



# Pavement Licensing Policy 2025-30

DRAFT

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## **1. INTRODUCTION**

1.1 The Levelling Up and Regeneration Act 2023 makes permanent The Business & Planning Act 2020 which was passed to promote economic recovery and growth in response to the impact of the COVID-19 pandemic. Part 1 of the Act created a new regime for the granting of Pavement Licences for premises serving food and drink to place furniture on the pavement adjacent to their premises. This new regime is distinct from the already existing permitting scheme under the Highways Act 1980. It was designed to be quicker, cheaper and more streamlined in the hope that it helped support businesses.

The key features of the Business and Planning Act 2020 are retained but changes include an increase in the fee cap, provision that licences can be issued for up to two years, increased length of time for consultation from 7 days to 14 days, provision for a renewal process and enforcement powers for local authorities. This policy takes account of the [Guidance issued by the Department for Levelling up, Housing and Communities](#) dated 2nd April 2024.

1.2 The Council will review this policy every five years or sooner considering any changes to legislation or guidance and consult if there are any significant proposed amendments. If the Council make any changes, then the policy will be re-published

## **2. SCOPE**

### **2.1 Definition of a pavement licence**

A pavement licence is a licence that is granted by, or deemed to have been granted by, the local authority, 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.

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.

Licences may now be granted for a length of up to a maximum of two years.

### **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 make an application for a pavement licence. These include, but are not limited to, public houses, cafes, snack bars, restaurants, coffee shops, and ice cream parlours.

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

### **2.3 Relevant land**

The land to be used must be 'relevant highway' and 'adjacent' to the business premises.

Licences can only be granted in respect of highways listed in section 115A(1) of the Highways Act 1990.

Generally, these are footpaths restricted to pedestrians or are roads or places to which vehicle access is restricted or prohibited.

A pavement licence can only be granted on sites where there the placing of removable furniture will enable clear access routes for pedestrians considering the needs of all users, including disabled people.

Areas that are not highway e.g. car parks, beer gardens, parks, cannot be licensed and so applications will not be accepted in respect of these areas. Similarly, Crown Land or land maintained by Network Rail cannot be licensed.

### **2.4 Type of furniture permitted**

The furniture that may be placed on the highway is as follows:

- 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
- Umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink

The furniture is required to be removable, it cannot be a permanent fixed structure, and it must be easily moved and stored away of an evening, in line with any conditions attached to the licence. The furniture should also be 'in keeping' with the local area and environment.

Barriers:

- Barriers should be in colours which contrast with the ground and with walls or other obstacles.
- Barriers should be solid fabric barriers where possible.

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.

### **2.5 Planning permission and other requirements**

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. 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.

A pavement licence does not grant the right to 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.

## **2.6 On and Off-sales of alcohol**

Businesses who apply for a pavement licence will need to check that any premises licence includes off-sales of alcohol in their application under the Licensing Act 2003 if they want to allow customers to drink alcohol in the area covered by a Pavement licence (unless the outside area is already covered by the premises licence for sale of alcohol). Those businesses who were using the temporary amendments made to the Licensing Act 2003 which ended March 2025 and which automatically gave permission for off sales of alcohol will need to apply for a minor variation. Please contact the Licensing team for advice.

## **2.7 Interaction with Part 7A of the Highways Act 1980**

Any licence applications for activities in England licensable under pavement licensing legislation in the Business and Planning Act 2020 must be granted under the Business and Planning Act 2020 (as amended by section 229 of and schedule 22 to the Levelling Up and Regeneration Act). They should not be granted under the Highways Act 1980.

Applicants will still need to apply for permission to carry out activities not licensable under the Pavement Licensing regime, under the Highways Act 1980. Example of such activities include the placement of furniture that is not removeable, such as bolted to the ground or cannot be reasonably removed, or placement of furniture other than tables, chairs or stools on the highway.

## **2.8 Storage**

Furniture is required to be removable i.e. not a fixed structure, and able to be moved easily, and stored away at the end of the day. Furniture should be strong and sufficiently durable. Given that it must be stored away at night, we would recommend that it be able to be easily folded and/or stacked.

Where furniture cannot be immediately stored in the business premises at the end of trading (e.g. because the premises is still operating), furniture is expected to be safely and securely stacked and rendered unusable until it can be stored as soon as reasonably practicable.

In exceptional circumstances, and subject to written authorisation by the Licensing Authority, furniture may remain in situ for longer periods of time. To request authorisation, email [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk).

The responsibility for removing tables and chairs and other obstructions from the highway rests with the owner/operator of the premises.

## **2.9 Music equipment and entertainment/performances**

Items such as musical equipment / speakers do not fall under the definition of furniture and so are not permitted.

## **2.10 Glassware**

Applications for pavement licences on the footway may specify whether they wish to use glassware as part of the application process. A risk assessment will be required in such circumstances. The default position will be that glassware is not permitted.

The use of glassware will not be permitted on any road-closure sites to avoid the risk of smashed glass on the carriageway for vehicles.

## **2.11 Gazebos, canopies and other coverings (including umbrellas)**

Gazebos, canopies, or other coverings including umbrellas must:

- be sufficiently sturdy and windproof;
- be weighted, anchored, or secured to the ground, but cannot be anchored with any method that requires screwing, cutting, or drilling into the public highway. Use of tents and other temporary structures may be deemed unsafe and prohibited during severe weather events (strong wind, etc.).
- have adequate ventilation to allow air flow (where enclosed)
- not interfere with traffic sightlines or obscure road signage.
- not overhang the boundary of the licensed area
- be of an appropriate quality. A standard design of seating and tables will not be insisted upon, but a reasonable quality will be expected. Low quality designs or any of a scale or character unsuited to the surrounding area may be rejected or an alternative required when deciding whether to grant the application.

All structural materials should have a fire-resistant certification or flame certification showing that the material is fire-rated or non-combustible.

## **2.11 Heaters**

The council is committed to improving air quality and supporting businesses to reduce their overall environmental impact. The council recommends that the use of heaters be avoided as much as possible.

However, where absolutely necessary, the council insists that businesses use electric heaters as these are more efficient and produce 85% less CO<sub>2</sub> than LPG heaters. These heaters can also include a passive infrared or time lag switch to operate the heaters when they are needed rather than have them on all the time. LPG heaters produce significant amounts of nitrogen dioxide (NO<sub>2</sub>) and particulate matters (PM<sub>10</sub>) which are particularly harmful to air quality. The use of LPG heaters in licensed areas is prohibited.

Where businesses wish to use electric heaters, they may generally do so provided that their use is in line with the below provisions:

- The type of space heater that is the most appropriate for the location and the local environment.
- Completing a risk assessment for their use and implement appropriate controls for their use.
- The heater will be located in an area that does not pose a safety concern to people passing or an obstruction of the highway.
- Limiting the number and location of the heaters to reduce overcrowding around them.
- The type of space heater that is the most appropriate for the location and the local environment,
- To safely remove the heaters from the street and store them securely when the business closes.

A guide to the council's expectations on the management and use of space heaters is set out in Appendix 4.

The council may impose conditions on Pavement Licences to ensure the safe use of space heaters within the outside licensed areas.

## **2.12 Power supplies to licensed areas - Prohibition of Power Cables**

The use of power cables, extension cords, or any other type of electrical wiring across pedestrian footways is strictly prohibited. This measure is taken to prevent potential trip hazards and ensure the unobstructed movement of pedestrians.

Power cables running across walkways pose a significant risk to pedestrians, particularly in a busy environment. Tripping over cables can lead to serious injuries, especially for the elderly, children, and individuals with disabilities.

Alternative arrangements must be made to ensure that any necessary power supply does not interfere with pedestrian pathways. Where power is needed for any authorised equipment, users must employ safe alternatives such as battery-powered equipment. Regular inspections will be conducted to ensure compliance with this policy. Any breach will result in immediate corrective action and may be subject to enforcement action.

## **2.13 Welfare and Environmental Guidelines**

The provision of toilet facilities is required for all pavement licences seating in excess of 6 people. Where there is already internal seating associated with the building, additional toilet facilities may be required if overall occupancy figures are increased.

The licensed area must be kept clean and litter free and it should also be ensured that litter does not stray onto the neighbouring area.

External public address systems or amplified music will not be allowed within the licensed area.

Seating space contained in the licensed area must be included in total occupancy figures for the premises.

#### **2.14 Supervision of the area (including use of SIA door supervisors)**

Businesses licensed under the Licensing Act 2003 should review their premises licence conditions as there may be conditions affect how they can operate any outside space.

You should consider appropriate crime prevention measures and ensure staff are briefed to avoid risks of theft or bag-dipping.

As part of your risk assessment, you should review whether it is appropriate to provide SIA-licensed door supervisors to monitor the use of your licensed area and control entry to it, including queuing. If conditions of your premises licence require this, you will need to ensure it is done.

#### **2.15 Queues**

Businesses should also consider the impact on other users of the highway when considering the appropriateness of any queuing arrangements. Staff should be familiar with any procedures and, where possible, clear signage should be displayed to ensure customers are made aware of any arrangements. Security implications from queues should also be considered (see 'Security Considerations' in Section 4 below).

#### **2.16 Noise and litter**

It is important the licensed premises are good neighbours, but customer noise can cause a disturbance – especially later into the evening. We appreciate and anticipate that there is likely to be additional noise generated across the city from businesses operating outside spaces and with queuing.

We expect where problems arise with neighbours that business take proactive steps to minimise the noise disruption from their operation and to make sure that no noise coming from the premises could cause a nuisance.

Please ensure that any customers drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public



nuisance. Please also ensure your customers leave in an orderly manner. Businesses may also wish to consider making their manager's telephone number easily available if neighbours have reason to complain to encourage a good line of communication.

We recommend that signage is put up around premises reminding patrons to be considerate to the local residents.

Council officers will be monitoring complaints and where these complaints are linked with businesses, the council will actively engage with them to advise on the need to reduce the noise nuisance. If businesses continue to generate a public nuisance, then the council may take more formal enforcement action depending on the severity of that nuisance. If neighbours do suffer with problems, they can report noise and anti-social behaviour to us at [Liscneding@warwickdc.gov.uk](mailto:Liscneding@warwickdc.gov.uk).

### **3. FEES**

The fee for applying for a new licence and a renewal under the process is set locally but capped at £500 (new licences) and £350 (licence renewals) respectively. Warwick District Council has set its fees on a cost-recovery basis. In setting them the Council considered the costs incurred in processing and issuing licences, taking into account costs from:

- administration work
- carrying out pre-grant inspections
- completing any background checks that must be undertaken
- developing policies for pavement licensing
- the need for any special equipment, materials or resources required
- where permitted, a proportion of the costs of ensuring compliance by licensed businesses
- the overhead costs incurred by the licensing service

The licensing fees are reviewed on an annual basis. Please see Warwick District Council's website to see the current fees for Pavement Licences [Pavement furniture licence - Warwick District Council. \(warwickdc.gov.uk\)](http://warwickdc.gov.uk)

Application fees must be paid by debit/credit card at the time the licence application is submitted to the council.

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.

### **4. APPLICATION & DETERMINATION OF PAVEMENT LICENCES**

All applications will be determined in the public interest based on what is to be regarded as reasonably acceptable in the particular location. Each application will be determined on its own merits having regard to the legislation, government guidance and these guidelines. Where the licensing authority considers that relevant concerns cannot be adequately addressed through the imposition of appropriate conditions, the application will be rejected

#### 4.1 Making an application

Applications must be made electronically, via this [link](#). Applications must be supported by the following:

- A completed application form
- Details about the proposed days of the week and times of day on which, it is proposed to put furniture on the highway,
- The proposed duration of the licence,
- (If applicable) reference of existing pavement licence currently under consideration by the local authority,
- Public liability insurance to the value of £5m
- A plan of the business premises, clearly shown by a red line so that it can be easily 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 of furniture to be placed 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.
- Photographs, brochures or website link to the proposed furniture
- Proof of the public notice on display in a prominent position in window of the premises. A template of the notice can be found [here](#).

Any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

If a Traffic Regulation Order is required, the applicant must ensure that this permission is in place prior to applying for a Pavement Licence.

An application will not be considered complete until all of the application criteria is satisfied, including payment of the fee, and the consultation period will not commence until the day after a complete application has been made.

#### 4.2 Expired licences

All expired licences will be treated as new applications. If a licenced holder applies for a renewal before the expiration of an existing licence, this will be treated as a renewal. If the application is for the same layout only the application form and a copy of the public liability insurance will be required. If there is a change to the original layout, all documents will be required (e.g. plan, photographs of furniture etc). A fee will be due in both cases

#### 4.3 Consultation

Applications are consulted upon for 14 days, starting on the day after a valid application is received by the Council. The Council will publish details of the application on its public access register at [www.warwickdc.gov.uk/pavement\\_furniture\\_licence](http://www.warwickdc.gov.uk/pavement_furniture_licence).

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

Before determining an application, the Licensing Authority will consult with the following:

- Warwickshire County Council Highways Authority
- Warwick District Council Planning Authority
- Warwick District Council Environmental Health (Environmental Protection, Food Safety & Health & Safety)
- Community Safety Team
- Warwickshire Fire & Rescue
- Relevant Parish or Town Councils
- Warwickshire Police

Members of the public and others listed above may make representations about an application within this period.

The Licensing Authority must take into account representations received during the consultation period and consider them when determining whether or not to grant a licence.

#### **4.4 Objections & Relevant Considerations**

In determining an application, we must consider any representation made within the 14-day public consultation period. Representations made outside of this time may be considered if the application has not already been determined. We will give particular consideration to representations submitted by any frontage with a relevant interest (as defined under s115A(7) of the Highways Act 1980) insofar as considering the effect of placing any furniture in front of their premises.

#### **4.5 Site Notice**

The applicant must, on the day the pavement licence application is made, fix a Notice of the application to the premises so that it 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 the Site Notice requirement having been complied with must be supplied to the Council.

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 the 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
- the end date of the consultation (14 days starting the day after the valid application is submitted to the Council).

A Site Notice template is shown as Appendix 1.

Applicants are responsible for ensuring the notice is displayed for the full 14-day period. If you discover it has been removed, you should replace it as soon as possible. Where a notice is found not to have been displayed, the application may be rejected.

#### 4.6 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposal:

- public health and safety – for example, any reasonable crowd management 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?
- 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:
  - o 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;
  - o whether there are other permanent street furniture or structures in place on the footway that already reduce access;
  - o the impact on any neighbouring premises;
  - o the recommended minimum footway widths and distances required for access by mobility-impaired and visually impaired people as set out in Section 4.2 of [Inclusive Mobility](#);
  - o 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 of furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people, and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

## 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 district 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.

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

#### **4.7 Determination of applications**

Warwick District Council supports the aims of legislation and will therefore seek to grant licences where possible. However, this aim must be balanced with the need to ensure that the granting of a licence does not put public health and safety at risk, does not lead to antisocial behaviour or noise nuisance, and ensures that the public, particularly those with disabilities or additional needs are unhampered when walking along streets.

When considering the needs of disabled people, the Licensing Authority will ensure to take into account factors such as the use and construct of barriers to demarcate the area, the positioning of furniture so as not to impede sight-lines, and the weight and type of furniture to ensure it stays in place and does not cause an obstruction.

The Licensing Authority must determine an application within 14 days (not including public holidays) beginning with the day after the day on which the application is made.

After the 14 day public consultation period, and having considered any objections or comments in respect of an application, the Licensing Authority may:

- 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 Licensing Authority does not determine the application within the 14 day period, the application will be deemed to have been granted subject to the published local conditions shown at Appendix 1 and any national conditions published by the Secretary of State.

The following are authorised to grant or refuse applications, and to revoke a Licence which has been granted:

TABLE OF DELEGATIONS	
Decision	Designated to
Grant of an application where no objections have been received during the consultation period.	Environmental Health and Licensing Manager
Grant of refusal of an application where objections have been received during the consultation period	Environmental Health and Licensing Manager following consultation with the Head of Service and Chair of the Licensing and Regulatory Committee
Revocation of a Licence	Environmental Health and Licensing Manager following consultation with the Head of Service and Chair of the Licensing and Regulatory Committee

**Commented [RR1]:** Checking this with Graham. All under HoS in scheme of delegation, assume it has been delegated to you also? Your name is on the paperwork!

Where the Licensing Authority have published and attached a local condition that covers the same matter as set out in any national conditions published by the Secretary of State, the local condition takes precedence over the national condition where there is reasonable justification to do so.

In addition to the standard national and local conditions, the Licensing Authority may attach further reasonable conditions where there is clear justification for doing so. The need for further conditions will be judged on a case by case basis.

The Council generally will only permit Pavement licence between 08:00 and 23:00

#### 4.8 Licence Duration

The expectation from the guidance is that licences will be granted for a maximum of two years unless there is a good reason for granting a licence for a shorter period, such as plans for future changes in use of road space.

**Commented [RR2]:** Have you seen other LA's granting for less than two years? The intention is for two years to be the default length. Regardless of location if we have not had any issues or complaints then can we justify a shorter licence?

Guidance states 'To help support local businesses and give them more certainty, the expectation is that local authorities are pragmatic and will grant licences 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'

If we use the 2000m minimum width then 75% of our licences will be 12 months. So more work? Would we need another set of fees too? We have gone down to 1400 in town centres. We have powers to amend/revoke so would use them if necessary. Is this to do with income generation?

If a licence is deemed granted because the Licensing Authority did not determine it within the 14 day period then the licence will be valid for two years.

Temporary road closures and expansions of the pedestrian footpaths are under constant review by the council, and it should be noted that the council may seek revocations of licences if there is a need to make changes to any highway arrangements.

#### **4.9 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 pedestrians 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.

#### **5. 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.

##### **Breaches of Pavement Licence**

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.

#### 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 OF POLICY**

This policy or the local conditions may be reviewed from time to time should there be changes to legislation, social distancing guidance, or as a result of local environment or highways consideration. In any case the Policy will be reviewed after a period of 5 years following adoption.

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## Business and Planning Act 2020

### PUBLIC NOTICE

[Name of person applying for licence], is applying for the new grant of a Pavement Licence under Section 2 of the Business and Planning Act 2020.

An application was submitted to Warwick District Council on [Date the application is submitted to the Licensing Authority] for:

**[Full name and postal address of premises]**

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 to the Licensing Authority by no later than: [last date for representations being the date 14 days after the date the application is submitted to the local authority:

**Warwick District Council**  
**Licensing**  
**Town Hall**  
**Parade**  
**Royal Leamington Spa**  
**Warwickshire CV32 4AT**  
[licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)

The application and information submitted with it can be viewed on the Council's website: [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk)

Signed .....

Dated ..... [date the notice was placed  
(must be the same date as the date the application was submitted)]

## **Appendix 2**

### **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 Town Hall, Parade, Leamington Spa, CV32 4AT 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 0800 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.

29. The Licence Holder shall ensure that appropriate members of staff complete the nationally recognised ACT (Action Counters Terrorism) training. The ACT eLearning certificate shall be made available for inspection to the Police and Council Officers upon request.

‘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.

## Appendix 3

### 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

## Appendix 4

### Outdoor heating guidance for licensed premises

#### General

If you wish to provide heating in a temporary structure or outdoor area of your premises, then you must fully consider all health and safety implications.

The first thing you must do is carry out a suitable and sufficient risk assessment. The HSE (Health and Safety Executive) has extensive guidance and advice to help you with this and other considerations for providing a safe workplace. You should also speak to your insurance company for any specifics they may require you to assess.

Heating appliances must conform to the relevant national standards and consideration needs to be given to ensure that the type of appliance chosen is suited to the venue.

#### Location

Where possible you must provide permanently fixed radiant heaters positioned so that they cannot be tampered with or pose a danger to those within the area.

Heating appliances should:	Heating appliances should not:
be sited and used in accordance with the manufacturer's instructions	be placed directly underneath or near awnings, canopies, or any combustible material, including trees and bushes
be shielded from strong draughts or gusts of wind and sources of water	be sited on escape routes, confined spaces, passageways, or thoroughfares

**Free-standing heating appliances** should be sited on level ground for stability and be able to stand upright without support. It may also be necessary to fix the appliances into position, to prevent them from being knocked over.

In certain circumstances (such as marquees), heating appliances may be sited externally, and warm air piped into the structure via flame retardant hosing. However, it must be ensured that exhaust fumes are safely dispersed and prevented from entering the structure.

Fire exits should always be signed as such and kept free of obstruction.

### **Electrical heating appliances**

Prior to each use, the heating appliance and electrical socket outlet should be visually inspected for signs of damage or overheating. If damage is found, a competent NICEIC Accredited electrician should be consulted.

Heating appliances must be inspected periodically by a competent person and suitable records should be kept. The periods between inspections should be determined on a risk assessed basis and in accordance with the manufacturer's instructions.

Wherever possible, an electric heating appliance incorporating a thermostat should be used.

Care should be taken to ensure that appliances are switched off and remain safe at the end of each period of work.

Heating appliances should be plugged directly into an electrical socket where possible; the use of extension leads and block adaptors should be avoided, and cables should not be subject to tension. Trailing leads are to be avoided or minimised, to reduce the likelihood of trips and falls. Where it is necessary for electrical cables to run across the floor, they should be routed away from walkways and thoroughfares and appropriately covered / protected.

### **LPG/Gas heating appliances**

The use of any LPG/Gas heaters is prohibited.

### **Other heating appliances**

Liquid fuelled appliances not referenced above, such as paraffin heaters, must not be used.

### **Further considerations**

All furnishings, drapes, and furniture need to meet the fire standards and be flame retardant or treated. Keep in mind that dark objects absorb more heat than light objects and the raised temperature of the object can pose a health and safety hazard.

Care must be taken during windy weather conditions, as there is a risk of the appliance being blown over. Furthermore, if the appliance has a flame, this will need to be monitored and the appliance switched off if there is any abnormal burning, or the flame extinguishes.

Portable heating appliances should be allowed to cool fully before returning to storage.

Where heaters are an integral fitting, e.g. beneath large parasols, they should be turned off and allowed to cool before the parasol is closed.

Care must be taken at Christmas and times of other festivals to ensure that a space of at least twice the height of a heating appliance is kept free between the appliance itself and any combustible decorations, especially Christmas trees.

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