

Pavement licence guidance document

Business and Planning Act 2020

All applications must be submitted via email.

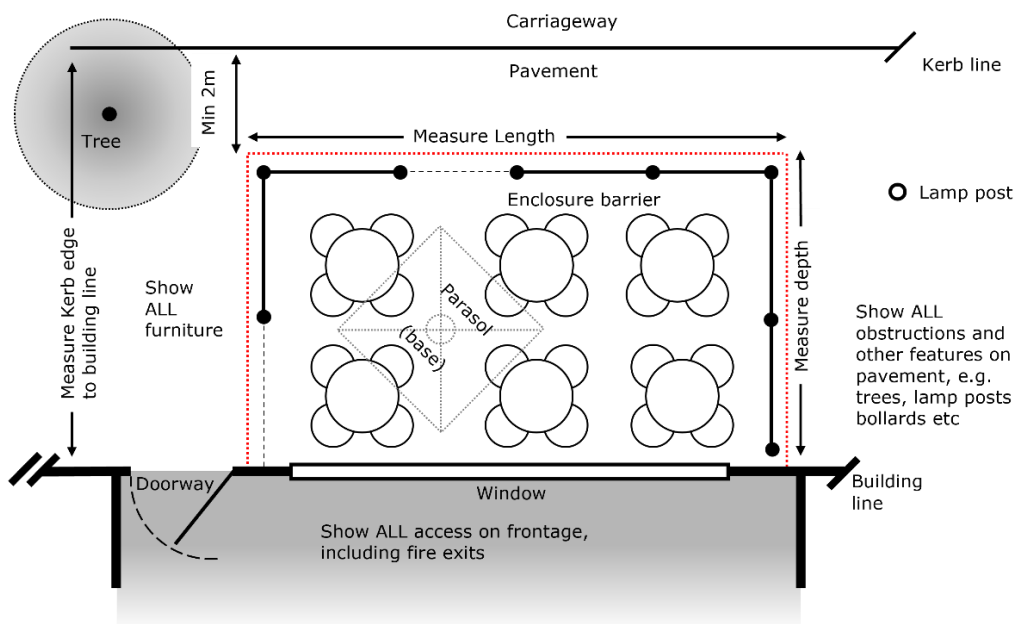
In addition to the application form being completed, the following must be provided:

- public liability insurance (minimum £5,000,000) to cover requested activities and location
- a plan showing the proposed area covered by the licence in line with the requirements set out below
- photograph of the intended area to be licensed
- photograph(s) or brochure(s) showing examples of intended furniture
- associated application fee

The site plan must have measurements clearly shown if not to scale and must show:

- property boundary
- boundary of the area proposed to be licenced, marked with a red line, together with the dimensions of the proposed areas to be licenced
- position and number of proposed tables and chairs
- points of access and egress
- any existing or other relevant furniture and amenities such as road signs, or litter bins

Plan example:



Fees

The fee for a new two year pavement licence is £500 for first time applications. The fee for renewal is £350. This will need to be paid before your licence application can be processed.

Notice

On the day the application is accepted, a public notice must be fixed to the premises, so it is easily visible and legible to the public. The notice must remain in place for the public consultation period which is the period of 14 calendar days beginning with the day after the day the application is accepted by the authority. When counting calendar days public holidays are not included. Evidence of the site notice requirement must be supplied (for example, photographs on the first and last day)

The process

Once the information is submitted to the local authority it has 28 calendar days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 calendar days for public consultation, and then 14 working days to consider and determine the application after the consultation.

If the local authority does not determine the application within that period, the application will be deemed to have been granted under the conditions published.

The application and all required documents will be sent out for consultation to Suffolk County Council Highways and the Police. Members of the public can make representations and a redacted application will be posted on the website.

Determination

When determining an application the council will consider:

- public health and safety including security – for example, ensuring that any reasonable crowd management measures needed because 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 considerations under the no-obstruction condition, considering the needs of disabled people
- 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
- whether there are other permanent street furniture or fixed structures in place on the footway that already reduce access.
- and other users of the space, for example if there are high levels of pedestrian or cycle movements

The council 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, and impose conditions, or refuse the application

There is no right to appeal the decision.

Enforcement

If a condition imposed on a licence is breached, the local authority will be able to issue a notice requiring the breach to be remedied, remove (and ultimately dispose of) the furniture, and take action to recover any costs.

The authority may suspend or revoke a licence in the following circumstances:

1. For breach of condition (whether a remediation notice has been issued or not), or
2. Where:
 - there are risks to public health or safety – for example where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level)
 - this use of the highway is causing an unacceptable obstruction, breaching the non-obstruction condition – for example, the arrangement of street furniture prevents disabled people, older people, or wheelchair users to pass along the highway or have normal access to the premises alongside the highway
 - the use is causing 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
 - 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.

Pavement Licence conditions

Mandatory Condition under the Business and Planning Act 2020

- 1) A “no-obstruction condition” is a condition that anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3 of the Act.
- 2) A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

Additional Conditions attached to the grant of the licence.

- 1) The conditions attached to the Pavement Licence may be varied and added to by the Council at any time.
- 2) The Licence holder must always have a valid insurance policy for public liability for at least £5,000,000 and must notify the insurance company of their application and receive confirmation they are covered as required by the application form.
- 3) The holder of the Licence shall not provide any refreshments other than those normally obtainable within the licence holder’s premises.
- 4) Tables and chairs shall be sited in such a way so that they are under the direct control of staff inside the premises.
- 5) Licence holders shall ensure that during the hours which pavement licence is in operation and at the conclusion of those hours, the licensed area shall be kept clean and tidy and free from litter.
- 6) A suitable waste receptacle shall be provided in addition to a receptacle for the disposal of cigarette ends.
- 7) All furniture and objects granted by the permissions of the licence shall be removed from the highway at the end of the permitted hours of opening according to the individual licence.
- 8) All furniture granted by the pavement licence is required to be removable. For reason of doubt this means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.
- 9) All furniture under the terms of the pavement licence shall be removed from the pavement by 23:00 hours every day.
- 10) No omission from or addition to, or variation of, the licence shall be valid of any effect unless it is agreed in writing by the Council and the licence holder.
- 11) The Licence holder shall ensure that any equipment used for the purposes of providing these facilities are safe and present no risk to members of the public and in particular:
 - (i) that all chairs are in good repair and are stable
 - (ii) any parasols and umbrellas are fully secured to the ground and weighted to prevent them being dislodged by the wind.
 - (iii) The area to be used is protected and separated from the rest of the highway in such a way that a blind or visually impaired person, or those with learning disabilities or mobility difficulties run no risk of injury from their use.
- 12) The licence holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the licence except where any claim in respect of such injury,

damage or loss is attributable to the negligence of the Council.

- 13) A clear pedestrian, wheelchair and pushchair route will be required for those passing the premises. Emergency exits from adjacent buildings must not be obstructed by a seating area.
- 14) The layout of the licence area should not provide any obstructions, inconvenience or danger to those customers with disabilities and adequate space should be left between tables for wheelchair access.
- 15) The Council or the Suffolk Constabulary may at any time require the sitting out area not to be operated, on reasonable notice to the Consent holder
- 16) The appropriate Local Authority will repair any damage to Local Authority property caused as a result of objects placed on the highway, with all costs being recovered from the Licence holder.
- 17) The Council, in giving consent, cannot and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing anything on the highway.
- 18) The Licence holder must not do anything or allow any activity by other persons enabled by the Licence, which will create an obstruction. These include:
 - (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.
- 19) Where tables and chairs are provided for use by persons for the purposes of consuming food and drink, there must be reasonable provision for seating where smoking is not permitted.