

BUSINESS AND PLANNING ACT 2020 PAVEMENT LICENCE STANDARD CONDITIONS

The Standard Conditions below apply to all Pavement Licences granted by Gedling Borough Council (the Council) however, each application will be treated on its own merits and the Council reserves the right to remove, vary or add additional conditions if considered reasonable.

Applicants should be aware that it will be necessary to display a notice of application for 7 days starting on the day after the application is served on the Council.

1. **Sole Purpose of the Licence:** A Pavement Licence permits the business to use removable furniture placed on the highway to:
 - a. sell or serve food or drink; and/or
 - b. allow it to be used by people for consumption of food and drink supplied from, or in connection with the relevant use of the premises.

The “relevant use” in relation to premises, means either or both of the following:

- (a) use as a public house, wine bar or other drinking establishment
- (b) other use for the sale of food or drink for consumption on or off the premises.

2. **Production of the Licence on Demand:** The Pavement Licence shall be displayed in the window of the premises to which it relates. Any failure to do so may result in an Authorised Officer requiring the removal of the items from the highway.
3. **Site Constraints:** Any furniture placed within the permitted area of the Pavement Licence shall not obscure sight lines for any highway user, interfere with drainage, or, conflict with dropped crossings, etc.
4. **Accessibility:** The licence-holder shall consider the needs of disabled people and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State when placing furniture within the permitted area. Current guidance found in section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users and makes it clear that in most circumstances 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway.
5. **Furniture:** The Pavement Licence permits the following items of removable furniture to be placed on the permitted area of the highway:
 - Counters or stalls for selling or serving food or drink
 - Tables, counters, or shelves on which food and 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
 - The furniture must be removableThe specification of all furniture must be approved by the Council or its Agent.

- 6. Barriers:** Where seating is provided a barrier approximately 1.0m high and incorporating a tapping rail not more than 150mm above the ground must be provided to guide persons safely around the area of the Pavement Licence. Barriers must not be permanently fixed to the ground within the public highway. Barriers must be designed to resist collapse or movement (e.g. by being blown over or accidentally stumbled into). The specification of barriers must be approved by the Council or its Agent. The barriers and seating should be arranged so as to prevent chairs or personal effects (e.g. shopping) escaping the area of the pavement licence and encroaching into the highway.
- 7. Emergency Exits:** All emergency exits and routes from buildings must be kept clear.
- 8. Hours of operation:** 6am to 11pm unless otherwise stated on the Pavement Licence and subject to any other Government guidelines and/or restrictions.
- 9. Removal of Furniture:** All furniture and all barriers must be removed from the highway daily at the end of the hours of operation as detailed above or on the Pavement Licence and shall not be stored within the highway.
- 10. Obstruction/Danger/Nuisance on the Highway:** The licence-holder shall not cause any obstruction or danger to people using the highway. The licence-holder is responsible for the conduct of people within the area of the Pavement Licence, allowing rowdy or unruly behaviour may lead to the revocation of the licence.
- 11. Noise/Nuisance Control:** Noise, disturbance, smells or litter which cause a nuisance to the owners or occupiers of any adjacent premises or to members of the public are not acceptable.
- 12. Surface of the Highway:** The licence-holder shall not undertake any alterations to the highway surface.
- 13. Cleansing of the Area:** The licence-holder will ensure that the area permitted by way of the Pavement Licence is maintained in a clean and tidy condition and they shall take all necessary precautions to prevent the highway from becoming littered as a result of their trading activities.
- 14. Liability Insurance / Indemnity:** The licence-holder is required to indemnify the Council and its agents against all losses and claims for injuries (including death, illness and disease) or damage to any person or property whatsoever, and, against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising directly or indirectly out of the granting of this Licence. To this end, the applicant must obtain and maintain third party public liability insurance which offers 'indemnity to principal'. The level of cover must be to a minimum value of £5,000,000 for any one incident. Evidence of valid insurance covering the area of the Pavement Licence must be made available when demanded by a duly authorised officer or agent of the Council. The licence-holder will be required to produce proof of valid insurance to the Council, or its agent, on an annual basis.
- 15. Sale of Alcohol:** The Pavement Licence does not give or imply any permission to sell intoxicating liquor.
- 16. Advertising:** Advertising alcoholic, gambling or smoking products, or their manufacturers, will not be permitted on barriers or furniture associated with the

Pavement Licence. Logos / legends on barriers etc. may only relate to the premises or business. No advertising shall be displayed that may cause offence or alarm to any person.

- 17. Suspension of Permission:** If so requested in an emergency by Gedling Borough Council, a Police Officer, Fire Brigade Officer, Ambulance Attendant or Statutory Undertaker, or by the Highway Authority for the purpose of maintaining the highway, the licence-holder shall remove the permitted furniture from the highway.
- 18. The Pavement Licence is non-transferable:** The Licence is not a transferable asset which might be sold with a change in ownership of the premises.
- 19. Enforcement:** If a condition imposed on a Pavement Licence (either by the local authority or nationally) is breached the local authority may 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:
 - 19.1 For breach of condition, (whether or not a remediation notice has been issued) or
 - 19.2 Where:
 - a) 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;
 - b) the highway is being obstructed (other than by anything permitted by the licence);
 - c) 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;
 - d) it comes to light that the applicant provided false or misleading statements in their application;
 - e) the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
 - 19.3 The Council 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.
- 20. Unpublished Conditions:** The Council 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.

BUSINESS AND PLANNING ACT 2020 PAVEMENT LICENCE NATIONAL CONDITIONS

The National conditions below apply to all Pavement Licences granted by Gedling Borough Council (the Council).

- 1. No-obstruction Condition:** Anything done by the licence-holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not:
 - a) prevent 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) prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order;
 - c) prevent statutory undertakers having access to any apparatus of theirs under, in, on or over the highway; or
 - d) prevent 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.

- 2. Smoke-free seating condition:** where the furniture to be put on the 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.