



Pavement Licence (Business & Planning Act 2020) Guidance

Section 1 - Introduction & Purpose

The Act has been brought into force to try and help businesses operate flexibly during the Covid-19 epidemic. One of the ways it seeks to do this is to allow food and drink establishments to apply for a license to operate on a highway serving customers. For those with an alcohol license for on sale only will allow off sales in any area granted a Pavement License. This guidance note gives detail of how to apply for a Pavement License.

Section 2 - Application Form

Applications can be made from those premises within Pendle that serve food and drink and operate in a public area. These will mainly, but not exclusively be, in our town centres and high streets which predominantly are in the towns of Nelson, Colne, Brierfield, Barrowford, Barnoldswick and Earby.

On the day the application is submitted to the Licensing Authority the applicant must fix a notice to the premises that can be clearly seen by the public. The notice must give details of the nature of the application and remain in place for 7 days. A photograph of the notice must accompany the application.

On receipt of the application the Licensing Authority will consult on the application and this will run for 7 days. After the 7 day public consultation, we then have 7 days to make a decision. If no decision is made within the 7 days the licence is automatically granted. Bank holidays are not included in the 7 days.

The applicant cannot make another application for the same premises during the determination period.

Pendle Council will take the following factors into consideration in determining an application i) the feedback from the public consultation ii) comments from the highways authority (Lancashire County Council) iii) other bodies or person deemed appropriate such as the relevant Council Officers ie, Police, Borough Councillors.

Applications are required to be submitted in electronic form to the Licensing Authority at: licensing@pendle.gov.uk Please note paper applications will not be accepted.

Section 3 – Cost

There is no fee for an application.

Section 4 – Duration

Pendle Council can decide upon the duration of each pavement licence. If no timeframe is given then it will automatically expire on September 31st 2021.

The applicant can at any point give notice to surrender the licence by notifying Pendle Council in writing (via email as per the email address given on the application form)

Section 5 – Enforcement/Revocation

It will not be the intention of the licensing Authority to take enforcement action against a License that has been granted. However there are powers to do so if the conditions are not being adhered to or if the area becomes an obstruction to pedestrian movement.

Section 6 – Exemptions

Private land is excluded from being able to hold a License

Section 7 – Insurance

You are required to hold a current policy of Insurance in respect of Public Liability or Third Party risks (including products liability where appropriate). This shall be for a minimum of £2 million.

Section 8 - Hours of operation

The applicant must specify the days of the week and the hours that the furniture will be in place on the highway. The latest a License can be granted for is 11pm.

Section 9 - Furniture and Heaters

Furniture means counters or stalls selling or serving food and drink, tables, counters or shelves on which food or drink can be placed. Chairs, benches or other forms of seating. Umbrellas, barriers, heaters and other outdoor articles used in connection outdoor consumption of food and drink. Details of the number, type and location of each element must be included in the application. Details of how the area is to be physically contained ie what form or barrier must be included as well.

Section 10 – Signage

Any signs or banners you intend to place on the proposed area needs to be include in the application including the location on a site plan. .

Advice on location and size of signs and banners can be found by contacting licensing@pendle.gov.uk

Section 11 – Noise

Consideration will be given to the hours of opening and we will consult Environmental Health to consider noise impacts and the hours of opening.

Section 12 – Determination & Conditions

The application is subject to 2 mandatory conditions. In addition Licensing Authority can add conditions it sees as fit and reasonable. The following gives details of the provisions in the Act on how an application may be determined:

Business & Planning Act 2020

Section 3

(4) A pavement licence granted to the applicant may be granted in respect of— (a) any or all of the purposes in relation to which the application is made; (b) some or all of the part of the relevant highway specified in the application.

5) A local authority may grant a pavement licence under subsection (3)(a) only if the authority considers that, taking into account any conditions subject to which it proposes to grant the licence (as to which, see section 5), nothing done by the licence-holder pursuant to the licence would have an effect specified in subsection (6).

(6) The effects referred to in subsection (5) are— (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

The following conditions provided are not a full comprehensive list as each application will be subjected to its own merit where appropriate. The Council in making its decision will consider the conditions listed below and can if it deems necessary place specific conditions upon the individual application.

CONDITIONS FOR THE OPERATION OF PAVEMENT LICENSES

1. The Licensee shall observe the boundaries as indicated on the attached plan.
2. The permission is not transferable.
3. The Licensee shall continue with the insurance at all times the Pavement License is in operation. Should the insurance lapse the License holder shall immediately inform the licensing Service at Pendle Borough Council
4. The license is issued for the purpose of providing a sitting out area for the licensee's customers. The boundaries shall be clearly marked in accordance with the details in the application.
5. Adequate means shall be provided by the Licensee for the collection and disposal of litter generated by the activity and, if considered necessary by the Licensing Authority, the Licensee will provide one or more litter bins of a type and construction approved by the Licensing Authority which shall be placed within the defined area one week from the issue of an instruction. Emptying and maintenance of any bins will be the responsibility of the Licensee, as will the disposal of litter therefrom.
6. The Licensee shall be responsible for sweeping the area defined and the removal of any litter which finds its way out beyond the boundaries and shall also be responsible for the disposal of sweeping and other litter. In addition, the defined area shall be kept clean.
7. The tables, chairs and other equipment approved to be used shall be in position only during the stated opening hours on the application form. They shall be removed and stored within the premises after the expiry of the approved hours of operation.
8. The Licensee shall ensure that the area is at all times accessible to people with disabilities.
9. The license shall be displayed in public view on the premises at all times.
10. Upon expiry or revocation of the permission the Licensee shall remove any structures from the highway and reinstate the highway to its former state and condition.

Operational Guidance

This guidance should be considered when an applicant designs the layout of the area they wish to use.

1. A minimum unobstructed footpath width of 1.8 metres must be provided for safe and convenient pedestrian movement. This distance being, measured

from the edge of the licensed area to any significant amount of street furniture (such as lamp posts, bollards, parking meters etc.). Where there is a heavy pedestrian flow additional footpath space may be required.

2. For pedestrianised streets a minimum width of 1.8 meters must remain free and unobstructed to facilitate pedestrian movement. This figure may be increased where there is a heavy pedestrian flow. The unobstructed route shall fall equally either side of the centre line of the highway to ensure the space available for tables and chairs is shared equally between premises on each side of the street.
3. A clear direct pathway of at least 1.2 metres wide shall be maintained to allow entry and exit from building premises.
4. Where tables and chairs are proposed directly outside a shop, a well designed and constructed physical barrier or roped area of approximately 0.8 metres in height is required to designate the area and to guide persons with sight disability around the land.
5. Such barriers must not be permanently fixed to the ground and must be of a style, design and type to be agreed as part of the application.
6. Only chairs and umbrellas associated with tables shall be placed within the licensed area and details of these need to be given as part of the application. No other furniture other than receptacles shall be placed within this area.
7. Tables and chairs shall be durable and suitable for outside use. No damaged furniture should be used.
8. Tables, chairs and umbrellas shall not be positioned so as to obstruct sight lines for drivers of vehicles at junctions.
9. No canopy or umbrella shall be lower than two metres in height and shall be adequately secured.
10. All street furniture, including barriers shall be removed at the end of trading each of the approved trading hours as defined by the Licence.
11. Suitable storage for street cafe furniture shall be identified by the applicant at the time of application for a licence.
12. There must be adequate provision made for the collection and containment of litter and, where directed, the Licensee must provide suitable litter bins.
13. The Licensee will ensure that the designated area is maintained in a clean and tidy condition. The Licensee shall also take appropriate precautions to prevent the immediate highway from becoming littered as a result of trading activities.

14. The Licensee shall at all times when the pavement cafe is in operation make available for customers toilets and hand washing facilities, to wheelchair accessible standards where it is practicable and reasonable to do so.
15. The Licensee will be responsible for the conduct of customers. They must not be a nuisance or annoy users of the highway or tenants of adjoining premises.
16. No speakers or playing of music shall be permitted.
17. No electrical cables shall be run along the ground in such a way that they create a trip hazard or are susceptible to mechanical damage.