

**GUIDANCE FOR APPLICANTS**

**BUSINESS AND PLANNING ACT 2020**

**PAVEMENT LICENCES**

1. **Introduction**

A Pavement Licence is a licence granted by the local authority, 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 certain purposes.

This process provides a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. This will provide much needed income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs. The process includes deemed planning consent, so there is no requirement to obtain separate permission from the planning authority.

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.

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.

The furniture which may be used 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; and
* umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

**A Boards are not considered as “furniture” for the purposes of this licence and therefore cannot be authorised under this type of licence.**

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

Applicants proposing to use their outdoor seating area for the sale and/or consumption of alcohol may require a premises licence, or a variation to their existing premises licence. It is recommended that applicants discuss this with the licensing authority to ensure that the correct licensing arrangements are in place.

1. **APPLICATION**

New applicants will be required to submit the following electronically to:

licensing@havant.gov.uk

1. An application form
2. A location plan which identifies the land and surrounding properties (where applicable) to which the application relates, preferably to a scale of 1:1250, and with the direction of North and an indicator (e.g. an arrow) pointing to the location of the proposed area
3. A plan of the area to be licensed (see details below for requirements for the plan)
4. A copy of your public liability insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million
5. Photos/brochures of the proposed type of furniture

**Plan**

* For any applications showing site outlines, we require that the applicant procure a base map plan from an authorised OS reseller such as, for example, <https://www.buyaplan.co.uk/ordnance-survey-plans-maps>
* Must be to the scale of 1:100, and this scale must be stated.
* The boundary of the area to be licensed must be outlined with a red continuous line.
* A hatched area showing a clear walkway of at least 1.5 metres, which must be maintained for the use of pedestrians
* The location of access points leading to the entrance of the premises
* A layout indicating where the furniture such as tables and chairs will be placed, showing smoking and non-smoking areas where relevant
* Indicated on the plan must be any tree, bollards, street lighting, cycle stands, taxi ranks, bus stops and/or anything similar.

Once your application and supporting documents have been submitted electronically to licensing@havant.gov.uk you will be contacted by the Licensing Team to take the payment over the phone. The fee for the application is detailed on Havant Borough Council’s website “Prices for council services” via: <https://www.havant.gov.uk/prices-council-services>.

**Site Notice**

When the Licensing Team confirm to you that your application is valid, you must on the same day fix a notice of the application to 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.  The notice must be constructed and secured so that it remains in place until the end of the public consultation period.

The Site Notice must:

* state that the application has been made and the date on which it was made.
* state the days and times requested.
* state the address of the premises and name of the business.
* describe the proposed use of the furniture.
* describe the furniture to be used.
* indicate that representations relating to the application may be made to the Council 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 and
* state the address to which representations should be sent during the consultation period

A template for the notice is available on the Council’s website. You must provide a photograph of the notice, and a photograph of where it is displayed, by email to licensing@havant.gov.uk

1. **CONSULTATION**

The consultation period for applications is 14 days, starting the day after the valid application has been received.

The Council will publish details of the application on its website at [www.havant.gov.uk](http://www.easthants.gov.uk)

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application the Council will consult with:

* Havant Borough Council, Environmental Health – Food & Safety
* Havant Borough Council, Environmental Health – Environmental Protection
* Police Counter Terrorism Security Advisors
* The appropriate Local Ward Councillor(s)

Members of the public and others listed above can contact the Council to make representations.

The Council must consider representations received during the public consultation period when determining the application. Representations received after this deadline will not be considered.

1. **DETERMINATION OF APPLICATION**

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

* public health and safety – for example, any reasonable crowd management measures needed as a result of a licence being granted;
* 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 3.1 of [Inclusive Mobility](https://www.gov.uk/government/publications/inclusive-mobility), 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 applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

Once the application is submitted the Council has 28 days from the day after the application is made (excluding public holidays) to consult on 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.

If the local authority determines the application before the end of the determination period, the local authority 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.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council’s standard conditions and the National Conditions which will be attached to all Pavement Licences is available on our website [www.havant.gov.uk](http://www.havant.gov.uk) Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

1. **MARKET DAYS**

Where licences give consent to place furniture on the highway in the town centres, they may not be able to do so on market days if the licensed area includes an area upon which a market is held.

**6.0 THE LICENCE**

A Pavement Licence may be granted up to a maximum of 2 years.

If the local authority does not determine the application within the 28 days period, the application will be deemed to have been granted.

**7.0 revocation**

An application may be revoked on a number of grounds. These include:

If a condition imposed on a licence (either by the council) or nationally is breached, the council will be able to issue a notice requiring the breach to be remedied. If the licence-holder fails to do so, the council may revoke the licence or itself take steps to remedy the breach and can take action to recover any costs of so doing.

The council may revoke a licence in the following circumstances:

For breach of condition, (whether or not a remediation notice has been issued) or where:

* 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 (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
* this use of the highway is causing an unacceptable obstruction, breaching the non-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 along side the highway.
* 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 and 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 and had applied for tables and chairs on which drinks could be consumed; or
* the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.

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

**8.0 APPEALS**

There is no statutory appeal process. A person aggrieved by a decision of the Council may seek a Judicial Review of the decision, should it be felt necessary.

**9.0 ENFORCEMENT**

Failure to obtain an appropriate licence or failure to comply with the conditions attached to a licence may result in enforcement action. Any such enforcement action will be in accordance with the principles of the Council’s enforcement policy.