

Luton

STANDARD PAVEMENT LICENCE CONDITIONS & REQUIREMENTS

The Business and Planning Act 2020 (Pavement Licences) (Coronavirus)
(Amended) The Levelling Up and Regeneration Act 2023.

The following will be applied to every licence granted under the above Act:

National conditions:

1. No-obstruction condition – The Licensee must ensure that a clear route of access along the highway is kept clear, by;

- ✓ ensuring a range of recommended widths in section 3.2 of Inclusive Mobility are met. This will take into account the needs of particular pavement users, including mobility impaired and visually impaired persons, where in most circumstances a recommended minimum width of 1500mm of clear space between an obstacle and the edge of the footway is kept;
- ✓ considering any barriers used to separate furniture from the rest of the footway. For example; using a tap rail for long cane users, or barriers and furniture with contrasting colours;
- ✓ maintaining principle lines of pedestrian movement for disabled people, older people and those with mobility needs. Principle routes should be entirely clear and should not pass through an area with tables and chairs;
- ✓ ensuring the furniture is non-reflective, and constructed so that it cannot be easily pushed, or blown over by wind. You cannot use plastic patio furniture, unless counter measures are taken to ensure these are stable.

2. Smoke-free seating condition – This condition requires when furniture is used on the relevant highway it provides customers a greater choice and option for both smokers and non-smokers to sit outside; when consuming food or drink.

The licence holder must make reasonable provision and meet this condition by;

- ✓ providing clear 'smoking' and 'non-smoking' area, with appropriate smoking signage that meets the Smoke-free (Signs) Regulations 2012.

- ✓ No ash trays shall be left on tables in designated non-smoking zones.
- ✓ Licence holders should provide a minimum distance of 2 metres between smoking and non-smoking area, where possible.

Local conditions:

3. This licence is granted in accordance with the advice given in the guidance notes issued at the time of application.
4. The licence is issued to the applicant only and is not transferable.
5. The licence holder shall refrain from placing tables and chairs and other authorised furniture on the highway for so long as may be necessary in the case of a planned event, when reasonably required to do so by a duly authorised officer of the Council, a police officer or an officer of any other emergency service.
6. No tables and chairs or barriers may be placed in the area until a licence has been granted.
7. No other items may be placed on the highway within the licensed area other than that approved in accordance with the application and the licence when granted. Any Advertising Board must be contained within the agreed seating area and not outside the licensed area.
8. Furniture placed on the pavements after the granting of a licence must be in accordance with the details and plans provided at the time of the application. No changes are permitted without prior approval from Luton Borough Council.
9. Social distancing – All social distancing restrictions are now removed, but businesses still have a legal duty to manage risks to those affected by its business undertaking. The business should consider that some people may make a personal choice and limit their close contact with others. As before the way to achieve this is to complete a health and safety risk assessment, and include the risks associated with COVID-19, and to take reasonable steps to mitigate the risks you identify.
10. The premises must have reasonable crowd management plan to ensure social distancing is compiled with and be able to produce the plan on request to the

Council.

11. The amenities must be removed from the public highway at the end of the permitted period each day.

12. All furniture authorised by the licence must be removed daily.

13. The Licensee shall maintain a public liability insurance policy up to the value of £5 million pounds against any liability, loss or damage, claim or proceeding whatsoever arising under Statute or Common law in respect of the placing and maintaining of the tables and chairs on the highway or their removal there from.

14. The Licensee shall be responsible for keeping the designated area in a clean and tidy condition at all times. It is your general duty of care to ensure that any waste produced is handled safely and in accordance with the law. You must keep all waste safe, prevent it from escaping from your control and ensure that it is only handled, or dealt with by persons that are authorised to deal with it.

15. The Licence holder must comply with any request to allow highway maintenance and any other necessary remedial work to be carried out at the location covered by the licence. The Licence Holder must also comply with any request to remove the furniture due to an emergency situation or special event. A reasonable period of notice will be given to the licensee where possible.

Luton Borough Council and /or The Highway Authority will not be liable for any loss of earnings arising out of use of a licence whilst complying with request.

16. Any umbrellas provided must not protrude beyond the designated boundary of the licensed area. They shall be kept in good condition so as not to detract from the appearance of the street, and also must be adequately secured. You are advised that enclosed structures (including gazebos) and the like will not be permitted within the proposed boundary of the licensed area.

17. If you intend to use space heaters, their metric dimensions, materials and colour must be specified as part of the application. You will also be required to submit a formal risk assessment as required by the Management of Health and Safety at Work Regulations 1999 in support of your application. The equipment used should also meet commercial standards and any specifications of relevant British Standards. This should be carried out by a person trained and deemed

competent under health and safety law. In considering an application, the Council will have regard to the inherent safety of the equipment, its location, storage of Liquid Petroleum Gas Cylinders, maintenance and training arrangements. Luton Borough Council will consider the adequacy of the risk assessment which must:

- ✓ Identify the hazards e.g. fire, explosions, burns, impact from falling equipment/cylinders
- ✓ Decide who may be harmed and how
- ✓ Evaluate the risks and decide whether proposed precautions (control measures) will need implementing and be adequate, or whether more could be done.
- ✓ Record findings, review assessment and revise on an annual basis or more frequently if the situation requires it e.g. a significant change in equipment, etc.

18. In areas of significant footfall (to be determined by Luton Borough Council), when in use, the pavement licence designated area will need to be enclosed, to demarcate the licensed area and contain the specified furniture, thus making it distinguishable to other pavement users, and to assist blind and visually impaired pedestrians. As in condition 1.0.

19. No form of entertainment (incl. background music) is permitted in the licensed area, this includes the placing of speakers, or any other equipment, to amplify the sound, unless prior approval that may be required by law have been approved.

20. During the hours of limited light, suitable and sufficient lighting must be provided to ensure safe use of the area.

21. This Licence covers the use of amenities by customers for consuming food or refreshment which have been purchased from the licenced establishment. This Licence does not permit the use of the amenities for any other purposes at any time.

22. No additional charge shall be made to customers for the use of the tables and chairs within the licensed area.

23. The licensee may only use the land for the placing of specified furniture in the course of his business only during the hours permitted by the licence and only within the defined area applied for.

24. No other items may be placed on the highway within the licensed area other than that approved in accordance with the application and the licence when granted.
25. The licence is granted for the period specified on the licence.
26. The licensee is responsible for carrying out the reinstatement of the highway in the event of any damage to the highway occurring as a result of the activity (if requested to do so by the Highway Authority). The permanent surface reinstatement shall be carried out to the satisfaction of the Highway Authority.
27. These conditions may be varied where appropriate to reflect any changes in local areas and will come into effect upon written notification by the Council.
28. The footway must not be obstructed by patrons standing between tables, chairs and the kerb, or by the personal possessions of patrons.
29. Periodic inspections of premises granted with Pavement Licences will be made by the Council to ensure compliance with the Pavement licence conditions and Guidance.
30. No alcohol is to be sold or consumed from the designated area identified unless that sale and/or consumption is approved under the Licensing Act 2003 which includes any temporary authorisations for the sale of alcohol permitted pursuant to the Business and Planning Act 2020 (as amended).
31. There is no automatic right to appeal against refusal of licence grant.
32. If this pavement licence is granted and central government then enacts new legislation, or provides subsequent guidance that imposes further business restrictions, or measures (e.g. social distancing) to reduce transmission of COVID-19, the Licensee must work with Luton Borough Council to comply with these new measures.
33. The Licensing Authority may withdraw this consent at any time upon giving the licensee seven days' notice in writing. Upon withdrawal of the consent the licensee shall remove the amenities from the public highway, and, in default, the Highway Authority may remove the amenities and recover from the licensee its cost in doing so.