



Northumberland County Council

Standard Pavement Licence Conditions

Definitions

- 1 In any Pavement Licence granted or in any Deemed Licence, the following definitions shall be used
 - 1.1 **“The Act”** means The Business and Planning Act 2020.
 - 1.2 **“The Council”** means **Northumberland County Council**, whose principal offices are at County Hall, Morpeth, Northumberland, NE61 2EF, being the local authority for the purposes of the Act.
 - 1.3 **“The Furniture”** means the items of removable furniture specified in Schedule 1 to the Licence granted **or**, in the case of a Deemed Licence, the items set out in the Application for the Pavement Licence.
 - 1.4 **“The Relevant Highway”** means that part of the highway adjacent to the Premises as more particularly described in Schedule 2 to the Licence granted and as shown on the plan attached to the Licence **or**, in the case of a Deemed Licence, as set out in the Application for the Pavement Licence and, in either case, being a highway:
 - (a) to which Part 7A of the Highways Act 1980 applies; and
 - (b) which is not over Crown land or maintained by Network Rail.
 - 1.5 **“The Activity”** permitted is to put the Furniture on the Relevant Highway during the Licence Period at the Permitted Times for whichever of the following purposes as are set out in the Licence **or**, in the case of a Deemed Licence, as are set out in the Application for the Pavement Licence:
 - the use of the Furniture by the Licensee to sell or serve food or drink supplied from, or in connection with the Use of, the Premises; and/or
 - the Use of the Furniture by other persons for the purpose of consuming food or drink supplied from, or in connection with relevant use of, the Premises.

- 1.6 “**The Licence Period**” means the period specified in paragraph 7 below.
- 1.7 “**The Permitted Times**” means the days upon and the times between which the Licensee may place the Furniture on the Relevant Highway for the purposes of the Activity specified in paragraph 7 below.
- 2 All Pavement Licences granted by the Council are subject to these Standard Pavement Licence Conditions.
- 3 The terms used in these conditions are set out in paragraph 1 of the Licence “*Definitions*”).
- 4 Where a Specific Condition has also been imposed in Schedule 4 of the Pavement Licence and it conflicts with any of the Standard Pavement Licence Conditions then the Specific Condition shall take precedence **unless** it is a national condition listed in paragraphs 4 or 5 below which are prescribed by the Secretary of State in exercise of his powers under section 5(5) and 5(6) of the Act.

The national conditions

The conditions set out in paragraphs 5 and 6 below are the national conditions prescribed by the Secretary of State:

5 The “no-obstruction condition”

- 5.1 The Activities permitted by the Pavement Licence or the Deemed Licence **must not** have the effects set out in section 3(6) of the 2020 Act, namely:
- (a) preventing traffic, other than vehicular traffic, from:
 - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway);
 - (ii) passing along the relevant highway; or
 - (iii) having normal access to premises adjoining the relevant highway;
 - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order;

- (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway; or
 - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
- 5.2 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 paragraph 3.1 of the statutory guidance published by the Department of Transport and entitled “**Inclusive Mobility**”:
- <https://www.gov.uk/government/publications/inclusive-mobility>
- 5.3 In carrying out the Activity and unless the same is otherwise provided for in any Specific Condition imposed by the Licence, the Licensee shall have due regard to any need for a barrier to separate the 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.
- 5.4 Where appropriate, the Licensee should consider the use of one or more rigid, removable objects to demarcate the area to which the Licence applies (e.g. wooden tubs of flowers) and any such provision must be balanced to ensure that any barriers do not inhibit other street users, such as the mobility impaired, where such barriers create a further obstacle in the highway.
- 5.5 In carrying out the Activity and unless the same is otherwise provided for in any Specific Condition imposed by the Licence, the Licensee shall have due regard to any conflict of the placement of Furniture with the principal lines of pedestrian movement, particularly for disabled people, older people and those with mobility needs.
- 5.6 The positioning of Furniture should not discourage pedestrians from using the footway and the available route must be entirely clear and not pass through an area with tables and chairs.
- 5.6 Where possible the Furniture should be of non-reflective material and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction.

5.7 Plastic patio furniture shall not be used unless measures have been taken to ensure that it is kept in place.

6 The "smoke-free seating condition"

As from the date of this revision of the Standard Pavement Licence Conditions, smoking shall be prohibited on all areas of the Relevant Highway on which the Activity is licensed to take place.

7 The Licence Period and Permitted times shall be as set out in the Licence **or**, where a Deemed Licence has taken effect, the Licence Period and Permitted times shall be as set out in the application **SUBJECT TO** the following provisos:

7.1 The Licence Period under any Deemed Licence shall end on the date specified in the Application or on **30 September 2021**, whichever is the sooner; and

7.2 No premises will be authorised under any Deemed Licence to undertake The Activity any later than **19:00 hours** on any day.

8 The Furniture must remain within the Relevant Highway adjacent to the Premises.

9 All reasonable directions of the Council or of its duly authorised officers must be complied with.

10 The Furniture kept on the Relevant Highway must at all times comply with the Standard Pavement Licence Conditions and have due regard to the Council's **Pavement Licence Information Sheet** which is available on the Council's website at:

www.northumberland.gov.uk/NorthumberlandCountyCouncil/media/Business/Pavement%20licence/Pavement-Licence-Information-Sheet.pdf

together with the statutory guidance which may be found at the following links:

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance>

<https://www.gov.uk/government/publications/inclusive-mobility>

<https://www.gov.uk/coronavirus>

<https://www.gov.uk/government/publications/staying-alert-and-safe-social-distancing>

- 11 The Licensee shall ensure so far as is reasonably practicable that the Activity permitted under the Pavement Licence does not result in anything which involves:
 - (a) a risk to public health or safety;
 - (b) anti-social behaviour or public nuisance being caused or risks being caused;
 - (c) the highway being obstructed (other than by anything done by the Licensee pursuant to the licence).
- 12 Any damage to the highway arising from the Activity is to be remedied by the Licensee at the Licensee's own expense and any such works must be completed to the satisfaction of the Council in accordance with a Notice served pursuant to paragraph 5.1(b) of the Pavement Licence.
- 13 Access for emergency services and utility companies must be available at all times.
- 14 The Licensee must comply with a request to move the Furniture if such a request is made by a duly authorised officer of the Council, a police officer, a member of the Fire and Rescue Service, a statutory undertaker or a utility company in the exercise of their statutory powers or duties.
- 15 In the event of the temporary closure of (or any restrictions affecting the use of) the Relevant Highway which arise as a result of the exercise of any of the Council's functions which result in any interference with the permitted Activity, the Council shall take such reasonable steps to limit the period of any such closure or restriction so far as are reasonably practicable in the circumstances.
- 16 The Licensee shall indemnify the Council against any claim for loss of trade arising out of any such interruption to the Activity as described in paragraphs 11 and 12 above.
- 17 The Council reserves the right of access to the Relevant Highway for itself, its duly authorised officers or agents at all reasonable times notwithstanding the grant of the Pavement Licence.
- 18 The Relevant Highway shall be maintained in a clean and tidy condition during the Licence Period and:
 - (a) Used glasses, plates, cutlery, containers, papers and all other associated articles shall be cleared away on a regular basis on each day that the Activity takes place;

- (b) All refuse shall be removed and properly disposed of at the close of business each day; and
 - (c) Any spillages shall be cleaned away as soon as reasonably practicable as and when they occur throughout the day.
- 19 The Licensee shall comply with any written directions given as to the provision of external lighting for the Relevant Highway as the Council may reasonably require from time to time.
- 20 Where the Use Class under Article 3 of the Town and Country Planning Use Classes Order 1987 is Class A3 (*Restaurants and cafes: Use for the sale of food and drink for consumption on the premises*) covers/tables must be serviced directly from The Premises where the food is prepared and sold.
- 21 The sale of any alcoholic beverages shall be strictly in accordance with the requirements and provisions of the Premises Licence issued by the Council under the Licensing Act 2003.
- 22 Where alcohol is being consumed it must only be:
 - (a) Supplied by the Licensee or one of their employees; and
 - (b) Supplied to and consumed by persons seated at a table at the Premises.
- 23 No signage, flags, banners, "A" boards or temporary advertisements shall be displayed or placed in on or around the Relevant Highway without the prior written consent of the Council.
- 24 Where the Relevant Highway is shared with vehicles (e.g. partially pedestrianised areas) the Furniture shall be allowed on to the Relevant Highway 30 minutes after access has been closed to vehicles and the Furniture must be removed 30 minutes before vehicular access recommences.
- 25 The Licensee shall not place the Furniture on the Relevant Highway other than in accordance with the terms and Conditions of this Licence or outside of the Permitted Times.
- 26 In the event of the revocation or surrender of the Pavement Licence there shall be no refund by the Council of the Licence Fee nor any part of it.
- 27 A copy of the Pavement Licence and the plan accompanying it must be visible to all customers at the Premises and available for inspection at any time by a duly authorised officer of the Council or a police officer.

- 28 The Council may vary the Standard Pavement Licence Conditions or the Specific Conditions relating to the Pavement Licence at any time upon written Notice of not less than 14 days being given to the Licensee.
- 29 The Licensee may surrender a Pavement Licence or a Deemed Licence at any time by giving notice to us by completing and submitting the form at the link below:
- www.northumberland.gov.uk/NorthumberlandCountyCouncil/media/Business/Pavement%20licence/Pavement-notice-of-surrender-of-Licence.docx
- 30 The Pavement License or a Deemed Licence is personal to the Licensee and may not be assigned to any other person.
- 31 If the Council considers that the Licensee has breached any of the Licence Conditions, it may:
- (a) revoke the Pavement Licence or the Deemed Licence; or
 - (b) serve a Notice requiring the taking of such steps to remedy the breach as are specified in the Notice within such time as is so specified.
- 32 If a Notice is served under paragraph 31 above and the Licensee fails to comply with it, the Council may:
- (a) revoke the Licence; or
 - (b) take the steps itself and recover the costs of doing so from the Licensee.
- 33 The Council may also revoke a Pavement Licence or a Deemed Licence if it considers that
- (a) some or all of the part of the Relevant Highway has become unsuitable for any purpose in relation to which the Pavement Licence was granted
 - (b) as a result of the Pavement Licence
 - (i) there is a risk to public health or safety; or
 - (ii) anti-social behaviour or public nuisance is being caused or risks being caused;
 - (iii) the highway is being obstructed (other than by anything done by the Licensee pursuant to the licence);
 - (c) anything material stated by the Licensee in the application for a Pavement Licence was false or misleading; or

(d) the licence-holder did not comply with the duty in section 2(5) of the Act.

34 A Pavement Licence or Deemed Licence shall absolutely cease and determine in the event that:

- (a) That the Licence Period has expired;
- (b) It has been revoked by the Council;
- (c) It has been surrendered by the Licensee;
- (d) The Licensee has ceased trading or is otherwise no longer responsible for the Premises or the Activity.

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