



Temporary Pavement Licences Guidance

Pavement Licence

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

Period of the Licence and Application Process

The minimum period a licence can be granted for is 3 months, however the licence cannot be extended or last beyond 30 September 2021.

Once the application and all required documents have been received by the Licensing Team, the application will be sent out by the Licensing Team for consultation with responsible authorities. These will include Suffolk County Council Highways, the Suffolk Constabulary, Town or Parish Councils for the premises area, the Council's Environmental Protection, Food and Safety teams.

The consultation period lasts for a period of 7 days, during which time you will display a public notice at your premises. This is then followed by a further period of 7 days for determination of the application by the Council, taking into account any representations received during the consultation period.

Where the Council does not determine the application before the end of the determination period, the licence is deemed to have been granted for a year (however not beyond 30 September 2021) and the business can place the proposed furniture such as tables and chairs within the area as set out in the application for the purpose or purposes proposed.

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 apply for a licence. Businesses which are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.

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.

What Permitted Furniture is permitted?

The furniture which may be used is:

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

This furniture is required to be removable. Removable means it is not a permanent fixed structure, and is able to be moved easily, and stored away for the evening.

Fees

The application fee for both Babergh and Mid Suffolk District Councils is £80.00.

Exclusions from licences

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

Interactions with other regulatory process including alcohol licensing

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. Other regulatory frameworks still apply such as the need for alcohol licenses and the need to comply with registration requirements for food businesses.

Is Planning Permission required?

Planning permission is not required. 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.

Duration of licence

A licence granted or deemed to be granted will not be valid beyond 30 September 2021 unless revoked by the Council.

This is a temporary measure to support businesses while social distancing measures may still be in place. As it is uncertain how long some form of social distancing measures will be in place for, the new process will remain in place until the end of September 2021 – giving certainty to businesses for the foreseeable future, supporting them to operate safely while social distancing measures are in place. It will also allow them time to apply for new licences under Part 7A of the Highways Act 1980 or equivalent provisions in any Local Act, if they want to extend their use of pavement furniture beyond the end of September 2021.

Applications

Applications can be made by email to licensingteam@baberghmidsuffolk.gov.uk or via post to Licensing Team, Babergh and Mid Suffolk District Councils, 8 Russell Road, Ipswich, IP1 2BX

In addition to the application form the following must be provided:

- A copy of Public Liability Insurance certificate (minimum cover £5,000,000).
- A plan showing the exact location and dimensions of the area to be licensed
- The location of the furniture within that area.
- A description of the furniture/barriers to be used.
- Photographs of the area to be covered by the tables and chairs licence and the surrounding highway.

Public Notice

The applicant is required to affix a notice to the premises, so it is easily visible and legible to the public on the day they submit the application to the local authority. The Council will provide a template notice. They must ensure the notice remains in place for the public consultation period which is the period of 7 days. Applicants are encouraged to keep evidence of this such as a photograph of the notice in situ.

Determination of the application

When making determination of the application the Council must consider:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- 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:
 - 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 structures in place on the footway that already reduce access;
 - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility, and
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

The Council must also consider representations received from the general public and responsible authorities mentioned above.

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 or 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 a 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;
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.

Please contact the Licensing team by either email licensingteam@baberghmidsuffolk.gov.uk or by phone on 0300 123 4000 Option 6 for further information.