

Temporary Pavement Licences Guidance

What is a Pavement Licence?

A temporary 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.

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 including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink. 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.

Permitted furniture

The 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. Removable means it is not a permanent fixed structure, and is able to be moved easily, and stored away for the evening.

Exclusions

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).

Interactions with other regulatory process including alcohol licensing

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. Other regulatory frameworks still apply such as the need for alcohol licenses and the need to comply with registration requirements for food businesses.

Planning Permission

Planning permission is not required. 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.

Duration of licence

A licence granted or deemed to be granted will not be valid beyond 30 September 2023 unless revoked by the council. This is a temporary measure to support businesses while social distancing measures may still be in place. As it is uncertain how long some form of social distancing measures will be in place for, the new process will remain in place until the end of September 2023 – giving certainty to businesses for the foreseeable future, supporting them to operate safely while social distancing measures are in place. It will also allow them time to apply for new licences under Part 7A of the Highways Act 1980 or equivalent provisions in any Local Act, if they want to extend their use of pavement furniture beyond the end of September 2023.

Applications

All applications must be submitted electronically only by clicking on the following link https://westsuffolk-self.achieveservice.com/service/Pavement_Licence_Application

In addition to the application form being completed, the following must be provided:

- evidence of residential address for example utility bill
- proof of identity for example passport, driving licence
- recent photograph
- proof of insurance including public liability minimum £5,000,000
- photographs of the intended areas to be licensed
- a scale plan of the proposed licensed area
- copy of landowner's permission (including highways).

Fees

West Suffolk Council is not charging a fee for a Temporary Pavement Licence.

Notice

The applicant is required to affix a 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. They must ensure the notice remains in place for the public consultation period which is the period of five working days beginning with the day after the day the application is submitted to the authority. When counting 'working days' public holidays are not included. Applicants are encouraged to keep evidence of this such as a photograph.

The process

Once the information is submitted to the local authority the authority has 10 working days from the day after the application is made (excluding public holidays) to consult on, and determine the application. This consists of five working days for public consultation, and then five working days to consider and determine the application after the consultation.

If the local authority does not determine the application within the 10 working day period, the application will be deemed to have been granted.

The application and all required documents will be sent out for consultation to Suffolk County Council Highways and the Police. Members of the public are able to make representations.

Determination

When determining an application the council will consider:

- public health and safety including security – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter
- 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, in particular considering the needs of disabled people
- 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
- any other social distancing measures in place, for example any queuing systems that limit the space available on the pavement
- whether there are other permanent street furniture or fixed 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.

Enforcement

If a condition imposed on a licence (either by the local authority) or nationally is breached, the local authority will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs.

The authority 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 health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together or 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)
 - this use of the highway is causing an unacceptable obstruction, breaching the non-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.
 - the use is 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
 - 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
 - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The local authority 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. It is good practice for local authorities to give reasons where these powers are used.

For further information, please contact the licensing team:

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