

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