

Pavement Licensing Policy

Effective from: 14 October 2024

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1. OVERVIEW AND SCOPE

1.1 The policy

1.1.1 This document states North Hertfordshire District Council's policy on pavement licensing as defined by the Business and Planning Act 2020 ("the Act").

1.2 The objectives of this policy

1.2.1 This Policy has been adopted with view to securing the following objectives:

- (i) **to enhance the towns centres of Baldock, Hitchin, Letchworth Garden City, plus the surrounding villages;**
- (ii) **to encourage the provision of outdoor seating areas outside food and drink businesses by adopting a permissive policy, providing compliance with standard conditions can be met;**
- (iii) **to prevent nuisance on, and obstruction of, the highway outside businesses used for the consumption of food and/or drink, unsafe practices, and anti-social behaviour.**

1.3 The law

1.3.1 A pavement licence allows businesses such as cafes, restaurants, and bars to place removable furniture on the highway in order 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.

1.3.2 A pavement licence can only authorise areas immediately outside or adjacent to the premises. It cannot be used for a shared centralised area used by multiple business; such licences remain the remit of Hertfordshire County Council under Part VIIA of the Highways Act 1980.

1.3.3 Pavement licences were first introduced as a temporary measure under the Business and Planning Act 2020 to promote economic recovery and growth in response to the economic impacts of the global Covid-19 pandemic. The temporary measures assisted businesses by introducing a reduced consultation and determination period, plus capped local fees, circumventing the historically longer and more expensive process under the Highways Act 1980.

1.3.4 The Levelling Up and Regeneration Act 2023 subsequently made the temporary legislation permanent, but with some enhancements. The key features of the Business and Planning Act 2020 are retained but changes include an increase in the fee cap, provision that licences can be issued for up to two years, increased consultation and determination times, provision for a renewal process, and enforcement powers for local authorities.

1.3.5 This policy has regard to the Guidance issued by the Department for Levelling up, Housing and Communities dated 2 April 2024.

1.4 Scope of pavement licences

Types of business in scope

1.4.1 Any business which sells, or proposes to sell, food or drink for consumption (on or off the premises) can apply for a pavement licence. Businesses that are eligible include, but are not limited to:

- public houses
- cafes
- bars
- restaurants
- snack bars
- coffee shops

including where this is ancillary to another main another use, for example supermarkets, or entertainment venues which sell food and drink.

Permitted activities

1.4.2 A pavement licence permits the business to place removeable furniture on the pavement to:

- sell or serve food or drink; and/or
- allow it to be used by people for consumption of food or drink supplied from the premises.

Permitted locations

1.4.3 Pavement licences can only be granted in respect of highways listed in section 115A (1) Highways Act 1980. Generally, these are footways restricted to pedestrians, or are roads and places to which vehicle access is restricted or prohibited.

1.4.4 Highways maintained by Network Rail or over Crown land are exempt, therefore a licence cannot be granted.

1.4.5 A pavement licence can only be granted for an area of highway immediately outside or adjacent to the business location and must be for sole use of the licence holder's business.

1.4.6 A pavement licence can only be granted on sites where the placing of removable furniture will enable clear access routes for pedestrians considering the needs of all users, including disabled people. Ordinarily, this will mean a width of 1500mm between the furniture and the outside edge of the pavement, clear of any obstruction (including street furniture).

Permitted furniture

1.4.7 The furniture which may be used within the licensed area 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

- menus and/or A boards
- umbrellas and heaters
- barriers around the seating area
- other articles used in connection with the outdoor consumption of food or drink

1.4.8 All furniture must be removable and related to the serving, sale, and consumption of food or drink from the premises. Permanent fixed structures are not permitted, and all furniture must be stored off the highway at the end of each day's trading.

Alternative permission outside of this policy

1.4.9 Applicants that wish to place furniture on the highway that does meet the criteria in this policy should contact Hertfordshire County Council and apply for permission under Part VIIA of the Highways Act 1980. This would include seating areas away from the premises, or communal areas in town centres (even if sub-divided per premises).

Sales of alcohol

1.4.10 Temporary amendments were made to the Licensing Act 2003 to allow businesses that had a premises licence under the Licensing Act 2003, which included the sale of alcohol for consumption on the premises, to automatically be given permission for off-sales of alcohol. This enables them to allow their customers to take alcohol, which they have bought on the premises outside and be consumed in the area covered by the pavement licence as an off sale.

1.4.11 This temporary arrangement only applies where the premises licence was issued before 22 July 2020 and is currently in place until 31 March 2025 but may not be extended beyond that date. If the date is not extended, paragraph 1.4.12 will apply.

1.4.12 Businesses holding a premises licence granted after 22 July 2020 will need to ensure that the premises licence either:

- include off sales of alcohol, or
- the outside area is included on the licence plan and forms part of the premises

if they want to allow customers to drink alcohol in the area covered by a pavement licence.

Planning permission

1.4.13 By virtue of The Business and Planning Act 2020, where a pavement licence is granted the licence holder will also benefit from deemed planning permission to use the land for the activities authorised by the licence.

Public Places Protection Orders (PSPOs)

1.4.14 In the event that North Hertfordshire District Council introduce a Public Places Protection Order which prohibits the drinking of alcohol in the street, the PSPO will not apply to the area covered by a pavement licence.

Fees

1.4.15 Although pavement licence fees are set locally, there is a government cap restricting the fees to a maximum of:

- New £500
- Renewal £350

1.4.16 In accordance with licence fee case law, the Council reviews fee levels on an annual basis and publishes the fees on its [website](#).

1.4.17 In setting its fees, the Council will seek to recover its reasonable costs of administration and enforcement, including but not limited to:

- all administrative work relating to pavement licence processing
- pre-determination inspections
- developing policy and maintaining the website
- ensuring compliance by pavement licence holders
- an appropriate proportion of the licensing service overheads

1.5 Policy duration and amendments

1.4.1 This policy will be kept under review and amended as and when necessary to reflect changes in legislation, case law, government guidance, and best practice.

1.4.2 Minor amendments to this policy, including but not limited to, those required by virtue of legislative changes, revised government guidance, policy clarifications, or a Council restructure, may be made by the Licensing and Community Safety Manager. Amendments under this section are restricted to those that do not change the main focus of the policy.

1.4.3 The policy will be periodically reviewed to ensure it remains fit-for-purpose and either amended where necessary or approved for continuation by the Licensing and Community Safety Manager in consultation with the Chair of the Licensing and Regulation Committee and the relevant Executive Member.

1.4.4 In the event of any significant amendment to the policy, a full public consultation will be undertaken prior to consideration by the Licensing and Regulation Committee. For the purpose of this section, a significant amendment is defined as one that:

- (i) will have significant financial impact on applicants, licence holders or the public; or
- (ii) will have a significant procedural impact on applicants, licence holders or the public; or
- (iii) may not be perceived by the trade or the public to be consistent with the policy objectives set out in section 1.2 above.

2. NEW APPLICATION PROCESS

2.1 The application

- 2.1.1 An application for a pavement licence must be made to the Council on a fully completed appropriate form, and accompanied by:
- a plan showing the location of the premises marked by a red line, so the application site can be clearly identified
 - a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must also show:
 - (i) the positions and number of the proposed tables and chairs
 - (ii) any other items of furniture to be placed on the highway
 - (iii) clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area
 - photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied
 - a photo showing that the applicant has met the requirement to put up a notice
 - a certificate of public liability insurance (see paragraph 2.1.2 below)
 - the appropriate fee
- 2.1.2 The applicant must hold public liability insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million before the licence can be utilised.
- 2.1.3 An application will not be considered valid and duly made until a fully completed application form, all required documents and the application fee have all been received. The public consultation period will not commence until the day after a complete application has been made.
- 2.1.4 An application form is provided on the Council's website and can be submitted in hard copy or online at licensing@north-herts.gov.uk
- 2.1.5 Payments can be made online through the [online payment portal](#).

2.2 Site notice

- 2.2.1 On the day the application for a pavement licence is made, the applicant must fix a notice of the application at 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.
- 2.2.2 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 having been complied with must be supplied to the Council.
- 2.2.3 The site notice must:
- state the type of application 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 Council during the public consultation period and the date when that period comes to an end (14 days, excluding public holidays, starting the day after the application is submitted to the authority)
 - 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
- 2.2.4 A template site notice is provided on the Council's website. The applicant can use their own template provided it includes all information listed within paragraph 2.2.3 above.

2.3 Consultation

- 2.3.1 Applications are consulted upon for fourteen (14) calendar days, excluding public holidays, starting on the day after which a valid application is received by the Council.
- 2.3.2 The Council will publish details of applications on its public register, which also allows consultation comments to be submitted electronically.
- 2.3.3 The Council is required by law to consult with the Highway Authority; additionally, to ensure that there are no unacceptable detrimental effects arising from the application proposals, the Council will consult with other agencies and organisations as appropriate. Consultees may include, but are not limited to:
- Hertfordshire County Council (Highways)
 - Town centre management bodies (such as BIDs)
 - Hertfordshire Police
 - North Herts Council Environmental Health
 - North Herts Council Community Safety
- 2.3.4 From the day after the consultation period ends, the licensing team has fourteen (14) calendar days, excluding public holidays, to make a decision. If the Council fails to make a decision within the fourteen (14) days, tacit consent applies and the pavement licence will be deemed to be granted as applied for, subject to the standard conditions.
- 2.3.5 Members of the public, and any organisation listed in paragraph 2.3.3 above that have been invited to comment, can contact the Council to make representations. Any representation must relate to the specific application and its impact on the licensing objectives stated in section 1.2.
- 2.3.6 The Council must take into account representations received during the public consultation period and consider these when determining the application.

2.4 Site assessment

- 2.4.1 In order to fully consider the suitability of the application, the Council and consultees should assess the proposed site, and furniture proposed to be included. Matters to be considered include, but are not limited to:
- public health and safety

for example, are there sufficient barriers between the licensed area and the carriageway? is there a part of the proposed area available for non-smokers? is the proposed area free from nearby dangers such as unsafe overhanging structures?

- public amenity
for example, will the proposed use create nuisance to neighbouring properties by generating anti-social behaviour, unreasonable noise, or litter?
- accessibility
for example, will the proposed area adversely impact on the ability of all persons to safely use the highway, with particular consideration for persons with disabilities?

2.4.2 The Council will take a proportionate approach to considering these issues and may consider information such as, but not limited to:

- any temporary measures in place near the proposed site, for example road works, experimental pedestrianisation, etc.
- any permanent street furniture that may impact on accessibility, for example road/information signage, planters, benches, etc.
- the proximity of, and likely impact on, neighbouring businesses
- usage of the highway in the vicinity of the proposed site, for example volumes of pedestrian movements
- the cumulative impact of multiple pavement licences in close proximity, with particular consideration to the needs of persons with disabilities
- likelihood of queuing on the highway, for example a restaurant next to a busy pub

2.4.3 In order to allow pedestrians to safely pass in both directions on the highway, including those with impaired mobility, a minimum width of 1500mm will be required between the edge of the licensed area and the edge of the highway. This 1500mm width must be free of any other street furniture to provide unimpeded access.

2.4.4 To assist visually impaired persons, a barrier with 'tap rail' will ordinarily be required around the licensed area in areas of high footfall.

2.4.5 Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the Council, taking likely issues around noise and nuisance into consideration as part of the proposal. Discussions with neighbours should consider any plans neighbouring businesses have to also place tables and chairs on the highway and plans for customers to queue outside.

2.5 Determination

2.5.1 Once a complete application is submitted, the Council has twenty-eight (28) calendar days, excluding public holidays, from the day after the application is made to consult on and determine the application. This consists of:

- fourteen (14) calendar days, excluding public holidays, for public consultation, and
- fourteen (14) calendar days, excluding public holidays, to consider and determine the application after the consultation

2.5.2 The determination will be made by the Licensing Team Leader, or any officer authorised to act in their absence.

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

Applications determined within the prescribed period

- 2.5.4 Where an application is determined prior to the end of the twenty-eight (28) day, excluding public holidays, determination period, the Council 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
 - impose specific conditions in addition to the Council's standard conditions
 - refuse the application

The standard licence conditions in **Appendix A** will be applied to all licences unless otherwise stated on the licence.

Tacit consent

- 2.5.5 Where an application is not determined prior to the end of the twenty-eight (28) day, excluding public holidays, determination period, tacit consent will apply.
- 2.5.6 This means the application will be deemed to have been granted as requested for a period of two (2) years and the business can place the proposed furniture such as tables and chairs within the area set out in the application for the purpose or purposes proposed.
- 2.5.7 Any licence granted under tacit consent will be subject to the standard licence conditions in **Appendix A**.

2.6 Trading hours

- 2.6.1 The Council will ordinarily only grant pavement licences with operating hours between 08:00hrs and 22:00hrs.
- 2.6.2 Applicants are encouraged not to apply for trading outside of these hours, as there will ordinarily be a presumption to refuse additional hours.
- 2.6.3 Applications outside these hours will be assessed in terms of the criteria in paragraph 2.4 above regardless of whether objections have been made or not. In order to prevent unreasonable nuisance and promote licensing objective 1.2.1. (iii), additional trading hours will ordinarily be refused save in exceptional circumstances.
- 2.6.4 The Council retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

2.7 Licence duration

- 2.7.1 If the Council determines an application before the end of the determination period the Council can specify the duration of the licence, subject to a minimum duration of three (3) months.

- 2.7.2 Licences will ordinarily be granted licences for two (2) years unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.
- 2.7.3 If a licence is deemed granted under tacit consent, 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 two (2) years.

3. RENEWAL APPLICATION PROCESS

3.1 The renewal application

- 3.1.1 An application to renew an existing licence will be accepted where there are no proposed changes to the previously approved layout and furniture. If changes are proposed, ordinarily a new application will be required.
- 3.1.2 An application for the renewal of a pavement licence must be made to the Council on a fully completed appropriate form, and accompanied by:
- Either:
a recent dated photograph showing the chairs and tables and/or other furniture in situ in accordance with the approved licence plan
Or
plans in accordance with the requirements of paragraph 2.1.1 above
 - a certificate of public liability insurance covering third party and public liability risks to a minimum value of £5 million
 - the appropriate renewal fee

no later than twenty-eight (28) calendar days prior to the expiry of the existing licence to ensure continuity of trading.

- 3.1.3 An application will not be considered valid and duly made until a fully completed application form, all required documents and the application fee have all been received. The public consultation period will not commence until the day after a complete application has been made.
- 3.1.4 An application form is provided on the Council's website and can be submitted in hard copy or online at licensing@north-herts.gov.uk
- 3.1.5 Payments can be made online through the [online payment portal](#).

Failure to renew on time

- 3.1.6 **Where an application for renewal has not been made, or has not been determined, prior to the expiry of the existing pavement licence, the licence ceases to exist and:**
- **all furniture must be removed from the previously licensed area**
 - **the outdoor area must not be used for the consumption of food and drink**
- until such time as a licence has been granted.**

3.2 Site notice

- 3.2.1 On the day the application for a pavement licence is made, the applicant must fix a notice of the application at 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.
- 3.2.2 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 having been complied with must be supplied to the Council.
- 3.2.3 The site notice must:
- state the type of application 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 Council during the public consultation period and the date when that period comes to an end (14 days, excluding public holidays, starting the day after the application is submitted to the authority)
 - 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
- 3.2.4 A template site notice is provided on the Council's website. The applicant can use their own template provided it includes all information listed within paragraph 2.2.3 above.

3.3 Consultation

- 3.3.1 Applications are consulted upon for fourteen (14) calendar days, excluding public holidays, starting on the day after which a valid application is received by the Council.
- 3.3.2 The Council will publish details of applications on its [public register](#), which also allows consultation comments to be submitted electronically.
- 3.3.3 The Council is required by law to consult with the Highway Authority; additionally, to ensure that there are no unacceptable detrimental effects arising from the application proposals, the Council will consult with other agencies and organisations as appropriate. Consultees may include, but are not limited to:
- Hertfordshire County Council (Highways)
 - Town centre management bodies (such as BIDs)
 - Hertfordshire Police
 - North Herts Council Environmental Health
 - North Herts Council Community Safety

Consultees will be advised that the application is a renewal and that there will be a presumption to grant unless there is evidence that the licensing objectives, or requirements of this policy, are not being met.

- 3.3.4 From the day after the consultation period ends, the licensing team has fourteen (14) calendar days, excluding public holidays, to make a decision. If the Council fails to

make a decision within the fourteen (14) days, tacit consent applies and the pavement licence will be deemed to be granted as applied for, subject to the standard conditions.

3.3.5 Members of the public, and any organisation listed in paragraph 3.3.3 above that have been invited to comment, can contact the Council to make representations. Any representation must relate to the specific application and its impact on the licensing objectives stated in section 1.2.

3.3.6 The Council must take into account representations received during the public consultation period and consider these when determining the application, however there will be a presumption that the renewal will be granted unless evidence is supplied that the licensing objectives are no longer being met.

3.4 Site assessment

3.4.1 In order to fully consider the suitability of the application, the Council and consultees should assess the proposed site, and furniture proposed to be included. Matters to be considered include, but are not limited to, those listed in section 2.4 above.

3.5 Determination

3.5.1 Once a complete application is submitted, the Council has twenty-eight (28) calendar days, excluding public holidays, from the day after the application is made to consult on and determine the application. This consists of:

- fourteen (14) calendar days, excluding public holidays, for public consultation, and
- fourteen (14) calendar days, excluding public holidays, to consider and determine the application after the consultation

3.5.2 The determination will be made by the Licensing Team Leader, or any officer authorised to act in their absence.

3.5.3 The Council must take into account representations received during the public consultation period and consider these when determining the application, however there will be a presumption to grant the renewal unless there is evidence that the licensing objectives or requirements of this policy are not being met.

Applications determined within the prescribed period

3.5.4 Where an application is determined prior to the end of the twenty-eight (28) day, excluding public holidays, determination period, the Council 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
- impose specific conditions in addition to the Council's standard conditions
- refuse the application

The standard licence conditions in **Appendix A** will be applied to all licences unless otherwise stated on the licence.

Tacit consent

- 3.5.5 Where an application is not determined prior to the end of the twenty-eight (28) day, excluding public holidays, determination period, tacit consent will apply.
- 3.5.6 This means the application will be deemed to have been granted as requested for a period of two (2) years and the business can place the proposed furniture such as tables and chairs within the area set out in the application for the purpose or purposes proposed.
- 3.5.7 Any licence granted under tacit consent will be subject to the standard licence conditions in **Appendix A**.

3.6 Trading hours

- 3.6.1 The principles of section 2.6 apply.

3.7 Licence duration

- 3.7.1 Licences will ordinarily be granted licences for two (2) years unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.
- 3.7.2 If a licence is deemed granted under tacit consent, 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 two (2) years.

4. LICENCE CONDITIONS

Standard conditions

- 4.1 All pavement licences granted by the Council will be subject to the standard conditions contained within **Appendix A**, save for exceptional circumstances when they may be varied. Any variation will be detailed on the licence.
- 4.2 The Licensing and Community Safety Manager is authorised to alter or amend the conditions added to a licence based on the individual circumstances of each application.
- 4.3 There is no right of appeal against the Council's decision to impose conditions on a licence, including any amendment to the standard conditions in **Appendix A**.
- 4.4 The Act contains two national conditions that all granted and deemed granted licences must adhere to if the Council 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 standard conditions in **Appendix A** include these national conditions.

Specific conditions

- 4.5 For some applications, the standard conditions may be insufficient and additional specific conditions may be required.
- 4.6 Applications will be assessed on a case-by-case basis with regard to the licensing objectives and the criteria set out in Part 2.
- 4.7 Where specific conditions are included on a licence in addition to the standard conditions, the applicant will be given an explanation of the reasoning.
- 4.8 Site specific conditions will be added to each licence covering:
- hours of trading
 - days of trading
 - furniture permitted and its location
 - the authorised layout plan for the site

Additional conditions imposed by Government

- 4.9 The Act also allows for the Secretary of State to specify, via Regulations, further national 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 the Council. If such conditions are created, this policy will be amended to reflect them, and all licence holders will be notified of any changes to their licences.

5. REFUSAL OF APPLICATIONS

- 5.1 If the site is deemed unsuitable for a pavement licence, based on the requirements of this policy, irrespective of whether relevant representations are made, then the Licensing and Community Safety Manager can refuse the application.
- 5.2 Wherever possible conditions will be considered to mitigate any concerns, however if this is not practicable, the application will be refused.
- 5.3 There is no statutory right of appeal to the courts against a decision to refuse an application.
- 5.4 To ensure transparency and fairness, if an applicant believes a decision to refuse is not consistent with this policy, they can submit a written representation to the Licensing and Community Safety Manager.
- 5.5 The representation must be received within fourteen (14) calendar days of being notified of the refusal and contain the reasons why the decision should be reviewed.
- 5.6 The Licensing and Community Safety Manager will review the decision, and notify the applicant of the outcome, within twenty-eight (28) calendar days of receipt of the representation.

6. ENFORCEMENT

- 6.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

- 6.2 In pursuing its objectives of detailed in this Policy, the Council will operate a proportionate enforcement regime in accordance with the Council's Statement of Enforcement Policy.
- 6.3 The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. It remains the case that an obstruction of the Highway is an offence under The Highways Act 1980 and may be dealt with by the Highways Authority or the Police.

Breach of conditions

- 6.4 If a licence condition is breached, the Council will be able to issue a notice requiring the breach to be remedied.
- 6.5 If the licence holder fails to adhere to the notice, the Council may:
- amend the licence (with the consent of the licence-holder),
 - revoke the licence, or
 - the Council can remedy the breach and recover any costs of so doing from the licence holder

Revocation

- 6.6 The Council may revoke a licence in the following circumstances:
- if it considers that the highway is no longer suitable for the use as granted by, or deemed to be granted by, the licence.
(for example, the licenced area is no longer to be pedestrianised)
 - if there is evidence that there are risks to public health or safety.
(for example, where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion)
 - if there is evidence that this use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition
(for example, the arrangement of street furniture prevents disabled people, older people, or wheelchair users to pass along the highway or have normal access to the premises alongside the highway)
 - if there is evidence that the use is causing, or risks causing, anti-social behaviour or public nuisance
(for example, the use is increasing the amount of noise generated late at night or litter is not being cleaned up)
 - it comes to light that the applicant provided false or misleading statements in their application (for example, they are operating a stall selling hot food but had applied for a licence where tables and chairs on which drinks could be consumed)
 - if there is evidence that the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period
 - failure to rectify a breach of licence
- 6.7 When a licence is revoked, the Council will give full reasons for the revocation.
- 6.8 The decision to revoke a licence will be made by the Licensing Team Leader or an authorised officer acting on their behalf.

- 6.9 If the licence holder consents to the licence being amended to resolve the issue, the licence may be amended instead of revocation.
- 6.10 There is no statutory right of appeal to the courts against a decision to revoke a licence.
- 6.11 To ensure transparency and fairness, if an applicant believes a decision to revoke is not consistent with this policy, they can submit a written representation to the Licensing and Community Safety Manager.
- 6.12 The representation must be received within fourteen (14) calendar days of being notified of the refusal and contain the reasons why the decision should be reviewed.
- 6.13 The Licensing and Community Safety Manager will review the decision, and notify the applicant of the outcome, within twenty-eight (28) calendar days of receipt of the representation.

Unauthorised furniture on the highway

- 6.14 In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, the Council can give notice requiring the business to remove the furniture before a specified date and to cease putting furniture on the highway unless they obtain a licence.
- 6.15 If furniture continues to be placed on the highway in violation of the notice, the Council may:
- remove and store the furniture
 - recover the costs from the business for the removal and storage of the furniture
 - refuse to return the furniture until those costs have been paid.
- 6.16 If the costs are not paid within three (3) months of the notice, the Council can dispose of the furniture by sale or other means and retain the proceeds.

7. GENERAL

- 7.1 Obtaining a licence does not circumvent the need for the licence holder to comply with other legislation that may apply, e.g. health & safety at work, food hygiene and safety, alcohol and entertainment licensing. Applicants must ensure all such permissions are in place prior to applying.
- 7.2 Nothing connected with the grant of a licence shall be construed as the grant or purported grant by the Council of any tenancy protected by the Landlord and Tenant Act 1954, or any permission under the Town and Country Planning Act 1990, or any statutory modification or re-enactment thereof for the time being in force.

Exclusivity

- 7.3 Permission to operate a pavement licence does not confer an exclusive right to the area of public highway.
- 7.4 The licence holder should be aware that Hertfordshire County Council, North Hertfordshire District Council, and others (for example police, fire authority, highway

contractors, ambulance, undertakers) will need access at various times, including emergencies, for maintenance, installation, special events, improvements, or any other reasonable cause.

- 7.5 This may mean that the pavement licence area will need to cease operating and/or all furniture be removed for an appropriate period of time. On these occasions there would be no compensation for loss of business.

8. TRANSITIONAL ARRANGEMENTS

- 8.1 Existing licence holders can continue to use their pavement licences granted prior to the adoption of this policy until the expiration date on that licence. These licences can be renewed in accordance with Part 3 of this policy.
- 8.2 Existing licences determined before the 31 March 2024 under the temporary licensing regime will be subject to the enforcement powers set out in this policy.
- 8.3 Businesses that do not have a current pavement licence, granted under the temporary regime, will need to make a new application for a pavement licence.

9. DEPARTURE FROM POLICY

- 9.1 In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the principles set out therein.
- 9.2 Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits with regard to the licensing objectives. However, it is likely that departures from policy will be restricted to exceptional circumstances, not used to circumvent the reasonable requirements of the Policy.
- 9.3 Where an applicant is able to demonstrate that a departure from this Policy, based on the individual circumstances of that application, would still ensure that the policy objectives are achieved, the Licensing and Community Safety Manager may authorise a licence to be issued.

10. DEFINITIONS

Term	Definition
the Act	Business and Planning Act 2020
Authorised Officer	an officer of the Council authorised to act in accordance with the provisions of the Business and Planning Act 2020 (and any subsequent Regulations made thereunder)
the Council	North Hertfordshire District Council
the highway	footways and carriageways
Licensing and Community Safety Manager	the current postholder (or the equivalent post following any restructure) or an authorised officer acting on their behalf
Licensing Team Leader	the current postholder (or the equivalent post following any restructure) or an authorised officer acting on their behalf
pavement	footways restricted to pedestrians, or are roads and places to which vehicle access is restricted or prohibited

APPENDIX A

STANDARD PAVEMENT LICENCE CONDITIONS

Unless otherwise stated on the pavement licence, these conditions will be automatically imposed on all pavement licences granted by the council

Please note that 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 under tacit consent, the applicant is deemed to be a licence holder and is required to comply with all of the below conditions.

C1

This licence is non-transferable, and its permissions are restricted to the use of the business occupying the premises named on the licence.

C2

The area named on the licence is permitted solely for the purpose of consuming food and drink purchased from the premises named on the licence.

C3

The preparation of any food and drink in the area named on the licence is prohibited.

C4

- (a) Nothing contained within this licence gives the licence holder permission to make fixtures to, or excavations of any kind in, the surface of the highway which shall be left entirely undisturbed.
- (b) Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc, will be recoverable in full from the licence holder by the Hertfordshire Highway Authority.

C5

The holder of the licence shall make no charge for the use of the permissions granted by this licence.

C6

The licence holder must ensure that any alcohol sold from the premises, to be consumed in the licensed area, is in compliance with a relevant permission under the Licensing Act 2003.

C7

The Council reserves the right to add/amend conditions, or to suspend or revoke the licence, if the licence holder breaches, or does not prevent breaches, of any of the licence conditions.

C8

Licence holders will be required to clearly define the permitted area using barriers or other furniture approved by the Council, where practicable, and shown on the plan attached to the licence.

C9

- (a) The licence holder shall 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/or other objects.
- (b) For this purpose, the licence holder must take out at their expense a policy of third party and public liability risk insurance, approved by the Council, in the sum of at least £5 million 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.

C10

The licence holder shall make no claim or charge against the Council in the event of the chairs or tables, and/or other objects, being lost, stolen or damaged in any way from whatever cause.

C11

All waste, refuse or litter directly associated with the use of the area permitted by this licence must be cleared from the permitted area and the immediate vicinity at the end of each trading day and periodically throughout daily use as required.

C12

All tables and chairs, and/or other objects, placed on the highway under the permission of this licence must be kept in good repair and condition at all times.

C13

The licence holder shall remove the tables and chairs, and/or other objects, from the highway and store them inside the premises:

- (a) outside the hours permitted by the licence; and
- (b) immediately if required to do so in order to permit works on, or the use of, the highway by the Council, County Council, police, fire service, ambulance service, any utility contractor, hearses, or removal vans.

C14

The licence holder must ensure that anything they do in pursuant of this licence, or any activity of other persons which is enabled by this licence, must not cause an obstruction to:

- (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.

In ensuring compliance with (a) above, the licence holder must have particular regard to the needs of disabled persons, in particular:

- (e) ensuring a minimum clear space of 1500mm between any obstacle and the edge of the footway,
- (f) any tables and chairs, and/or other objects, placed on the highway should not prevent or discourage disabled persons, older persons or those with mobility needs from using the footway,
- (g) any barrier around an area permitted under the licence should be such that it is easily navigable by a visually impaired person, and
- (h) any tables and chairs, and/or other objects, placed on the highway should be of reasonable substance such that it cannot be easily pushed or blown over by the wind causing further obstruction.

C15

The licence holder should ensure that there is suitable provision for tables and chairs where smoking is not permitted by customers. This should include:

- (a) clearly identifiable smoking and non-smoking areas with no smoking signage displayed in the non-smoking areas,
- (b) no ash trays or similar receptacles to be provided or permitted on furniture in non-smoking areas, and
- (c) a minimum distance of 2000mm between smoking and non-smoking areas wherever practicable

C16

A pavement licence does not imply an exclusive right to the area of public highway. The licence holder should be aware that Hertfordshire County Council, North Hertfordshire District Council, and others (for example police, fire authority, highway contractors, ambulance, undertakers) will need access at various times, including emergencies, for maintenance, installation, special events, improvements, or any other reasonable cause. This may mean that the pavement licence area will need to cease operating and/or all

furniture be removed for an appropriate period of time. On these occasions there would be no compensation or loss of business.

C17

The licence holder shall not use, or allow to be used, any music playing, music reproduction, or sound amplification apparatus, or any musical instruments, radio, or television receiving sets, in the area of the highway covered by the licence.

C18

During the hours of darkness, the licence holder will ensure that suitable and sufficient lighting is provided to ensure safe use of the area. Any proposals to provide permanent additional lighting to the licensed areas must be agreed with the Highway Authority.

C19

The licence holder shall ensure that a copy of the pavement licence is displayed on the premises where it may be easily seen by customers.

C20

The licence holder must ensure that the area covered by the licence is regularly monitored by staff to ensure that all of the conditions above are being adhered to.