

PAVEMENT LICENCE – APPLICATION SUMMARY

March 10th 2021

What is a pavement licence?

A 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. This is a streamlined process to allow businesses to secure these licences in time for the summer and, where they are deemed to have been granted, allow these licences to remain in place until September 2022.

Detail

There is a bit more to it; full detail outlined below.

How to apply

Via your Local Authority (website).

Max cost £100

Admiral Assistance

Please contact Darren Kelly, Licensing Manager: darren.kelly@admiraltaverns.co.uk

Business and Planning Bill – DETAIL (Pavement Licence)

What is the purpose of the new process for pavement licences?

This new process introduces a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. This will support them to operate safely while social distancing measures remain in place.

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How does the new process for pavement licences work?

Pavement licences are presently granted primarily under Part 7A of the Highways Act 1980. The new process provides a cheaper, easier and quicker way for businesses to obtain a licence. The fee for applying for a licence under the new process, is capped at £100 and the consultation period is 5 working days (excluding public holidays).

If the local authority does not determine the application before the end of the determination period (which is 5 working days beginning with the first day after the public consultation period (excluding public holidays), the licence is deemed to have been granted for a year (but not beyond 30 September 2022).

What furniture can be permitted by a licence?

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. Local authorities should be pragmatic when determining what is 'removable' but in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

How much do applications cost?

Fees will be set locally but are capped at a maximum of £100.

Are there any exclusions from this provision?

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

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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).

Where does this new process apply?

This process applies to England only, including London and other areas where statutory regimes other than the regime in the Highways Act 1980 may be relevant to the grant of licences for street furniture.

Does the applicant need planning permission as well as the licence?

No. 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

How long are pavement licenses valid for?

If a local authority determines an application before the end of the determination period, the authority can specify the duration of the licence, subject to a minimum duration of 3 months. The expectation is that local authorities will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space. A licence granted or deemed to be granted will not be valid beyond 30 September 2021.

How long will the new process be in place?

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 (due to be extended shortly to end of September 2022).

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Applications

What information does an applicant need to provide?

An application to the local authority must specify the premises and, the part of the relevant highway to which the application relates;

- specify the purpose (or purposes) for which the furniture will be used which must be to sell or serve food or drink, and/or for use by other people for the consumption of food or drink.
- specify the days of the week on which and the hours between which it is proposed to have furniture on the highway;
- describe the type of furniture to which the application relates, for example: tables, chairs, and/or stalls;
- specify the date on which the application is made;
- contain or be accompanied by such evidence of **public liability insurance**

What other information may the local authority require?

Local authorities may require the applicant to provide other information or material to help them make a swift determination. Examples of the information a local authority might require might include:

- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified (some authorities may require this on an OS Base Map);
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown;
- the proposed duration of the licence (for e.g. 3 months, 6 months, or a year);
- evidence of the right to occupy the premises e.g. the lease;
- contact details of the applicant;
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- evidence that the applicant has met the requirement to give notice of the application (for example photograph);

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Determining the application

What happens once the information is submitted to the local authority?

Once the information is submitted to the local authority the authority has 10 working days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 5 working days for public consultation, and then 5 working days to consider and determine the application after the consultation.

Can local authorities impose conditions which are not published?

Yes. When they grant a licence, local authorities may impose reasonable conditions whether or not they are published upfront. There is an expectation these will be supported by a clear justification for the need of a condition which is in addition to any published local conditions. 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.

Is there a route to appeal a decision?

There is no statutory appeal process for these decisions, however, councils may wish to consider the scope for an internal review process, for example permitting appeals to their Licensing committee.

Consultation

What steps should an applicant take to engage with their community?

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. They must ensure the notice remains in place for the public consultation period which is the period of 5

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working days beginning with the day after the day the application is submitted to the authority. When counting 'working days' public holidays are not included. Applicants are encouraged to keep evidence of this.

What must a notice contain?

The notice must:

- be in the form which the local authority prescribes, if it prescribes one;
- state that the application has been made and the date on which it was made;
- indicate that representations relating to the application may be made to that local authority during the public consultation period and when that period comes to an end; and
- contain such other information or material as that local authority may require.

The applicant is encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

Enforcement

In what circumstances can the local authority enforce or revoke a licence?

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;

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- the highway is being obstructed (other than by anything permitted by the licence);
 - there is 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.