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Monday, 10 June 2024

To All Councillors:

As a Member or Substitute of the **Licensing & Appeals Committee**, please treat this as your summons to attend a meeting on **Tuesday, 18 June 2024 at 6.00 pm** in the **Council Chamber, Town Hall, Bank Road Matlock DE4 3NN**

Yours sincerely,

Helen Mitchell  
Director of Corporate and Customer Services

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## **AGENDA**

### **1. APOLOGIES FOR ABSENCE**

Please advise the Democratic Services Team on 01629 751133 or email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk) of any apologies of absence.

### **2. APPROVAL OF MINUTES OF PREVIOUS MEETING (Pages 5 - 8)**

26 March 2024

### **3. INTERESTS**

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council’s Code of Conduct.

Those interests are matters that relate to money or that which can be valued in money, affecting the Member, her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at the time.

#### **4. PUBLIC PARTICIPATION**

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by email) **BY NO LATER THAN 12 NOON OF THE WORKING DAY PRECEDING THE MEETING**. As per Procedural Rule 14.4 at any one meeting no person may submit more than 3 questions and no more than 1 such question may be asked on behalf of one organisation.

#### **5. PERMANENT PAVEMENT LICENSING REGIME 2024 (Pages 9 - 40)**

The Business and Planning Act 2020, in response to Covid, was temporary legislation introduced to assist businesses by creating a temporary pavement licensing regime, due to expire at the end of September 2024. The government has made the scheme permanent, with several amendments, through the Levelling Up & Regeneration Act which received royal assent last year and came into force on Sunday 31 March 2024

The Levelling Up & Regeneration Act 2023 became law last year, the provisions to make the pavement licence scheme permanent were not immediately commenced. It was anticipated that it would happen later in this year.

A decision is required on what fee should be set (currently the fee of £100.00 is based upon the maximum permitted fee allowed under the temporary regime).

#### **6. EXCLUSION OF PUBLIC AND PRESS**

At this point the Committee will consider excluding the public and press from the meeting in order to consider the exempt information contained within Item 7. The reasons for this exemption are detailed below, as per paragraphs 1, 2 and 3 of Schedule 12A of the Local Government Act 1972:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

#### **7. APPEAL AGAINST OFFICER DECISION TO REJECT AN APPLICATION FOR A DISCRETIONARY COUNCIL TAX DISCOUNT FOR A PROPERTY IN DARLEY DALE (Pages 41 - 66)**

This report asks the Committee to determine an appeal against an officer decision to reject an application for a discretionary Council tax discount in respect of a property in Darley Dale.

*Exemption Paragraph  
1, 2, 3*

Members of the Committee - Councillors Steve Wain (Chair), Dawn Greatorex (Vice-Chair), Anthony Bates, John Bointon, Geoff Bond, Sue Burfoot, Bob Butcher, Neil Buttle, Peter Dobbs, Marilyn Franks, Susan Hobson, Joanne Linthwaite, Laura Mellstrom and Peter Slack

**NOTE**

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## Licensing & Appeals Committee

**Minutes of a Licensing & Appeals Committee meeting held at 6.00 pm on Tuesday, 26th March, 2024 in the Council Chamber, Town Hall, Bank Road Matlock DE4 3NN.**

### PRESENT

Councillor Steve Wain - In the Chair

Councillors: Anthony Bates, John Bointon, Geoff Bond, Peter Dobbs, Marilyn Franks, Joanne Linthwaite, Laura Mellstrom, Lucy Peacock and Peter Slack

Eileen Tierney (Licensing Manager), Grace Dowson (Licensing Manager), Lucy Harrison (Democratic Services Assistant), Jason Spencer (Electoral and Democratic Services Manager) and James Cunningham (Solicitor)

### Note:

*“Opinions expressed or statements made by individual persons during the public participation part of a Council or committee meeting are not the opinions or statements of Derbyshire Dales District Council. These comments are made by individuals who have exercised the provisions of the Council’s Constitution to address a specific meeting. The Council therefore accepts no liability for any defamatory remarks that are made during a meeting that are replicated on this document.”*

### APOLOGIES

Apologies for absence were received from Councillor(s): Dawn Greatorex, Neil Buttle, Steve Flitter and Susan Hobson

### 386/23 - APPROVAL OF MINUTES OF PREVIOUS MEETING

It was moved by Councillor Marilyn Franks, seconded by Councillor Peter Dobbs and

### RESOLVED

That the minutes of the meeting of the Licensing and Appeals Committee held on 26 03 2024 be approved as a correct record.

### Voting

08 For

**00 Against  
02 Abstentions**

The Chair declared the motion **CARRIED**.

**387/23 - INTERESTS**

**Item 6 - Review of House-To-House and Street Collections Licensing Policy**

Councillor Steve Wain declared a non-pecuniary interest due to being a member of the Royal British Legion and occasionally collecting donations for them.

Councillor Joanne Linthwaite declared a non-pecuniary interest due to volunteering to collect donations to the Royal British Legion Poppy Appeal.

Councillor Marilyn Franks declared a non-pecuniary interest due to being a member of the Royal National Lifeboat Institution and occasionally collecting donations for them.

**388/23 - PUBLIC PARTICIPATION**

Mr John Greenhough spoke on Item 5, Request for Exemption from Taxi Licensing Policy Requirement Maximum Age Limit for Licensed Vehicles.

**389/23 - REQUEST FOR EXEMPTION FROM TAXI LICENSING POLICY REQUIREMENT MAXIMUM AGE LIMIT FOR LICENSED VEHICLES**

The Licensing Manger introduced a report seeking consideration of an application for an exemption from the Council's Taxi Licensing Policy's vehicle maximum age limit.

Members were informed that the Council's Taxi Licensing Policy required that any vehicle to be licensed as a taxi (hackney carriage) or a private hire vehicle would not be more than 10 years old at the time of licensing. This meant that when a licensed vehicle passed the tenth year of registration, the taxi/private hire vehicle licence could not be automatically renewed as it no longer complied with policy requirements.

A request had been received from Mr John Greenhough, Area Director for 24 x 7 Ltd, for an exemption from the 10-year age limit in respect of fully wheelchair accessible vehicles (WAV) currently licensed by the Council but approaching 10 years of age.

The 6 vehicles that Mr Greenhough wished to re-licence after each had passed 10 years of age, were listed in his request to the Committee for an exemption in Appendix 1. A brief licensing history and the age of each vehicle was summarised in Appendix 2.

The recommendations as set out in the report were moved by Councillor Geoff Bond, seconded by Councillor John Bointon, with an amendment to recommendation 3 as set out below:

3. That the Committee considers giving tacit approval for all 6 vehicles on the list (in Appendix 2 to the report) to vary the age limit for these vehicles to 13 years.

And the addition of recommendation 4:

4. That at the discretion of the lead mechanic, up to a maximum of 3 inspections on these vehicles a year should be carried out as necessary.

**RESOLVED** (unanimously)

1. That the Committee considers the request from John Greenhough, Area Director for Derbyshire for 24 x 7 Ltd, for an exemption from the Council's Taxi Licensing Policy requirement in respect of the maximum age limit for licensing a vehicle as a private hire vehicle.
2. That having considered the request, the Committee determines whether applications to re-licence the wheelchair accessible vehicles detailed in Appendix 2 of the report, currently licensed as Private Hire Vehicles (contract only), should be accepted by the Licensing Manager.
3. That the Committee considers giving tacit approval for all 6 vehicles on the list (in Appendix 2 to the report) to vary the age limit for these vehicles to 13 years.
4. That at the discretion of the lead mechanic, up to a maximum of 3 inspections on these vehicles a year should be carried out as necessary.

The Chair declared the motion **CARRIED**.

**390/23 - REVIEW OF HOUSE-TO-HOUSE AND STREET COLLECTIONS LICENSING POLICY**

The Licensing Manager introduced a report which sought the Committee's consideration of the draft House-to-House and Street Collections Policy detailed in Appendix 1. Approval was sought for Officers to carry out a consultation exercise on an agreed draft Policy, with a view to referring it to full Council for consideration for adoption and republishing by 1<sup>st</sup> August 2024.

The Council was the Licensing Authority for Charitable Street Collections under Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and Charitable House to House Collections under the House-to-House Collections Act 1939.

The current Policy was approved by Council and took effect from 1<sup>st</sup> July 2021 with a view that a further review would be carried out 3 years later. In the interim period the Policy had been kept under review, and any legislative or administrative changes required had been made to the draft Policy document detailed in Appendix 1.

Officers consider that the Policy has worked well; there had not been any complaints or issues in the way the service had been administered during the last 3 years. It was noted that a 6-week consultation exercise should be undertaken to ensure that stakeholders of the service have the opportunity to influence any required changes.

An amendment to the recommendation was moved by Councillor Lucy Peacock, seconded by Councillor Geoff Bond. This was put to the vote and

**RESOLVED** (unanimously)

That the Committee considers and approves for consultation the draft House-to-House and Street Collections Policy as detailed in Appendix 1, once updates have been made to the draft Policy in regard to complaints, GDPR and modern payment methods.

The Chair declared the motion **CARRIED**.

**Meeting Closed: 7.03 pm**

**Chair**





# Agenda Item 5

**OPEN  
LICENSING AND APPEALS COMMITTEE**

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**Licensing and Appeals Committee –18<sup>th</sup> June 2024**

**PERMANENT PAVEMENT LICENSING REGIME 2024**

**Report of Director of Place and Economy**

**Report Author and Contact Details**

Grace Dowson, Licensing Manager  
01629 761344 or [grace.dowson@derbyshiredales.gov.uk](mailto:grace.dowson@derbyshiredales.gov.uk)

**Wards Affected**

District Wide

**Report Summary**

The Business and Planning Act 2020, in response to Covid, was temporary legislation introduced to assist businesses by creating a temporary pavement licensing regime, due to expire at the end of September 2024. The government has made the scheme permanent, with several amendments, through the Levelling Up & Regeneration Act which received royal assent last year and came into force on Sunday 31 March 2024

The Levelling Up & Regeneration Act 2023 became law last year, the provisions to make the pavement licence scheme permanent were not immediately commenced. It was anticipated that it would happen later in this year.

A decision is required on what fee should be set (currently the fee of £100.00 is based upon the maximum permitted fee allowed under the temporary regime).

**Recommendations**

1. For Members to discuss the options as to the fees to be set for the permanent Pavement Licensing regime (and sitting out licences). The Levelling Up and Regeneration Act introduces a maximum standard fee cap of £500 new applications and £350 renewal applications. Fees are to be set locally and it is for the licensing authority to determine the appropriate fee.
2. It is further recommended that as licences granted under the temporary pavement regime granted by Derbyshire Dales District Council, automatically lapse and are not renewable at their expiration, any premises holding such a licence shall be treated as a renewal under the new regime (as long as such an application is made before the expiration of the existing licence) and the scope of the application is exactly the same as the application under the granted licence, i.e. same premises, same licence holder and same terms of licence.
3. To set the fee for a pavement licence or a sitting out licence at £500 for a new application and £350 for a renewal application.

## List of Appendices

### Appendix A – Application Form

### Appendix B – Conditions

### Appendix C – EIA

### Background Papers

[Business and Planning Act 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

[Pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

### Consideration of report by Council or another committee

No

### Council Approval Required

No

### Exempt from Press or Public

No

## PERMANENT PAVEMENT LICENSING REGIME 2024

### 1 Background

A pavement licence is 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. The Levelling Up and Regeneration Act 2023 makes permanent the provisions set out in the Business and Planning Act (BPA) 2020 that streamlined the process to allow businesses to secure these licences quickly. Prior to the temporary regime being introduced, Derbyshire County Council issued the Street Café Licences under Part 7A of the Highways Act 1980.

Existing Licences under the temporary legislation will expire on the 30<sup>th</sup> September 2024. The government has made the scheme permanent, with amendments, through the Levelling Up & Regeneration Act, which came into force with effect from 31<sup>st</sup> March 2024.

The original 'streamline' temporary Pavement Licensing legislation required applications to be determined within a 14-day window (7 days consultation and 7 days determination) from receipt of the valid application and the licence issued for a minimum of 3 months from the start date or to expire at the end of September each year. There was no renewal mechanism. The application cost for such a licence was capped at a maximum of £100.

If a licence was not determined within the given timescales the licence was deemed granted.

## **Which business is 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. 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.

Businesses that do not use their premises for the sale of food or drink, for example hair or beauty salons, are ineligible. Though they can apply for permission to place furniture on the pavement under the Highways Act 1980.

## **Furniture permitted under licence.**

The furniture which may be placed on the pavement includes:

- Counters or stalls for selling or serving food or drink,
- Tables, counter 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.

The furniture is required to be removable and related to the serving, sale and consumption of food and drink. In principle this means it is not a permanent fixed structure, able to be moved easily and stored away at night.

## **What furniture is NOT permitted by a licence.**

Furniture that is not removable and used in connection with the outdoor selling or consumption of food or drink, are not permitted by a pavement licence.

Advertising boards (A Boards) are not included in the definition of furniture within the pavement licensing regime. They need consent under the Highways Act 1980 and require express advertising consent under the Town and Country Planning regulations 2007.

## **2. Key Issues**

The Levelling Up & Regeneration Act became law last year, the provisions to make the pavement licence scheme permanent were not immediately commenced. It was anticipated that it would happen later in the year, but it unexpectedly commenced on 31 March.

When determining the pavement licence applications, the Council must have regard to the Guidance issued by the Secretary of State. Paragraph 2.1 of the Guidance states that to help support local businesses and give them more certainty, the expectation is that local authorities are pragmatic and will grant licences for the maximum period of 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.

Processing a pavement licence application takes on average 8 hours for a renewal application and 12 hours for a new application. For renewal applications, this time includes the time to validate the application, ensuring that all the relevant paperwork has been provided with the application and the correct fee has been paid. Time is also spent undertaking the consultation process and once the consultation period has ended, assessing any comments and/or objections made by Environmental Health,

Highways Planning and other persons who have made any representations, determining the application, granting, or refusing the application.

For new applications, or where there is a significant change from a previous licence, this will be like the above but will also include additional time to ensure the suitability of the proposed location, the number of tables and chairs proposed etc, and assessing the merits of the application.

Both new and renewal licences will require monitoring and may require enforcement. The Licence fee is intended to cover both costs. It should be noted that more complex the licensing regime the more likely enforcement measures are required.

The Temporary Pavement Licence fee was capped at £100.00, and this fee was introduced by Derbyshire Dales on the 1<sup>st</sup> April 2023. Under the Permanent Pavement Licensing Regime laid out in the Levelling up and Regeneration Act 2023, which came into effect on 31<sup>st</sup> March 2024 the fee is capped at £500.00 for first time (Grant) applications and £350.00 for renewal applications. The increase and fee cap intends to balance both the local authority and business interests. This increase in fee cap is intended to allow local authorities to recover the costs of processing, monitoring, and enforcing licences.

Under the temporary pavement licence regime, the enforcement powers lay with the County Council under the Highways Act 1980. Under the Permanent Licensing Regime, the local authority will be able to issue a notice requiring the breach of any licence to be remedied. If the licence holder fails to remedy the breach, the local authority may amend the licence, with the consent of the licence holder, revoke the licence or itself, take steps to remedy the breach and can take action to recover any costs of doing so.

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, local authorities can give notice requiring the business to remove the furniture before a specified date and to refrain from putting furniture on the highway unless they gain a licence. If furniture continues to be placed on the highway, in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until the costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. A pavement licence does not negate the need to obtain approvals under other regulatory frameworks, such as the need for a licence to sell alcohol, and the need to comply with registration requirements for food businesses.

One of the benefits of the temporary pavement licence regime was that once a pavement licence is granted by the local authority, the premises benefits from deemed planning permission for the furniture for the duration of the pavement licence. This does not change with the new permanent pavement licensing regime.

The Council will need to consider several factors, when determining whether to approve a pavement application. These include whether additional local conditions might be needed to make it possible to approve an application which would otherwise be unacceptable.

When setting local conditions and determining applications, the Council will also want to consider the following factors:

- Public health and safety including security – for example, any reasonable crowd management measures needed because of a licence being granted.
- Public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour, and litter.
- 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,
- considerations under the no-obstruction condition (set out in Section 3(6) of the 2020 Act) including the cumulative impact of multiple pavement licences in proximity, considering the needs of disabled people and 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 fixed structures in place on the footway that already reduce access; and
- Other users of the space, for example if there are high levels of pedestrian or cycles movements.

There is no statutory right of appeal in relation to the Council's decision in relation to a pavement licence application. To date we are not aware of any authorities that have an appeal process, if this Council was to introduce such an appeals process, the fee income would need to cover these costs.

### **Sitting Out Licences**

A pavement licence is a licence granted by the District Council which allows the licence-holder to place furniture over certain highways. This is a regulatory function of the District Council set out in the Business and Planning Act 2020. The highways in question are not owned by the District Council, they are essentially owned by the relevant highway authority (invariably Derbyshire County Council). The procedure for granting a pavement licence is set out in the Business and Planning Act 2020, and we can only apply discretion as permitted by the Act.

A sitting-out licence is similar in that it is granted by the District Council, but they can only be used to allow the licence-holder to place furniture on land owned by the District Council. Sitting-out licences are not statutory licences (not issued by the Licensing Section) they are contractual; both public and private sector landowners have rights to permit activities on their land by virtue of being the land-owner, and a sitting-out licence is an agreement under which the District Council permits its land to be used. Sitting-out licences are not fundamentally different to a licence granted to use one of the District Council's parks for a community event. The conditions attached to a sitting-out licences granted by the District Council generally mirror the conditions attached to a pavement licence so far as possible, but this is a matter of policy and is not a legal requirement.

### **Options Considered**

Several options have been considered in respect of the fees for the Permanent Pavement Licensing regime in respect of new and renewal applications. The fee

should recover the costs of the Council whilst remaining simple and fair to all parties involved. The more complicated that the permanent pavement licensing regime is and the more steps that the Licensing Authority need to take to determine the licence application, the higher the fee that the Council must charge.

The options considered have been:

1. A tiering system with the number of tables – the fee would be calculated have been calculated based on the number of tables that a business may have, e.g., 1 – 3 tables, 4 – 9 etc. This was dismissed on the grounds that it would be complicated to administer as different tables used could have different capacity in seating, i.e., a picnic bench table would take 6 – 8 customers, whilst a small table may take 2 seats, but the businesses would be paying the same.
2. A system based on the turnover of the business – i.e., those bigger businesses pay a higher fee based on their turnover. The costs attributed to a pavement licence would not differ for a bigger company to that of a smaller one, as the process and procedures are the same. Administratively, obtaining the turnover of income, would be often impossible and legally it would be questionable if Licensing were entitled to this information, as the Business and Planning Act 2020 and then the Levelling Up and Regeneration Act does not include this.
3. A system based on the space taken by the pavement area – the fee would be based on measurements of the area. This could be administratively complicated as the measurement would be open to mis interpretation and likely to be very difficult to enforce.
4. A system based on eligibility for Small Business Rate Relief (SBRR). Finance to provide further information for discussion at the meeting.

A single fee creates a level playing field and allows all applicants and staff to know what is expected and the fee to be charged.

### **3. Financial**

The Permanent Pavement Licensing Regime laid out in the Levelling up and Regeneration Act 2023, which came into effect on 31st March 2024 caps the fee at £500.00 for a first time (Grant) application and £350.00 for renewal applications.

Currently the Council has 13 temporary pavement licences which are due to expire on the 30th September 2024. It is estimated that there could be many premises using outdoor tables and chairs that are not currently licensed.

On receiving details of the permanent Licensing Regime and the changes to be introduced, such as enforcement, previously carried out by Derbyshire County Council, an exercise was undertaken to consider the costs to the licensing section. The estimated cost to the Council would be £474.34 for a (first time) Grant and £ 310.11 for a renewal.

The costs are estimated based on what we think a perfect application would involve and over the length of two years of the licence. Many applications, particularly initially, are likely to be more complex and time consuming.

Each licence holder within their fee will also need to contribute towards more complicated situations and actual enforcement. The Council do not wish to be running at a deficit if van hire and storage facilities are required in the worse enforcement scenario.

Therefore, as the estimated £474 and £310 respectively is for a straightforward application it would be reasonable to recommend that we charge the maximum allowable, e.g., £500 and £350 to ensure we don't run at a deficit and costs are covered.

Over two years that would equate to £250.00 per year (£4.81 per week) for a new application and £175.00 (£3.37 per week) for a renewal application.

These proposed costs have been discussed with the Economic Development Manager of DDDC who agrees that the fees above would cover the costs of administration and agrees with the pricing structure proposed. This had been discussed with the DDDC Business Advisor and both were in agreement that the suggested payment and renewal fees (£500 and £350 respectively) are reasonable amounts for businesses to pay for additional outside seating for a two-year period.

Economic Development also advised that any businesses that were concerned they would not have the resources to meet the additional costs, could contact the Business Advisor directly, who would support them in looking at their overall business model

On contacting the Derbyshire Licensing Group no other Councils have set their permanent pavement licensing fees,

A set fee would be more favourable than tiered to avoid confusion for businesses. On speaking to the Chairman of NALEO (National Association of Licensing Enforcement Officers) he was not aware that any other Council was considering a tiered system.

Given that the fees are intended to offset the costs of providing the pavement licences, the financial risk is assessed as low.

No new Burdens Grant has been received for the introduction of the permanent pavement Licensing Regime.

#### **4. Legal Advice and Implications**

This report provides the Committee with an update changing the temporary Pavement Licensing regime that has been in place since 2020 with that of the Permanent Pavement Licence which commenced on the 31<sup>st</sup> March 2024.

#### **5. Equalities Implications**

When determining applications, the licensing authority will give due regard to the public and highway safety of other highway users in line with all the criteria it will consider in determining whether an application should or should not be granted. The statutory conditions also take account of the needs of persons with mobility and visual impairments. A full EIA has been conducted and is attached as Appendix C.

#### **6. Climate Change Implications**

6.1 There are no direct climate change implications arising from this report.

#### **7 Risk Management**

7.1 The District Council has a statutory responsibility to undertake the duties outlined in the report.

### **Report Authorisation**

Approvals obtained from:

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Paul Wilson	10/06/2024
Director of Resources/ S.151 Officer	Karen Henriksen	10/06/2024
Monitoring Officer	Helen Mitchell	10/06/2024



# Permanent Pavement Licence Application Form

A pavement licence is granted by the local authority, which allows the licence-holder to place removable furniture or similar items, over certain highways adjacent to the premises, in relation to which the application is made. More information can be accessed at [Pavement licences: guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

**Derbyshire Dales District Council Council** (“the Council”) will consider your application for a Pavement Licence in accordance with the standard conditions attached to this application form.

**Please note the following important information before completing the form:**

- The licence may only operate between the hours specified by the Council. Further restrictions on operating hours may be applicable at some locations and you will be advised if these restrictions apply at your location.
- The applicant **MUST** have public liability insurance in the sum of at least **£5 million**.
- The licence shall run for a maximum of 2 years, or the **period specified** (minimum 3 months).
- The Council has **14 days** from the day after the receipt of a valid application to consult with other authorities/agencies and a further **14 days** (after the consultation period) in which to determine the application.

**1. Type of Application (tick which is relevant)**

GRANT

RENEWAL

**Applicants Details**

Full Name of Applicant *	
Contact address of applicant (Please include your postcode)	
Telephone Number	
Mobile Number	
Email Address	

### 3. Organisation/Business Details

Name of Business / Organisation *	
Address of Business/Organisation (Head Office if applicable)	
Registered Company Number (if applicable)	
Name and Address of Business (for the Pavement Licence) *	

\*These details will be included in a public notice at the premises and on the District Council website.

N.B. Any changes to the above information should be notified to Licensing Section at the Council in writing as soon as possible.

Do you hold a licence to sell alcohol or late-night refreshment under the Licensing Act 2003? (If yes, give your premises licence number)

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Have you registered your business with the Councils Food Safety Team? (if yes, what date did you register?)

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Have you obtained public liability insurance covering your business, including the proposed pavement area, for up to £5,000,000. (Please note that this is often in the schedule of insurance). If yes, Provide the policy number below:

### 4. Trading Days and Hours

Details of the days of the week and hours when you would like the Pavement Licence Area to be open:

Day	Open – (not before 9.00am)	Closed – (no later than 11.00pm)
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

## 5. Furniture

You must provide as much detail as possible for all the street furniture items you are proposing to use, e.g., numbers and types of items to be used.

Please detail the number of tables you wish to provide at the Pavement Licence Area (PAL).	
Please detail the number of chairs you wish to provide at the Pavement Licence Area (PAL).	
Please provide details of any barriers you are proposing to use.	
You must provide details of all furniture to be used as part of the Pavement Licence Area, including pictures and dimensions along with any other supporting documentation with your application.	
Do you intend to provide umbrellas and/or parasols. If yes, please provide details.	
Do you intend to provide any outdoor heating appliances? If yes, please provide details.	

## 6. Provision of Documents – Checklist (tick if provided)

Please provide the following documents with your application	Tick if provided
1. Proof of your Public Liability Insurance	
2. Picture of the notice displayed on the premises	
3. Site plan or set of plans (showing layout of furniture within the proposed pavement area at premises – showing dimensions of the pavement and furniture)	
4. Location Plan – showing where the premises is in relation to the street or surrounding area.	
5. Diagrams of photos or proposed street furniture, non-street furniture and barriers to be used (you must provide details of all furniture to be used, including pictures and dimensions along with any other supporting documentation.	
6. Relevant other licences held (licensing act 2003)	

## 7. Management Plan

Please use the boxes below to detail how you propose to manage the Pavement Licence Area if a licence is granted.

<b>Public Nuisance</b>	
<b>Public Safety (including consideration of No Obstruction Condition)</b>	
<b>Non Smoking Area Provision</b>	
<b>Crime and Disorder</b>	

## 8. Public Notice

I confirm that I will display the required public notice on my premises so that the Public can see it/ This will be from the same day as submit my application form to Licensing.	Please tick to indicate YES.
I confirm that the notice will show a 14-day period for public consultation, starting from the date after the application is submitted to Licensing.	Please tick to indicate YES.
I confirm a copy of this notice and photo of it on site will be sent to Licensing along with the application and accompanying documents.	Please tick to indicate YES.

## 9. Declaration/ Indemnity and Conditions. (Please read)

1. I hereby apply to Derbyshire Dales District Council for and on behalf of the above-named Business/Organisation for a Pavement Area Licence (PAL). I declare to the best of my knowledge and belief the above particulars are correct.
2. In the event of the Local Authority granting permission herein, I agree to indemnify and hold harmless the relevant Council(s) from and against all actions in law or inequity, damages or statutory or common law losses, costs charges and expenses arising in manner whatsoever out of the placing of chairs and other items on the pavements.
3. I have read and understood and give my undertaking to observe and abide by the conditions of the pavement licence and any other additional conditions, which may be attached to the licence I have been granted.
4. I understand that the District Council has the right to revoke or amend the Pavement Area Licence (PAL) and that in the event, I will not receive any compensation.

<b>Signed (Applicant)</b>
<b>Print Name</b>
<b>Date Application Made.</b>

Please return your completed application form and ALL accompanying documents to [licensing@derbyshiredales.gov.uk](mailto:licensing@derbyshiredales.gov.uk)

Licensing Team, Regulatory Services, Derbyshire Dales District Council, Town Hall, Matlock, DE4 3NN Tel: 01629 761313 email: [licensing@derbyshiredales.gov.uk](mailto:licensing@derbyshiredales.gov.uk)

For details of data protection and how we use your data please see our privacy notice at [Privacy - Derbyshire Dales District Council](#)

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## Levelling Up and Regeneration Act 2023 – Permanent Pavement Licensing Regime

This Licence is granted under the Permanent Pavement Licensing Regime – Levelling up and Regeneration Act 2023, which makes permanent those provisions set out in the Business and Planning Act (BPA) 2020.

### NATIONAL CONDITIONS

#### 1. No Obstruction:

All pavement licences will either have an express or (in default) deemed “no-obstruction condition” (section 5(4)). This is a condition that anything done by the licence-holder pursuant to the holder, or any activity of other persons which is enabled by the licence, must not have one of the specified statutory effects debarring grant of the licence, namely the effect of:

(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.

It is a condition that clear routes of access along the highway must be maintained, considering the needs of disabled people, and 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.

#### 2. Smoke-Free Area:

The Licence-holder must 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.

### LOCAL LICENCE CONDITIONS

1. The application form, including the site plan(s), and the notes attached to it, together with these Standard Conditions form the pavement licence.
2. The Licence is personal to the Licence-holder and cannot be transferred to any other person, business or organisation.
3. The Licence will be restricted to the opening hours of the premises specified in the licence or such other hours as may be agreed by Derbyshire Dales District Council (“the Council”) in writing.

4. The Licence-holder will comply with, and obtain, all other necessary statutory consents and approvals required in connection with the exercise of a refreshment facility on the highway. The Licence-holder will also comply with the provisions of all such consents and approvals and all statutes and other obligations imposed by law with regards to the provision, maintenance and operation of the refreshment facility.
5. When considering any Pavement licence application, the Council will consult with the following authorities as a minimum.
  - Derbyshire County Council Highways
  - Derbyshire Police
  - Derbyshire Dales District Council Environmental Health Team
6. The area upon which the proposed seating and other furniture may be sited (“the Licensed Area”) will be defined on a plan attached to the licence and shall be used solely for the purpose of consuming refreshments. No unauthorised obstructions are to be placed in the Licensed Area or on the public highway.
7. The Licensed Area shall be defined by barriers provided that any barrier must not inhibit other users of the highway. This is to be a portable barrier which is of a suitable colour and construction to be distinguishable to other pavement users and particularly the blind and visually impaired pedestrians, i.e., detectable by a stick and of a contrasting colour. 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. The use of barriers will need to be balanced to ensure any barriers do not inhibit other street users such as mobility impaired.
8. The tables, chairs, barriers and other furniture (“known as Equipment) shall be of an appropriate design and shall be kept in good repair and condition at the Licence-holder’s expense. The layout of furniture shall be as shown on a site plan attached to the Licence.
9. The Licence-holder shall remove all Equipment from the highway outside the opening hours specified in the Permanent Pavement Licence and if required to do so to permit works in, or the use of the highway by the County, District, Borough or Town Council, the emergency services, any statutory undertaker, or to allow access for builders’ vehicles, hearses, and furniture removal vans. Except in the case of emergencies, the respective organisations will give at least **24 hours’ notice** of the need for such removal.
10. The Licence-holder will not make any claim or charge against the Council in the event of the Equipment being lost, stolen or damaged in whatever way from whatever cause. The licence-holder is solely responsible for their Equipment.
11. The Licence-holder shall indemnify the Council against all actions, proceedings, claims, demands and liability which may be taken or made or incurred arising out of the Licence-holder’s use of the highway.
12. Licence holders are required to obtain public liability insurance always covering the business for up to £5,000,000 the licensed area is operational. It is the responsibility of the licence holder to forward up to date copies of insurance certificates as and when they expire. Failure to comply with this condition can constitute an offence under the Pavement Licence policy and enforcement action can be taken.
13. The licence shall run for the period of a maximum of 2 years unless there is good reason for granting a licence for a shorter period, for example due to future changes in the road lay out. It shall remain in force only for such period as the Licence-holder remains the



occupier of the premises or until withdrawn by the Council under the Act or surrendered to the Council by the Licence-holder.

14. The Equipment must not obstruct pedestrian, emergency or delivery access to any premises or extend beyond the Licensed Area.
15. Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
16. Normally the Equipment will be placed against the building, however where additional space is available (such as a pedestrianised street) the Licence may allow for the furniture to be sited away from the building. The Equipment shall not be positioned to discourage pedestrian usage.
17. The proximity of existing obstructions e.g. planters, trees, etc. should be considered as should bus stops, taxi ranks and pedestrian crossings. Consideration should also be given to the placement of all Equipment so they do not cause an obstruction or trip hazard or block forward visibility of any road sign or traffic signal. The pedestrian footway must not be enclosed in any way.
18. Activities shall be restricted to within the Pavement Licensed Area and controlled by the Licence-holder such that people do not congregate outside the Pavement Licensed Area.
19. It is also the Licence-holder's responsibility to manage and control customers' activities that affect other highway users outside of the licensed area.
20. The Licence-holder is solely responsible for all the Equipment and shall make no claim or charge against the Council in the event of such items being lost, stolen or damaged.
21. The Licensed Area will be suitably managed by staff to ensure the orderly conduct of customers and adherence to (any current) social distancing guidelines. Standards of cleanliness and tidiness must be maintained to the satisfaction of the Council.
22. The Licensed Area must be kept clean and free from litter and other rubbish. At the end of each working day, or more frequently if necessary, the Licensed Area and an additional area of highway bounded by a line 5m from the Licensed Area shall be thoroughly cleaned to remove food debris etc. No business waste shall be deposited in the permanent litter bins provided by the Council.
23. All Equipment must be free standing and no fixtures to, or excavations of any kind shall be made in the surface of the highway which shall be left entirely undisturbed. The Council reserves the right to report any highway damage no matter how caused and recharge the Licence-holder.
24. Advertisements and signs are not allowed within the Licensed Area (other than on parasols) or on barriers without the prior consent of the Council.

25. No alcohol shall be consumed in the Licensed Area unless the food and drink premises are licensed by the District Council for the sale and consumption of alcohol under the provisions of the Licensing Act 2003.
26. Musical entertainment will not be permitted in the Licensed Area unless any licence required, has been granted by the District Council.
27. The Licence-holder shall be responsible for any rates, taxes and other out-goings which may be charged in connection with the Licence-holder's use of the Licensed Area.
28. If the Council considers that the Licence-holder has breached any condition of the licence, the authority may—
  - (a) revoke the licence, or
  - (b) serve a notice on the Licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is so specified. If the Licence-holder fails to comply with the notice, the Council may revoke the notice or take the steps itself and recover the costs of doing so from the Licence-holder.
  - (c)
29. The Council may also revoke the licence if it considers that—
  - (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted,
  - (b) as a result of the licence—
    - i. there is a risk to public health or safety, or
    - ii. anti-social behaviour or public nuisance is being caused or risks being caused,
    - iii. the highway is being obstructed (other than by anything done by the Licence-holder pursuant to the licence),
  - (c) anything material stated by the Licence-holder in their application was false or misleading, or
  - (d) the Licence-holder did not comply with the duty in section 2(5) of the Act to display a notice of application.
30. A compliance inspection may be conducted at any time from the commencement of the Licence or the issue of a Notice requiring the Licence-holder to remedy a breach of the Licence.
31. If the Licence is revoked all Equipment must be removed with immediate effect and the Licence-holder shall leave the highway in a clean, tidy and undamaged condition. If any action is required by the local authority to remove the Equipment or repair any damage to the highway, steps will be taken to recover all associated costs from the licence-holder.
32. 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, local authorities can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.
33. If furniture continues to be placed on the highway, in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for

the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

34. Where Equipment is put in the Licensed Area which 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.
35. The Council may vary or dis-apply any one or more of these conditions, or add any new condition, when determining any application.

**DDDC/RS/LICENSING/Pavement Licences/May 2024 v.4**

**Licensing Team, Regulatory Services, DDDC, Town Hall, Matlock, DE4 3NN**

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## Derbyshire Dales District Council Equality Impact Assessment



Please refer to the guidance whilst completing this form.

Please contact Claire Allen [Claire.allen@derbyshiredales.gov.uk or 01269 761240] for support.

### 1. Outline

Information required	Detail
a. Title of policy, practice, service or function being assessed	Permanent Pavement Licensing Regime 2024
b. Links to Service and/or Corporate Plan Ref/s	
c. Name and Role of Officers conducting assessment	Grace Dowson, Licensing Manager
d. Date of assessment	14.05.2024
e. Reason for assessment	<ol style="list-style-type: none"> <li>1. To consider the impacts on people of a pavement licence when granted/renewed.</li> <li>2. To consider the impact of the policy itself to rule out concerns whether there is a chance of discrimination in the awarding of licences,</li> <li>3. The level of appropriate fees.</li> </ol>
f. What is the purpose of this policy, practice, service, or function? (Specify aims and objectives)	To set the fees for the Permanent Licensing Regime which came into effect under the Levelling Up and Regeneration Act on the 31 <sup>st</sup> March 2024.
g. Are there any other organisations involved in its implementation?	<ul style="list-style-type: none"> <li>• consultees that we consult with in respect of each pavement application, Police, Derbyshire County Council, DDDC Clean and Green and DDDC Environmental Health.</li> </ul>

Information required	Detail
h. Likely customer groups to be impacted	Members of the public, customers of cafes, neighbouring businesses, and residents.
i. Other stakeholders likely to be impacted.	Derbyshire County Council, emergency services if unable to access areas due to pavements or immovable pavements
<b>Which District Council departments are affected by the policy, practice, service or function?</b>	DDDC Regeneration – Ashbourne <b>Reborn</b> , Clean and Green, and Environmental Health as consultees, Finance for fees and accruals
<b>Do any of the objectives directly support or hinder another Council activity?</b>	Not that I am aware of.

## 2. Assessing Relevance to the General Equality Duty

The General Equality Duty has three aims which require the District Council to have due regard to the need to:	Tick those which are relevant ✓
1. Eliminate unlawful discrimination (both direct or indirect), harassment and victimisation.	✓
2. Advance equality of opportunity between all persons by <ul style="list-style-type: none"> <li>• removing or minimising disadvantages suffered by protected groups.</li> <li>• taking steps to meet the needs of people from protected groups where these are different from the needs of other people</li> <li>• encouraging people from protected groups to participate in public life or other activities where participation is disproportionately low</li> </ul>	✓
3. Foster good relations between different groups	✓

## 3. What existing information / data do you have / monitor about different diverse groups in relation to this policy, practice, service, or function?

For example: previous EIA's, reports, consultation, surveys, demographic data etc.

Information / Data	Data source and date	Information relevant to proposed policy/service/function
<p>Office National Statistics 2021 Census  <a href="https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationandhouseholdestimatesenglandandwalescensus2021">https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationandhouseholdestimatesenglandandwalescensus2021</a></p>	<p>Office National Statistics population datasets – age, sex, households etc.</p>	<p>e.g., Derbyshire Dales population has increased by 0.5% from 71,116 to 71,500</p> <p>27.8% of the population in the Derbyshire Dales are over 65</p> <p>The number of households has increased by 5.1%, from 30,744 to 32,300</p>

<p>Derbyshire Observatory  <a href="https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/documents/census/2021_census/Census2021_FirstReleaseDerbyshire.html#derbyshire-dales">https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/documents/census/2021_census/Census2021_FirstReleaseDerbyshire.html#derbyshire- dales</a></p> <p>Infographic of data</p> <p><a href="https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/documents/census/2021_census/2021%20Census%20Infographic%20v5_DDales%20V1.00.png">https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/documents/census/2021_census/2021%20Census%20Infographic%20v5_DDales%20V1.00.png</a></p> <p><a href="https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/profiles/quilt/quilt_rank.pdf">https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/profiles/quilt/quilt_rank.pdf</a></p>	<p>Population figures by age, number of households, sex - Derbyshire Observatory; taken from Census 2011 - national survey of all households</p>	<p>The Derbyshire Dales has less people aged under 35 than the average for England, in all 5 year age bands</p>
<p>Derbyshire Dales Equalities Profile  <a href="https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/profiles/area_profiles/district/Derbyshire_Dales_Area_Profile.pdf">https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/profiles/area_profiles/district/Derbyshire_Dales_Area_Profile.pdf</a></p>	<p>Derbyshire Observatory; taken from Census 2020 - national survey of all households</p>	



<p>Derbyshire Dales Profile  <a href="https://www.nomisweb.co.uk/reports/localarea?compare=E07000035">https://www.nomisweb.co.uk/reports/localarea?compare=E07000035</a></p>	<p>NOMIS Official Labour Market Statistics          Census 2011-national survey of all households</p>	
<p>Derbyshire Dales Equality Information published on website:  <a href="https://www.derbyshiredales.gov.uk/your-council/equalities/equality-information">https://www.derbyshiredales.gov.uk/your-council/equalities/equality-information</a></p>	<p>DDDC Monitoring data collected by services (in-house and outsourced)</p>	
<p>Population figures – estimated for 2020 by the ONS  <a href="https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalescotlandandnorthernireland">https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalescotlandandnorthernireland</a></p>	<p>Office of National Statistics</p>	<p>e.g., The UK median age is 40.4, in the Derbyshire Dales it is 51.5</p>

#### 4. Consultation and engagement

4a. if no consultation has taken place OR is unnecessary, please explain why.

No A wider consultation is NOT required as the procedure and process is set down by the Business and Planning Act 2020 and the Levelling Up and Regeneration Act 2023. The fees are set to recover cost of the service.

4b. Add the results of any completed consultation and how it has/will inform the development of the policy/service.

Who <u>did</u> you consult with?	How and when	Outcomes/Results	Implications and amendments as a result of consultation

4c. Add consultation plans and results here

Think about who the stakeholders are? How will you gather their views? By when?

Remember to complete a Consultation Proposal form to access support and refer to the guides – everything you need is here

<X:\Partnerships and Projects\Consultation All Directorates\Strategies Guidance Resources>

<b>Who <u>will</u> you consult with?</b>	<b>How and When</b>	<b>Results</b>	<b>Implications and amendments as a result of consultation</b>
Police, Derbyshire County Council and Police in respect of new application form.	New proposed application form and conditions sent to consultees on 23.05.2024 – comments by 31.05.2024.		

**5. Based on the evidence above, does the policy, practice, service or function have a positive or negative impact on any protected group(s)?**

35

<b>Protected groups</b>	<b>Positive effects</b>	<b>Negative effects</b>	<b>Potential Improvement Actions</b>
<b>Age</b>	Ability to sit out so encourage socialising and being out	May be detrimental to access to the highways and pavements	Ensure licensee complies with legislation conditions.
<b>Disability or long-term ill health</b> Physical disabilities, sensory impairments, limiting long-term illnesses, learning disabilities or mental health issues	Barriers would enable those disabled to know where pavements positioned	May cause blockages for disabled vehicles/buggys etc	Ensure licensee complies with legislation conditions

<b>Protected groups</b>	<b>Positive effects</b>	<b>Negative effects</b>	<b>Potential Improvement Actions</b>
<b>Race / ethnic groups</b>	None	None	None
<b>Women or men</b>	None	None	None
<b>Sexual orientation</b>	None	None	None
<b>Religion or belief (including non-belief)</b>	None	None	None
<b>Transgender</b> (including people planning to or going through gender reassignment)	None	None	None
<b>Pregnancy and maternity</b> (including maternity and paternity leave)	May give parents with prams and buggies more space	None	None
<b>Marital status</b> (including civil partnership & same sex marriage)	None	None	None

**5a. Are there any local priority groups / factors which should be considered?**

Other factors	Positive effects	Negative effects	Improvement actions
<b>Rural areas</b>	Encourage smaller venues to increase space outside	Low possible noise nuisance	Ensure pavement are managed by premises under licence conditions.
<b>Poverty / deprivation</b>	Additional tables may increase additional employment opportunities	None	Ensure pavement are managed by premises under licence conditions.

## 6. Commissioned / outsourced services

Is your policy, practice, service or function partly or wholly provided by any external organisation / agency?	Yes / No
If yes, please list any contractual or other arrangements which aim to ensure that the provider promotes equality and diversity (e.g., <i>monitoring data</i> )	

## 7. Summary

The Levelling Up and Regeneration Act introduces several changes, a standard fee cap for both new and renewals of licences as well as increased consultation and determination periods, lengthens the maximum duration of licences to 2 years and provides local authorities with new powers to remove unlicensed furniture. The fee is capped at £500 for first time applications and £350 for renewals and the public consultation period is 14 days (excluding public holidays), starting the day after the application is sent electronically to the authority. If the local authority does not determine the application before the end of the determination period (which is 14 days beginning with the first day after the end of the public consultation period, excluding public holidays), the licence is deemed to have been granted for two years.

**How can the local authority and applicant consider the needs of disabled people when considering whether the requirements of the no-obstruction condition are met?**

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. When determining whether furniture constitutes an unacceptable obstruction considering the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. To do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:

- Section 3.2 of Inclusive Mobility - gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
- 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, as these are not necessary for the consumption of food, 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. Advertising boards are not included in the definition of furniture within the pavement licensing regime, therefore, should not be used as a barrier.
- 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 or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs.
- the cumulative impact of multiple pavement licences near each other and if there is specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people.
- 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.

Section 149 of the Equality Act 2010 places duties on local authorities, to have due regard to: the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who do not and foster or encourage good relations between people who share a protected characteristic and *those who don't*.

any other points relevant to the Policy/service.

### 8. Improvement Plan

Key issues identified	Actions

**PLEASE FORWARD THE COMPLETED FORM TO THE POLICY MANAGER / POLICY OFFICER (Consultation & Equalities)**



Signed \_\_\_\_\_ (Completing Officer)

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By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

# Agenda Item 7

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