****

PAVEMENT LICENSING Policy

2024-2028

**A Policy to regulate the granting of pavement licences in the Borough of Hertsmere pursuant to the Council’s powers under the Business and Planning Act 2020 (as amended by the Levelling-up and Regeneration Act 2023.**

**Draft copy currently under consultation.**

Page left blank.

Contents

|  |  |  |
| --- | --- | --- |
| No. | Section | Page |
| 1. | Introduction | 4 |
| 2. | Extent of PAvement licences | 4 |
| 3. | Application process | 6 |
| 4 | Consultation | 8 |
| 5 | determination | 9 |
| 6. | grant of licences | 13 |
| 7 | enforcement | 13 |
| 8 | Complaints | 16 |
| 9 | standard conditions | 17 |

1. INTRODUCTION
   1. **The legal provisions**
      1. Sections 1 to 9 of the Business and Planning Act 2020 (“the 2020 Act”) created a temporary pavement licensing regime to assist hospitality businesses to trade during the Covid 19 pandemic. The pavement licensing regime was subsequently made permanent by the Levelling up and Regeneration Act 2023 (“The 2023 Act”).
      2. Prior to the 2020 Act hospitality venues were able to place tables, chairs and other furniture on public highway under provisions of the Highway Act 1981. As of March 2024 Highway authorities are no longer able to authorise any activity that can be granted under the 2020 Act as amended by the 2023 Act.
      3. Hertsmere Borough Council is now entirely responsible for authorising any business to place furniture on the public highway for the purpose of being used to facilitate the consumption of food and drink sold or supplied from any premises.
   2. **Policy Status** 
      1. This policy sets out how the Council will administer the provisions under the Act and how it will enforce them.
      2. Nothing in this policy will override any legislative provisions and the Council will consider any requests to depart from this policy. The Council recognises that it may be reasonable to depart from this policy in exceptional circumstances.
      3. This policy will be adopted by the Licensing Committee on a temporary basis pending full consultation. During this period the Council recognises that some provisions of the policy may require alteration and will bear that in mind when considering any representations made to it.
2. Extent of Pavement licences
   1. **What Licences Can be granted for** 
      1. A pavement licence can only be granted for a “relevant purpose” (the placing of furniture on the highway for the consumption of food), in respect to “relevant use premises” (businesses the sell food and drink for consumption) over “relevant highway” (public highway).
   2. **Relevant Purpose**
      1. The Council can only grant a licence for a relevant purpose which is:
         1. use of the furniture by the licence-holder to sell or serve food or drink supplied from, or in connection with relevant use of, the premises;
         2. use of the furniture by other persons for the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises.
      2. Furniture or objects placed on the highway used for any other purpose requires permission from the Highway Authority.
   3. **Relevant Use**
      1. The premises that the table and chairs are utilised by, must be used as either
         1. a public house, wine bar or other drinking establishment; or
         2. for the sale of food or drink for consumption on or off the premises.
      2. The above includes premises such as Pubs, Clubs, restaurants, snack bars, coffee shops, and ice cream parlours. However, a premises does not have to primarily be used for the above relevant use for the provisions to apply and a licence will also be needed where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.
      3. The Council cannot authorise the placing of furniture on relevant highway which is not used by any premises that falls into the above category.
   4. **Relevant Highway**
      1. The land used must be relevant highway, which is defined as highway;
         1. to which Part 7A of the Highways Act 1980 applies, and
         2. which is not over Crown land or maintained by Network Rail.
      2. The Council cannot grant a licence over land that is not relevant highway and nor can the council enforce or control the placing of chairs over land that is not relevant highway (such as privately owned land).
      3. It is not always clear if land is relevant highway or not. Businesses who believe that have placed tables and chairs on land which is not relevant highway will be required to provide the Council with proof that this is the case.
      4. Failure to provide proof to the Council when requested may lead to enforcement action being taken. The Council will not be liable for any costs incurred by a business due to their failure to adequately satisfy the Council that they are not acting unlawfully when asked to do so.
   5. **Examples of furniture used for consumption that will not be licensable**
      1. In order to be licensable the furniture must be placed on the relevant highway by, or under the control of, the business owner for the purposes of enabling the consumption of food and drink purchased from their business.
      2. A business owner selling packaged food intended for consumption away from the premises will not be expected to obtain a licence for any furniture that does not belong to them. For instance a public bench sat outside a relevant use premises would not be licensable even though some customers may sit on it to eat food purchased from that premises.
      3. A licence may, however, be required if the business owner actively encourages the use of that public bench, serves directly to customers seated there or take steps to prohibit members of the public who are not customers of the business from sitting there.
   6. **Fee**
      1. The Council is permitted to charge a fee up to a statutory maximum for the processing of a pavement licence application and its grant. The statutory maximum is £500 for a new application and £350 for a renewal.
      2. The Council’s fees and charges will be published annually.
   7. **Licence Duration** 
      1. The government’s guidance is that all licences should be granted for a maximum of 2 years. The Council however rightly seeks to protect the nature of its high streets and encourage the development of them as part of its overall aspiration for vibrant and diverse town centres.
      2. For that reason the Council will only grant applications initially for a period of 1 year. Applicants will be able to renew the licence for either a year or 2 years as the wish, subject to any objections or concerns that may have arisen in the preceding year.
3. Application Process
   * 1. An application for a pavement licence must be made in writing on the application form provided by the Council and can be submitted via any electronic online facility the Council may make available for the purpose and specify. In the absence of any online facility the application can be submitted by email or, at the discretion of the Council in hard copy form.
     2. The applicant must specify:
        1. The applicant and their relationship to the business and the premises
        2. The premises,
        3. The part of the relevant highway
        4. The purpose or purposes to which the application relates
        5. The days and times it is proposed to put furniture on the highway,
        6. The type of furniture to be used
     3. The applicant must also include:
        1. A plan or drawing identifying the land and showing proposed layout of the furniture;
        2. Evidence of public liability insurance;
        3. Photographs or brochure of the furniture to be used;
        4. Proof that the tables and chairs are manufactured in accordance with relevant British safety standards;
        5. Proposal to comply with standard conditions and principles
   1. **The applicant and the premises**
      1. The applicant will normally be the person operating the business. Where the applicant is not the person operating the business the Council will expect the applicant to provide a good reason as to why that person should be granted the consent and why the actual business operator is not applying. This could be the case where the business is a local branch of a national franchise.
      2. The premises should be an identifiable business that meets the relevant use provisions. It does not need to be a fixed bricks and mortar premises but includes any type of business unit selling food and drink (for instance street traders such as burger vans).
   2. **Identification of the Relevant Highway**
      1. The Application must identify the relevant highway and include a plan or drawing identifying the area to be used. The Council shall ordinarily conduct a land registry check of each application to verify a business owner/ occupier/ leaseholder or freeholder and the applicant may be required to prove the nature of the land in question where there is any lack of clarity.
      2. Plan’s submitted should be to an identifiable scale – usually 1:100 – however the Council will use its discretion to accept plans submitted by an applicant, provided that they are reasonably clear to Council Officers and consultees.
   3. **Times and Days**
      1. The Council’s starting position shall be that a business should be permitted to use an outside area for the times and days which they chose to be open, subject to the following presumptions:
         1. Premises should not open an outside area prior to 8am in the morning.
         2. Premises in commercial or high street areas should close their outside areas no later than 23:00.
         3. Premises near to residents should close their outside areas no later than 22:00.
         4. It may be acceptable for premises to close their outside area an hour later than the above times on Friday, Saturday, national celebration days, holidays or on a day preceding a bank holiday.
         5. Businesses should consider the time it takes to set up and clean up their tables and chairs and this process should occur within the above stated times.
      2. The above do not prohibit any applicant from applying for any times they wish, but the Council would expect justification and appropriate additional measures to be in place where a premises proposes to trade contrary to the above.
   4. **Type of Furniture**
      1. The business should provide the Council with clear information about the furniture to be used. This should include photographs, brochures, dimensions, materials etc.
      2. Applicants will be permitted to place any furniture that has the purpose of facilitating customers to eat outside – this includes tables, chairs, umbrella’s, canopies, barriers and heaters. The applicant should also consider the location and placement of additional furniture such as high chairs.
      3. No furniture other than that stated in the application can be placed on the highway unless separate permission is provided by the Highways Authority or by applying to the Council for a variation.
      4. The Council cannot grant a licence for furniture that is not relevant to facilitating the consumption of food and drink – this includes advertising or menu boards that may be placed on the land. Permission for these items are required to be sought from Highways Authority.
      5. Applicants will be expected to provide proof that any furniture is manufactured and maintained to current safety standards. This may done by providing the brochure or a receipt for the product confirming that it was purchased within the UK (or where applicable the EU).
   5. **Public Liability insurance**
      1. The applicant must submit at the time of application either a public liability insurance certificate or a reputable quote covering the applicant for liabilities up to £5million. If a quote is provided, the licence will only be granted subject to an actual certificate being provided.
   6. **Statement of compliance**
      1. National conditions and standard conditions proposed by the Council will apply to all licences granted. Applicants will be expected to state that they will comply with these conditions and provide information as to any special steps they will take to do so.
      2. Applicants will also be required to provide statements of consideration in relation to the following:
         1. Ensuring Pedestrian access remains for all – including consideration of equalities, mobility etc.
         2. Ensuring activities do not cause a nuisance or disturbance to any other person or business.
         3. Ensuring that the health and safety implications of the placing of the furniture are risk assessed.

1. Consultation
   * 1. A public consultation of 14 days shall begin the day after the application is given to the Council. The legislation states that an application for a pavement licence is made on the day it is sent to the local authority. For this reason hard copy applications are only permitted at the discretion of the Council as a lost or delayed application could result in an invalid consultation period.
     2. The applicant must advertise the application by placing a notice on the premises stating the application, the area required to be licensed, the days and times of operation and the details and timescales for objections to be made. A template notice will be available from the Council.
     3. The notice must be fixed to the premises, the boundary of the premises or at some place visible on the highway, 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 Council shall apply the same provisions as found in the relevant regulations to the Licensing Act 2003.
     4. An application will be recorded on the Council’s licensing register published regularly online.
     5. The Council will also consult with the following bodies:
        1. Highways Authority (Hertfordshire County Council)
        2. Hertfordshire Constabulary (in respect to crime and disorder)
        3. Hertsmere Borough Council – Environmental Health team in respect to Nuisances and public safety;
        4. Hertsmere Borough Council – Street Scene
        5. Hertsmere Borough Council – Planning
        6. Hertsmere Borough Council – Parking services
     6. The Legislation requires the Council to determine an application within 14 days. If it fails to do so the licence will be deemed granted. As such the Council does not consider it to be prudent to consult persons outside of the above.
     7. However, the Council retains discretion to consult with any other body or person if it chooses. This is expected to be rare and usually justifiable as a result of previous issues, complaints or other exceptional circumstances where it is reasonable for the Council to consider that the other body or person may have views that the ought to be taken into account.
2. Determination of Applications
   1. **The legislative provisions**
      1. The legislation provides that the Council cannot grant a pavement licence if it considers that the use of the area under a licence will:
         1. prevent traffic, other than vehicular traffic, from—

(i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),

(ii) passing along the relevant highway, or

(iii) having normal access to premises adjoining the relevant highway,

* + - 1. preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
      2. preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
      3. preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
    1. When considering if any licence granted would have the effects described above the legislative provisions require the Council to also have regard in particular to—
       1. the needs of disabled people, and
       2. the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.
  1. **No obstruction Condition**
     1. The above requirements are enshrined in a standard national condition to be imposed on all licences, effectively forbidding any licence granted, or activity enabled by that licence, from causing any of the effects stated above in paragraph 5.1.1.
     2. This condition will be placed on all licences granted and if breached will result in enforcement action.
     3. When considering whether to grant a licence or whether the obstruction condition is being met the Council will consider the matters set out below.
  2. **No obstruction**
     1. An area of the relevant highway should be left free for use by non-vehicular traffic. The amount of space left is detailed below. This space will be measured from between 2 points – point A and point B. Point A will always be the furthest extent of the (proposed) licensed area.
     2. Point B will in most instances be the kerb of the pavement. However in some instance the measurement will need to be taken from a different point.
     3. Where there are other relevant factors, fixtures or legal rights of usage present on the relevant highway the measurement shall be between furthest extent of the (proposed) licensed area (point A) and the relevant factor (point B).
     4. Examples of Relevant Factors are forms of street scene furniture, bus stops or bus shelters, car parking spaces, loading bays bicycle racks or furniture placed under another pavement licence.
     5. The Council will not consider land that is not “relevant highway” as being a relevant factor for the purpose of the measurement, simply because it is not relevant highway (i.e. private land). Provided that there is no restriction from a member of the public walking across it, it is safe for them to do so and the owner of the land takes no steps to restrict access, the Council may deem it suitable to be included as part of the area provided for other pedestrians. Examples of such land could be forecourts of other premises or their car parks open to the public, or other customers, that may in fact be privately owned.
     6. Where the access to the land is restricted by the owner, it is reasonably clear to the public that it is not public highway or it would otherwise be unreasonable to expect the public to walk across it, the Council will count the edge of the land that is not relevant highway as point B.
     7. **The amount of space to be left**
     8. Government guidance in respect to the pavement licensing provisions and the department for transports inclusive mobility document is that ideally 2 metres of relevant highway should remain unobstructed. 2 metres allows a 2 wheelchair users to pass side by side.
     9. The inclusive mobility guidance suggests that a minimum of 1.5 metres is however acceptable. 1.5 metres allows a wheelchair user and a person walking to pass side by side.
     10. The Council will normally expect 2 metres of relevant highway to be left unobstructed and shall only consider less than this if there are reasonable circumstances and the applicant or licence holder take further measures to ensure that pedestrians are not hindered.
     11. The measurement between point A and B should be taken from the widest point of the licensed area and the narrowest point of B. This will prevent pedestrians, particularly users with mobility aids, prams, or visual impairments from being forced to unreasonably navigate an area that is not level and requires them to weave around a licensed areas.
     12. However, the Council shall consider granting a licence to cover an area that is wider at one part and narrower at another provided that it is a consistent increase/decrease and/or appropriate other measures are taken to ensure that pedestrians are not unduly troubled or put at risk. Such an area should be reasonably navigable by persons with any sight impairment or mobility issues. It will not be acceptable for pedestrians to be forced to ‘zig zag’ around a licensed area.
  3. **When less than 2 metres may be considered acceptable**
     1. The Council’s aim is to balance the need of businesses with the rights of other members of the community to use the highway. The purpose of public highway is to enable residents of, and visitors to, the borough to pass from place to place. It is rarely provided with the intention of enabling a private business to profit. However the Council also recognise that pavement licences can add to the attraction of high streets and the vibrancy of our town centres. Whilst the need for pedestrians takes precedence, the Council aims to act reasonably in allowing businesses to use pavement licences.
     2. A distance of less than 2 metres (but never any less than 1.5 metres) of relevant highway may be acceptable, in the following instances:
        1. A distance of 2 metres or more is largely accommodated, and the distance less than 2 metres is only a small part of the overall area being left;
        2. Any road that the public would be forced out on to is not permitted to be used by vehicles during the operating times of the pavement licence;
        3. Any relevant factor is out of the control of the business (i.e. street furniture) and it wold be unreasonable to restrict a business from using the area.
        4. If a measurement of 2 metres was used the business could have no tables or chairs placed outside at all, rather than simply being able to have more.
        5. The relevant highway has low footfall and not a predominant high street.
     3. However, where a distance of less than 2 metres is proposed the applicant or licence holder must take further steps as are reasonable to reduce the inconvenience to the public. Such steps could be to:
        1. have a member of staff designated for keeping passing traffic orderly and to intervene to reduce any blockages;
        2. display signs asking pedestrians to be courteous and walk in single file where appropriate;
        3. remove any other hindrances to users of the highway, wheelchairs, pushchairs or prams such as uneven paths, pots or planters.
     4. A distance of less than 2 metres will not be acceptable however where the effect would be to:
        1. tunnel customers towards a bottleneck and/or cause congestion;
        2. prevent adequate turning space for wheelchair users, prams, push chairs and similar;
        3. cause reasonable concerns about the safety of people using the area.
  4. **Smoke Free seating condition** 
     1. The second statutory condition requires the licence holder to ensure that there is reasonable provision within the area of the pavement licence for customers to be seated where smoking is not permitted.
     2. The Council expects that 50% of the area used by a licence holder will be “smoke free” and a sufficient space or barrier will be between the two areas and appropriately controlled by the licence holder.
     3. Where it is not reasonable for a licence holder to provide both smoke free and smoking areas, the Council will expect the licensed area to be smoke free. The Council may depart from this provision if the licence holder has other reasonable provision, such as smoke free seating in a beer garden.
     4. Licence holders should r note that smokers on the pavement outside could cause a nuisance to other people and in some instances an entirely smoke free area may be necessary.
     5. Where the business provides or permits other forms of outside smoking, such as allowing customers to stand outside the premises or use a smoking shelter, the business should ensure that this does not encroach on the smoke free area.
  5. **Decisions**
     1. A consultation period of 14 days commences the day after an application is received. The Council then has 14 days starting the day after the close of the consultation period to determine the application.
     2. Provided that the appropriate space is left for other users of the highway and the applicant provides satisfactory statements as to how they intend to comply with the licence conditions, the Council will grant the licence unless objections are received.
     3. **Where objections are received**
     4. Where objections are received the Council shall consider whether those objections relate to the general effect of the licence (if granted) on the general public or on the individual objector themselves.
     5. Where the objection relates to an alleged effect on the general passage of pedestrians the Council will grant the licence provided the other requirements of this policy are met.
     6. If the objection relates to a specific effect on an objector the Council will consider the individual merits of the concern before making a decision.

1. Grant of Licences
   1. **Duration of licences**
      1. The first application for a pavement licence made by an applicant in respect to a premises shall be granted for no longer than 1 year.
      2. Where objections are received indicating an effect or hindrance on the public, a licence may be granted for 6 months and noted as being a “trial” licence. If there are no substantiated issues arising in that 6 month period the Licence will automatically be extended by a further 6 month.
      3. All granted licences that are renewed, shall be renewed for 2 years, unless objections are received or there have been complaints about the operation of the licence in the preceding year that warrant a decision to grant only for 1 year.
   2. **Licence Display**
      1. Licence holders will be required to display their licence or a notice at the entry point to their pavement licensed area indicating that the area is licensed for use by Hertsmere Borough Council.
2. Enforcement
   1. **Enforcement against unlicensed businesses**
      1. Where a business is utilising any part of the relevant highway for the placement of tables and chairs for the consumption of food and drink they will require a licence, or shall be subject to enforcement action.
      2. In the first instances businesses will be informed of the need for a licence and given 7 days to either apply for the licence, remove the tables and chairs or to provide proof that the land is not relevant highway.
      3. If after the period of 7 days the business has not taken any steps in line with the above paragraph a notice of enforcement action will be served on them. This notice shall give the business 7 further days to take action described above. If the business does not take appropriate action within that period of 7 days the Council shall take the action that will be set out in the enforcement notice:
         1. All furniture placed on the relevant highway shall be seized by the Council;
         2. The furniture shall be stored by the Council for a period of 3 months;
         3. After the period of 3 months has elapsed the furniture shall be disposed of by the Council.
      4. The business responsible for placing the tables and chairs on the highway shall be liable for the following costs:
         1. Administration and allocation of work to collect furniture - £100 (payable after 7 days whether the tables and chairs are ultimately collected or not)
         2. Confiscation of furniture - £300
         3. Storage of Furniture - £100 first day, then a daily rate of £10 per chair, £30 per table, £15 per other large item and £5 per other small item.
         4. Disposal costs if necessary.
   2. **Disposal**
      1. After the period of 3 months the furniture will be deemed to be legally owned by the Council and the Council shall dispose of it as it wishes.
      2. The Council will either donate the items to charity, sell the items or destroy them. If the items are sold, the Council shall donate any income received to charity after deducting reasonable expenses. Where a donation of money is made to a charity it shall be made to the chosen charity of the Mayor serving in office at the time of the disposal of the furniture.
      3. Where an item(s) is to be destroyed the previous owner of the furniture shall be responsible for the costs in its destruction.
   3. **Recovery of costs**
      1. If the furniture is not collected after the period of 3 months the Council shall send an invoice of the total amount due to the business. The business will have 28 days to pay the invoice. If the invoice is not paid after 28 days the Council shall start to charge interest of 5% on the total sum for each day the invoice remains unpaid.
      2. The Council shall take all reasonable steps to recover the costs and if necessary instruct the Councils appointed debt recovery agent.
      3. Where a business owes a debt under this section which remains unpaid the Council shall consider their suitability to hold any other licence currently granted to them or which they may apply for in the future.
   4. **Settlement plan/payment**
      1. At any time the Council may agree an appropriate settlement plan with any business who owes the Council money in respect to the above provisions.
      2. Where a business seeks to collect their furniture and apply for the appropriate licence the Council will consider an appropriate discount subject to covering its costs.
   5. **Enforcement against licensed businesses**
      1. Once licensed a business must ensure that they comply with all the conditions attached to their licence.
      2. If the Council considers that a licence holder has breached any condition of the licence, the authority may—
         1. revoke the licence, or
         2. 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.
      3. If a licence holder is served a notice and fails to comply with it the Council may take the steps required itself and recover the costs of doing so from the licence-holder.
      4. Alternatively if a licence holder fails to comply with notice the Council may rescind it at any time and revoke the licence.
      5. If an enforcement notice has been served in circumstances which have subsequently changed, or as a result of an error, it may also be withdrawn.
   6. **Circumstances when a licence may be revoked**
      1. The Council may revoke a licence if it considers that some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted.
      2. A licence may also be revoked if, as a result of the licence,
         1. there is a risk to public health or safety,
         2. anti-social behaviour or public nuisance is being caused or risks being caused, or
         3. the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),
      3. The Council may revoke a licence if anything material stated by the licence-holder in their application was false or misleading.
      4. The Council may also revoke a licence if a licence-holder does not comply with the no obstruction duty.
   7. **Effect of a revocation**
      1. Where a licence is revoked it will take immediate effect. The licence holder will be expected to remove all furniture from the highway as soon as the decision is notified to them.
      2. Once revoked the business will not be licensed and any furniture on the highway will be dealt with in the same manner as any other business that is not licensed as set out earlier in this part.
      3. There is no appeal against the Council’s decision to revoke a licence. However, an applicant can re-apply to the Council at any time.
3. **Complaints**
   1. Complaints about a pavement licence or business may be made to the Council’s Licensing team. All complaints will be recorded and investigated as appropriate.
   2. Where 2 metres of relevant highway remains for pedestrians the Council shall not ordinarily consider objections or concerns that there is insufficient space provided. Officers will however take steps to ensure that 2 metres space is available.
4. **Standard Conditions**
   1. The Council may impose any condition it wishes on a licence to deal with any bespoke issues arising on the individual merits of a matter. However, the following standard condition shall be imposed on all licences.

**Standard Pavement Licence Conditions**

**General Terms**

1. This licence is granted to the licence holder and is not transferrable to any other person.
2. This licence shall expire on the expiry date displayed on the licence.
3. The Council reserves the right to condition, suspend or revoke a licence if the licence holder breaches any of the conditions.
4. The area permitted to be used under this licence shall be that identified on the plan attached to this licence and/or as described on the face of the licence and shall be used solely for the purpose of consuming food and drink sold or supplied by the relevant premises.
5. Food and drink must only be sold or supplied either by table service provided by waiters or waitresses or by direct purchase from the premises by the customer.
6. The licence holder shall ensure that they, or a competent person appointed by them, carries out a risk assessment in relation to their use of the pavement licence area and considers all risks posed to customers, staff and other members of the public as a result of their use of the licensed area.
7. The licence holder shall make no claim or charge against the Council in the event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause.
8. The licence holder 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 chairs and tables and other objects and for this purpose must take out at the permit holder’s expense a policy of insurance approved by the Council in the sum of at least £5 million in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.

**No-obstruction condition**

1. The licence holder shall ensure that their usage of the relevant highway for activities the licence does not:

(a) Prevent traffic, other than vehicular traffic, from—

(i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),

(ii) passing along the relevant highway, or

(iii) having normal access to premises adjoining the relevant highway,

(b) Prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,

(c) Prevent statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

(d) Prevent the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

**Reservation of at least 2 metres of space to be left for pedestrians**

1. The licence holder shall ensure that at least 2 clear meters of relevant highway remains free for use by the public. This measurement shall be taken from the edge of the relevant highway to the closest part of any furniture or object placed on the highway in reliance of this licence.
2. The licence holder shall not:
   1. Position any furniture in such manner as to discourage pedestrians from using the footway.
   2. Allow customers to stand, lean across or otherwise move furniture so as to reduce the space of 2 metres.
   3. Allow any customer to behave in such manner so as to intimidate, obstruct or otherwise appear to imply, to any member of the public, that they are not permitted to use the 2m space of highway.

**Smoke-free seating condition**

1. The licence holder is required to ensure that either the entire area authorised by this pavement licence is “smoke free” or makes reasonable provision for a no-smoking area.
2. Where the licence holder chooses to provide both smoking and non-smoking areas the licence holder shall:

a) Ensure that there is a distance of at least 2000mm between the non-smoking area and the smoking area.

b) Clearly sign both areas as being either smoking or non-smoking (as applicable)

c) Ensure that no ash trays (or similar receptacles) are left on any furniture in a smoke-free area.

**Placing of furniture on the land**

1. No furniture is authorised to be placed on the relevant highway unless it is of such type and design as previously approved by the Council.
2. Furniture must be of reasonable substance or suitably restrained, so that it cannot be easily pushed, knocked or blown over by any person or the weather.
3. Furniture must remain in good appearance and condition, in fitting with the overall design, look, feel and nature of the location in which it is situated.
4. The Licence holder is not permitted to charge any person for the use of any furniture placed by them on the highway in reliance upon this licence.
5. The licence holder shall remove all furniture at the end of their permitted hours each day.
6. The licence holder shall remove all furniture when required to do so in order to permit the use of the highway, or works on, in or over the highway by:
7. The Council, the County Council, the police, fire and ambulance services, any utility operator or builders’ vehicles, hearses and furniture removal vans.
8. Nothing contained in this licence gives the holder permission to make fixtures to or excavations of any kind in the surface of the highway which shall be left entirely undisturbed.

**Prevention of litter, nuisance etc.**

1. The licence holder shall dispose of all waste in accordance with a commercial waste agreement held by them.
2. The Licence holder shall remove all refuse and litter deposited on the highway in the vicinity of the area used under this licence each day and shall during all times of operation take reasonable steps to ensure the area remains free from refuse and litter.
3. The Licence holder shall ensure that the area used under the terms of this licence is clearly defined and, where requested by the Council, use barriers of a type agreed by the Council.
4. The Licence holder shall ensure that customers using the area authorised under this licence do not cause a nuisance, disturbance or obstruction to any person within the vicinity of the premises.
5. Where the relevant premises holds a premises licence the licence holder shall ensure that all conditions applicable to the premises licence are complied with in respect to the pavement licence area.
6. No food and drink may be prepared or cooked in this area without otherwise being authorised by the Council.