

Pavement Licensing Policy

1. Permanent Pavement Licences

A pavement licence is a licence granted by the Council (as the licensing authority), or one 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. The Levelling Up and Regeneration Act 2023 makes permanent the provisions set out in the Business and Planning Act (BPA) 2020 that expedite the process to enable businesses to secure these licences.

The Business and Planning Act process provides a streamlined route for businesses such as cafes, restaurants, and bars to secure a licence to place furniture on the highway. Where the minimum application requirements are satisfied, and it would be acceptable to grant a permanent pavement licence, this will provide much needed income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.

The Levelling Up and Regeneration Act makes permanent the pavement licensing regime under the Business and Planning Act 2020, with a number of changes. The Levelling Up and Regeneration Act introduces a standard fee cap for both new and renewals of licences as well as increased consultation and determination periods, lengthens the maximum duration of licences and provides local authorities with new powers to remove unlicensed furniture.

Where licences are deemed to have been granted they will remain in place for such period as the Council may specify in the licence, with a maximum limit of two years.

Where a pavement licence has been granted, clear access routes on the highway will need to be maintained, considering the needs of all users, including people with disabilities and mobility considerations.

1.1. Consultation and Determination Period

The Council's Policy will be to consult on and determine all Pavement Licensing applications in line with the 28-day legal requirements comprising 14 calendar days to undertake consultations and a further 14 calendar days for the determination period (excluding public holidays).

If the Council does not determine an application within the 14-day determination period, the application will be deemed to have been granted subject to any local conditions published by the Council before the application was submitted.

- a) 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 Council.

They must ensure the notice remains in place for the duration of the public consultation period which is the period of 14 days beginning with the day after the day the application is submitted to the Council. The notice shall be required to be made on our standard notice template provided by the Licensing Team, which can also be downloaded from the 'Pavement Licence' page on the Council's website.

Applicants will be encouraged to engage with any services operated in the vicinity for vulnerable customers, for example, care home or disability organisations nearby where individuals may be at particular risk. Applicants will also be encouraged to contact neighbouring businesses and occupiers prior to applying to the Council and take any issues around noise and nuisance into consideration as part of their proposal.

The notice must:

- 1) state that the application has been made and the date on which it was made;
- 2) indicate that representations relating to the application may be made to the Council's Licensing Team during the public consultation period and when that period comes to an end; and
- 3) contain such other information or material as that the Council may require, for example a description of how the applicant will adhere to the national conditions.

- b) The Council**, prior to determining a Pavement Licensing Application will consult the following:

- Highways authority (Norfolk County Council)
- Community Protection Team
- Planning
- Police Licensing Team
- Police Counter Terrorism
- The relevant Parish or Town Council
- At least one local disability rights group

together with any other person the Council considers it appropriate to consult.

The Council will publish basic details of the application (premises trading name and address, together with the consultation end date) on the Council website.

The Council will also publicise the fact that representations may be made during the public consultation period and when that period ends.

1.2. Fees

The Council will set and regularly review our Pavement Licence fees for both new applications and licence renewals. Our Pavement Licence fees will be set on a cost-recovery basis and shall not exceed the maximum capped fees prescribed in legislation.

1.3. Eligible Businesses

This Our Pavement Licensing Policy will accept licence applications from businesses which use (or propose to use) premises for the sale of food or drink for consumption (on or off the premises). Businesses that 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 issued by the Council shall permit the business to use removable 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 adjacent business premises.

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. For the relevance of the Pavement Licence Policy, it does not negate the need to obtain approvals under other regulatory frameworks, such as the need for a licence to sell alcohol, and the need to comply with registration requirements for food businesses. However, once a pavement 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.

1.4 Furniture that would be permitted by the Pavement Licensing Policy

Removable furniture which may be placed on the pavement include:

- 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.

All furniture is required to be removable and related to the serving, sale and consumption of food or drink. In the implementation of this Policy, the Council shall be pragmatic when determining what is 'removable' but in principle the Council takes this to mean that it is not a permanent fixed structure, and is able to be moved easily, and stored away at night.

1.5 Eligible Highways

Pavement Licences will only be granted in respect of highways listed in section 115A (1) Highways Act 1980. Generally, these are footways restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited.

2. Duration

Once this Policy is adopted and decisions have been made about pavement licensing fees and commencement date, pavement licences shall be granted for the maximum 2-year period in line with expectations. This duration applies equally to renewals (once existing annual licences expire), unless there are good reasons for granting a licence for a shorter period (such as plans for future changes in use of road space).

3. Applications

- 3.1 Applications shall be required to be made on the Council's standard application form. The formal consultation period will commence on the date that an application has been made. This includes the provision of all relevant information in support of the Pavement Licence application, together with payment of the relevant fee.
- 3.2 Any licence applications for activities in England licensable under pavement licensing legislation in the Business and Planning Act 2020 will be granted under the Business and Planning Act 2020 (as amended by section 229 of and schedule 22 to the Levelling Up and Regeneration Act). They will not be granted under the Highways Act 1980 where more specific legislation has since been enacted.

4. National Conditions

- 4.1 The Business and Planning Act 2020 sets out two conditions which the Council shall apply to pavement licences which are granted or deemed to be granted; these are: a no-obstruction condition and a smoke-free seating condition. These apply only to licences granted under that Act, not existing licences permitted under Part 7A of the Highways Act 1980, or other relevant legislation.
- 4.2 The Council's Pavement Licensing Regime and associated Policy will ensure that all parties comply with the requirements of Section 149 of the Equality Act 2010. Implementation of this licensing regime will have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who do not and foster or encourage good relations between people who share a protected characteristic and those who don't.

5. Local Conditions

- 5.1 The Council will attach the following conditions to any granted Pavement Licence, in addition to the inclusion of reasonable additional conditions where needed to make it possible to approve an application which would otherwise be unacceptable, or address concerns raised during the consultation period:
- 1) The licence holder shall display signage reminding customers to be respectful of local residents and not make excessive noise.
 - 2) The licence holder shall ensure that empty glasses and crockery are removed from the licensed area on a regular basis.
 - 3) The licence holder shall ensure that any litter is cleared from the licensed area on a regular basis and that the area is kept in a clean, orderly and tidy manner.
 - 4) A-boards, advertising signs, beer kegs, bottle crates or any other unsightly or unapproved items must not be placed on or adjacent to the licensed area.
 - 5) Tables, chairs and other associated structures must be removed from the public highway after the close of trading hours. The furniture must not be stored on the highway when not in use.
 - 6) The tables, chairs and any other furniture provided, must conform to the details of the Pavement Licence application, unless the licensing authority gives written approval of any change.
 - 7) The licence holder shall be responsible for making good any damage caused to the site in the exercise of this licence.
 - 8) The licence holder must remove the tables, chairs and parasols from the licensed area if:
 - a. works to the area are to be undertaken by the Council, the highway authority or a utility provider;
 - b. so requested by a Police Officer to ensure public safety.
 - 9) The licence holder must keep a copy of this licence on the premises and it must be available for inspection at reasonable times. The licence must be prominently displayed so as to be visible from the highway.
 - 10) When drinks are served on the licensed area in glasses, they must be made of toughened or tempered safety glass.
 - 11) The holder(s) shall not cause any obstruction of the highways (other than the permitted use) or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
 - 12) All Pavement Licences will be issued with an earliest start time of 08:00 and maximum finish time of 23:00 (11pm) each day. The finish time will be determined on a case-by-case basis.

6. Appeals

There is no statutory appeal process for these decisions. Instead where an application is refused then the applicant will be entitled to appeal against the refusal decision to the Assistant Director – Regulatory.

7. Enforcement Policy

7.1 In what circumstances would the Council enforce or revoke a licence

If a condition imposed on a licence (either by the Council or nationally) is breached, the Council will be able to issue a notice requiring the breach to be remedied. If the licence-holder fails to do so, the Council may amend the licence, with the consent of the licence-holder, revoke the licence or itself take steps to remedy the breach and can take action to recover any costs of so doing.

The Council's Licensing service will regularly review licences and enforce any breaches.

The Council may revoke a licence, or amend it with the consent of the licence holder, in the following circumstances:

1. If it considers that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licenced area (or road adjacent) is no longer to be pedestrianised.

Or,

2. If there is evidence that one or more of the following applies:
 3. 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);
 4. this use of the highway is causing an unacceptable obstruction, breaching the no-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; or
 5. the use is causing, or risks 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.

The Council may revoke a licence in one or more of the following circumstances:

- 1) For a breach of condition, (whether a remediation notice has been issued or not) or
- 2) 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
- 3) The applicant did not comply with the requirement to affix the notice to notify the public of the application or secure that the notice remains in place until the end of the public consultation period.

The Council's approach will be designed to reflect good practice and provide justification where these powers are used to revoke a licence or enforce for a breach of condition.

7.2 Removal of furniture

In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, the Council will normally give written notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless and until they obtain a valid pavement licence.

If furniture continues to be placed on the highway in violation of the Council's written notice, the Council may at its discretion remove and store the furniture, recover the costs from the business for the removal and storage of the furniture, and return the furniture only once those costs have been paid. If within 3 months of the notice the costs are not paid, the Council may dispose of the furniture by sale or other means and retain the proceeds.

8. Contact details

Information and advice can be obtained by contacting the Council:

| | Broadland District Council |
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| Website | www.southnorfolkandbroadland.gov.uk |
| Telephone | 01603 430488 |
| Email | licensing@southnorfolkandbroadland.gov.uk |
| In person | The Horizon Centre Peachman Way Broadland Business Park Norwich NR7 0WF |

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