



**South  
Cambridgeshire  
District Council**

# **SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

## **PAVEMENT LICENSING POLICY**

**Effective 1 July 2024**

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## **1. Executive Summary**

Pavement Licences are issued by the Local Authority under the Business and Planning Act 2020 (BPA). The licence allows the licence-holder to place removable furniture over certain highways adjacent to the premises.

The Levelling Up and Regeneration Act 2023 makes permanent the provisions set out in the BPA 2020 which streamlined the process to allow businesses to secure these licences quickly.

Licences that are deemed to have been granted, should remain in place for such period as the local authority may specify in the licence, with a maximum limit of two years.

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. On receipt of an application, there will be a consultation period, enabling interested parties the right to submit a representation.

## **2. Purpose and Scope**

The Business and Planning Act process provided a streamlined and cheaper route for businesses such as cafes, restaurants, and bars to secure a licence to place furniture on the highway. This will provide much needed income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.

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 including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink. The Authority supports the regime as it can bring economic and social benefits to the community, and also encourage a pavement-café culture within the district.

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.

## **3. Eligible Locations**

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths 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).

## **4. Permitted Furniture**

The type of furniture which may be used is:

- 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

and related to the serving, sale and consumption of food or drink. The Authority will be pragmatic when determining what is 'removable' but in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away at night.

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

Advertising boards are not included in the definition of furniture within the pavement licencing 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.

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

## **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.

## **6. Application**

The Authority has a prescribed application form, and this should be submitted online. An application to the local authority must:

- specify the premises and the part of the relevant highway to which the application relates;
- specify the purpose (or purposes) for which the furniture will be used which must be for use by the licence-holder to sell or serve food or drink, and/or for use by other people for the consumption of food or drink. In both cases the food or drink must be supplied from, or in connection with relevant use of the premises;
- specify the days of the week on which, and the hours between which, it is proposed to have furniture on the highway;
- describe the type of furniture to which the application relates, for example: tables, chairs, and/or stalls;

The application must be accompanied with:

- the required fee;
- 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 they wish 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.
- photo of area to be licensed;
- evidence of the right to occupy the premises (e.g. the lease);
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- photographic evidence that the applicant has met the requirement to give notice of the application, namely 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;
- any other evidence that shows how the furniture to be introduced is in accordance with national guidance regarding accessibility (such as use of good colour contrast, suitable physical barriers around chairs and tables and or other appropriate measures); and
- any other evidence needed to demonstrate how any local and national conditions will be satisfied, including the 'no-obstruction' national condition.

## **7. Advertisement of Application and Consultation**

### **Advertisement of Application**

The Authority has a prescribed site notice template. The applicant is required to affix this notice to the premises, so it is easily visible and legible to the public on the day they submit the application to the local authority.

The notice must remain in place for the duration of the public consultation period which is the period of 14 days beginning with the day after the day which the application is submitted to the authority. When counting 'days,' public holidays are not included.

Applicants are encouraged to engage with any services operated in the vicinity for vulnerable customers; for example, care home or disability organisations nearby where individuals may be at particular risk.

The applicant is encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

## **Consultation**

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

- Cambridgeshire Police
- Cambridgeshire Fire and Rescue
- Relevant Town or Parish Councils
- Environmental Health

The Authority will publish details of the application on its website.

## **8. Considerations/Site Assessment**

The following matters will be used by the Council and consultees in considering the suitability of the proposed application, and these may be imposed as conditions on any licence that may be granted:

- public health and safety – for example, ensuring any reasonable crowd management measures or counter-terrorism measures needed as a result of a licence being granted;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour 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, taking into account Section 3.2 of Inclusive Mobility, a minimum of 1500mm could be regarded as the minimum accepted distance between two obstacles under most circumstances, as this should enable a wheelchair user and walker to pass each other;
- 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; and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

## **9. Representations**

The Authority will consider representations received from members of the public during the public consultation period, which is the period of 14 days starting the day after the application is submitted.

## **10. Determination of application**

The determination of an application is designated to Officers, and a decision will be made by the Principal Officer or Service Manager. Where a decision has not been made within

14 days following the close of the consultation period, the application is deemed to have been granted.

The 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, and impose conditions, or
- refuse the application.

A Licence will usually be granted for the maximum 2 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.

## 11. Appeals

Any person (either the applicant or person/body who has submitted a representation) who is aggrieved by the decision to refuse or grant the application, has a right to appeal within 21 days of receipt of the decision. The appeal will be referred to the Licensing Appeals Panel.

## 12. National Standard Conditions

All licences will have the two national conditions imposed, namely;

a) A no-obstruction condition:

The Licensee must ensure that a clear route of access along the highway is kept clear, by ensuring a range of recommended widths, as detailed within the Department for Transport's Inclusive Mobility Guide are met ([Inclusive mobility: making transport accessible for passengers and pedestrians – GOV.UK \(www.gov.uk\)](#)). This will take into account the needs of particular pavement users, including mobility and visually impaired persons. In most circumstances, a recommended minimum width of 1500mm of clear space between an obstacle and the edge of the footway is deemed adequate. Consideration of any barriers used to separate furniture from the rest of the footway must be taken into account.

Examples include:

- using a tap rail for long cane users, or barriers and furniture with contrasting colours;
- principle routes should be entirely clear and should not pass through an area with tables and chairs;
- ensuring the furniture is non-reflective, and constructed so that it cannot be easily pushed, or blown over by wind. Plastic patio furniture cannot be used unless counter measures are taken to ensure these are stable. And;

b) A Smoke-free seating condition:

The licence holder must make reasonable provision and meet this condition by;

- providing clear 'smoking' and 'non-smoking' area, with appropriate smoking signage that meets the Smoke-free (Signs) Regulations 2012.
- No ash trays shall be left on tables in designated non-smoking zones.
- Licence holders should provide a minimum distance of 2 metres between smoking and non-smoking area, where possible.

### **13. Local Licence Conditions**

The following conditions may be applied to any licence granted under the BPA 2020.

1. No other items may be placed on the highway within the licensed area other than that approved in accordance with the application and the licence when granted. If the premises has a licensed tables and chairs area, then any Advertising Board must be contained within the agreed seating area and not outside the area.
2. Furniture placed on the highway after the granting of a licence must be in accordance with the details and plans provided at the time of the application. No changes are permitted without prior approval of South Cambridgeshire District Council.
3. The amenities must be removed from the public highway at the end of the permitted period each day.
4. All tables and chairs authorised by the licence must be removed by midnight on the day the licence expires unless a renewal licence has been applied for and granted.
5. The Licensee shall maintain a public liability insurance policy up to the value of £5 million pounds against any liability, loss, or damage, claim or proceeding whatsoever arising under Statute or common law in respect of the placing and maintaining of the tables and chairs on the highway or their removal therefrom.
6. Any umbrellas permitted must not protrude beyond the designated boundary of the licensed area. They shall be kept in good condition so as not to detract from the appearance of the street. Enclosed structures (including gazebos) and the like will not be permitted within the proposed boundary of the licensed area.
7. The placing of speakers or any other equipment for the amplification of music within the licensed area is strictly prohibited unless authorised by a premises licence issued under the Licensing Act 2003. Any such authorised music must not cause a nuisance or annoyance to others.
8. In areas of significant footfall (to be determined by the Licensing Authority), when in use, the pavement café area will need to be enclosed, to demarcate the licensed area



and contain the tables and chairs, thus making it distinguishable from other pavement users, and to assist blind and visually impaired pedestrians.

9. The premises must have reasonable crowd management plan in place.

10. The Licensee shall be responsible for keeping the designated area in a clean and tidy condition at all times.

#### **14. Temporary Suspension of Licence**

The Licence may be suspended where necessary to allow highway maintenance and any other necessary remedial work to be carried out at the location covered by the licence. South Cambridgeshire District Council will not be liable for any loss of earnings arising out of the suspension of a licence.

#### **15. Enforcement**

The enforcement of the pavement licence regime will be operated in accordance with the authority's overall enforcement policy.

#### **Procedural Breaches**

The authority may also revoke a licence, in the following circumstances:

- a) 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
- b) The applicant did not comply with the requirement to affix the notice to notify the public of the application or secure that the notice remains in place until the end of the public consultation period.

#### **Licence Condition Breaches**

If a condition imposed on a licence (either by the local authority or nationally) is breached, the Authority may issue a notice requiring the breach to be remedied (remediation notice). If the licence-holder fails to take the necessary remedial steps, the local authority may:

- a) amend the licence, with the consent of the licence-holder,
- b) revoke the licence
- c) take steps to remedy the breach and take action to recover any costs.

Similarly, the authority may revoke a licence, or amend it with the consent of the licence holder, in the following circumstances:

- If it considers that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licenced area (or road adjacent) is no longer to be pedestrianised.

- there are risks to public health or safety. For example, where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
- c) the use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition. For example, the arrangement of street furniture prevents disabled people, older people, or wheelchair users to pass along the highway or have normal access to the premises alongside the highway;
- d) the use is causing, or risks causing, anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up.

The local authority may revoke a licence in the following circumstances:

- a) For a breach of condition, (whether a remediation notice has been issued or not) or
- b) 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
- c) The applicant did not comply with the requirement to affix the notice to notify the public of the application or secure that the notice remains in place until the end of the public consultation period.

## **16. Removal of Furniture**

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 Authority may 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 Authority 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 authority can dispose of the furniture by sale or other means and retain the proceeds.

## **17. Transfer of Licence**

A Licence cannot be transferred if a business is sold. The new occupier must apply for the grant of a new licence.

## **18. Surrender of Licence**

A Licence may be surrendered at any time. No refunds will be made in the event of a surrender of the licence before expiry.

## **19. Renewal of Licence**

An application to renew a licence should be submitted at least 4 weeks prior to expiry to take into account the consultation and determination period.