



ADUR & WORTHING
COUNCILS

Pavement Licensing Policy

Business and Planning Act 2020



Adur District & Worthing Borough Councils

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1. Introduction

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

As a response to the Covid-19 pandemic, HM Government has encouraged businesses to trade outside where the risk of transmission is significantly reduced.

The Business & Planning Act 2020 is temporary legislation that has been introduced to relax Planning and Licensing Legislation to facilitate this and the new fast track Pavement Licence regime, the act introduces, allows the use of public pavements by food & hospitality businesses to trade outside their premises. Despite the lifting of the Covid-19 restrictions the government's advice will continue to be to meet & trade outside wherever possible and the temporary legislation has been extended and will continue in force until September 2023.

The Business and Planning Act 2020 makes it easier for premises serving food and drink such as bars, pubs, cafes and restaurants to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It will be a temporary measure to boost the economy, with provisions now extended until the end of September 2023.

The Act also introduces a temporary fast-track process for these businesses to obtain permission, in the form of a "pavement licence", from Adur and Worthing Councils for the placement of furniture such as tables and chairs on the pavement outside their premises which will enable them to maximise their capacity whilst adhering to social distancing guidelines.

Currently, tables and chairs permissions are granted as pavement licences by West Sussex County Council, the Highways Authority, under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a time consuming 28 day consultation period.

The new temporary measure places a cap on the application fee for businesses, and introduces a new 14-day determination period, ensuring that businesses can obtain licences in a timely and cost effective manner aiding to their financial recovery.

2. Scope

2.1 Definition of a pavement café

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.

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 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.

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

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
- sun 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 of an evening.

The Councils 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 to the Council, and the following will be required to be submitted with the application:

- a completed Application Form

- Sussex Police

Members of the public and others listed above can contact Adur & Worthing Councils to make representations. Representations must be made in writing and forwarded to the licensing unit at licensing.unit@adur-worthing.gov.uk before the end of the consultation period. Representations received after the close of consultation cannot be considered.

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

3.4 Site Notice

An 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 the Council.

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 Councils during the public consultation period and when that period comes to an end;
- state the Councils' 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 (5 working days starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 1.

3.5 Site Assessment

The following matters will be used by the Councils and consultees in considering the suitability of the proposed application:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- 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
- 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](#)
- other users of the space, for example if there are high levels of pedestrian or cycle movements, and
- the use of temporary barriers to separate the designated area from pedestrians to maintain social distancing.

Applicants must 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.

3.6 Determination

Once the application is submitted the Councils have 10 working days from the day after the application is made 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.

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 10 working day period, the application will be deemed to have been granted.

3.7 Approval of Applications

The Councils may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Councils will issue a Pavement Café 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 Councils' standard conditions, which will be attached to all Pavement Café Licences are shown at Appendix 2. Additional conditions may be attached if the

Council considers it appropriate in the circumstances of any particular case. A sample of these conditions/criteria can be found at Appendix 4.

The Councils generally will only permit Pavement Café's between 09:00 and 22:00hrs.

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

3.8 Licence Duration

The Councils may determine an 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 Councils will specify the duration of the licence, subject to a minimum duration of 3 months and up to 1 year.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a year. However, if, when implemented, 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.

All licences granted or deemed to be granted will not be valid beyond 30 September 2023.

3.9 Refusal of Applications

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

The decision of the authorised officer will be final there is no statutory appeal process against a decision to refuse an application.

4. Conditions

The Councils' standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

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.

However, this is not the case for the statutory no-obstruction condition which is as applies to all Licences. The National 'no obstruction' conditions are shown in Appendix 3.

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



ADUR & WORTHING
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Section 2 of the Business & Planning Act 2020.

I/We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to Adur & Worthing Councils 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. 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, preferably by email, to:

Public Health & Regulation – Licensing Unit
Adur & Worthing Councils
Portland House
Worthing
BN11 1HS
licensing.unit@adur-worthing.gov.uk

by: *(last date for representations being the date 5 working 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.adur-worthing.gov.uk/.....](http://www.adur-worthing.gov.uk/)

Signed:

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

