



Pavement Licensing Procedure

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1. Introduction

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 specific purposes.

The Levelling Up and Regeneration Act 2023 makes permanent the provisions set out in the Business and Planning Act (BPA) 2020 which streamlined the process to allow businesses to secure these licences quickly.

Where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people.

1.1 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, ice cream parlours and venues 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.

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

Licences can only be granted in respect of highways listed in section 115A (1) of the 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.

1.2 Fees

The Council has determined that the fee for new and renewal pavement licence applications is currently £150.00. This may be subject to change and can be no more than £350.00 for a renewal application and £500.00 for a new application.

1.3 Licence Duration

The expectation from the Government is that local authorities will grant licences **for 2 years** unless there are good reasons for granting a licence for a shorter period, such as plans for future changes in use of road space.

1.4 Type of furniture permitted

The furniture which may be used includes:

- 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 and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which means that it cannot be a permanent fixed structure, and is able to be moved easily, and stored away at night.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

2 Application and Determination of Pavement Licences

2.1 Submission of the Application

An application for a Pavement Licence will only be accepted as valid where a completed application form is received, with the additional following -

- The required fee of £150.00
- A plan must be submitted with your application and is required to:
 - Show the location of the premises outlined in red, so that the site can be clearly identified;
 - Clearly show the proposed area covered by the pavement licence in relation to the highway, if not to scale, with measurements clearly shown;
 - Must show the positions and number of the proposed tables and chairs, together with any other items you wish to place on the highway;
 - Must include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area;
 - Details on the plan how the smoke-free seating condition will be met; and
 - Details on the plan how the no-obstruction condition will be met. E.g. minimum width of 1500mm for pedestrian movement.
- Evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself).
- A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.
- Photos or brochures showing the proposed type of furniture.
- Confirmation that you have the right to occupy the premises.
- Evidence (if applicable) that neighbouring businesses have permitted tables and chairs outside their properties, including which days and times.

2.2 Consultation Period

Applications are consulted upon for 14 days, starting with the day after a valid application is received by the Council.

The Council will publish details of the application on our website at the following link - https://www.westnorfolk.gov.uk/info/20008/licences_and_permits/468/open_consultations

The Council will consult with the following organisations to ensure the application will not have any adverse impacts –

- The Highways Authority
- Community Safety & Neighbourhood Nuisance Team
- Planning Authority
- Police Licensing Team
- Police Counter Terrorism
- The relevant Parish or Town Council
- At least one local disability rights group

Members of the public and others listed above can contact the Council to make representations either by post or email -

Address: Borough Council of King's Lynn & West Norfolk, Licensing Team, Kings Court, Chapel Street, Kings Lynn Norfolk, PE30 1EX

Email: ehlicensing@west-norfolk.gov.uk

The Council must take into account representations received during the public consultation period and consider these when determining the application.

2.3 Site Notice

On the same day which an application is made, a notice of the application must be fixed to the premises so that it is readily visible and can be read easily by members of the public who are not on the premises.

The notice must be constructed and secured so that it remains in place until the end of the 14 day public consultation period (when counting 'days' public holidays are not included). Evidence of the site notice requirement must be supplied to the Council. A site notice template is attached at Appendix 1.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;

- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the public consultation (14 days starting the day after the application is submitted to the authority excluding public holidays).

2.4 Site Assessment

The following matters may be taken into account by the Council and other consultees when considering the suitability of the proposed application:

- public health and safety for example, any reasonable crowd management measures needed as a result of a licence being granted.
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter.
- 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.
- 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 impact on any neighbouring premises. Applicants are strongly 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.
- businesses applying for a pavement licence will also need to have regard for their own duties under the Equality Act 2010, such as their duty under section 29 of the act to eliminate unlawful discrimination.

2.5 National Conditions (Refer to appendix 2)

The 2020 Act sets out two conditions which 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 the Business and Planning Act 2020, not existing licences permitted under Part 7A of the Highways Act 1980, or other relevant legislation.

- **Smoke-free seating condition.** Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke free' zones in accordance with Smoke-free regulations 2012. Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible. No ash trays or similar receptacles to be provided or permitted to be left where smoke-free seating is identified.
- **No-obstruction condition.** When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require

that local authorities consider the needs of disabled people. 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, <https://www.gov.uk/government/publications/inclusive-mobility/inclusive-mobility> need to be considered.

2.6 Standard Licence Conditions

A list of standard licence conditions applicable to all licences is set out in Appendix 2. In certain circumstances, further measures may be required, which will be determined during the assessment of each application on a case-by-case basis.

2.7 Determination

Once the application is submitted, the Council has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 days for public consultation and 14 days to consider and determine the application after the consultation.

If the local authority determines the application before the end of the determination period, the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application and impose conditions, or
- refuse the application.

If the local authority does not determine the application within the 14 day period, the application will be deemed to have been granted subject to any local conditions published by the local authority. The licence will be valid for 2 years.

2.8 Approval of Applications

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

Obtaining a licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, and applicants must ensure all such permissions are in place prior to applying.

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 in agreement with the licence

while the licence is valid.

2.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against a decision to refuse an application.

3 Enforcement

The Council can take action if a pavement licence holder breaches licence conditions. The authority may either revoke the licence or issue a notice requiring the licence holder to fix the breach within a specified timeframe.

If the licence holder fails to comply with that notice, the Council can either revoke the licence or carry out the remedial steps itself and recover the costs.

A licence may also be revoked if:

- The highway area covered by the licence becomes unsuitable.
- The licence leads to risks to public health or safety, causes (or risks causing) antisocial behaviour or public nuisance, or results in obstruction of the highway.
- The licence holder provided false or misleading information in their application.
- The applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.

Additionally, the Council may amend a licence, with the licence holder's consent, if the area becomes unsuitable, public risk issues arise, or a no-obstruction condition is not being met.

Business and Planning Act 2020

PUBLIC NOTICE

[Name of person applying for licence], is applying for the **[new/renewal * delete as appropriate*]** grant of a Pavement Licence under Section 2 of the Business and Planning Act 2020.

An application was submitted to the Borough Council of King's Lynn & West Norfolk on **[Date the application is submitted to the Licensing Authority]** for:

[Full name and postal address of premises]

The application is for:

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

Any person wishing to make representations to this application may do so by writing to the Licensing Authority by no later than: **[last date for representations being the date 14 days after the date the application is submitted to the local authority]** to Licensing, Borough Council of King's Lynn & West Norfolk, King's Court, Chapel Street, Kings Lynn, Norfolk PE30 1EX

ehlicensing@west-norfolk.gov.uk

The application and information submitted with it can be viewed on the Council's website at: <https://www.west-norfolk.gov.uk/>

Signed

Dated [date the notice was placed (must be the same date as the date the application was submitted)]

Business and Planning Act 2020

National Conditions

1. 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.
2. Clear and unobstructed pedestrian routes must be always maintained, taking account of the needs of disabled people, including blind, visually impaired, and mobility-impaired pedestrians. Recommended minimum footway widths must be kept clear while the licence is in operation.
3. In areas of significant footfall (as determined by the Licensing Authority), the licensed area must be clearly enclosed or demarcated when in use, to:
 - a) define the licensed area,
 - b) contain the furniture, and
 - c) assist blind and visually impaired pedestrians.
4. Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke free' zones in accordance with Smoke-free regulations 2012.
5. Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.
6. No ash trays or similar receptacles to be provided or permitted to be left where smoke-free seating is identified.

Standard Licence conditions

The following conditions will be applied to every licence granted under the above Act.

7. The licence is issued to the named applicant only and is not transferable.
8. This licence is granted for the period stated in the licence and will not be renewed automatically.
9. No tables, chairs, barriers, or other furniture may be placed on the highway until a licence has been granted.
10. The licensed area may only be used for placing tables and chairs in connection with the licensee's business for the sale or consumption of food and/or drink, and only during the hours permitted by the licence.

11. All tables, chairs, and any approved barriers must be positioned in accordance with the plans and details submitted with the application.
12. No changes may be made to the approved layout, furniture, plans, or authorised hours without the prior written approval of the Licensing Authority.
13. All tables, chairs, and associated items must be removed from the public highway at the end of the permitted period each day, unless prior permission has been granted by the licensing authority.
14. All authorised furniture must be removed by midnight on the day the **licence expires** unless a renewal licence has been applied for and granted.
15. Compliance with the terms and conditions of any previous licence will be considered when reviewing renewal applications, and the Licensing Authority reserves the right to refuse renewal where appropriate.
16. The licence fee covers the administration and grant of the licence and is non-refundable if the licence is surrendered before expiry.
17. The licensee must hold public liability insurance with a minimum cover of £5 million for any liability, loss, damage, claim, or legal proceedings arising from the placement, maintenance, or removal of furniture on the highway.
18. The licence may be suspended where necessary to allow highway maintenance or other essential works to be carried out. Where possible, reasonable notice will be given.
19. The Highway Authority will not be liable for any loss of earnings resulting from the suspension of a licence.
20. The licensee is responsible for repairing any damage to the highway arising from the licensed activity, if required by the Highway Authority. Permanent surface reinstatement must be carried out to the Authority's satisfaction.
21. These conditions may be varied where appropriate to reflect changes in local circumstances, as permitted by statutory guidance.
22. Where the Licensing Authority serves a notice requiring a breach of licence conditions to be remedied and the licensee fails to comply, the Authority may carry out the required works and recover all associated costs from the licensee.