

The Business and Planning Act 2020

Pavement Licence Application to permit the placing of removable furniture on the highway for the sale of food or drink for consumption

Guidance

Private property is already exempt from the need for pavement trading licensing.

The furniture which may be used:

- tables, counters, stalls or shelves on which food or drink can be placed or served
- chairs, benches or other forms of seating
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable. This means it is not a permanent fixed structure, and is able to be moved easily, and stored away outside of the permitted hours.

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 (1.5m) and distances required for access by mobility impaired and visually impaired people. A wheelchair user and an ambulant person side-by-side need **1500mm** width on the highway.

What businesses are eligible?

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.

What is the cost and how do I make a payment?

The cost of the licence is fixed at £500.

Granting of a Pavement Trading Licence

The local authority may grant or reject the application and, in granting the application, they may make their own determination as to how much of the space requested, the licence will cover.

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.

Where a pavement licence is granted or deemed to have been granted, it is deemed to include any conditions published by the Secretary of State.

The local authority can add conditions to the licence and can publish conditions which it proposes to add to Pavement Trading Licences.

If a condition of the licence has been breached, the local authority may revoke the licence or may require steps to be taken to remedy the breach.

In addition, further grounds for revocation of the licence including where the furniture is giving rise to risks to public health and safety or risks causing a public nuisance.

The licence can also be revoked where the person did not put up a notice to publicise the application as required, or anything in the application was false or misleading.

If a licence-holder on whom a notice is served by the Licensing Authority fails to comply with the notice, the local authority may revoke the notice, or take the steps itself and recover the costs of doing so from the licence holder.

Where a pavement licence is in effect, a street trading licence is not needed for any activity authorised by the pavement licence.

The London Borough of Redbridge Council acting as the Licensing authority retain the power under section 149 of the Highways Act to remove furniture placed on the highway should it constitute a nuisance or danger under that section.

Where a person has applied for a licence under the Highways Act 1980 or the London Local Authorities Act 1990 or another local Act and has paid a fee and then, before a decision is made on that first application, the person applies for a pavement licence, the local authority will not charge a fee in respect of the application for a pavement licence, and the first application is treated as being withdrawn.

Alcohol Licensing: off-sales extension

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.

The measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This will allow businesses to trade whilst keeping social distancing measures in place inside.

The provisions remove the need for any application to be made, therefore no fee will need to be paid. This is designed to deliver savings to businesses, as well as providing them with certainty about how they are able to trade. It will also reduce the burden on local authorities and the police, who will not need to scrutinize any applications for licence variations from the premises affected by these measures.

Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through this legislation.

The default hours in which off-sales will be permitted will be the same as those in which on-sales are permitted. Any licensee who wished to open for longer hours could apply for a licence variation.

The provisions will also apply temporary conditions to licences where there is a pre-existing permission for off-sales.

The conditions will set the hours of off-sales to match those for on-sales, allow off-sales of alcohol in open containers and allow deliveries of alcohol to residential or work buildings. Those conditions will suspend existing conditions that are more restrictive. So, for example, an existing condition that allowed off-sales only in closed containers would be suspended to allow sales in open containers.

If there were problems of crime and disorder, public nuisance, public safety or the protection of children arising from how the premises operated using the new permission, any responsible authority, including the police or environmental health, could apply for a new off-sales review. The off-sales review process is modelled on the existing summary review process. In the event that an off-sales review is triggered, it will only relate to off-sales authorised by virtue of these provisions, or conditions which have effect by virtue of these provisions: it cannot be used to revoke the existing licence or modify pre-existing licence conditions.

N.B. A Tables and Chairs Licence will still be required if the premises licence holder wishes to place removable furniture on the highway.