



Northumberland

County Council

Pavement Licence Information Sheet

Environment & Transport Directorate

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1 Introduction

- 1.1 A person whose use or proposed use of any premises is, or includes, a “*relevant use*” may apply to the Council under the provisions of Part 1 of the Business and Planning Act 2020 for a **Pavement Licence** in respect of those premises.
- 1.2 A Pavement Licence allows businesses to place removable furniture on a “*relevant highway*” adjacent to their premises so that they may serve and/or seat customers outdoors for the purposes of –
- (a) use of the furniture by the licence-holder to **sell or serve food or drink** supplied from, or in connection with relevant use of, the premises (for example a counter or stall); and/or
 - (b) 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 (for example tables and chairs).
- 1.3 A “*relevant use*” means either or both of the following:
- (a) use as a public house, wine bar or other drinking establishment;
 - (b) other use for the sale of food or drink for consumption on or off the premises.
- 1.4 A “*relevant highway*” means a highway to which Part 7A of the Highways Act 1980 applies, and which is not over Crown land or maintained by Network Rail.
- 1.5 This document provides guidance on the application process and clarifies what the Council may consider to be an appropriate use of a relevant highway when it determines which applications it receives would be suitable for approval.
- 1.6 Applicants should also be aware of the following statutory guidance which may affect the suitability of any application made:

Pavement licenses: guidance

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

Guidance: *Inclusive mobility: making transport accessible for passengers and pedestrians (A guide to best practice on improving access to public transport and creating a barrier-free pedestrian environment):*

<https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians>

2 Legislative framework

- 2.1 The Business and Planning Act 2020 affects several other Acts of Parliament which may apply to a business. For example, if a Pavement Licence is granted:
- (a) It authorises the restriction, by anything done by the licence-holder pursuant to the Pavement Licence, of public access to the part of the relevant highway to which the Licence relates.

- (b) It constitutes deemed planning permission for anything done by the licence-holder pursuant to the Licence:
 - (i) which is development requiring planning permission under Part 3 of the Town and Country Planning Act 1990, and
 - (ii) for which there would otherwise not be planning permission or deemed planning permission.
 - (c) Anything done by the licence-holder pursuant to the Licence is not street trading for the purposes of:
 - (i) Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (street trading), or
 - (ii) any other enactment under or by virtue of which street trading without a licence or other form of permission is unlawful.
- 2.2 If it is intended to serve **alcohol** as part of the activities permitted by the Pavement Licence, you will also need a **Premises Licence** under the Licensing Act 2003, or to apply to vary an existing Premises Licence to include the relevant area.

3 Size and layout of the permitted outdoor area

- 3.1 The size and layout of the area of the relevant highway to be used will be dependent upon the characteristics of the area adjacent to the premises, such as the space available, the street furniture to be used, where such furniture is positioned, and the relevant use of the premises (as defined in paragraph 1.3 of the Introduction to this Information Sheet) etc.
- 3.2 There are some fundamental principles to follow in considering the layout.
- (a) The area of the relevant highway to be used must be adjacent to the premises.
 - (b) The needs of other users of the pavement should be considered, e.g. pedestrians, wheelchair users, street traders, servicing requirements, adjacent businesses, etc.
 - (c) A clear pedestrian route must be maintained for those walking past the premises.

This would normally not be less than 2 metres in width.

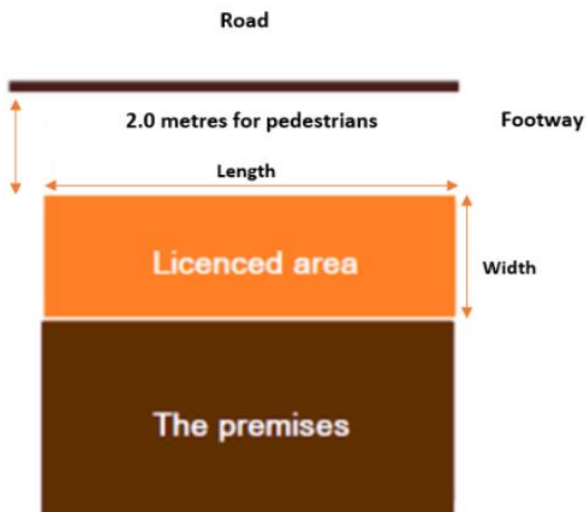
Where this is not possible, a minimum gap of **1.5 metres** may be considered acceptable, depending upon location and surrounding conditions.

These dimensions must be clear of existing street furniture, signs, and planters etc. However, every application site will be inspected and each case will be determined on its own merits.

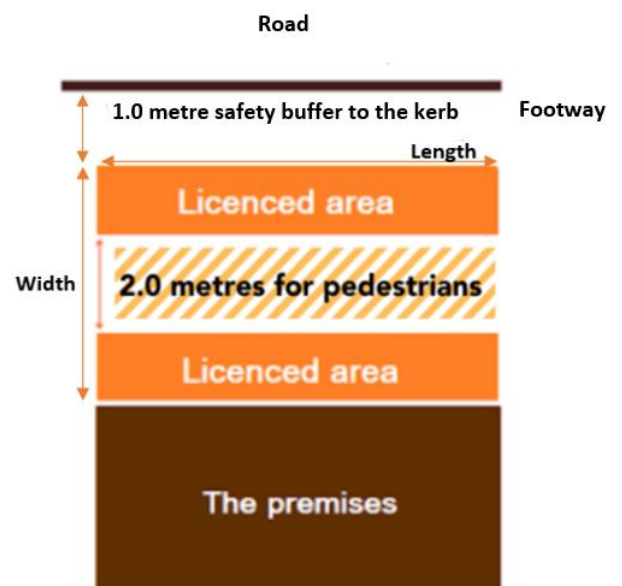
In any event, a minimum width of **1 metre** should be left between the boundary of the area of the relevant highway which is subject to the

Pavement Licence and the edge of any adjacent carriageway or vehicular route.

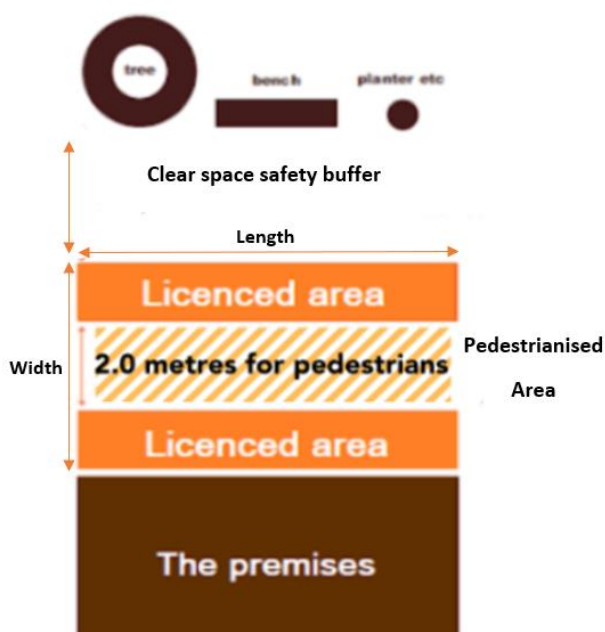
- 3.3 Please see some example layouts below (for the avoidance of any confusion, the licenced areas and the orange hatched area in diagram B and C comprise one licenced area):



N.B Please include the location and measurements of the furniture you intend to use in your plan



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- 3.4 Emergency routes from adjacent buildings and your own premises must not be obstructed by the activities permitted under the Pavement Licence.
- 3.5 If the emergency services object to the application for a Pavement Licence on safety grounds, the Council may refuse your application.
- 3.6 Where practicable, space should be left between the furniture permitted under the Licence to allow access for all, for example wheelchair users.
- 3.7 Consideration must also be given to the gradient and fall across the path upon which the furniture is to be permitted - for accessibility and public safety reasons, a Pavement Licence will **not** usually be granted in respect of highways with a gradient exceeding 1 in 20.
- 3.8 Wherever reasonably practicable, and in conjunction with such conditions that are imposed in respect of a Pavement Licence, no permanent fixtures or obstructions associated with the operation of the business shall be left in such a manner as may cause a trip or safety hazard.
- 3.9 The layout of furniture should be such that the pedestrian route is obvious, clearly defined, as straight as possible, and unobstructed at all times.
- 3.10 The positioning of furniture should not discourage pedestrians from using a clear right of way along the relevant highway.
- 3.11 The Council has powers to demand the removal of any furniture that it considers to amount to such an obstruction and which is inconsistent with the terms of the Pavement Licence.
- 3.12 Furniture should be placed so as not to obstruct drivers' sightlines, highway signs or access to fire hydrants etc.
- 3.13 Activities permitted under a Pavement Licence, including the design and appearance of the furniture used, should not adversely affect the architectural or historic character of a Listed Building or its setting in a Conservation Area.
- 3.14 If you think that the premises location may be within a Conservation Area or located at or in the vicinity of a Listed Building or if you are unsure, please contact us so that we may clarify this and advise you on how best to address this by emailing planning@northumberland.gov.uk.
- 3.15 You should carefully consider the level of lighting for the area of the relevant highway to be used.

Although the lighting may be adequate for use as a public highway, it may need supplementing to allow your proposed activities under the Pavement Licence to operate safely.

Any additional lighting equipment and supply must be identified in your application to enable its impact upon the highway to be considered.

- 3.16 Each application will be assessed and determined on its own merits.

4 Defining the boundary of the permitted outdoor area

4.1 Once the size and layout of the area subject to the Pavement Licence is duly authorised, that is the extent to which the relevant highway may be used and any alteration to that will be subject to a further application.

4.2 The Council requires that the boundary of the area subject to the Pavement Licence is clearly defined.

This may be by barrier, fence, rope, or (where these options are unsuitable for the particular location) other temporary measures, such as non-slip vinyl tape may be applied to the pavement to define the boundaries of the licensed area, may be appropriate.

Any such temporary measures must be to the satisfaction of the Council.

4.3 The siting of all furniture placed upon the relevant highway permitted by the Pavement Licence must be contained within the agreed boundary.

4.4 A copy of the Pavement Licence and the plan annexed to it must be kept on the premises at all times and be available for inspection upon request.

5 Furniture

5.1 “Furniture” has the meaning given to it by section 9(1) of the 2020 Act, namely:

- (a) counters or stalls for selling or serving food or drink,
- (b) tables, counters or shelves on which food or drink can be placed,
- (c) chairs, benches or other forms of seating, and
- (d) umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

No specific or standard style of furniture is prescribed by the Council, although whatever furniture is used must be appropriate to the character of the area in question and of suitably good manufacturing quality and appearance.

5.2 Wherever possible, the furniture used should be fabricated from metal, wood or other good quality materials. Plastic (garden type) furniture will not usually be approved.

5.3 The design, style and colour of the furniture should take into account the needs of those pedestrians with a visual impairment.

5.4 Consideration must be given to all relevant equality information and guidance including (but not limited to) the requirements of the Disability Discrimination Act 1995, the Equality Act 2010, any associated Codes of Practice, together with the guidance contained in the web links shown in paragraph 1.6 above.

5.5 The use of umbrellas must be specified in your submission as part of the design, including their location, material and colour (bright or garish colours should

generally be avoided) and any umbrellas should be positioned so as to avoid causing a hazard, risk or danger to other persons.

- 5.6 Limited advertising of the premises may be permitted on umbrellas but should not be too dominant and should be sympathetic to the building and its setting. Each application will be dealt with on its merits.

6 Managing the permitted outdoor area.

- 6.1 Any menu boards placed in the outdoor area should be of an appropriate size and sympathetic to the overall character of the premises and area.

They must not contravene any provisions relating to Listed Buildings or Conservation Areas, nor be contrary to anything contained in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 or any replacement of those Regulations.

- 6.2 The area subject to the Pavement Licence may only be used for the service of, sale of and consumption of food and drink and no preparation or storage of food or drink should take place outside the premises in any manner which may lead to a risk of poor food hygiene or contamination.
- 6.3 Good food hygiene practices must be adhered to and the business will be subject to the same statutory food hygiene requirements and inspection regimes as apply to the remainder of the premises.
- 6.4 In the interests of hygiene and to protect the amenity of the area tables should be cleared of uneaten food, other waste etc. immediately on departure of the customer.
- 6.5 The Licensee will be responsible at all times for the cleanliness of the licensed outdoor area and must ensure:
- (a) That the area is kept clean and litter free;
 - (b) That care is taken to prevent litter from being deposited onto any adjacent areas;
 - (c) That any windblown litter from the premises falling onto any adjacent area is collected forthwith;
 - (d) That suitable litter/refuse bins are provided within the licensed area during the permitted times under the Pavement Licence and that the Licensee is responsible for arranging the removal, collection, and proper disposal of all waste material;
 - (d) That the licensed area is swept regularly, so as to avoid causing nuisance to customers or passersby;
 - (e) That the Licensee ensures that spillages etc. are dealt with as soon as they become aware of them;

- (f) That the licensed outdoor area is washed down carefully at the end of each trading session.
- 6.6 Failure to comply with the cleaning requirements under the Pavement Licence may result in a Notice to remedy a breach of condition being served upon the Licensee.
- 6.7 Failure to comply with such a Notice may result in the Council carrying out the works itself and recovering the expenses involved from the Licensee and/or revoking the Pavement Licence.

7 Social responsibility

- 7.1 The Licensee will be responsible for the conduct of customers. Where anti-social behaviour occurs, the Pavement Licence may be revoked, and this may also be treated as a breach of the Premises Licence.
- 7.2 Amplified music is not permitted under the Pavement Licence as this deals only with the sale or consumption of food and/or drink on the part of the relevant highway that is subject to the Licence.
- 7.3 Live music or busking would be subject to a separate licence under the Licensing Act 2003, further details of which may be found at the following link:
<https://www.northumberland.gov.uk/Business/Licences/Alcohol-entertainment.aspx>
- 7.4 The applicant will have to provide evidence of public liability insurance in the sum of £5,000,000 in respect of any activities carried out in pursuance of the Pavement Licence at the time that the application is made, and this must remain in force throughout the Licence period for the purpose of indemnifying the Council for any claims made in that respect.

8 Application procedure

Application

- 8.1 The notes below explain how your application for a Pavement Licence will be dealt with, what you and the Council will each need to do, together with the enforcement and revocation provisions that relate to any such Licence granted.
- 8.2 The relevant legislation is all set out in the Business and Planning Act 2020, the full text of which may be viewed at this link:
<https://www.legislation.gov.uk/ukpga/2020/16/contents>
and you may find the statutory guidance (referred to in paragraph 1.6 of the Introduction to this Information Sheet) useful in making your application.
- 8.3 The application for a Pavement Licence may be completed online at the following link:
<https://www.northumberland.gov.uk/Business/pavement.aspx#pavementlicence>

8.4 Application fees are capped at a maximum of **£500** for first time applications and **£350** for renewal applications.

The exact amount for current application fees is shown on our website but that amount may be reviewed from time to time:

<https://www.northumberland.gov.uk/Business/pavement.aspx>

8.5 In addition to the fee payable, you will also need to provide the following with your application:

- (a) a scale plan showing the area of relevant highway in respect of which the Pavement Licence is sought and the layout of the furniture to be placed on it;
- (b) evidence of your public liability insurance in the sum of £5,000,000 in respect of the activities to which the Pavement Licence will relate;
- (c) A photograph of the Notice of application showing it affixed to the Premises from the start of the public consultation period; and
- (d) Details of those services that you have engaged with *prior to* making the application that are located in the vicinity of the Premises and which are operated for vulnerable customers (e.g., care homes, disability organisations, etc.) where individuals are at particular risk.

Publication

8.6 Once you have made your application, we shall:

- (a) Publish the same on our website together with any information or material accompanying it; and
- (b) Publicise the fact that representations relating to the application may be made to us during the **public consultation period** (please see paragraph 8.10 below in that respect).

Notice of your application

8.7 On the same day as you submit your application, you must:

- (a) 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; and
- (b) Secure that the Notice remains in place until the end of the public consultation period.

8.8 The Notice of application is available to download from our website:

<https://www.northumberland.gov.uk/Business/pavement.aspx>

8.9 Once completed, the Notice must:

- (a) State that the application has been made and the date on which it was made;

- (b) Indicate that representations relating to it may be made to the Council during the public consultation period (and indicate the date upon which that period comes to an end); and
- (c) Contain such other information or material as the Council may require.

Public consultation period

- 8.10 Upon receipt of a valid application for a Pavement Licence there will be a **public consultation period of 14 days** beginning with the day after that on which the application is made when objections or representations may be made to the Council regarding the proposals made.
- 8.11 Once that consultation period has closed, the Council must determine your application within the next 14 days.

Determination of your application

- 8.12 Before deciding whether to grant a Pavement Licence following your application, the Council must:
 - (a) Consider any representations made to us during the public consultation period; and
 - (b) Consult such other persons as we consider appropriate.
- 8.13 After the end of the public consultation period we may either grant a Pavement Licence or reject the application.
- 8.14 If granted, the Pavement Licence may be given in respect of:
 - (a) Any or all of the purposes in relation to which the application is made; and
 - (b) Some or all of the part of the relevant highway specified in the application.
- 8.15 We may grant a Pavement Licence **only if** we consider that, taking into account any conditions which we proposes to attach to the Licence, nothing done by you pursuant to the Licence would have any of the following effects:
 - (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.
- 8.16 If your application is approved a Pavement Licence will be issued subject to our [Standard Pavement Licence Conditions](#) and to such further specific conditions as may be specified in the Licence

Deemed Licences

- 8.17 If we do not make a determination of your application by the end of the determination period (i.e., the period of **14 days** beginning with the first day after the public consultation period ends), the Licence for which the application was made is deemed to be granted to you.

In the event that this happens, the Deemed Licence will be automatically subject to the Council's standard Licence Conditions referred to in paragraph 8.11 above, and shall remain in force for the period set out in the section below.

Duration of the Licence granted

- 8.18 Any Licence granted will specify the period for which it will remain in force for a period up to a maximum of **2 years**.
- 8.19 An application for a **renewal** of the Licence may be made before the expiry of that period if:
- (a) the application is made by a person who already holds a Pavement Licence,
 - (b) it is in respect of the premises to which the existing Licence relates, and
 - (c) it is for a Licence to begin on the expiry of the existing Licence and on the same terms.
- 8.20 Where a Deemed Licence is created, it is deemed to be granted for the period of **2 years** starting with the first day after the determination period.

9 Conditions

- 9.1 All Pavement Licences, whether formally granted by the Council or deemed to have been granted as described above, will be subject to the "*National Conditions*" which are prescribed by the Secretary of State and, at the time of publication of this Information Sheet, are the "*no-obstruction condition*" and the "*smoke-free seating condition*" respectively.
- 9.2 The Secretary of State may prescribe further National Conditions from time to time and this Information Sheet together with our Standard Pavement Licence Conditions will be updated should that happen.
- 9.3 The current National Conditions are set out in paragraphs 5 and 6 of the [Standard Pavement Licence Conditions](#) and applicants should have due regard to these in considering the layout of the furniture in the area subject to the Pavement Licence.

- 9.4 In determining whether furniture constitutes an unacceptable obstruction in light of the “*no-obstruction condition*”, the Council will consider the needs of disabled people in accordance with the provisions set out in paragraph 4.1 of the Pavement licences guidance published by the Department for Levelling Up, Housing & Communities, which may be found at the following link:

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

- 9.5 Businesses must also be mindful of the provisions of paragraph 4.2 of that Guidance with regard to observing the “*smoke-free seating condition*”.

10 Useful Contacts

For any queries relating to Pavement Licences please contact us by:

Telephone: 0345 600 6400; or

Email: pavementlicence@northumberland.gov.uk