

Business and Planning Act 2020

Application for a Pavement Licence

A pavement licence is a licence granted by the Council, 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 the purposes of serving food and drink to customers.

Lewisham Council will consider your application for a Pavement Licence in accordance with the conditions attached at Annex 1 and Annex 2 to this application form.

Prior to completing the application form, please note the following **important information**

- The licence can operate between the hours of **9.00am** and **10.00pm**. Further restrictions on operating hours may be applicable at some locations as outlined in the conditions.
- The applicant shall have public liability insurance in the sum of at least **£5 million**.
- The licence can be issued for up to 2 years.
- The Local Authority has **28 days** from the day after the receipt of a valid application to consult on and determine the application.

The following will be required to be submitted to the Council with this application:

- the required fee of £500 for a new application, £350.00 for a renewal, paid by credit or debit card
- proof of the identity and right to work in the UK
- plan showing the location of the premises shown by a red line, so the application site can be clearly identified (please use an OS Base Map)
- 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 that the applicant wishes to place 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.
- Proof of right to occupy (or lease)
- a risk assessment demonstrating how the applicant will manage social distancing and the conflict between pedestrians using the footway, those using the tables and those queuing to access the premises,
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied for;
- (if applicable) reference of existing forecourt or tables and chairs licence currently under consideration by the local authority;
- 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 you wish to provide to demonstrate how the Council's local conditions and any national conditions will be satisfied.

1: Details of the Business and Applicant

APPLICANT DETAILS		
Title:	*First name(s):	*Surname:
Postal Address:		
Phone (Home):		Phone (Mobile):
E-mail address:		
Date of Birth:		
Name & Address of owner (if different to applicant)		
Email address & telephone number of owner (if different to applicant)		

BUSINESS PREMISES DETAILS	
*Trading Name:	
*Postal Address:	
Which of the following is the above premises used for? (please tick one of the following options)	
Use as a public house, wine bar or other drinking establishment	
Other use for the sale of food or drink for consumption on or off the premises	
Both of the above uses	

*These details will be included in a public notice on the premises and the local authority website

Duration of licence: Licences that are granted will be issued up to 2 years.

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2: Details of the days of the week and the hours between which the furniture will be used

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Time from Not before 9am							
Time to No later than 10pm							

3: Opening hours of the premises

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Time from							
Time to							

4: Type of Furniture to which the application relates

Details of proposed furniture Applicants are required to describe the type of furniture (including approximate sizes)			
Proposed Number of tables (including approximate sizes)		Proposed number of chairs (including approximate sizes)	

RELEVANT PURPOSE THE APPLICATION RELATES TO:	
Which of the following relevant purposes do you wish to put furniture on the highway for? (please tick one of the following options)	
To sell or serve food or drink supplied from, or in connection with relevant use of, the premises	
For the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises	
Both of the above purposes	

Do you currently hold a forecourt licence with Lewisham Council? Yes / No (please circle)

4: Sketch Diagram / Plan / description of area to be used

<p>Please provide a sketch diagram / plan of the area that will be included in the licence showing proposed layout of tables chairs and any barriers <i>(Please include the dimensions of the area)</i></p>
<div style="height: 600px;"></div>

5: Conditions, Declaration and Indemnity

	Enclosed	To follow (application will not be valid until received)	Agree (please indicate yes or no)
Public Consultation I undertake to carry out the necessary public consultation in accordance with the requirements of the Act and note that if found to have failed to comply with these requirements the licence will be void and no compensation will be payable			
Public Liability Insurance (a copy of my public liability insurance indicating that the sum insured is no less than £5,000,000)			
Indemnity In the event of the Local Authority granting permission sought herein, I agree to indemnify and hold harmless the relevant Council(s) from and against all actions in law or inequity, damages, statutory or common law losses, costs charges and expenses arising in manner whatsoever out of the placing of tables, chairs and other items on pavements			
Conditions of Pavement Licence I have read, understood and give my undertaking to observe and abide by the conditions of the licence and any other additional conditions, which may be listed as part of this licence supplied to me			
Right to revoke or Suspend Pavement Licence I understand that the Local Authority has the right to revoke or suspend the licence and that no compensation will be payable			
Signature of Applicant		Signature of Business owner (if different to applicant)	
Please print name		Please print name	
Date Application made			

ANNEX 1

SCHEDULE OF STANDARD CONDITIONS FOR PAVEMENT LICENCE BUSINESS AND PLANNING ACT 2020

Licence

1. The licence must be displayed on the premises with a plan of the agreed layout of the pavement licence for inspection by authorised Officers.
2. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.
3. The Licence is personal to the Licensee and cannot be transferred to any other person, business or organisation.
4. Unless otherwise specified on the Licence, the Licence shall run for up to 2 years and shall remain in force only for such period of time as the Licensee remains the occupier of the Premises or until withdrawn by the Local Authority under the Act or surrendered to the Local Authority by the Licensee, subject to annual renewal.
5. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period or on revocation of the licence.
6. Lewisham Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.

Times of Use

7. The Licence allows the use of tables and chairs in the permitted area between the hours of 9am and 10pm. Outside of these times all furniture must be removed and stored away within the premises.
8. Tables and chairs must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside a premises away from the highway.

Furniture

9. Tables and chairs should be of an appropriate type and should be kept in a good state of repair. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council.
10. Tables and chairs must be separate rather than being an integrated unit, and be of a design so not to be blown over by the wind. Tables and chairs must be suitable for outside use and if damaged must be replaced.
11. XXXX tables and xxxx chairs are permitted. Layout of tables and chairs and any other furniture must be displayed on the plan.
12. The Licensed Area shall be protected by barriers of a sturdy design to ensure that furniture stays within the licensed area and does not cause an obstruction.
13. Where umbrellas are used they must be at a minimum height of 2 metres.

14. Tables, chairs and umbrellas shall not be positioned to obstruct sight lines of drivers of vehicles at junctions.
15. Lewisham Council are empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored. The Council will not be responsible for its safekeeping.
16. 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. 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 Lewisham Council or the Highway Authority.
17. The installation of marquees, patio heaters, barbecues, electric generators, rotisseries, ice cream machines, drinks machines and other equipment for the sale of food and drink for consumption on or off the premises will require consent from the Licensing Authority. The Council reserves the right to refuse the use of such equipment.

Access

18. Permission to operate a pavement café does not imply an exclusive right to the area of public highway. The licence holder must be aware that Lewisham Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause. This may mean that the pavement café will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
19. Emergency routes to the premises and adjacent buildings must not be obstructed by the Pavement Café, which should not, in normal circumstances, extend beyond the width of the premises frontage.
20. The operation of the area must not interfere with highway drainage arrangements.
21. Where licences are granted in areas where the pavement is usually used for purposes of a regular Market (e.g. Deptford High Street, Lewisham High Street, Catford Broadway) the licence is only applicable on days where the Market is not operating. It is the responsibility of the licence holder to establish what days the Market usually operates before making an application.

Insurance

22. Lewisham Council requires evidence that the licence holder has Public Liability Insurance for the operation of the Pavement Café. This must indemnify Lewisham Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.
23. The licensee shall keep available their proof of public liability insurance at all times and shall present it for inspection when required to do so by an authorised officer of the Council, Transport for London or by a Police Officer.
24. The licence holder is not to make or cause to be made any claim against Lewisham Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.

Obstruction

25. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
26. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.

27. The method of marking the boundary of the licensed area must be agreed between the licence holder and the Licensing Authority. Whatever method is agreed a minimum of 2.1 metres clear walkway must be maintained for the use of pedestrians between the edge of the seating area and the kerb of the pavement.
28. Where licences fall within the Transport for London Road network (i.e. A2, A20, A202, A21 and A205 (South Circular)) the minimum clear passage required will depend on the intensity of pedestrian usage at that location. Where licences may be permitted clearance will be up to 4 metres.
29. Where licences fall within the following high footfall areas, a minimum distance of 3.5m clear walkway must be available at any time between the edge of the seating area and the kerb of the footway:

Road Name	Area
Albion Way	Lewisham High Street to o/s Methodist Church
Baring Road	Chinbrook Road to Wydeville Manor Road
Blackheath Village	Whole road
Brockley Road	Brockley Grove to Merritt Road
Brockley Road	Harefield Road to Brockley Cross
Catford Broadway	Includes access way to shopping centre
Dartmouth Road	Derby Hill to London Road
Deptford High Street	Whole road
Douglas Way	Deptford High Street to Idonias Street
Kirkdale	Sydenham Road to Peak Hill Avenue
Lee Road	Blackheath Park to Blackheath Village and Independents Road
Lewis Grove	Whole road
Lewisham High Street	Whole road
Lewisham Road	Rennell Street to Lewisham Hill
Limes Grove	Lewisham High Street to Clipper Way
Montpelier Vale	Whole road
Royal Parade	Whole road
Station Road	Whole road
Sydenham Road	Kent House Road to Kirkdale
Tranquil Vale	Blackheath Village to Royal Parade
Winslade Way	1 st 30 metres from junction with Rushey Green
Catford gyratory	Whole road
London Rd	Sydenham,
Bromley Rd/Downham Way	Whole Road
Lewisham High Street	Opposite old Fire Station
Lewisham High Street	Around KFC
Lewisham High Street	Opposite Police Station/around NatWest
Lee High Road	Around building 13
New Cross Road	Around New Cross Gate station/Iceland/311/186 New Cross Rd

Public Safety & Prevention of Nuisance

30. The licensee should 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.
31. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
32. At no time is the playing of music allowed for customers using the licensable area, nor is the use of speakers or other music equipment allowed to ensure noise nuisance is kept to a minimum for neighbouring properties.

33. All electrical cabling used to supply electricity to the pavement site, and all wiring, plugs, sockets and electrical equipment used,, must comply with current British Standards, Electricity at Work Regulations and I.E.E. Regulations in force at the time and the requirements of the electricity supplier.

Litter

34. All detritus (food and drink remnants, spillages, bottles, cans, wrappers etc) be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the Facility, for a distance of up to 10 metres from the boundary of the Facility. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
35. The licence holder must ensure there is an active waste disposal contract held for the duration of the licence. The waste contractor must be a licensed waste carrier and all duty of care requirements must be complied with by both the licence holder and the waste contractor.

Sale of Alcohol

36. The Licensee of a premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within licensed area.
37. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the Facility outside the hours in force for the Premises Licence itself.
38. The Licensee of a premises licensed under the Licensing Act 2003 must adhere to the footprint of their existing plan when making sales of alcohol. The pavement licence does not enable the licensee to make sales of alcohol from the street where that area does not fall within the licensable area on the premises licence. The pavement licence can only be used to serve and consume alcohol.

ANY OBSTRUCTION OF THE HIGHWAY WHICH IS NOT SPECIFICALLY AUTHORISED BY THIS PERMISSION MAY RENDER THE LICENSEE LIABLE TO PROSECUTION.

National Conditions

The Business and Planning 2020 Act sets out two conditions which apply to pavement licences which are granted or deemed to be granted these are:

1. A no-obstruction condition and a
2. A smoke-free seating condition.

These apply only to licences granted under the Business and Planning Act 2020, not existing licences permitted under Part 7A of the Highways Act 1980, or other relevant legislation.

1. **The no-obstruction condition** is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act. The following factors must be considered:

- 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, but is 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, (Lewisham Council has specified that 2.1m must be available and in high footfall areas this is increased to 3.5m)
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway;
- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway. The available route must be entirely clear and not pass through an area with tables and chairs;
- so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

2. **The national smoke-free seating condition** seeks to ensure customers to have greater choice, so that both smokers and non-smokers are able to sit outside, in order to protect public health by reducing risks of COVID transmission. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012 which can be viewed [here](#).
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2M distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.