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## Definitions

<u>appeal</u>	a review of our decision. You appeal to the Licensing Committee. The committee may uphold our decision (they agree with us) or overturn it (they agree with you).
<u>district</u>	the area covered by [REDACTED]
licensed area	the area that you can set out tables and chairs for use by your customers
Licensing Committee	three councillors form the Licensing and Regulatory Committee sitting to decide your appeal
Licensing and Regulatory Committee	the committee set up by the Council to determine licensing and regulatory matters including pavement licensing
<u>pavement licence</u>	the permission given by us to allow you to use an area outside your premises as a café area for tables and chairs
public nuisance	noise disturbance or other nuisance caused to residents or neighbouring businesses
<u>we</u>	[REDACTED] Council, usually acting through its officers.
<u>you</u>	the licence holder granted the permission for the tables and chairs

## **Introduction**

"Cafe Culture" is a growing trend in our District. There is a demand for eating and drinking outdoors, and many pubs, restaurants and cafes want to provide facilities to meet this demand by using the pavement.

In [REDACTED] there are existing pavement licences that add to the ambience and vibrancy of the city. Many more pubs, restaurants and cafes may wish to make use of the pavement for tables and chairs. However, if the use of pavement areas is not carefully controlled they can lead to pedestrians, in particular those with disabilities, being unable to use the pavement safely.

To regulate the number and location of pavement cafes, all premises must have a licence under section 115 of the Highways Act 1980 to place tables and chairs on the highway.

Our policy and procedure explains the requirements and standards we expect of an applicant for a pavement licence.

## **Our powers and duties**

Our duty to regulate pavement licensing in the District comes from the Highways Act 1980 [section 115] under an agreement with Hertfordshire County Council.

Pavement licences are granted by officers under delegated authority from the [REDACTED]. The Licensing and Regulatory Committee will determine the policy and sit as a Licensing Committee to determine appeals.

## **How will we use the policy?**

The policy provides guidelines on the factors we consider when making our decision to grant or refuse a pavement licence.

## **Is the area you want to use suitable for a pavement licence?**

Pavement cafes can be sited on the public highway. Seated areas that are sited on privately owned land or land to the rear of buildings or other courtyard areas do not require a licence.

To be suitable for a pavement licence the area you want to use must be *highway* as defined by section 115 Highways Act 1980:

- a highway in relation to which a pedestrian planning order is in force;
- a restricted byway;
- a bridleway;
- a footpath (including a walkway as defined in section 35(2) of the Highways Act 1980);
- a footway;
- a subway constructed under section 69 of the Highways Act 1980;
- a footbridge constructed under section 70 of the Highways Act 1980;
- a highway whose use by vehicular traffic is prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order

If your existing premises has either A3 or A4 use, you may not require planning permission for a pavement licence. Planning permission will be necessary if any permanent fixtures are proposed that constitute development. You should contact the Planning Department for advice.

## **How we decide about your application?**

We will grant an application unless we receive objections and decide there are reasons not to grant your application. We will consider each application on its own merits. We will normally follow the policy. If we have to depart substantially from the policy we will explain why.



Please supply a site plan of at least 1:200 showing the precise location and proposed setting out of the tables and chairs.

You should ensure that your plan has the following information on it:

- Access points
- Building lines
- Boundaries
- Kerbs
- Dimensions of seating area
- Table and chair arrangement
- Other furniture/items layout
- Plan and elevation (1:50) of barriers/enclosure

## Advertising

You must complete the public notice at Appendix D, and display it on or near the premises. It should be in a location that is easily visible from the street for a period of at least 28 days from the date you send your application to us.

## Consultations

You must publish a notice in accordance with the Highways Act 1980 and consult with those listed in Appendix A. We will take into consideration all representations made to us in deciding your application.

The licence applied for is covered by Section 115E of the Highways Act. The licence may be applied for directly by you or by your solicitor on your behalf.

## Hours

The maximum hours that you can operate under a Pavement Licence is 08.00 to 23.00 hours.

## Cost

The fee you have to pay for a licence will depend on the size of your café area:

Number of tables & chairs/seats	Grant	Renewal
2 tables and up to 8 seats	£ [REDACTED]	£ [REDACTED]
3-4 tables and up to 16 seats	£ [REDACTED]	£ [REDACTED]
5-10 tables and up to 40 seats	£ [REDACTED]	£ [REDACTED]
11 or more tables and over 40 seats	£ [REDACTED]	£ [REDACTED]

## Refund of fees

If you stop trading or surrender your licence we will not normally give you back any of the fees, unless there are exceptional circumstances.

Where we refuse an application we will take an administrative fee from the total cost of the pavement licence. This will be:

20% of full fee paid after Licensing Officer's decision

50% of full fee paid after Licensing Committee decision

## Insurance

You will be required to hold Public Liability Insurance to a value of £10 million cover. You must provide proof with your application.

**We will consider the following factors in determining your application:**

Protecting the public



We will consider our duty to protect the public as a key factor when we decide whether to grant or renew a pavement licence.

## Size and Layout

An absolute minimum unobstructed width of 2.5 metres of the highway, measured from the boundary line of the premises, must be available before a pavement licence is granted. Additional widths may be required in certain locations.

Pavement café areas will normally be situated outside the main premises leaving an unobstructed 2.5 metre clear gap between the highway and the designated area. The area to be used must take into account other needs and uses in the vicinity, for example, pedestrian crossings, loading bays and street furniture.

Consideration to size and layout must be given to allow customers with disabilities to access and move around within the licensed area.

## Safety

Applications will not be granted if pedestrians are forced to cross a pavement in a dangerous manner. Applications may be refused if there is insufficient space between tables and chairs to enable disabled people, particularly those in wheelchairs, to use the facilities, or if the proposed facility poses a risk to disabled people on the pavement. Applications will not be granted where health and safety risks may arise that cannot otherwise be avoided.

All emergency exits and routes from buildings and those associated with the highway must be kept clear.

Furniture must be suitable for outside use. All items contained within the enclosure must be portable enough to be brought in at the end of the licensed period of each working day and can be moved quickly in the event of an emergency.

## The Licensed area

Applicants must submit details of the types of furniture that are to be used. Where it is necessary to use barriers to show where the licensed area is, the types of barriers proposed must be agreed by officers.

Applications in conservation areas will be referred to conservation officers for consultation. Furniture and barriers must be of high quality and be in keeping with the characteristics of the area in which it will be used.

When the licensed area is not in use, any barriers have to be removed. The only exception will be where planning permission has been sought and arranged for permanent/semi permanent barrier systems.

Licences will not be granted where access to local authority or utility company plant and equipment will be restricted.

## Crime and Disorder

In considering such applications the Council will give particular consideration to section 17 of the Crime and Disorder Act 1998. Therefore, prior to granting any consent for tables and chairs on the pavement/highway, the Council will give significant weight to the views of the local police.

## Public nuisance

Applications will be refused if they are likely to cause excessive amounts of litter, noise, disturbance, smell or other nuisance to users of the pavement/highway or adjacent properties, particularly residential properties.

It will be the responsibility of the licence holder to keep the licensed areas free of all litter during the hours of operation, including that blown into the enclosed area

## **How long will I be able to operate under my licence?**

We will normally grant a pavement licence to operate between 8 am and 11pm.

Applications outside of those hours will be considered on a case-by-case basis, and only granted in the absence of objections or once such objections have been resolved or withdrawn.

We will issue the licence to you for one year. You can renew by paying a renewal fee providing we are satisfied there are no reasons not to renew it.

We will not renew if you have failed to comply with licence conditions, or if there are highways works planned that will affect your licensed area.

## If we decide to refuse or revoke

If we refuse your application for grant or renewal of a pavement licence you will be notified in writing within 10 days with the reasons for refusal.

If you are not satisfied with the decision you may request in writing within 21 days of the date of the refusal letter a hearing in front of the Licensing Committee for it to reconsider your application.

If we refuse your application we will refund part of the fee less any administrative costs. You can find details of these costs earlier in this policy.

## Representation to the Licensing Committee

When you request a hearing by the Licensing Committee we will arrange it and advise you in writing of the date, time and place. You should attend the hearing and you can be represented by a solicitor, or supported by a friend or colleague. We will prepare an agenda for the hearing and you will receive a copy of it before the hearing. The agenda will contain the procedure and any officer reports.

We write to let you know the decision of the Licensing Committee within 5 working days of the hearing.

## **Additional information**

### **Changes to the Licence**

Any changes to the licence, including replacement furniture and operating times must be notified and agreed in writing with the Council. There is a fee of £[redacted] to vary the licence.

### **Transfer**

If you want to transfer your licence to a new licence holder, you must notify us by writing to us. If we agree we will issue a new licence. There is a fee of £[redacted] to transfer the licence.

### **Licensed Premises – Licensing Act 2003**

If you intend to carry out any licensable activity i.e. the sale of alcohol within the licensed area you should contact the [redacted] Officer (Licensing) to find out if you need to vary your current premises licence to include the licensed area.

### **Designated Public Places Orders (DPPO)**

Designated public places orders (DPPO) are used by the Council to deal with the problems of alcohol related anti-social behaviour in public places. It is not an offence to consume alcohol within a designated area, but failure to comply with a police officer's request to stop drinking and give them your alcohol without reasonable excuse is an offence.

If a premises licence issued under the Licensing Act 2003 covers the area outside the premises, or a pavement licence has been granted, then a DPPO does not apply to that section of the highway.

## **Enforcement**

We may revoke the licence if you breach the conditions attached it. We may also revoke/suspend the licence if the land is required for other purposes, or for any other reason. We will give you 28 days' notice of our intention to revoke the licence. You can make representations to persuade us not to revoke the licence.

The following enforcement protocol will apply to pavement licences:

1. on the first breach of a licence condition, we may issue a written warning.
2. on the second breach we may issue a final written warning.
3. a third breach of conditions may result in the licence being revoked.

We will consider any breach on the facts.

## Appendix A – Consultees

You have to send a copy of your application to each of the consultees set out in the table below

<p>[Redacted] Officer (Licensing)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]t</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>Tel: [Redacted]</p> <p>[Redacted]</p> <p>Email: [Redacted]</p> <p>Website: [Redacted]</p>	<p>Fire Protection Manager Fire Protection</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>Tel: [Redacted]</p> <p>Email: [Redacted]</p>
<p>Licensing Officer Community Safety Unit [Redacted] Police Station</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>Tel: [Redacted]</p> <p>Email: [Redacted]</p>	<p>Hertfordshire County Council Network Strategy &amp; Compliance Licensing &amp; Enforcement Team</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>
<p>Planning Enforcement Officer</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	<p>Environmental [Redacted] Officer</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>

Tel: [REDACTED]	[REDACTED]
Email: [REDACTED]	[REDACTED]
	[REDACTED]
	T: [REDACTED]
	F: [REDACTED]
	Email: [REDACTED]

**In addition to the above, you must send copies to the local Town or Parish Council if the premises fall within the area of a Town or Parish Council..**

Details of Local Town or Parish Councils can be obtained from [REDACTED]  
[REDACTED]

If you have any queries about the application or completing the form, you can telephone the [REDACTED] Officer (Licensing) [REDACTED], or e-mail: [REDACTED]

## Appendix B Application Form

The guidance for the applicant document should be referred to prior to completing the application form to ensure applicants are able to meet the criteria applicable before applying for a permit.

<p><b>Applicant's name</b></p>  <p><b>Company name/address and postcode:</b></p>  <p><b>Telephone:</b></p>  <p><b>E-mail:</b></p>  <p><b>Agent's details (if applicable)</b></p>  <p><b>Company name/address and postcode:</b></p>  <p><b>Telephone:</b></p>  <p><b>E-mail:</b></p>
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**Name and Address of premises where it is proposed to place tables and chairs:**

Telephone Number:

Please give the name of a **contact person** at these premises if different from Q1:

**Please tick as appropriate:**

Do you occupy these premises as

freeholder

leaseholder

tenant

other

**To be completed by the freeholder or their authorised representative if applying for the first time.**

I/We give our consent to this application being made:

Name:

Capacity:

Address:

Telephone Number:

Email address:

Signature or official stamp:

**What is the nature of the business at these premises? (please be specific)**

**Location:** \_\_\_\_\_

size of area (m), length: \_\_\_\_\_, width: \_\_\_\_\_

**How many tables and chairs do you propose to have at the site?**

Number of tables: \_\_\_\_\_ Number of chairs: \_\_\_\_\_

Number of umbrellas: \_\_\_\_\_

**Details of furniture (e.g. type, colour, material, size):**

  
  
  
  
  
  
  
  
  
  

Please indicate below the **proposed days and times of operation for the tables and chairs:**

Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
<b>Times of operation</b>							
<b>Start</b>							
<b>End</b>							

**What date would you like the licence to start?**

**Checklist:**

- Completed application form
- Cheque for the relevant fee
- Your current Public Liability Insurance Certificate to the sum of at least £10 million.
- A scale plan of the area
- A location plan
- A copy of your completed public notice

**Confirmation**

By signing the box below you are confirming that you have:

- sent a copy of the attached public notice to the 15 properties residential or commercial that are nearest to your premises, with a copy of the letter sent to the properties attached.
- sent copies of the application to the consultees.

Your signature:

Date:

**DATA PROTECTION ACT 1998**

Information about you may be stored electronically or manually, and will only be processed in accordance with the Act. Certain information may be open to public inspection or record. However, we may exchange information with others where necessary, for example, for the purposes of the prevention or detection of crime or the collection of taxes, or where we are required to do so by law.

Please return the **completed application form** to:

[REDACTED] Officer (Licensing), [REDACTED]  
[REDACTED] Council, [REDACTED]  
[REDACTED]

## Appendix C

### Conditions of Pavement Licence

The following conditions will be applied to all licences. Further additional conditions may be applied to licences where necessary.

1. You are only allowed to place furniture and structures on the pavement/highway during the hours granted on your licence. Outside of these hours you must remove the furniture and structures from the pavement/highway. You must leave the pavement/highway in a neat and tidy condition at the end of each day.
2. If you breach any of your conditions we may revoke or suspend the licence. We will give you 28 days notice in writing before we revoke or suspend the licence.
3. You must not cause any unnecessary obstruction of the pavement/highway or danger to people using the pavement/highway.
4. You must not allow people to gather and cause a nuisance or annoyance or danger to any persons lawfully using the pavement/highway.
5. You must not play music amplified or unamplified or any musical instruments radio or television whilst your licence is in operation.
6. You must not allow any excavations or indentations of any description in the surface of the highway or place or fix equipment of any description in the surface of the highway.
7. You must not allow the use of the highway for any other purpose at any time other than during the hours permitted by your licence.

8. You must not place any furniture or equipment or advertisement on the highway that is not specified in your Licence. You must not obstruct the access and exits to your premises.
9. You must ensure the licensed area and the immediately adjacent area is kept in a clean and tidy condition during the permitted hours. You must provide litterbins for rubbish as required by us. You should dispose of food waste appropriately.
10. You must remove all furniture, litterbins and other equipment placed on the highway at the expiry, surrender or revocation of the Licence.
11. During an emergency you must remove the permitted structures from the highway, if instructed to do so by;
  - Police officer
  - Fire officer
  - Paramedic
  - Undertaker
  - Utilities companies
  - Other authorised persons
12. You must remove the permitted obstructions from the highway if instructed to do so by the Highway Authority. They may require items to be moved from the area for maintenance or any other purpose.
13. You must display the Pavement Licence at the premises.
14. You must comply with any reasonable requests in relation to the use of the highway by officers on behalf of the Council.
15. You must provide suitable barriers around the permitted area where required by us.
16. You can only place the tables, chairs and umbrellas outside the premises between the hours of 08:00 and 23:00 hours.

17. You must indemnify the Council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use of the chairs and tables and other objects and for this purpose must take out at the your expense a policy of insurance approved by the Council in the sum of at least £10,000,000 (TEN MILLION POUNDS) in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.
  
18. You must not charge for the use of the chairs and tables and other furniture.



**PUBLIC NOTICE**  
**APPLICATION TO PLACE TABLES AND CHAIRS**  
**ON THE PUBLIC HIGHWAY**  
HIGHWAYS ACT 1980, SECTION 115E

Application has been made to St Albans City and District Council under Section 115E of the Highways Act 1980 from

[Name of applicant]

on behalf of the occupier of the premises currently known as

[Name and address of premises]

for permission to place

[state how many chairs and how many tables]

on the public highway known as

[name of road on which premises are situated]

on the following days and times:

[state proposed days and times]

Plans showing the proposed layout of the tables and chairs are available for inspection during normal office hours at the [redacted] Council Offices for 28 days from the date of this notice.

Any person wishing to make representations to the Council regarding the proposal should send them in writing to Licensing Section, [redacted] Council, [redacted] or via e-mail [redacted]

[insert date, 28 days from the date the application was made to the Council]

Signed:

[signature of applicant/authorised representative]  
[Date of notice]