

Due to the coronavirus (COVID-19) outbreak, this new process has been introduced as a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. This will support them to operate safely while social distancing measures remain in place whilst providing much needed income over the summer months and protect as many hospitality jobs as possible.

What is a 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.

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited.

What businesses are eligible for a licence?

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.

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.

What is meant by ‘furniture’?

Only the following furniture will be permitted;-

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

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

I already have a ‘Street Café Licence’ from Hertfordshire County Council, do I need a pavement licence as well?

No, your existing licence is still valid.

If you have already applied for permission to place furniture on the highway but your application has not been determined you can proceed with that application or choose to make a fresh application for a pavement licence under the new process. In those circumstances the pending application with Herts County Council will be deemed to have been withdrawn. If the fee for the pending application has already been paid then no fee will be charged for the new application for a pavement licence.

How does this interact with other regulatory process, such as alcohol licensing?

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. Other regulatory frameworks still apply such as the need for alcohol licenses and the need to comply with registration requirements for food businesses.

If you already have a licence to serve alcohol on-premises, temporary amendments to the Licensing Act 2003 allows you to sell alcohol for consumption off the premises without needing to apply for a variation of your licence.

How long is a licence valid for?

All licence’s granted or deemed to be granted will be valid for one year or until 30 September 2023, whichever the sooner.

How much does a licence cost?

A licence application costs £100.

Payment must be made as part of the application.

I would like to make an application, what do I need to do?

All applications must be made electronically. Follow the step by step process online at www.Hertsmere.gov.uk/pavementlicence and read all of the accompanying documents.

Full payment is to be made online using a credit/debit card at <https://www.hertsmere.gov.uk/Pay-It>

Please complete our application form, you must specify the premises and the part of highway you wish to use, along with

- the purpose (or purposes) that the furniture will be used
- the days of the week and the hours that you will have the furniture on the highway
- the type of furniture

In support of your application you will also need to submit all the requested documentation including

- proof of your public liability insurance
- plans showing the location of your premises and the proposed pavement area to be licensed along with a scale plan of the proposed furniture layout.
- details of the proposed furniture
- and photographic evidence that the required consultation notice is on display

You must keep the consultation notice on display for minimum 7 day period (which commences upon validation of your application).

What are the outcomes of an application?

Before the end of the determination period we will:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

Upon being granted a licence, you must display the 'Licence summary notice' in public view on your premises and have a copy of the full licence available for inspection upon request by authorised personnel.

What happens with my application?

We will check your application and validate if everything has been submitted or classified as incomplete if not. You will receive a confirmation email within 1 working day notifying you of the status of your application.

Once validated, we have 10 working days (excluding public holidays) to consult on, and determine the application. This consists of 5 working days for public consultation, and then 5 working days to consider and determine the application after the consultation. We will consult with Hertfordshire County Council Highways.

If we do not determine the application within the 10 working day period, the application will be deemed to have been granted.

What is considered when deciding whether to grant a pavement licence?

We will need to consider a number of factors in addition to the statutory ‘no obstruction’ condition referred to in sections 5(4) and 3(6) of the Business and Planning Act 2020 Act and ‘smoke-free’ seating condition. These include whether local conditions might be needed to make it possible to approve an application which would otherwise be unacceptable and:

- public health and safety including security – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of the needs of disabled people, other temporary measures in place including reallocation of road space, queuing systems, permanent street furniture and levels of pedestrian movements.

An application which is deemed to breach any of the conditions will be refused.

Are there any other considerations as part of the consultation period?

As part of the consultation, the application will be sent to the Hertfordshire Fire Service and your application must be compliant with the following:

- Any Fire Hydrant must remain clear and available for use in the event that it is required.
- No furniture can obstruct a fire hydrant, fire hydrant indicator plate or manhole cover.
- Consideration must be given to the placement of furniture over basement smoke ventilation panels
- No furniture should obstruct any dry riser inlets, or facilities for use by the Fire Service.
- All means of escape from premises included in the license application and those adjacent to, or sharing egress from must be maintained clear. This must be for the whole width of the door set, for a minimum distance immediately in front of the door of 1 metre (or the width of the door leaf, depending on which is greater)
- No furniture must be placed so as to hinder or obstruct the means of escape from neighbouring premises.
- The Fire Risk Assessment for the premises should be reviewed, with reference to the above included within the significant findings.

Is there any supporting information which would help with my application?

Following recent Government announcements regarding the re-opening of businesses you must ensure your premises is 'covid secure' in order to start trading. You are welcome to include supplementary information demonstrating how you are achieving this. We have more advice here:

<https://www.hertsmere.gov.uk/Environment-Refuse--Recycling/Environmental-Health/Coronavirus-advice-for-reopening-businesses.aspx>

Can the licence be revoked?

If a condition imposed on a licence (either by the local authority) or nationally is breached the local authority will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs. The authority may revoke a licence in the following circumstances:

- For breach of condition, (whether or not a remediation notice has been issued)
- There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;
- the highway is being obstructed (other than by anything permitted by the licence);
- there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
- it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
- the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
- The local authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. If this occurs reasons will be given where these powers are used.

My application is refused, can I appeal?

There is no statutory appeal process for these decisions.