

PAVEMENT LICENCE - BUSINESS AND PLANNING ACT 2020

SCHEDULE OF CONDITIONS

1. The application form and the notes attached to it form part of these Conditions.
2. **Licensed Area:** the premises and the Public Highway, as defined on the plan attached to this Pavement Licence.
3. **Public Highway:** the public highway as referred to in the application.
4. **Highway Authority:** Kent County Council.
5. **Defining the Pavement Licence Area:** the Licensing Authority may, if necessary, discreetly mark on the Public Highway, the extent of the Licensed Area to ensure its accurate location.
6. **Production of this Pavement Licence on Demand:** this Pavement Licence shall be displayed in the window of the premises, or, kept where it may be immediately available for inspection, on demand.
7. **Sole Purpose of this Pavement Licence:** permits the Licensee to use furniture placed on the Public Highway to sell or serve food or drink and/or allow the Public Highway to be used by customers for consumption of food and drink supplied from, or in connection with the use of the Licensed Area.
8. **Personal Licence:** this Pavement Licence is personal to the Licensee and shall not be transferred to any other person, business or organisation.
9. **Public Health and Safety** – the Licensee shall conform to the latest government guidance and any reasonable crowd management measures.
10. **Opening hours:** this Pavement Licence shall be restricted to the opening hours specified in the application or such other hours as may be agreed by the Licensing Authority, in writing.
11. **Furniture:**
 - (a) items of furniture shall be as detailed in the application and shall be free standing;
 - (b) furniture layout shall be as shown on the plan attached to this Pavement Licence;
 - (c) furniture shall be arranged so as not to encroach onto other parts of the Public Highway (see conditions 19 and 22);
 - (d) furniture shall not be permanently affixed to the Public Highway;
 - (e) furniture shall be kept in good repair and condition, including cleanliness;
 - (f) furniture shall not be stored on the Public Highway outside the operating hours;
 - (g) furniture shall be removed to overnight storage, outside the operating hours;
 - (h) furniture placed on the Public Highway shall not obscure sight lines for any highway user, interfere with drainage, or, conflict with dropped crossings, etc.;
 - (i) furniture shall be removed from the Public Highway at the request of the Licensing Authority, the Highway Authority, police, emergency services, statutory undertakers and telecommunications code operators.¹

¹ Whilst the request to remove may ordinarily be with some warning (e.g., for a special event or planned works), items must be removed at any time as might be demanded. Items must remain removed from the Public Highway for so long as may be required

12. Barrier(s):

- (a) disability compliant free standing barrier(s) approximately 1.0m high and incorporating a tapping rail not more than 150mm above the ground shall be provided to guide persons safely around the Licensed Area;
- (b) barrier(s) shall have a colour contrast to ensure they are highly visible;
- (c) barrier(s) shall not be permanently affixed to the Public Highway;
- (d) barrier(s) shall be designed to resist collapse or movement (e.g. by being blown over or accidentally stumbled into);
- (e) barrier(s) shall be arranged so as to prevent furniture and/or personal effects (e.g. shopping) encroaching onto other parts of the Public Highway (see conditions 19 and 22);
- (f) barrier(s) shall not be stored on the Public Highway;
- (g) barrier(s) shall be removed from the Public Highway, outside the operating hours;
- (h) barrier(s) shall be removed from the Public Highway at the request of the Licensing Authority, the Highway Authority, police, emergency services, statutory undertakers and telecommunications code operators.²

13. Emergency Exits: all emergency exits and routes from and to the Licensed Area shall be kept clear at all times.

14. Statutory permissions/consents/approvals: the Licensee shall comply with and obtain all other necessary statutory permissions, consents and approvals required in connection with the exercise of their trading activities from the Licensed Area.

15. Obstructions: the Licensee shall not cause any obstruction or danger to people using the Licensed Area (other than by anything done by the Licensee pursuant to this Pavement Licence) and:

- (a) power cables or water pipes shall not be laid across or suspended above the Public Highway for the purposes of selling or serving food or drink from and/or the consumption of food and drink supplied from, or in connection with the use of the Licensed Area;
- (b) every table, chair and item of temporary street furniture shall be positioned so that it does not impede the surface water drainage of the Public Highway.

16. Public amenity: the Licensee shall:

- (a) be responsible for the conduct of people within the Licensed Area;
- (b) neither cause nor permit music entertainment from the Licensed Area;
- (c) neither cause nor permit noise, disturbance, smells or litter to the detriment of neighbouring occupiers;
- (d) neither cause nor permit the gathering of people outside the Licensed Area.

17. Surface of the Public Highway: the Licensee shall not undertake any alterations to the surface of the Public Highway. The Licensing Authority reserves the right to report any highway damage to the Highway Authority no matter how caused and recharge any ancillary costs to the Licensee.

² Supra

18. **Cleansing of the Licensed Area:** the Licensee shall:
- (a) ensure that the Licensed Area is maintained in a clean and tidy condition;
 - (b) take all necessary precautions to prevent the Licensed Area from becoming littered as a result of their trading activities;
 - (c) be responsible for making good on any damage caused to the surface area of the Public Highway.
19. **Advertising:** advertisements and signs shall not be permitted within the Licensed Area (other than on parasols/umbrellas) without the prior consent of the Licensing Authority.
20. **Site Constraints:** A minimum clear width of 2m in town centres and 1.5m elsewhere must be maintained between the boundary of the Licensed Area and the kerb at all times. In a pedestrianised area, at least 3.5 metres of unobstructed space in front of the Licensed Area shall be maintained (see also condition 21), except in the following circumstances where additional width may be required:
- (d) proposals which place furniture within 20m of a road junction or roundabout;
 - (e) proposals which place furniture within 15m of a push button, zebra crossing or pedestrian island crossing;
 - (f) proposals which place furniture within 5m of a bus stop.
21. **Indemnity:** the Licensee shall indemnify the Licensing Authority against all actions, proceedings, claims, demands and liability which may be taken or made or incurred arising out of the Licensee's use of the Public Highway. For this purpose, the Licensee shall insure against any damage, loss or injury, which may occur to any person or property arising from the siting of the furniture and barriers. Details of such insurance, shall be submitted to and approved by the Licensing Authority and the insurance shall take effect prior to the use of the Public Highway to sell or serve food or drink and/or allow it to be used by people for consumption of food and drink supplied from, or in connection with the use of the Licensed Area.

22. National Conditions

a. Condition relating to clear routes of access

The no-obstruction condition is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act. When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order to do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:

- Section 3.2 of [Inclusive Mobility](#) s- 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 licencing 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 licenses 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 duties on local authorities, 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.

b. Condition relating to smoke-free seating

It is a condition that 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 which can be viewed [here](#).
- 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.

FAILURE TO COMPLY WITH THE CONDITIONS SET OUT ABOVE, OR, ANY FUTURE CONDITIONS AS MIGHT BE SPECIFIED, MAY RESULT IN WITHDRAWAL OF THIS PAVEMENT LICENCE

ANY OBSTRUCTION OF THE PUBLIC HIGHWAY WHICH IS NOT SPECIFICALLY AUTHORISED BY THIS PAVEMENT LICENCE MAY RENDER THE LICENSEE LIABLE TO PROSECUTION.