitted by the Council in writing.
6. The Holder(s) shall not make any excavation or indentations of any description whatsoever in the surface of the Licensed Area or surrounding highway or place or fix any equipment or furniture of any description other than as referred to in this permission on the surface of the Licensed Area or surrounding highway.
7. The Licensed Area must be used solely for the purpose of selling or serving food or drink supplied from the premises or consuming food or drink supplied in connection with that purpose and not for any other purpose whatsoever.
8. The Holder(s) shall have full responsibility for the Licensed Area, which must be adjacent to their premises. The total number of customers using the Licensed Area must be monitored in order to prevent overspill on to the highway outside the Licensed Area.
9. Licences will not usually be granted to allow activities to take place outside the hours of 0900 to 2300. Specific times will be stated on each Licence.
10. If the Licensed Area is licensed for the consumption of alcohol the Licence Holder shall display in a prominent position, as specified by the Council, a notice setting out the hours for which the premises are licensed to sell alcohol.

*(Licence holders should also note that:*

*You may only sell alcohol if you have a Licence granted by your local Council. If you have not already got one you should contact your local Council to find out how you can apply for one.*

*Other Conditions on their Licence to sell alcohol under the Licensing Act 2003 must also be complied with in relation to the sale of alcohol in the Licensed Area)*

11. The Holder(s) shall not place on the highway any furniture or equipment or advertisement other than as expressly permitted by the Licence and must maintain the furniture and equipment in a clean and tidy condition and not place it so as to obstruct the entrance to or exit from any premises. All furniture and equipment must comply with the terms of the Licence.
12. The Holder(s) shall not make any claim or charge against the Council in event of the furniture or equipment or other objects being lost, stolen or damaged in any way from whatever cause whilst in use under the Licence.
13. The Holder(s) shall not do or suffer anything to be done in or on the Licensed Area or adjoining highway which in the opinion of the Council may be or become a danger, nuisance or annoyance to or

cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.

14. The Holder(s) shall not assign, underlet or part with this Licence or any interest or possession given by it but the Holder(s) may surrender it to the Council at any time by written electronic notice in a form approved by the Council.

15. The Holder(s) shall observe and comply with any directions in relation to the use of the highway given by Officers of the Council authorised in writing. In particular, access shall be provided at all times for highway works by statutory undertakers or telecommunications operators.

16. The Holder(s) shall maintain the Licensed Area shown edged in red on the plan attached to this Licence, and the immediately adjacent highway, in a clean and tidy condition during the hours permitted by this Licence. The Holder shall leave those areas in a clean, tidy and unobstructed condition at the end of each period of daily use permitted by this Licence which shall include (1) sweeping and/or washing down the area as necessary, and (2) removing any refuse and litter deposited on the highway in the vicinity of the furniture and equipment.

17. The Licensed Area shall be surrounded by planters or ropes or other suitable barriers to contain the furniture and equipment within the boundary. Any such barriers must comply with good practice in the Secretary of States' Guidance in relation to Pavement Licences to assist people with visual impairment to recognise the boundary.

18. The Holder(s) shall provide litterbins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items and ensure that these are emptied daily. Waste from the Holder(s) use of the Licensed Area must not be disposed of in the permanent litterbins provided by the Council within the highway.

19. The Holder(s) shall remove all furniture and equipment or other articles placed on the highway in accordance with this Licence at the end of each period of daily use permitted by this Licence. The Holder must provide suitable storage for all furniture and equipment when not in use in accordance with this Licence and may not store furniture and equipment on the highway.

20. The Holder(s) shall indemnify the Council against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred in consequence of the use of the furniture and equipment and for this purpose must take out and maintain throughout the duration of this licence at the Holder(s) expense a policy of insurance approved by the Council in the sum of at least, £5,000.000 in respect of any one event. The Holder must produce current receipts for premium payments, policy documents and confirmation of annual renewal of the policy on request to an Officer of the Council authorised in writing under Act.

21. The Council may revoke this licence at any time as permitted by the Act and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the Holder(s) in respect of such revocation. The Council may also serve notice on the holder requiring them to remedy any breach of this Licence and, should they fail to do so take the action required under that notice and recover the costs of doing so from the Licence holder.

22. Nothing in the Licence or these Conditions shall be construed as the granting or purported granting by the Council of any tenancy under the Landlord and Tenant Act 1954 or any permission under the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof for the time being in force.

23. The Holder(s) shall be responsible for any rates, taxes and outgoings, which may be charged in relation to the Licensed Area under any enactment or agreement.

24. The Holder(s) must be aware of any potential conflict with and must not interfere with any special cyclic events on the highway including but not limited to Markets, Fairs, Seasonal Events, Sporting Events, Local Events.



25. Any failure to comply with any Conditions of this Licence may be considered by the Council in determining whether to grant any subsequent Licence under the Act or similar legislation relating to use of the highway.

26. If the Holder ceases to trade during the duration of this Licence, no refund of the application fee will be issued under any circumstances.

27. The Licence Holder shall use plastic and/or polycarbonate glasses for serving alcoholic drinks in the Licensed Area.

28. The Licence Holder must comply with any relevant health protection legislation which is in force at any time when this Licence is in effect and ensure that the Licensed Area is operated in accordance with that legislation and/or guidance.

'Holder' means the person or persons who apply for a Licence and are granted a Licence.

'Licensed Area' means the area shown on the plan attached to the Licence granted by the Council.

'Premises' means the shop, pub, restaurant or other business premises from which you are trading or intend to trade from and in connection with which food and/or drink is to be served.

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## National Conditions

The Secretary of State publishes this condition in exercise of their powers under Section 5 of the Business and Planning Act 2020:

### 1. Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.2 of [Inclusive Mobility](#).

Guidance on the effect of this condition:

- Section 3.2 of Inclusive Mobility - gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, 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. Advertising boards are not included in the definition of furniture within the pavement licensing regime, therefore, should not be used as a barrier;
- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs;
- the cumulative impact of multiple pavement licences in close proximity to each other and if there is specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people;
- so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

## **2. Condition relating to smoke-free seating**

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012. No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.

Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.