

Birmingham City Council Pavement Licensing Policy

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1. Introduction

On 25 June 2020, as part of the Covid-19 Pandemic response, the Government introduced the Business and Planning Act 2020.

Part of the Act introduced a temporary process for businesses to obtain permission for the placement of furniture such as tables and chairs on the pavement outside their premises, as a cheaper and faster alternative to obtaining such permission under part VII Highways Act 1980.

The measures included in the Act also modified provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales.

These aspects of the Business and Planning Act 2020 were introduced as a temporary measure to boost the economy, with provisions originally lasting until the end of September 2021

Following several extensions to this pandemic recovery legislation, the Government, in the Levelling Up and Regeneration Act 2023, opted to modify and make permanent the pavement licensing measures in the Business and Planning Act 2020, and these changes commenced on 31 March 2024.

The changes introduced by the Levelling Up and Regeneration Act 2023 included an end to the ability to use part VII Highways Act 1980 for anything that can be done with a Business and Planning Act Pavement Licence, an increase in the consultation and determination periods for applications, an increase in the fee cap, an increase in the length of time licences can be granted for, and the introduction of a new enforcement power.

2. Scope

2.1 Definition of Pavement Licence

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.

2.2 Eligible Businesses

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.

Businesses that do not use their premises for the sale of food or drink, for example salons, are ineligible.

2.3 Eligible Locations

Licences may only be granted in respect of those 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. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

If an application would also require additional permissions, such as a Temporary Traffic Regulation Order, these permissions MUST be sought separately, failure to do so may result in the pavement licence being refused or conditioned such that it would only be valid with such additional permissions in place.

Where the criteria for a Pavement Licence have been met i.e. relevant premises, relevant use, a licence must be applied for. (see Part 5 – Enforcement)

2.4 Type of furniture permitted:

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;
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink; and
- fencing, barriers, and decorative planters, provided that they have a colour contrast and a tap rail or equivalent, such that they can be detected easily by a long cane user.

This furniture is required to be removable, such that all parts are able to be moved easily and stored away from the Highway at the close of the business day. Furniture not meeting this description is not included in the definition of furniture within the pavement licensing regime

The Council expects that areas of Highway used under a Pavement Licence will be enclosed with removable barriers with a colour contrast and a tap rail, (or a reasonable equivalent) unless there is a good reason not to. This is both to clearly indicate the area used, and to help ensure that the highway remains navigable to visually impaired people.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.

2.5 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

2.6 Licensing Act 2003

Pavement Licences confer no authorisation to sell or supply alcohol from the licensed area. Any such authorisation must be obtained under the existing alcohol licensing regime.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made to the Council through the designated portal on its website, and the following will be required to be submitted on the day of application:

- a completed electronic application form
- the required fee of £500 with respect to new applications or £350 with respect to renewals, paid online by credit or debit card.
- a plan showing the location of the premises indicated 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 include clear measurements of the relevant highway width/length, building width and accurately note any other fixed item such as lighting columns in and around the proposed area. The plan should also show the positions and numbers of the proposed furniture items.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- photos or brochures showing the proposed type(s) of furniture
- (if applicable) reference of any existing pavement licence or previous licence granted for the area.
- Details of any existing authorisation to sell or supply alcohol under the Licensing Act 2003 (including licence number)
- Photographic evidence of the correct and timely display of the site notice (this must be submitted on the day of application)
- any other evidence necessary to demonstrate how the Council's local conditions, and any national conditions will be satisfied.
- Confirmation that Public Liability Insurance to a minimum value of £5 million will be in place at all times that the licence will be in use.

3.2 Fees

The fees for applying for a Pavement Licence under the new process are set locally but are capped nationally at £500 with respect to new applications and £350 with respect to renewal applications.

The required fee in Birmingham will be £500 with respect to new applications or £350 with respect to renewals, paid online by credit or debit card.

This fee is **non-refundable** in the event of refusal, surrender or revocation.

Applicants are advised not to submit any application unless they can satisfy all the requirements and have included all required documentation.

If:

- a pavement licence (or Temporary Pavement Licence) under the Business and Planning Act 2020 has been previously granted with respect to the premises in question; and
- the application is from the same substantive applicant; and
- the extent, furniture, and days & hours of operation are the same as that most recent such licence;

the application shall be treated as a renewal, in all other cases it will be considered to be a new application.

3.3 Consultation

Applications are consulted upon for 14 calendar days, starting the day after the day on which a valid application is made to the Council. (not including public holidays)

The Council will publish details of the application on its website at www.birmingham.gov.uk/pavementcafe

To ensure that there are no detrimental effects to the application, in addition to members of the public, the Council will consult specifically with:

- Birmingham City Council Environmental Health Service
- Birmingham City Council Planning Department
- Birmingham City Council Waste Management Department
- Birmingham City Council City Centre Operations Team and or Local Engineers (Highways) (where applicable)
- Birmingham City Council Traffic Management Services
- West Midlands Fire Service
- West Midlands Police
- The appropriate Local Ward Councillor(s)
- Birmingham City Council Community Safety, Prevent and Resilience
- such other persons as the Council considers appropriate.

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

Representations received during the public consultation period must be considered when determining the application.

3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, 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.

Evidence of the site notice requirement must be supplied to the Council.

The Site Notice must:

- state that the application has been made 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, state how such representations may be made 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; (the application will be published on the next working day).

A template Site Notice is shown as Schedule 1.

A Site Notice populated with the information supplied as part of the application will be emailed to the applicant to print and display on receipt of the completed application. Applicants may use this, or any other reasonable A3 or A4 document format which clearly and concisely displays all of the required information.

3.5 Site Assessment

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

- public health and safety including security – 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;
- 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:
 - considerations under the national no-obstruction condition and relevant local standard conditions including the cumulative impact of multiple pavement licences in close proximity, in particular considering the needs of disabled people
 - 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 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.

3.6 Determination

Once the application is submitted the Council has 28 calendar days, beginning the day after the application is made, to consult on and determine the application. This consists of 14 calendar days for public consultation, and then 14 calendar days to consider and determine

the application after the consultation. Public holidays are not treated as calendar days in this context.

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,
- impose conditions above and beyond the local standard conditions and national conditions
- refuse the application.

If the local authority does not determine the application by the end of the 28-day period, the application will be deemed to have been granted, and the licence granted will last for 2 years starting with the first day after the determination period.

3.7 Approval of Applications

The Council may approve applications meeting the criteria contained within this policy.

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. These terms will also be regarded as conditions of licence.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences are shown at Schedule 2. Additional or alternative conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

If a licence is granted in respect of a premises which already benefits from a Pavement Licence, the new licence will supersede any existing Pavement Licence(s).

The Council generally will only permit Pavement Licences between 09:00 and 21:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading outside of those applied for in appropriate circumstances.

Premises licensed under the Licensing Act 2003 may apply for a Pavement Licence which reflects the hours on their LA03 licence. This must be specified on the application.

Applicants should note that, although the Business and Planning Act 2020 may at times modify the Licensing Act 2003 to provide an automatic extension to the terms of most premises licences which only permit the sale of alcohol for consumption on the premises to allow the sale of alcohol for consumption off the premises, this modification ceases at 11pm (or the terminal hour of the existing on-sales permission – whichever is earlier).

Applications for furniture for the display of goods for sale will only be considered where the proposed use meets the requirements for relevant use (food and drink) and will be expected to include provision for the space occupied by customers while browsing or paying/ waiting to be served.

3.8 Licence Duration

If the Council determines an application before the end of the determination period, they may specify the duration of the licence, which barring exceptional circumstances will be 12 months starting with the first day after the date on which the licence was determined.

If a licence is deemed to be granted because the authority did not make a decision on an application before the end of the determination period, then the licence will be valid for 2 years starting with the first day after the determination period.

There is no provision in the Act to transfer a Pavement Licence.

3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions, then the application may be refused.

There is no statutory appeal process against decision to refuse an application, and there will be no refund of the application fee.

3.10 Return of Applications

If an application does not contain all of the items listed above in 3.1, or if any of the items listed are considered by Birmingham City Council to be deficient, or if the application is made for a purpose which is not relevant use under s2 Business and Planning Act 2020 (e.g. the land is not a relevant Highway) then the application will be considered null and void and returned to the applicant undetermined.

In this circumstance, as the application fee is for the cost of administering the application there will be no refund made.

Alternatively, at the sole discretion of Birmingham City Council, the applicant may be offered the opportunity to apply again without the need to pay the usual application fee.

4. Conditions

4.1 Local Standard Conditions:

The publication of Schedule 2 of this policy document on www.birmingham.gov.uk should be understood as the publication by Birmingham City Council of a set of local standard conditions, subject to which Birmingham City Council proposes to grant pavement licences.

As such, any licence applications granted or deemed to be granted will be subject to these published local standard conditions.

4.2 Specific Conditions

In some cases, additional specific conditions may be justified. This will be determined when assessing any application, on a case-by-case basis.

4.3 National Conditions

The Business and Planning Act 2020 sets out two conditions which apply to pavement licences which are granted or deemed to be granted; these are: a no-obstruction condition and a smoke-free seating condition.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

The National Conditions are included as Schedule 3

4.3.1 Guidance on the no-obstruction condition

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 in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order 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 licenses in close proximity to 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.

4.3.2 Guidance on the smoke free seating condition

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

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

4.4 Variation of conditions

By mutual consent with the licence holder, the conditions of an extant Pavement Licence may be varied subject to the provisions in Business and Planning Act 2020, s.6 (4).

4.5 Suspension of pavement licences

There may be circumstances where a Pavement Licence may be suspended for works, a special event, or any other reasonable cause (including access and diversions in support of same), as reflected in the 1st local standard condition attached to all pavement licences. Any Council officer with delegated authority under this legislation or similar authority with respect to Highways legislation may make the decision to suspend a licence for this reason, and reasonable advanced written notice should be given wherever possible.

In addition, any officer of the emergency services may temporarily suspend a pavement licence in an emergency, for the duration of that emergency. It is expected that outside of an emergency, the emergency services would approach the Council to request the suspension of a licence, and would report any issues to the Council that may lead to the consideration of enforcement action.

On these occasions there would be no compensation for loss of business or refund of any application fee.

5. Enforcement

5.1 Highways Act Offences

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority and/or the Police.

5.2 Pavement Licence -Enforcement Power

The Business and Planning Act 2020 (as amended by the Levelling Up and Regeneration Act 2023) confers certain enforcement powers. Consideration and use of this power will be without prejudice to the consideration and use of any other legislation or offences relevant to the placement of furniture on the Highway.

Birmingham City Council will use whichever powers it considers to be the most appropriate in any given circumstances and whilst ensuring compliance with the Regulation and Enforcement Divisions Enforcement Policy.

Where compliance at premises is not been achieved through informal means in accordance with the enforcement policy, or where there are compelling reasons to act quickly such as a risk to public safety or the risk of nuisance, the local authority will consider the issue of a formal 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.

If furniture continues to be placed on the highway, in violation of the notice, Birmingham City Council is empowered to remove and store the furniture and recover the costs from the business for so doing and refuse to return the furniture until those costs have been paid.

If within 3 months of the notice, the costs are not paid, Birmingham City Council will consider disposal of the furniture by sale or other means and retention of any proceeds.

5.3 Other legislation which will still apply to holder of a Pavement Licence

Obtaining a Pavement Licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Equalities Act, emergency Public Health measures etc. and applicants must ensure all such permissions are in place prior to applying.

If an application would also require additional permissions, such as a Temporary Traffic Regulation Order, these permissions MUST be sought separately. There may be additional costs for such permissions. Issuance of a Pavement Licence does NOT supersede any requirement for such permission, and its validity would be conditional on the securing of such permission.

5.4 Issue of a remediation notice

Where Birmingham City Council has evidence that a condition imposed on a pavement licence has been breached, Birmingham City Council will consider the issue of a notice requiring the breach to be remedied. This notice will clearly describe the breach and the evidence, it will specify a reasonable time by which the breach must be remedied, and it will describe the consequences for failure to do so.

Such notices may only be issued by officers of the Council with delegated authority under the Business and Planning Act 2020.

If the licence-holder fails to remedy the breach, Birmingham City Council may amend the licence, with the consent of the licence-holder, revoke the licence, or where appropriate take steps to remedy the breach directly and take action to recover any costs of so doing.

5.5 Where a licence can be revoked or amended

Birmingham City Council may revoke a licence, or amend it with the consent of the licence holder, 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 licensed area (or road adjacent) is no longer to be pedestrianised; or
- 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 (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level); or
- this use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition (or similar local condition), e.g. 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; or
- 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.

The local authority may revoke a licence in the following circumstances:

- For a breach of condition, (whether a remediation notice has been issued or not); or
- 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 of the application or secure that the notice remained in place until the end of the public consultation period.

6. Review Procedures

6.1 Review of this policy

This Policy will be reviewed from time to time should changes occur in relevant legislation, in response to national events such as a significant public health risk, or as a result of local considerations within the Birmingham City Council Area.

Section 2 Business and Planning Act 2020.

Application reference: [TPLxxxxxx]

I/We: [applicant name]

do hereby give notice that on [date of application] [I/we] have applied to Birmingham City Council for a 'Pavement Licence' at:

[premises address]

known as

[premises name]

The application is for:

Purpose: [brief description of application e.g. outdoor seating to the front of the premises for serving of food and drink]

Hours :

Monday: [hours from:to]

Tuesday: [hours from:to]

Wednesday : [hours from:to]

Thursday: [hours from:to]

Friday: [hours from:to]

Saturday : [hours from:to]

Sunday : [hours from:to]

Details of the application may be viewed on the Council's website at:

www.birmingham.gov.uk/pavementcafe

Any person wishing to make representations in relation to this application may do so by completing the online feedback form found at the above referenced website, quoting the application reference number found at the top of this notice.

before the end of : [closing date]

Signed

Dated [date]

Schedule 2 Birmingham City Council's Local Standard Pavement Licence Conditions

1. Permission to operate a Pavement Licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that Birmingham City Council and others, including but not limited to: the emergency services, highways authority, and statutory undertakers may need to use the area of Highway covered by your Pavement Licence to respond to an emergency, or for maintenance, access, installation, special events, improvements or any other reasonable cause.

For any of these reasons, the pavement licence may be suspended at any time by an authorised officer of Birmingham City Council (or in an emergency, an officer of the Emergency Services). On these occasions there would be no compensation for loss of business or refund of any application fee.

2. Operation of the licensed area must not cause other users of the Highway to become unreasonably delayed or inconvenienced, or in any way endangered. The footway immediately adjacent to the licensed area must be monitored, and furniture removed from the Highway whenever needed without delay to ensure compliance with this condition.
3. Emergency routes to and from the premises and adjacent buildings must not be obstructed by anything done under this licence.
4. The operation of the licensed area must not hinder emergency vehicle access along the roadway in an emergency.
5. The licence holder must ensure at all times, that the licensed area is operated in a safe and orderly manner.

The licence holder must provide a site-specific risk assessment to include reference to the management and control of the licensed area. The risk assessment must include, but is not limited to:

- a. Prevention and fighting of fires
- b. Emergency evacuation of the main premises, the licensed area, and any relevant neighbouring properties.
- c. Safe capacity and the management of any queuing
- d. Behaviour of staff and customers
- e. Inclement weather
- f. Slips, trips and falls
- g. Control of alcohol

The risk assessment must be kept on the premises and made available for inspection by appropriate officers of Birmingham City Council or the Emergency Services.

6. Only the permitted furniture specified in the application (or reasonable, close substitutes) may be used on the Highway, and only during the dates and hours and within the area specified in the licence. When the licence is not in use (including when it has been suspended or revoked), all such furniture must be stored securely away from the highway.

7. All furniture must be safe, fit for purpose and kept clean and in a good state of repair.
8. Furniture must be placed so as not to obstruct driver sightlines, or road traffic signs.
9. The licence holder must take all reasonable steps to ensure that the operation of the licensed area does not cause a nuisance to nearby business or residential premises.
10. No amplified sound (music, sports commentary etc.) may be played in the licensed area.
11. The licensed area must not be used to accommodate customers standing to consume food and drink (reasonable exceptions may be made to accommodate injury or disability).
12. Birmingham City Council requires that the licence holder has Public Liability Insurance for the operation of the pavement licence, and a pavement licence is only valid at such times as suitable insurance is in place. This insurance must indemnify Birmingham City Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident. Evidence of such insurance must be kept on the premises and made available for inspection by appropriate officers of Birmingham City Council. Failure to provide satisfactory evidence of a policy will be grounds to suspend the licence until such time as suitable evidence can be provided.
13. The licence holder is not to make or cause to be made any claim against Birmingham City Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
14. All electrical supplies and electrical appliances used by the premises in the licensed area (including lighting) must be battery or mains powered and meet all applicable standards for outdoor use. Generators are not permitted except with the separate written permission of Birmingham City Council.
15. The operation of the licensed area must not interfere with highway drainage arrangements.
16. During the hours of darkness, suitable and sufficient lighting must be available to ensure safe use of the licensed area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
17. The licence holder must make arrangements to regularly check for and remove litter, caused by persons using the licensed area, for a distance of up to 10 metres from its boundary. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and any other evidence of spillages.

18. Use of the licensed area must be managed such that so far as is reasonably practicable, there is no additional impact on public litter bins. This may involve providing customer bins in the licensed area alongside a robust litter control plan.
19. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway will be recovered in full from the licence holder by Birmingham City Council
20. Pavement Licence holders not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the licensed area.
21. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the area subject to the Pavement Licence outside the hours in force for the premises itself.
22. Where the Pavement Licence is within a PSPO which prohibits consumption of alcohol, the licence holder must take reasonable steps to prevent patrons leaving with open containers of alcohol.
23. The first page of the licence certificate must be displayed on the premises at all times that the licence is in use.

Schedule 3 National Conditions

1. No obstruction condition.

Nothing must be done by the licence-holder to:

- prevent traffic, other than vehicular traffic, from—
 - 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)
 - passing along the relevant highway
 - having normal access to premises adjoining the relevant highway
- preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order
- preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
- 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

Particular regard must be had to the needs of disabled people, and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State. [See Section 3 Inclusive Mobility](#)

2. Smoke-free seating condition

Where the furniture to be put on the highway consists of seating by use of persons for the purpose of consuming food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted.