



Pavement Licensing Policy

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1. Introduction

The Business and Planning Act 2020 (“the Act”) was introduced to support economic recovery following the Covid-19 pandemic. It created a temporary regime allowing premises such as bars, restaurants, and cafés to place furniture on highways for outdoor service through a simplified licensing process.

Sections 1–10 of the Act enabled local authorities to issue “pavement licences” quickly and at lower cost, helping businesses operate safely during social distancing and maintain income and jobs.

The Levelling Up and Regeneration Act 2023 made these provisions permanent. From 1 April 2024, all applications will be processed under this permanent regime.

The Licensing Authority supports pavement cafés but requires them to operate without obstructing highways or causing inconvenience to pedestrians and residents. Safe access for all—including disabled people and families with young children—remains a priority.

In general, all parts of the highway adjacent to the applicant’s premises may be considered for a pavement licence except:

- Carriageways or shared-use surfaces
- Highway verges
- Locations where pavement width or existing street furniture makes it impractical.

2. Scope

2.1 Definition of pavement licence

A pavement licence allows a business to place removable furniture on certain highways adjacent to its premises for specified purposes. Licences are granted by the local authority or deemed granted under the Act.

2.2 Eligible businesses

Businesses that sell food or drink for consumption on or off the premises may apply for a licence. Eligible businesses include:

- Public houses
- Cafés
- Bars

- Restaurants
- Snack bars
- Coffee shops
- Ice cream parlours

A licence permits the use of furniture on the highway for selling or serving food or drink and/or for customers to consume food or drink supplied by the premises.

2.3 **Eligible locations**

Licences can only be granted for highways listed in section 115A(1) of the Highways Act 1980, typically pedestrian footpaths or roads where vehicle access is restricted. Highways maintained by Network Rail or Crown land are excluded.

A pavement licence does not grant the right to permanently close a road. To do so, a pedestrian planning order under the Town and Country Planning Act 1990 would be required.

2.4 **Type of furniture permitted**

Permitted furniture includes:

- 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.

All furniture must be removable and capable of being stored securely when not in use. The Licensing Authority expects 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

Applications must be submitted to the Licensing Authority with the following:

- the required fee;
- a plan showing the location of the premises indicated with a red line, so the site can be clearly identified;
- a plan clearly showing the proposed area to be 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 of furniture to be placed 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;
- the proposed days of the week and the times of day between which, it is proposed to put furniture on the highway;
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- the proposed duration of the licence;
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and a copy 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 local conditions, and any national conditions will be satisfied.

Applications will not be considered valid until all required documents are received. The public consultation period begins the day after a valid application is submitted.

Where an application is rejected, the applicant will not be entitled to a refund of the application fee. Any future application submitted by the applicant will be treated as a new application and must be accompanied by the full applicable fee.

3.2 Fees

Fees are locally set but nationally capped at £500 for new applications and £350 for renewals. Wyre Council fees are:

- New applications: £450
- Renewals: £325

3.3 Consultation

Consultation lasts 14 days, starting the day after a valid application is received. The Licensing Authority will:

- Publish application details on its website
- Consult with Lancashire County Council (Highways Authority)
- Consult with Lancashire Constabulary, Fire and Rescue Service, Wyre Council Planning and Environmental Health teams, and local councillors

Representations from the above parties or members of the public should be provided to Wyre Council's licensing team by emailing licensing@wyre.gov.uk or submitting our online form.

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

3.4 Site notice

Applicants must display a site notice at the premises from the day the application is submitted until the end of the consultation period. Evidence that site notice requirements have been met must be supplied to the Licensing Authority.

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 Licensing Authority 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
- state the end date of the consultation period, being 14 days starting the day after the valid application is submitted to the Licensing Authority

A template site notice is provided at **Appendix 1**.

3.5 **Site assessment**

The following matters will be used by the Licensing Authority and consultees in considering the suitability of the proposal:

- public health and safety – appropriate equipment proposed, suitable barriers etc;
- 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 4.2 of Inclusive Mobility ([Inclusive mobility: making transport accessible for passengers and pedestrians - GOV.UK \(www.gov.uk\)](#))
 - the cumulative impact of multiple pavement licences in close proximity to each other and if there is specific evidence that this may create a build-up of furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people, 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 occupiers prior to submitting their application and to take any issues around noise, and nuisance into consideration as part of the proposal. Discussions with neighbours should consider any plans neighbouring businesses have also to place tables and chairs on the highway and plans for customers to queue outside.

In addition, consideration must be given to Counter Terrorism measures and how operators consider security at Publicly Accessible Locations and ensure that protective security form a routine part of the business. The Metropolitan Police Service, National Counter Terrorism Security Office (NaCTSO), and Centre for the Protection of the National Infrastructure (CPNI) provided Local Authorities with proportionate advice to protect public realm space which led to the Metropolitan Police Service developing two Counter Terrorism Pavement Licence conditions which contain appropriate security features. Those conditions are referenced at **Appendix 2** of this document and are supported by Lancashire Constabulary.

3.6 **Determination**

Once the valid application is submitted the Licensing Authority has 28 days from the day after the application is made (excluding public holidays) to consult upon 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 end date.

If the Licensing Authority determines the application before the end of the determination period it 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 no decision is made within 28 days, the licence is deemed granted.

3.7 **Approval of applications**

On approving the application the Licensing Authority will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours of operation

and appearance and location of the furniture corresponding to the application.

Pavement Licences will generally be permitted between 09:00 and 22:00 hours. Applications for pavement licenses falling outside these hours will be considered on their own merits on a case by case basis. The Licensing Authority also retains the right to specify permitted hours that are less than those above, where it considers it appropriate to do so.

All furniture must be removed from the highway outside the permitted hours, unless a valid premises licence authorising the sale of alcohol issued under the Licensing Act 2003, is in place.

In this case, furniture may remain in situ until the premises close, but the area may not be used for the service or consumption of food or drink after the terminal hour on the pavement licence.

3.8 Licence duration

If the Council determines an application before the end of the determination period (which is 14 days, beginning with the first day after the public consultation period, excluding public holidays) the Council can specify the duration of the licence, subject to a minimum duration of three months.

The expectation from the Government is that Councils will grant licences for the maximum period permitted and so the Licensing Authority shall normally grant licences for 2 years unless there is a good reason to do otherwise.

If a licence is 'deemed' granted because the Council does not make a decision on an application before the end of the determination period, then the licence will be valid for two years starting on the first day after the determination period.

3.9 Refusal of applications

Applications may be refused if:

- The site is unsuitable
- Representations cannot be mitigated by conditions
- False or misleading information was provided
- Notice requirements were not met

There is no statutory appeal process. Applicants may reapply after addressing concerns.

4. Conditions

4.1 Standard conditions

A copy of our standard conditions are shown 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, and the Licensing Authority will confirm the reasons why any additional conditions have been imposed. Additional conditions may be attached, or the standard conditions varied, if the Licensing Authority considers it appropriate in the circumstances of that case.

4.2 National conditions

The Act contains two national conditions that all granted and deemed granted licences must adhere to if the relevant local authority fails to publish their own conditions, or the published conditions fail to make provision for observing the national conditions.

The two conditions are;

- a no-obstruction condition
- a smoke-free seating condition

The Licensing Authority considers that 'reasonable provision for smoke-free seating' is that smoking will not be permitted on at least half of the total number of tables provided.

The Act also allows for the Secretary of State to produce, via Regulations, conditions for pavement licences, and to stipulate whether these conditions have effect as well as, or instead of, the conditions placed on a licence by a local authority. If such conditions are created, this guidance will be amended to reflect them, and all licence holders will be notified of any changes this may create.

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

National Conditions are shown at **Appendix 3**.

5. Enforcement

5.1 General approach

The Licensing Authority works with other enforcement authorities to ensure compliance with all relevant legislation. Obstruction of the highway remains an offence under the Highways Act 1980 and may be enforced by the Highways Authority or Police.

Obtaining a pavement licence does not exempt the holder from other legal requirements, such as health and safety, food hygiene, alcohol licensing, and noise control.

Where licence conditions are breached we may issue a notice requiring the breach to be remedied and recover any associated costs.

If furniture is placed on the highway without a licence, the Licensing Authority may:

- Issue a notice requiring removal
- Remove and store the furniture if the notice is ignored
- Recover removal and storage costs
- Retain furniture until costs are paid
- Dispose of furniture after three months if costs remain unpaid

The Licensing Authority may also amend a licence with the holder's consent.

5.2 Circumstances where a licence may be revoked

The Council may revoke a licence if:

- Conditions are breached
- Public health or safety risks arise
- The highway is obstructed
- Anti-social behaviour or nuisance occurs
- False or misleading information was provided in the application
- Notice requirements were not met
- The licensed area becomes unsuitable (e.g., road reopens to traffic)

A licence may also be revoked where all or any part of the area of the relevant highway to which it relates has become unsuitable for any purpose for which it was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised.

The Licensing Authority will provide reasons when revoking a licence.

6. Review procedures

This policy governs pavement licences under the Business and Planning Act 2020. It is a living document and will be reviewed regularly to ensure it reflects current legislation, guidance, and best practice.

Updates will be made as required to incorporate changes in law or local policy. Where significant amendments occur, the Council will publish the updated policy and notify licence holders and relevant stakeholders.

Appendix 1 - Site notice template

Section 2(5) of the Business and Planning Act 2020.

Notice of Application submitted to Wyre Council in respect of a Pavement Licence for

[Insert name and full address of premises here]

NOTICE IS HEREBY GIVEN that in accordance with Business and Planning Act 2020 (**Applicant Name**) has made an application to Wyre Council on (**Insert Date**) for a Pavement Licence.

The application is for: ***(Description of the highway area to be utilised e.g area extending X metres from the frontage of the premises address and description of proposed activities)***

Proposed operating hours ***(please insert proposed days and times)***

Any person wishing to make representations to this application may do so using our online form or by email, to licensing@wyre.gov.uk. The representation should be headed Pavement licence representation (**Insert premises name**). Alternatively, in writing to Wyre Council Licensing Unit, Civic Centre, Breck Road, Poulton le Fylde, FY6 7PU **to be received no later than 14 days from the date of this notice.**

Signed

Name in Print.....

Date.....

The application and information submitted with it can be viewed on [our website](#)

Appendix 2 - Standard licence conditions

These conditions are not an exhaustive list.

Each application will be considered on its own merits and individual, specific conditions may be attached where deemed appropriate.

Where a licence is deemed granted, the applicant is deemed to be a 'licence holder' and is required to comply with all of the below conditions. In such circumstances, references to 'licensed area' should be understood to mean the area proposed for licensing within the application.

1. The Licence will remain in force for 2 years unless otherwise agreed, surrendered or revoked earlier.
2. The issue of a Licence does not give or imply any permission to supply intoxicating liquor in the street.
3. The Licence is none transferable and shall be rendered invalid should the licensee cease trading at the premises.
4. The Licence shall be prominently displayed in the window of the premises to which it relates.
5. The use of the licensed area for the supply or consumption of food and drink is only permitted between 09:00 hours and 22:00 hours each day.
6. Any Licence issued in respect of land where an approved outdoor market takes place, will automatically exclude the normal operational hours for the market.
7. The licensee must 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, is minimised.
8. The licensed area shall be vacated immediately if requested by the Council, Lancashire Constabulary or other emergency service, statutory undertaker etc. for any reasonable cause, without any liability for compensation, refund of application fee, or damage arising.
9. The Council reserve the right to request the clearing of the licensed area if required for the purposes of public safety.

10. The licensee shall indemnify the Council throughout the licensed period and shall supply a policy of insurance indemnifying himself and the Council against any injury or damage to any person or property and against any claim liability expense or damage arising by reason or in consequence of the permission granted. The policy shall provide cover of not less than £5,000,000 in respect of any one accident or series of accidents arising from one incident unlimited during the period of the insurance.
11. The licensee is not to make or cause to be made any claim against the Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
12. Upon expiry or revocation of the permission, the licensee must remove any structures from the highway and reinstate the highway to its former state and condition and in default thereof, the Council will be empowered to carry out such work of reinstatement and recover the expense in so doing from the licensee.
13. For streets with footways and carriageways, a minimum unobstructed footpath width of 2 metres must be provided for safe and convenient pedestrian movement. This distance being, measured from the edge of the licensed area to any permanent street furniture (such as lamp posts, bollards, parking meters etc.). Where there is a heavy pedestrian flow additional footpath space may be required.
14. For pedestrianised streets, a minimum width of 2.4 metres or one third of the total width of the public highway, whichever is the greater, must remain free and unobstructed to facilitate pedestrian movement. This figure may be increased where there is a heavy pedestrian flow.
15. A clear direct pathway of at least 1.2 metres wide shall be maintained to allow entry and exit from building.
16. Only the licensed area as set out in the application shall be used for trading.
17. At least half of the tables provided in the licensed area must be designated as 'non-smoking' areas, with 'no smoking' signage displayed, to clearly identify the smoke-free area.
18. No ash trays or similar receptacles are to be provided or permitted to be left on furniture where smoke-free seating is identified.

19. Licence holders should provide a minimum 2 metres distance between non-smoking and smoking areas, wherever possible.
20. A well designed and constructed physical barrier or roped area of approximately 0.8 metres in height is required to designate the licensed area and to guide persons with sight disability around the use. Such barriers must not be permanently fixed to the ground.
21. Only those tables, chairs, etc. indicated in the application may be placed within the licensed area. No other items other than receptacles shall be placed within this area.
22. Tables and chairs shall be durable and suitable for outside use. All furniture shall be maintained to a good standard.
23. Tables, chairs, umbrellas etc. shall not be positioned to obstruct sight lines for drivers of vehicles at junctions.
24. No canopy or umbrella shall be lower than 2.1 metres in height and shall be adequately secured.
25. All furniture, including barriers shall be removed and stored at the end of the approved trading hours as defined by the Licence.
26. Suitable secure storage for furniture shall be identified by the applicant at the time of application for a licence.
27. There must be adequate provision made for the collection and containment of litter and, if directed, the licensee must provide suitable litter bins.
28. The Licensee will ensure that the designated area is maintained throughout the permitted hours in a clean and tidy condition and that all waste food is removed and disposed of promptly.
29. The Licensee shall take appropriate precautions to prevent the immediate highway from becoming littered as a result of trading activities and will be responsible for the clearing of all litter within 5 metres of the edge of the licensed area throughout the permitted hours and at the close of the permitted hours.
30. The Licensee shall at all times when the pavement licence is in operation make available for customers toilets and hand washing facilities, to wheelchair accessible standards where it is practicable and reasonable to do so.

31. No speakers or playing of music shall be permitted within the licensed area.
32. No electrical cables shall be run along the ground in such a way that they create a trip hazard or are susceptible to mechanical damage.
33. 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 relevant Highway Authority. 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 the relevant Highway Authority.

Alcohol licenses only

34. Where intoxicating liquor is permitted to be served or consumed in the licensed area, polycarbonate or plastic glasses must be used at all times.
35. All patrons consuming intoxicating liquor must be seated at a table within the licensed area, there will be no vertical drinking.

Counter terrorism model security considerations:

1. The Pavement Licence holder will need to ensure that the management team of the business to which the pavement licence is attached; register and successfully complete the nationally recognised counter terrorism training product referred to as ACT E Learning within 10 days of the notification of the grant of the Pavement Licence OR can demonstrate that the ACT E Learning product has successfully been completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT E Learning within a reasonable period not exceeding 3 months from the notification of the grant of the Pavement Licence. (ACT E Learning certificates are provided on successful on-line completion).
2. The Pavement Licence holder must ensure that any CCTV system is fully operational, well maintained, and compliant with the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018, ICO requirements, and any local CCTV codes of practice. CCTV footage must be retained for a period justified by the licence holder's operational needs (normally 28 days unless otherwise specified) and be made available to the Police or Local Authority on reasonable

request. Any faults rendering the system inoperable should be rectified within 24 hours.

Appendix 3 - National conditions

National Conditions [All section references are to the Business and Planning Act 2020]

No-obstruction condition:

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.

When considering whether the furniture has / would have the effect referred to in a) above the authority must have regard to 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.

Smoke-free seating condition:

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.

Appendix 4 – Scheme of delegation

Function	Officer	Comments
Grant of licence and imposition of non-standard conditions	Authorised Officer under Licensing Act 2003	Where no representations made or where representations recommend imposition of conditions.
Grant of licence and imposition of non-standard conditions	Authorised Officer under Licensing Act 2003 in consultation with Director of Environment (or equivalent)	Where representations are made and recommend the refusal of licence
Refusal to grant licence	Authorised Officer under Licensing Act 2003 in consultation with Director of Environment (or equivalent)	All cases
Issue of improvement notice	Authorised Officer under Licensing Act 2003	All cases
Revocation of licence	Authorised Officer under Licensing Act 2003 in consultation with Director of Environment (or equivalent)	All cases