



Pendle Borough Council's Pavement Licence Policy 2025 - 2030

**Business and Planning Act 2020
The Levelling Up and Regeneration Act 2023**

Adopted Version

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1. Introduction

Outdoor eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life and interest to an area.

Pendle Borough Council supports and encourages the provision of pavement cafes in the borough as they can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live, and work in Pendle.

A Pavement Licence is a licence granted by the local authority, 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 Business and Planning Act 2020 made it easier for premises serving food and drink such as bars, restaurants and pubs, to seat and serve customers outdoors. The Act was initially introduced as a temporary measure to assist business in opening back up following the Covid 19 Pandemic.

The Act introduced a fast-track process for these businesses to obtain permission, in the form of a "Pavement Licence", from the local council for the placement of furniture such as tables and chairs on the pavement outside their premise.

The Business and Planning Act process provides a streamlined and cheaper route for businesses such as cafes, bars and restaurants to secure a licence to place furniture on the highway.

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 2023 makes permanent the provision set out in the Business and Planning Act 2020 with several changes. This policy has been implemented to reflect those changes which are summarised below:

- Any Pavement Licence granted will now be issued for period of 2 years unless circumstances dictate that it should be granted for a lesser period.
- The consultation period is 14 days (excluding public holidays), starting the day after the application is submitted electronically.
- The local authority must determine the application before the end of the determination period (which is 14 days beginning with the first day after the end of the public consultation period, excluding public holidays) otherwise the licence is deemed to have been granted for a period of two years and the business can place the proposed furniture such as tables and chairs within the area set out in the application for the purposes or purposes proposed. However, if when implemented, a licence that has deemed granted does not meet the conditions set out in the legislation or any local conditions, it can be revoked.
- The Council have been given enforcement powers to revoke Pavement Licence and remove furniture that is placed on the pavement without the requisite Pavement Licence being in place. Further details are set out at Section 19.

Licences that are deemed to be granted will remain in place for a period of 2 years unless there are exceptional reasons to grant the licence for a lesser period.

Where a Pavement Licence is granted, clear access routes on the Highway will need to be maintained, considering the needs of all users, including disabled people.

Whilst the Council wishes to encourage pavement cafes, it is important that they are properly located and managed. This is to ensure that they meet the standards we expect in Pendle and that they do not obstruct the highway nor create a hazard for pedestrians, especially for blind, partially sighted and other disabled people.

The area to be used must consider other needs in the immediate vicinity e.g. kerbside parking, bus stops and pedestrian crossings. Pedestrians' needs must be paramount. The area of the pavement cafe must not conflict with any access or dropped crossings that are required for free passage of normal road users.

Barriers and tapping rails should be positioned and maintained to the satisfaction of Pendle Council and should be totally removed outside the permitted hours of operation of the cafe, restaurant or bar.

The pavement cafe is normally expected to be in an area directly in front of and be visible from the existing premises. Emergency exit routes, including those of adjacent buildings, should not be obstructed by the pavement cafe and emergency service vehicles must always have access along all streets, even in pedestrianised streets.

In general, all parts of the highway may be used for Pavement Cafe's, assuming all safety and non-obstruction requirements are met. The exceptions are:

- Any carriageway or 'shared use surface'.
- Any highway verge.
- Where the width of the pavement makes it impractical.
- Where authorised street furniture makes it impossible.

Licences will not normally be granted where one or more of the following apply:

- A significant effect on road safety would arise either from the siting of the tables and chairs, or from customers visiting or leaving the licensed area.
- Where there are concerns over the recorded level of personal injury accidents in the locality where the tables and chairs will be sited.
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes.
- There is a conflict with Traffic Orders, such as waiting restrictions.
- The site obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use.
- The tables and chairs obstruct the safe passage of users of the footway or carriageway.

- The area to be licensed interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities.
- The trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- The existing toilet and washing facilities are not adequate to accommodate an increased number of customers using the pavement café.
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage and collection of all refuse associated with their business.
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage of all tables and chairs off the highway without impeding any access or egress from the premises.

In considering the above matters, the standard guidance will be that a licence will only be issued if an unimpeded pedestrian route can be always maintained. The route shall ensure that all pedestrians and particularly those with a disability can maintain their normal path where feasible.

All applications will be considered on their own merits.

Pavement cafe licences may be issued to cafes, restaurants, public houses or any other establishment that serves or intends to serve food and drink.

The Council will carry out periodic inspections to make sure that all the terms and conditions of the licence are being observed.

2. Legal Framework and Controls

Permissions to use the highway for pavement cafes are granted by the issue of licences by Pendle Borough Council (the Council) under the Business and Planning Act 2020.

The furniture which may be placed on the pavement include:

- Counters or stalls for selling 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 and related to the serving, sale and consumption of food or drink. The Council will expect the furniture to be used that can easily be moved and stored away at night.

Granting a licence to operate a pavement cafe does not imply an exclusive right to the area. The operator of the cafe should be aware that the Council reserves the right to gain access to the cafe area for cleaning, repairing and maintaining the highway or street furniture.

Other statutory organisations may also require access for maintenance and repair of their equipment. The Council therefore reserves the right to suspend the licence temporarily if, for any reason, it becomes necessary.

If it appears to the Council that a person to whom they have granted a permission under the Business and Planning Act 2020, has committed any breach of the terms of that permission, they may serve a notice requiring that such steps are taken to remedy the breach as are specified in the notice within such time as is so specified.

If a person who is served a notice fails to comply with the notice the Council has the power to take whatever steps are necessary, themselves. Where the Council has incurred expenses in the exercise of the power, then those expenses, together with interest at a reasonable rate, may be recovered by the Council from the Licence holder.

The Pavement Cafe must operate in accordance with the conditions of the licence. Any breach of the conditions may lead to action by the Licensing Section to revoke or refuse a licence in the future.

The barriers, table, chairs, and layout shall be as agreed by the Council and always conform to the plan.

The provision of any miscellaneous items such as refuse bins, A boards etc shall be indicated on the application submitted and approved as part of the application.

The Licence holder shall make no claims or charge against the Council in the event of the street furniture being lost, stolen or damaged in any way from whatever cause except where the same is attributable to negligence on the part of the Council or any of its officers.

Licence holders must have public liability insurance in place for all times that they use the street. If for whatever period or reason, a public liability insurance policy is not in force, the Council shall be deemed to have withdrawn this Licence for the period during which the said policy is not in force and the licence holder may be held liable for obstruction of the highway and prosecution under Section 137 of the Act.

The licence holder shall not cause or undertake any alterations to the highway surface.

The Council may suspend or terminate a licence for any of the following reasons:

- a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted.
- b) as a result of the licence—
 - i. there is a risk to public health or safety, or
 - ii. anti-social behaviour or public nuisance is being caused or risks being caused,
 - iii. the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),
- c) anything material stated by the licence-holder in their application was false or misleading, or
- d) the licence-holder did not comply with the duty to fix the notice to the premises and secure that it remained in place during the public consultation period.

The licence does not take precedence over Police powers to preserve public order.

3. 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 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.

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.

A Pavement Licence does not exempt the business from requiring any other relevant authorisations such as food safety registration, Premises Licence (if alcohol is to be served under Licensing Act 2003), planning permission for permitted use of the premise etc.

Businesses that do not use their premises for the sale of food or drink, for example salons, are ineligible. Though they can apply for permission to place furniture on the pavement under the Highways Act 1980.

4. Cost of Licence

Fees will be set locally by the local licensing authority, and it is for Pendle Borough Council (the licensing authority) to determine the appropriate charge. Fees are capped at a maximum of £500 for first time applications and £350 for renewals.

The cost of the fee will cover the costs of administering a pavement licence.

Please email the licensing section (licensing@pendle.gov.uk) to establish the fee.

5. Private Land

This policy relates only to pavement cafes on a public highway. Cafes on private land are not covered by this policy.

Licences can 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. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

A pavement licence does not grant the right to permanently close a road. To do so, a pedestrian planning order made under section 249(2) or 249(2A) of the Town and Country Planning Act 1990, extinguishing the right to use vehicles on the highway, is required.

6. Planning Permission

Once a licence is 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.

7. Right of Access

Authorised Officers of the Council and Police Officers shall have access to a pavement cafe at all reasonable times. The land remains highway and as such there is a right of public access to it.

8. Advertising

Advertising may only relate to the premises or business and will require the approval of Pendle Council. No unauthorised adverts will be allowed.

9. Designing the Pavement Cafe

The size and layout of the proposed Pavement Cafe will be dependent upon the characteristics of the site outside of the premises particularly the space available considering the needs of other users and it is not appropriate for this Policy to set a standard size for the Pavement Cafe.

Plans will need to be submitted with an application and shall be drawn to scale and must include:

- An up-to-date location plan (1:1250 scale) showing the outline of the premises and the proposed location of the street cafe.
- Site layout plan (1:100 or 1:50 scale) showing the proposed boundary, kerb and building lines, enclosure barriers, points of access, table and seating layout, location of parasols, heaters etc.

The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities.

The Pavement Cafe should:

- occupy an area directly in front of the Applicant's premises.
- be visible from these premises; and
- Not extend beyond the width of its frontage (unless in exceptional circumstances and granted by Licensing Authority).

Emergency routes from adjacent buildings and the Applicant's premises should not be obstructed by the Pavement Cafe. If the emergency services object to the proposal on safety grounds, it is very likely that the Council will refuse it.

10. Conditions attached to the Grant of a Pavement Licence

The 2020 Act allows the Local Authority to attach reasonable conditions to a licence whether they are published or not. Appendix 1 of this policy lists the conditions that will normally be applied. The Council reserves the right to add other necessary conditions according to the specific circumstances of each site. This could be as a result of evidence raised during the

consultation. 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. Conditions imposed by the Council will be proportionate and tailored to the specific circumstances of each licence.

11. Mandatory Condition Imposed by the Secretary of State

The 2020 Act sets out two conditions which apply to Pavement Licences granted under that Act as follows:

No obstruction condition

It is a condition that clear routes of access along the highway must be maintained, considering the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.2 of the Inclusive mobility: making transport accessible for passengers and pedestrians Guidance.

<https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians>

On a normal street, there must normally be at least 2000mm of unobstructed space between the carriageway and the front of the pavement cafe to allow pedestrians to pass by safely.

Each case will be judged on its merits and the unobstructed space will be set at 2000mm however, where this is not feasible due to physical constraints a minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles.

Smoke free seating condition

The national smoke free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers can sit outside.

This condition requires a licence holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a no-smoking area.

Ways of meeting this condition should include:

- Clear 'smoking' and 'no smoking' signage displayed in designated areas.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke free seating is identified.
- Licence holders should provide a minimum of 2m distance between non-smoking and smoking areas, wherever possible.

12. Lighting

The Applicant for a pavement cafe licence should, if intending to open beyond dusk, carefully consider the level of lighting in the proposed pavement cafe area. Whilst street lighting may

be perfectly adequate for a public highway, it may need supplementing to allow the pavement café to operate safely.

Any additional lighting equipment and supply must be specified in the application to enable its impact upon the highway to be considered.

13. Tables and Chairs

Tables and chairs shall be of a neutral colour scheme e.g. chrome, brushed aluminium, black, brown, beige, grey or white, with natural or neutral stained timber or wicker detailing; all must be fitted with rubber feet to reduce noise when moving and damage to paved surfaces.

The Council reserves the right to reject applications where inappropriate furniture is proposed. So, it is advisable to discuss furniture proposals with the Licensing Section before any furniture is purchased.

Full details of proposed furniture will be required with the submission of the application, including metric dimensions and material and a photo or drawing.

When choosing furniture regard needs to be had of the highway surface on which it will stand uneven or sloping surfaces may require more sturdy styles of furniture and tables and chairs with narrow or thin legs may cause damage to certain paving, hours of proposed furniture, accompanied with photographs or drawings.

14. Parasols / Umbrellas

If parasols are to be used, then their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

Parasols, when opened, should be safely secured and contained entirely within the boundaries of the street cafe to ensure they do not cause an obstruction or present a danger to any user of the street cafe or any other users of the highway.

The design and colour of parasols will not be restricted to a particular type, but they should be made of high-quality materials and fabric and be of a uniform design and colour. Garden style umbrellas are not acceptable.

The base of the parasol must not cause a trip hazard in the street cafe area. No canopy or umbrella shall be lower than two metres in height.

Advertising permitted on parasols. Such advertising must not be too dominant and should not detract from the appearance of the building and its setting, especially in conservation areas.

Canopies, awnings, blinds etc. which are to be attached to the building may require advertisement consent or planning permission. Advice should be sought from Planning department.

15. Space Heaters

If space heaters are to be used, then their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout.

In considering an application, the Council will have regard to the inherent safety of the equipment, its location, storage of Liquid Petroleum Gas cylinders, maintenance and training arrangements.

Applicants will be required to submit a formal risk assessment as required by the Management of Health and Safety at Work Regulations 1999. This should be carried out by a competent person (someone who has knowledge of the law, British Standards, and Health and Safety Executive Codes of Practice and Guidance).

The Council will consider the adequacy of the risk assessment which must:

- Identify the hazards e.g. fire, explosion, burns, impact from falling equipment / cylinders
- Decide who may be harmed and how
- Evaluate the risks and decide whether proposed precautions will be adequate or whether more could be done.
- Record findings
- Review assessment and revise if necessary.

16. Barriers

Barriers or other means of enclosure are required in order to ease / guide pedestrian movement, guide the visually impaired, protect users of the facility and mark the boundary of the licensed area. All barriers must have tapping bars at the top and bottom to assist people with visual impairments.

The agreed street cafe boundaries shown on the plan that will be attached to a licence must be always adhered to. The boundaries are required to be enclosed by either barriers or planters. These must be portable.

It is essential that the means of enclosure is fit for purpose and suitable for the terrain in which that the pavement cafe operates. Should the Council deem barriers unsafe, we may ask that the tables and chairs be removed until suitable barriers are provided.

The means of enclosure must:

- Be stable and sturdy for all weather conditions the pavement cafe will operate in, including windy conditions: additional weights may be necessary to ensure barriers remain stable and secure.
- Not contain protruding parts.
- Have a tapping rail along the bottom of the barrier that visually impaired pedestrians can use to navigate around the street cafe using a stick.
- Only display the name of the café / business. They must not be used to advertise products or services. No alcohol advertising or tobacco is permitted. Proposed details of means of enclosure must be provided with the application.

- Hoops or post and chain type barriers and low-level objects will not be acceptable.

Barriers must not be permanently fixed to the ground where this is public highway.

17. Managing the Pavement Licence & Insurance

The licensee will be required to indemnify the Council against all actions, demands, costs, charges or expenses arising from using the highway under the permission granted. The Council will, therefore, require the licensee to take out third party public liability insurance in the sum of at least £2,000,000.

18. Hours of Operation

Hours of operation will be determined on the application merits, although the following maximum hours will apply.

The Licensing hours for street furniture will only be granted between the hours of 9:00hrs to 22:00hrs.

All furniture should be removed between the hours of 22:00hrs to 9:00hrs.

The Licensed Area must be cleared of all furniture if required for special one-off events without any liability for compensation, refund of application fee, or damage arising. This applies to all events organised by Pendle Council, relevant Town Councils, Parish Council or any other Council approved events.

19. Application Process

To apply for a new licence, the applicant must submit the following documents:

- Completed Application Form
- Public Liability Insurance stating the sum of at least £2,000,000.
- Plan of Premises with area highlighted where the furniture will be placed.
- Pictures and measurements of furniture to be used.
- Relevant fee

To apply to renew an existing licence which has not expired, the following documents will be submitted:

- Completed Application Form
- Public Liability Insurance stating the sum of at least £2,000,000.
- Relevant fee

Applications can either be submitted:

Paper format to: Licensing Section, Pendle Borough Council, Town Hall, Nelson BB9 7LG

By email to: licensing@pendle.gov.uk

NOTE:

For emailed and paper applications, photographs of documents **will not** be accepted.

20. Granting of a licence

A Pavement Cafe Licence ('the Licence') is granted by Pendle Borough Council ('the Council') as the licensing authority for the Pendle Borough.

Applications should be submitted by the prospective Licensee.

A Pavement Licence permits the approved Licensee to operate a pavement cafe serving food and beverages within a defined area ('the Licensed Area') and to a defined list of general conditions regarding use as set out at Appendix 1 of this document.

Notice of any application for a new / renewal licence shall be always displayed in the window of the premises and clearly visible to which it relates for a period of no less than 14 days.

These notices set out details of the proposals and invite representations to be made by people who may be affected. The Council must make a determination of the application within 14 days following the last date for representations. If an objection is raised, the delegated Service Manager will be required to determine the application.

Licences are granted for a maximum of two years and are renewable bi annually.

The Licence shall be always displayed within the premises to which it relates and be clearly visible.

A copy of plan must be always kept on the premises and be available for inspection. When the area of a street cafe has been agreed, a definitive plan of the area showing the boundaries and the dimensions will be attached to, and form part of, the Licence.

There is no right of appeal against the refusal of a licence.

21. Enforcement

If any condition attached to the licence is breached Pendle Borough Council (the Council) will issue a notice requiring the breach to be remedied. A period of 7 days from the date the notice is issued will be given before any further action is considered.

If a licence holder fails to remedy the breach, the Council may amend the licence, revoke the licence or itself take steps to remedy the breach and then take action to recover the costs of doing so.

The Council may revoke a licence, or amend it, 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 licensed area (or road adjacent) is no longer to be pedestrianised.
2. Or there is evidence that:

- There are risks to public health or safety – for example where it comes to light that there are significant risks which have not been sufficiently considered or addressed in a proportionate fashion (this will be reassessed as necessary, particularly in the event of changes to the terrorism threat level).
- This use of 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
- 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.

In addition the Council may revoke a licence in 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 table and chairs on which drinks could be consumed; or
3. The applicant did not comply with the requirements to affix the notice to notify the public of the application or ensure that the notice remained in place until the end of the public consultation period.

When the Council uses its powers to revoke or amend a licence clear compelling reasons will be given to the licence holder for doing so.

Removal of Furniture – In cases where furniture which would not normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, the Council will give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, the Council will remove and store the furniture, recover the costs for the removal and storage of the furniture and refuse to return the furniture until the costs have been paid.

If within 3 months of the notice, the costs are not paid, the Council will dispose of the furniture by sale or other means and retain the proceeds.

A copy of the required application form is attached at **Appendix 2**.

A template of the required site notice is attached at **Appendix 3**.

The list of Consultees is also attached at **Appendix 4**.

Appendix 1

Conditions Attached to a Pavement Licence

Please note that these conditions are not an exhaustive list, and each application will be considered on its own merits and individual, specific conditions may be attached where deemed appropriate.

General

- 1.0 The Licence will have effect for 24 months unless surrendered or revoked earlier.
- 2.0 The issue of a Licence does not give or imply any permission to supply intoxicating liquor in the street.
- 3.0 The Licence shall be displayed in the window of the premises to which it relates.
- 4.0 The Licensed Area shall be vacated immediately if requested by the, Lancashire County Council as Highway Authority, Lancashire Constabulary or other emergency service, statutory undertaker etc. without any liability for compensation, refund of application fee, or damage arising.
- 5.0 The Licensed Area must be cleared of all furniture if required for special one-off events without any liability for compensation, refund of application fee, or damage arising. This applies to all events organised by Pendle Council, relevant Town Councils, Parish Council or any other Council approved events.
- 6.0 The Licence shall be rendered invalid, should the Licensee cease to own the premises or cease employment.
- 7.0 The Licensee must maintain public liability insurance which always includes the Licensed Area while the licence remains in force, such insurance to be for at least £2 million for any claim or series of connected claims.
- 8.0 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 and in default thereof, the Council will be empowered to carry out such work of reinstatement and recover the expense in so doing from the Licensee.

Operational

- 9.0 For streets with footways and carriageways, the maximum width of any licensed area shall not exceed one third of the usable width of the footpath. A minimum unobstructed footpath width of 1.5 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.
- 10.0 A clear direct pathway of at least 1.2 metres wide shall be maintained to allow entry and exit from building premises.
- 11.0 Only the Licensed Area shall be used for trading.

- 12.0 Where tables and chairs are proposed directly outside a shop front, 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 use. Such barriers must not be permanently fixed to the ground and must be of a style, design and type to be agreed by the Councils Planning Department.
- 13.0 Only items applied for during the application process shall be placed within the Licensed Area. No other furniture other than receptacles shall be placed within this area. Items that can be included in the application process are prescribed in the legislation and are as follows: -
- 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, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away when the licensed area is not being used.
- 14.0 Tables and chairs shall be durable and suitable for outside use. No damaged furniture should be used.
- 15.0 The design of all chairs, tables, umbrellas, etc. shall be subject to the approval of the Council's Licensing Department, and such street furniture together with associated outdoor and pavement areas including an area of 1 metre around the Licensed Area must be regularly cleansed and floor debris and other waste immediately removed to the satisfaction of the Council's Head of Environment.
- 16.0 Tables, chairs and umbrellas shall not be positioned to obstruct sight lines for drivers of vehicles at junctions.
- 17.0 No canopy or umbrella shall be lower than two metres in height and shall be adequately secured.
- 18.0 All street cafe furniture, including barriers shall be removed at the end of trading each day, or at the end of the approved trading hours as defined by the Licence, whichever is the earliest.
- 19.0 There must be adequate provision made for the collection and containment of litter and, where directed, the Licensee must provide suitable litter bins.
- 20.0 The Licensee will ensure that the Licensed 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.
- 21.0 The Licensee will be responsible for the conduct of customers. They must not be a nuisance to other users of the highway or tenants of adjoining premises.
- 22.0 No speakers or playing of music shall be permitted in the Licensed Area.

23.0 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.

Alcohol licenses only

24.0 Where intoxicating liquor is permitted to be served or consumed in the licensed area, polycarbonate glasses must be used at all times.

Mandatory Conditions

The 2020 Act sets out two conditions which apply to Pavement Licences granted under that Act as follows:

No obstruction condition

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.2 of the Guidance below:

<https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians>

On a normal street, there must normally be at least 2000mm of unobstructed space between the carriageway and the front of the pavement cafe to allow pedestrians to pass by safely.

Each case will be judged on its merits and the unobstructed space will be set at 2000mm however where this is not feasible due to physical constraints a minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles

Smoke free seating condition

The national smoke free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers can sit outside.

This condition requires a licence holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a no-smoking area. Ways of meeting this condition should include:

- Clear 'smoking' and 'no smoking' signage displayed in designated areas.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke free seating is identified.
- Licence holders should provide a minimum of 2m distance between non-smoking and smoking areas, wherever possible.

Appendix 2



Borough of Pendle
Licensing Section
Planning, Building Control and Regulatory Services
Town Hall, Market Street, Nelson BB9 7LG
Tel: 01282 – 661987
Email: licensing@pendle.gov.uk

LEVELLING UP AND REGENERATION ACT 2023

APPLICATION FOR THE GRANT OF A PAVEMENT LICENCE

(Please read the guidance notes at the end of this form when completing it)

Is this application:

- ☐ NEW
- ☐ Renewal (current licence number _____)
- ☐ **FOR RENEWALS**, please confirm by ticking the box that you agree to all the statements being:
- The furniture has not changed since the last application
 - The location of the furniture location has not changed since the last application
 - Ownership of the premises has not changed since the last application

SECTION 1: APPLICANT DETAILS (INDIVIDUAL APPLICANTS)

Title	
First name(s)	
Surname	
Date of Birth	
NI Number	
Home Address	
Post Town	
Postcode	
Phone (Home)	
Phone (Mobile)	
Email	

SECTION 2: APPLICANT DETAILS (OTHER APPLICANTS e.g. Limited companies)	
Name	
Registered Business Address	
Post Town	
Postcode	
Phone (Office)	
Phone (Mobile)	
Email	
Registered Number (where applicable)	

SECTION 3 – BUSINESS PREMISES DETAILS	
Trading Name	
Postal Address	
Town	
Postcode	

SECTION 4 – USE OF THE BUSINESS PREMISES	
Which of the following is the above business premises used for? (please select ONE of the following options)	
Use as a public house, wine bar or other drinking establishment	<input type="checkbox"/>
Other use for the sale of food or drink for consumption on or off the premises	<input type="checkbox"/>
Both of the above uses	<input type="checkbox"/>

SECTION 5 – AREA OF HIGHWAY PROPOSED TO BE USED

Please provide a description of the area of the highway to which this application relates:
(Please note you are also required to submit a scale plan of this area with your application)

SECTION 6 – RELEVANT PURPOSE THE APPLICATION RELATES TO:

Which of the following relevant purposes do you wish to put furniture on the highway for?
(please select **ONE** of the following options)

To sell or serve food or drink supplied from, or in connection with relevant use of, the premises	<input type="checkbox"/>
For the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises	<input type="checkbox"/>
Both of the above purposes	<input type="checkbox"/>

SECTION 7: DAYS AND TIMES

During what times do you propose to place furniture on the highway on each of the following days:
Please use the 24hr clock, e.g. 10:00 to 20:00.

	Mon	Tues	Wed	Thu	Fri	Sat	Sun
From	:	:	:	:	:	:	:
To	:	:	:	:	:	:	:

SECTION 8 – FURNITURE TO BE PLACED ON THE HIGHWAY

Please provide a description / number of the furniture you propose to place on the highway
(Please note you are required to provide photographs or brochures of the proposed furniture with your application)

SECTION 9 – DATE OF APPLICATION

Please state the date that this application for a pavement licence is being submitted

SECTION 10 – CHECKLIST FOR DOCUMENTS TO INCLUDE WITH APPLICATION

Please note that your application will not be considered complete and the public consultation period of 14 days will not begin unless all of the following documents have been submitted with your application and the relevant fee.

A plan showing the location of the premises shown by a red line, so the application site can be clearly identified

☐

A plan clearly showing the proposed area covered by the licence in relation to the highway

☐

Copy of current Public Liability insurance certificate

☐

Photos or brochures showing the proposed type of furniture

☐

Evidence of consent from neighbouring frontage(s) to use footway space outside their property (if applicable)

☐

SECTION 11 – DECLARATIONS BY APPLICANT

- ☐ I understand that I am required to give notice of my application in accordance with the requirements of the LEVELLING UP AND REGENERATION ACT 2023 and that failing to do so will lead to the revocation of any licence granted.
- ☐ I understand I must hold and maintain Public Liability insurance up to a value of £2million.
- ☐ I understand my application will not be complete until all the required documents and information have been provided and the application fee has been paid.
- ☐ I understand that the application fee paid is non-refundable if my application is refused or if any licence granted is subsequently surrendered or revoked.
- ☐ I understand that the Authority is under a duty to protect the public funds it administers, and to this end may use the information I have provided on this form for the prevention and detection of fraud. I understand that it may also share this information with other bodies responsible for auditing or administering public funds for these purposes.
- ☐ I declare that the information given above is true to the best of my knowledge and that I have not wilfully omitted any necessary material.
- ☐ I understand that if there are any wilful omissions, or incorrect statements made, my application may be refused without further consideration or, if a licence has been issued, it may be liable to revocation.
- ☐ I understand that the Authority is collecting my data for the purposes described on this form and will not be used for any other purpose, or passed on to any other body, except as required by law, without my consent.
- ☐ I understand I must display the public notice for 14 days once issued by Licensing and pictures to be forwarded by email to **licensing@pendle.gov.uk**

Signature

Print name

Date

Please submit your application / documents either by:

Email: (Scanned copies only, NOT photographs)	licensing@pendle.gov.uk
Post / Hand deliver:	Pendle Borough Council, Licensing Section, Town Hall, Market Street, Nelson BB9 7LG

Please pay your fee via the following methods:

Online	<p>Website: https://www.pendle.gov.uk/pay_for_it</p> <ol style="list-style-type: none"> 1. Select 'Pay for licences'. 2. Click on 'Begin the form' 3. Select the licence type 'Licensing Act 2003' 4. In reference field '(type of application followed by licence number, if any)' and add to basket. 5. Complete the rest of the form and submit
BACS	<p>Bank Name: Lloyds Bank plc</p> <p>Sort Code: 30-11-48</p> <p>Account No.: 00846389</p> <p>Account Name: Borough of Pendle</p> <p>Please quote the reference – 22243 / 9303 – and your licence number.</p> <p>Please then send details of the payment made along with details of your premises to Licensing:</p> <p>Email: licensing@pendle.gov.uk</p>

Application Guidance Notes

Completing the form

- Section 1** Complete this section if you are applying for the licence as an individual and section
- Section 2** Complete this section if you are applying in another capacity, for example as a limited company.
- Section 3** Provide details of the business premises that the pavement licence will be used in conjunction with.
- Section 4** Tick **one** of the options to indicate what purpose the business premises is used for.
- Section 5** Describe the area of highway that you want to place the removable furniture on. The description should indicate the proximity of the area of highway to the business premises and give details of the dimension of the area.
- Section 6** A pavement licence can only be used to authorise the placing of removable furniture on the highway for certain “relevant purposes.” Please tick **one** option to indicate what purpose(s) the removable furniture placed on the highway will be used for if a licence is granted.
- Section 7** Please indicate the times you would like to place removable furniture on the highway for on each day of the week. Use the 24-hour clock (so for example you should put 19:00 rather than 7.00pm).
- Section 8** Use this section to describe the removable furniture you wish to place on the highway. You should provide full details including the nature of the furniture, the size of the furniture and the number of items of furniture you wish to place on the highway.
- Section 9** Please specify the date on which the application is being made. Please note that the application will not be considered complete until all required documents and the application fee have been received.
- Section 10** Use this checklist to make sure you have submitted all required documents with the application.
- Section 11** The applicant must complete this section to confirm they have read and understood the declarations listed.

Please view the ‘Pendle Borough Council Pavement Licensing Policy’ for further information.

A copy can be requested by emailing: licensing@pendle.gov.uk

Appendix 3

Site Notice Template for display by an applicant for a Pavement Licence

The Levelling Up and Regeneration Act 2023

I / We,

do hereby give notice that on _____, I / we have applied to Pendle Borough Council for a 'Pavement Licence' at:

known as

The application is for:

Days / Times:

Give brief description of application (e.g. outdoor seating to the front of the premises for serving of food and drink)

A diagram of the area proposed to be used is attached below.

Any person wishing to make representations to this application may do so by email, to: **licensing@pendle.gov.uk**

by:

(enter the date which must be 14 days after the date the application is submitted to the local authority (excluding public holidays))

The application and information submitted with it can be requested from Pendle Borough Council Licensing via email at: **licensing@pendle.gov.uk**

Signed.....

Dated:

(layout Plan below)

Appendix 4

Pavement Licences – List of Consultees:

Consultee	Email	Areas
Lancashire Police	EastPoliceLicensing@lancashire.police.uk	All
Lancashire Police – Counter Terrorism	CTSA@lancashire.pnn.police.uk	All
LCC Highways	Matthew.Hargreaves@lancashire.gov.uk	All
Environmental Health	environmental.admin@pendle.gov.uk	All
PBC Planning	planning@pendle.gov.uk	All
PBC Waste Services	david.walker@pendle.gov.uk	All
PBC Engineers	scott.whalley@pendle.gov.uk	All
PBC Licensing	wajed.iqbal@pendle.gov.uk	All
Pendle Borough Council Elected members - Relevant ward Councillors	Various	All
Nelson Town Council	townclerk@nelsontowncouncil.gov.uk	Nelson
Colne Town Council	Admin@colnetowncouncil.org.uk	Colne
Brierfield Town Council	info@brierfield.gov.uk	Brierfield
Barnoldswick Town Council	clerk@barnoldswicktowncouncil.gov.uk	Barnoldswick
Earby Town Council	clerk@earbytowncouncil.org.uk	Earby
Barrowford Parish Council	barrowford.parish@holmefieldhouse.org	Barrowford
Foulridge Parish Council	mail@foulridgeparishcouncil.org.uk	Foulridge
Colne BID	manager@colnebid.co.uk	Colne