



Pavement Licensing Policy

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1. Introduction

The Covid-19 pandemic affected businesses across the economy causing many to cease trading for several months while others had to significantly modify their operations.

As the economy reopened, in June 2020 the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing short term obstacles that could get in their way.

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 through changes to planning procedures and alcohol licensing.

Amendments to legislation made on 31 March 2024 made pavement licensing permanent through the Levelling-up and Regeneration Act 2023, increased the maximum fees that can be charged from £100 to £500 for a new application and £350 for a renewal. The changes also provided district and borough councils with additional enforcement powers and increased the maximum term of a pavement licence from one to two years.

Pavement licensing provisions provide a fast-track process for qualifying businesses to obtain permission from the council, for the placement of furniture such as tables and chairs on the pavement outside their premises.

Prior to pavement licensing tables and chairs permissions were granted by West Sussex County Council, as the Highways Authority, under Part 7A of the Highways Act 1980.

2. Scope

2.1 Definition of pavement licence

A pavement licence is a licence granted by the council or deemed to have been granted if not determined within 14 days after the consultation period has finished, that allows the licence-holder to place removable furniture over certain highways adjacent to the premises to which the application was made, for certain purposes.

2.2 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.

A licence allows 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.

2.3 Eligible Locations

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 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).

2.4 Type of furniture permitted

Furniture that 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 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 of an evening, or after the premises has closed.

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

2.5 Planning Permission

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.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made via our website found at <https://www.arun.gov.uk/pavement-licensing/> (No other means of application will be accepted), and

the following will be required to be submitted with the application:

- a completed Application Form
- 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, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- Details of the total number of seats (including existing seating), and the number of sanitary conveniences available, the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway. Pavement licences will not be granted beyond 9pm.
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- 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, and
- any other evidence needed to demonstrate how our local conditions, and any national conditions will be satisfied.

For pavement licence renewals (where there are no changes to an existing licence) we may reduce the above requirements.

3.2 Fees

The fee for a licence will be set locally and reviewed on an annual basis but is capped by legislation currently at £500 for a new application, and £350 for a renewal.

For an application to be considered a renewal there must have been no amendments made from the existing licence.

The required fee must be paid in full at the time the application is made.

3.3 Period of licence

The maximum period for a licence as established by the legislation is two years.

We will offer licences for periods of either one or two years, for which separate fees will apply.

3.3 Consultation

Applications are consulted on for 14 days, starting with the day after the day on which a valid application is made.

We will publish details of the applications on our website [Arun | Environmental Health Online Services | Licence Register](#)

We are required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application we will consult with:

Arun District Council Environmental Health
Arun District Council Planning/South Downs National Park Planning
West Sussex Fire & Rescue Service
Sussex Police
The relevant Local Ward Councillor(s)
The relevant Parish or Town Council
Littlehampton Traders (via the most relevant organisation) as relevant
Arundel Chamber of Commerce as relevant
The Bognor Regis Business Improvement District as relevant

as well as other agencies or council departments as deemed appropriate by the licensing authority, such as Arun Economic Development and Property and Estates

Members of the public and others listed above can make representations via the online licensing consultation register

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

3.4 Site Notice

The applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, 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 public consultation period. Evidence of the site notice requirement must be supplied to us.

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 (including number of seats);
- Indicate that representations relating to the application may be made to us 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 consultation (14 days starting the day after the application is submitted to the authority).

A template Site Notice is provided in Appendix 1.

3.5 Site Assessment

The following matters will be considered by the council and consultees in determining the suitability of an application:

- Public health and safety – for example, appropriateness of proposed furniture and any risks of injury e.g. from trips, protruding parts etc, and sufficiency of sanitary provision.
- Public amenity – will the proposed use likely create nuisance to neighbouring occupiers or cause anti-social behaviour or 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, taking account of:
 - 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 including residences;
 - The recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in section 4 of *Inclusive Mobility A guide to Best Practice on Access to Pedestrian and Transport Infrastructure*, and
 - Other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and residences prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

3.6 Determination

Once the application is submitted the council has 28 days from the first 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 then 14 days to consider and determine the application after the consultation. Applications will be

determined by officers in accordance with the council's scheme of delegation and against criteria laid out in this policy. This will ensure adherence to the statutory time scales provided for determination.

If the licence is determined before the end of the determination period the council can:

- Grant the licence in respect of any or all of the purposes specified in the application, and impose conditions
- 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 application is not determined within the 28 day period, the application will be deemed to have been granted but is still subject to the council's published conditions and national conditions

3.7 Approval of applications

Where approved a Pavement Licence will be granted for up to two years (one year if this has been specified by the applicant), or for such reduced period as the assessing officer deems appropriate.

Standard conditions will be applied to all Pavement Licences (as detailed in Appendix 2). Additional conditions may be attached where deemed appropriate. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and the appearance and location of the furniture corresponding to the application.

We will generally only permit Pavement Licences between 09:00 and 21:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The council however retains the right to specify permitted hours that are less than those specified above in appropriate circumstances.

3.8 Licence Duration

If we determine an application before the end of the determination period we can specify the duration of the licence, although the expectation is that they are granted for the maximum period of two years, unless there are good reasons for granting a shorter period.

If a licence is 'deemed' granted because the authority does not make a decision before the end of the determination period, then the licence will be valid for two years. However, if a licence that has been deemed granted does not meet the conditions set out in the legislation or any local conditions, it can be revoked at any time on the grounds that it has breached the conditions.

3.9 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 decision to refuse an application. Any appeal made to a refusal, will be considered by a manager within Environmental Health and may be referred to the licensing sub-committee at their discretion.

4. Conditions

The council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required and will be determined when assessing each application, on a case-by-case basis, with additional conditions applied as deemed appropriate.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

The Act sets out two National Conditions that apply to pavement licences that are granted or deemed granted. These are: a no-obstruction condition and a smoke free seating condition. Details of these conditions are provided in Appendix 3.

5. Enforcement

We aim to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and would be dealt with by the Highways Authority or the Police.

Obtaining a Consent does not confer the holder immunity to other legislation that may apply, e.g. Public Liability, health and safety, food hygiene, alcohol and entertainment licensing, and applicants must ensure all other requirements and permissions, are in place prior to applying.

If a condition imposed on a licence either by the council or via a National Condition is breached a notice may be issued by the council requiring the breach to be remedied.

If the licence holder fails to rectify the breach the council may:

- Amend the licence with the consent of the licence holder,
- Revoke the licence or
- Take steps itself to remedy the breach and recover the costs of doing so

The council will seek to recover the full costs of remedying any such breaches.

The authority may also revoke a licence, or amend with the licence holder's consent in the following circumstances:

- If it considers the highway is no longer suitable for the use granted there are risks to public health or safety –the use is causing an unacceptable

obstruction of the highway the use is causing risks of anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and/or litter is not being cleaned up;

The council may also revoke a licence for:

- Breach of condition, whether or not a remediation notice has been issued, or
- 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.

The council will give reasons where these powers are used.

New powers were introduced on 31 March 2024 that enable the council to deal with those operating in absence of a required pavement licence. In these circumstances the council may issue a notice to require removal of the furniture and to cease placing furniture on the highway unless authorised to. If the person fails to do so the council may remove and store it and recover the full costs of doing so, and not return the furniture until those costs are paid in full.

If within three months of being given the above notice the costs have not been paid, or the furniture has not been recovered the council may dispose of it as it sees fit and retain the proceeds of sale. Determinations on how to dispose of furniture will be made by a manager within Environmental Health. Costs recovered, including from any sale of items, will be retained by the council.

6. Surrender

The licence holder may surrender a pavement licence at any time by giving notice to the local authority. Notice must be made in writing and sent by email to licensing@arun.gov.uk

Refunds will not be granted where a licence is surrendered.

7. Review

This Policy covers the Permission for Pavement Licences under the Business and Planning Act 2020

This Policy will be reviewed at least every five years. The Group head of Technical Services is delegated to make minor changes to the policy as may be required, for example due to legislative changes.

Revision number	Details	Approved by	Date

1	New Policy	Cabinet	20 July 2020
2	Extended termination date and introduced £100 fee	Delegated decision	19 August 2021
3	Extended termination date	Delegated decision	9 September 2022
4	Extended termination date	Delegated decision	30 June 2023
5.	Full review. Updated to reflect changes to make regime permanent, increase fees and amended enforcement powers	Licensing Committee	20 September 2024

Appendix 1 Site Notice Template

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

Section 2 of the Business and Planning Act 2020.

I/We **(name of applicant)**,

do hereby give notice that on **(date of application)** [I/we] have applied to Arun District Council for a 'Pavement Licence' at:

(postal address of premises)

known as

(name premises known by)

The application is for:

(brief description of application (e.g type and number of 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 entering a representation via the council's licence register portal which can be found at:

<https://eh.arun.gov.uk/>

by: **(last date for representations being the date 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 viewed on the Council's website at: www.arun.gov.uk/licensing

Dated **(date the notice was placed which must be the same date as the date of application)**

Appendix 2 Standard Pavement Licence Conditions

1. Permission to operate a pavement licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that Arun District Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause. This may mean that the licensed area must cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
2. Arun District Council requires evidence that the licence holder has Public Liability Insurance for the operation of the Pavement Licensed area. This must indemnify Arun District Council and West Sussex County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.
3. Tables and chairs must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside a premises away from the highway.
4. Arun District Council and/or West Sussex County Council are empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored. The Council will not be responsible for its safekeeping.
5. The licence holder is not to make or cause to be made any claim against Arun District Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
6. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
7. The method of marking the boundary of the licensed area must be agreed between the licence holder and the Licensing Team prior to operation of the area. Whatever method is agreed a minimum of 2 -metre wide walkway must be maintained clear of obstruction for the use of pedestrians.
8. Emergency routes to the premises and adjacent buildings must not be obstructed by the licensed area, which should not, in normal circumstances, extend beyond the width of the premises frontage.
9. Tables and chairs should be of an approved type and should be kept in a good state of repair. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written

authority of the Council. Patio heaters and A-boards or any other advertising structure must not be used.

10. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.
11. The licensee should ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises in the vicinity, is minimised.
12. The operation of the area must not interfere with highway drainage arrangements.
13. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
14. All detritus (food and drink remnants, spillages, bottles, cans, wrappers etc) must be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the licensed area, for a distance of up to 10 metres from the boundary of the Facility licensed area. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
15. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval from the council. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc, will be recovered in full from the licence holder by Arun District Council or West Sussex County Council.
16. The Licensee of a premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the area subject to this pavement licence.
17. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the area subject to this pavement licence outside the hours in force for the premises itself.
18. The licence must be displayed on the premises with a plan of the agreed layout of the pavement licensed area.

19. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.
20. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period or on revocation of the licence.
21. Arun District Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.

Appendix 3 National Conditions

National Conditions

The Secretary of State publishes this condition in exercise of his powers under [clause 5(6)] of the Business and Planning Act 2020:

Condition relating to clear routes of access:

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 3.1 of [Inclusive Mobility](#).

Guidance on the effect of this condition

1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to 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 3.1 of [Inclusive Mobility](#), the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

No obstruction

Section 5(5)

A “no-obstruction condition” is a condition that anything done by the licence-holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6).

Section 3(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.

Smoke-free

Section 5(6)

A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.