

BUSINESS & PLANNING ACT 2020

PAVEMENT LICENCE STANDARD CONDITIONS

Each application will be treated on its own merits. Newark & Sherwood District Council (the Council) reserves the right to refuse applications or to apply such conditions as it thinks fit. Applicants should be aware that it will be necessary to display a notice of application for 7 days starting on the day after the application is served on the Council.

- 1. Sole Purpose of the Licence:** A Pavement 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 and drink supplied from, or in connection with the use of the premises.
- 2. Production of the Licence on Demand:** The Pavement Licence shall be displayed in the window of the premises to which it relates. Any failure to do so may result in an Authorised Officer requiring the removal of the items from the highway.
- 3. Site Constraints:** Any street furniture placed within the permitted area of the Pavement Licence shall not obscure sight lines for any highway user, interfere with drainage, or conflict with dropped crossings, etc.
- 4. Defining the Pavement Licence Area:** The Council (or its Agent) may, if necessary, discreetly mark on the highway the extent of the Pavement Licence area to ensure its accurate location.
- 5. Street Furniture:** The Pavement Licence permits the following items to be placed on the permitted area of the highway:
 - Counters or stalls for selling or serving food or drink
 - Tables, counters, or shelves on which food and drink can be placed.
 - Chairs, benches or other forms of seating, and:
 - Umbrellas, barriers, heaters, and other articles used in connection with the outdoor consumption of food or drink
 - The furniture must be removableThe specification of all furniture must be approved by the Council or its Agent.
- 6. Barriers:** A barrier approximately 1.0m high and incorporating a tapping rail not more than 150mm above the ground must be provided to guide persons safely around the Pavement Café. Barriers must not be permanently fixed to the ground within the public highway. Barriers must be designed to resist collapse or movement (e.g. by being blown over or accidentally stumbled into). The specification of barriers must be approved by the Council or its Agent. The barriers & seating should be arranged so as to prevent chairs or personal effects (e.g. shopping) escaping the area of the café and encroaching into the walked highway.
- 7. Emergency Exits:** All emergency exits and routes from buildings must be kept clear.
- 8. Hours of operation:** As stated on the Pavement Licence. However, the Council will generally only permit the licence to operate between 09.00 and 23.00.

9. **Removal of Furniture:** All street furniture and all barriers must be removed from the highway at the end of the working day and shall not be stored within the highway.
10. **Obstruction/Danger/Nuisance on the Highway:** The Licence Holder shall not cause any obstruction or danger to people using the highway. The Licence Holder is responsible for the conduct of people within the area of the Pavement Licence, allowing rowdy or unruly behaviour may lead to the revocation of the licence.
11. **Noise/Nuisance Control:** Noise, disturbance, smells or litter which cause a nuisance to the owners or occupiers of any adjacent premises or to members of the public are not acceptable. Amplified music will not be permitted.
12. **Surface of the Highway:** The Licence Holder shall not undertake any alterations to the highway surface.
13. **Cleansing of the Area:** The Licence Holder will ensure that the area permitted by way of the Pavement Licence is maintained in a clean and tidy condition and they shall take all necessary precautions to prevent the highway from becoming littered as a result of their trading activities.
14. **Liability Insurance / Indemnity:** The Licence Holder is required to indemnify the Council and its agents against all losses and claims for injuries (including death illness and disease) or damage to any person or property whatsoever, and, against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising directly or indirectly out of the granting of this Licence. To this end, the applicant must obtain and maintain third party public liability insurance which offers indemnity to principle. The level of cover must be to a minimum value of £5,000,000 for any one incident. Evidence of valid insurance for the pavement café area must be made available when demanded by a duly authorised officer or agent of the Council. The Licence Holder will be required to produce proof of valid insurance to the Council, or its agent, on an annual basis.
15. **Consumption of Alcohol:** The Pavement Licence does not give, or imply any permission to supply intoxicating liquor in the street, such consumption must not take place beyond the perimeter of the designated area of the Pavement Licence.
16. **Advertising:** Advertising alcoholic or smoking products, or their manufacturers, will not be permitted on barriers or furniture associated with the Pavement Licence. Logos / legends on barriers etc. may only relate to the premises or business and will require the approval of the Council, or its Agent. No advertising shall be displayed that may cause offence or alarm to any person.
17. **Suspension of Permission:** If so requested in an emergency by a Police Officer, Fire Brigade Officer, Ambulance Attendant or Statutory Undertaker, or by the Highway Authority for the purpose of maintaining the highway, the Licensee shall remove the permitted street furniture from the highway.
18. **The Pavement Licence is non-transferable:** The Licence is not a transferable asset which might be sold with a change in ownership of the premises.

19. Enforcement: If a condition imposed on a licence (either by the local authority) or nationally is breached the local authority will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs. The authority may revoke a licence in the following circumstances:

1. *For breach of condition, (whether or not a remediation notice has been issued) or*
2. *Where:*
 - *There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;*
 - *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 and litter is not being cleaned up;*
 - *it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or*
 - *the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.*
3. *The local authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. It is good practice for local authorities to give reasons where these powers are used.*

20. Unpublished Conditions: The Council may impose reasonable conditions whether or not they are published upfront. There is an expectation these will be supported by a clear justification for the need of a condition which is in addition to any published local conditions. Conditions might, for example, limit the maximum number of chairs and tables, or type of furniture, time and days of operation with justification for this.

National Conditions

21. Smoke-free seating condition

The licence holder must make reasonable provision for seating where smoking is not permitted.

22. No obstruction condition

The licence-holder must ensure that anything done in pursuant to the pavement licence, or any activity of other persons which is enabled by the pavement licence, must not have an effect on the following:

- (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.