



ST HELENS
BOROUGH COUNCIL

Pavement Café Licences

Guidance and Conditions of Licence

NOTE: Please retain a copy of this document and keep it safe as it contains your conditions of licence.

1. Introduction

- 1.1. The Government has introduced the Business and Planning Act 2020. This will help to streamline the process for businesses such as cafes, restaurants and bars to obtain a licence to place furniture on the Highway adjacent to premises, the licences will be known as Pavement Café Licences.
- 1.2. This new type of Pavement Café licence granted from 22 July 2020 will be in place until the 30 September 2021. After this, you will need to apply for a Full Pavement Cafe Permission, details for this can be found on our website. You are advised to apply for this new licence at least 8 weeks before this your existing permission expires. You will also need to apply for planning permission at the same time as you submit your application. Any delay in following this procedure will result in the closure of your pavement cafe. You can apply for a Full Pavement Café Permission at any point, including the duration of the Pavement Café Licence.
- 1.3. While the Council wishes to encourage Pavement Cafés, it must also ensure that the needs of other users of the highway continue to be met. The amount of space the Pavement Café will remove from the public highway, the visual impact of the proposal, and the effect upon local residents, particularly in terms of noise levels and the safe passage of pedestrians will be considered.
- 1.4. The following businesses are deemed eligible to apply for these licences: 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.
- 1.5. The proposal must meet Environmental Health requirements associated with eating and drinking establishments, the chief areas of concern being: toilets; hygiene; and noise. The Council's Environmental Health Section can advise on matters relating to public health legislation.
- 1.6. Social distancing guidelines produced by the Government must be adhered too, please see the government guidance which has published COVID-19 Secure: safer public places guidance, which provides owners and operators of public spaces with information and examples of measures that may be undertaken to adapt and manage public spaces in order to help social distancing. Further to this document there is also the [Keeping Workers and Customers Safe during Covid 19](#) guidance which should be considered as well.
- 1.7. The following furniture may be used:
 - 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.

- 1.8. Any furniture placed on the Highway must be removable, for example it is not permanently fixed and must be removed at night.
- 1.9. Any Pavement Café Licence linked to a premises selling alcohol under the Licensing Act 2003 must also adhere to this Act and it's associated premises licences.
- 1.10. Any application for a Pavement Café Licence must consider the Disability Discrimination Act 1995 and the Merseyside Code of Practice on Access and Mobility.

2. Assessing Applications

Highway Guidelines

- 2.1. Pedestrians must have a sufficiently wide, unobstructed and clearly defined footway. This is especially important for disabled people, wheelchair users and visually impaired people, as well as for people with pushchairs. Emergency access routes must be kept clear at all times. In general, applications will be considered on their individual merits. Tables and chairs should normally be placed adjacent to premises. However, in special areas, such as a public square, or on streets with low pedestrian flows, this requirement may be waived.
- 2.2. A minimum distance of 0.75m from the face of the building is required to satisfactorily accommodate tables and chairs plus seated persons. The positioning of tables and chairs should never discourage pedestrians from using the footway; the available route must be straightforward, obvious and unobstructed.

Requirements applying to specific types of location:

- 2.3. Pedestrian Streets, normally, a 5.0m wide corridor would remain unobstructed as a clear route for pedestrians and emergency vehicles, except where obstructions, such as bollards or nibs, reduce the carriageway to less than this, and the proposed Pavement Café area is protected by these obstructions. A greater width may be required in certain circumstances such as areas with very high pedestrian flows and to make sufficient provision for those who have a disability or a
- 2.4. Streets with Footway and Carriageway, a minimum width of 2.0m measured from the face of the kerb, or other such defined edge of the carriageway, is required for pedestrian movement. Where there is a significant amount of street furniture, 2.0m is required from the line of the street furniture rather than the face of the kerb.
- 2.5. Special areas, there may be areas of public open space in the town such as a public square, where alternative arrangements for tables and chairs on the public highway will be considered. Similarly, innovative Pavement Café set-ups may be possible where an environmental improvement scheme is to be designed for a specific street or area.
- 2.6. Visual impact of the Pavement Café, the Council wishes to see Pavement Cafés making an attractive contribution to the street scene, and will therefore expect design of the café area to be of high quality, using attractive and durable furniture. On your application you will be asked to detail the composition materials of the furniture.
- 2.7. The Council wishes to discourage the use of lightweight plastic 'garden-type' furniture.
- 2.8. The style and size of umbrellas will be taken into consideration. Any advertising on the umbrella should relate only to food or drink sold on the premises or to the operator. There should be no overhang where people may walk.
- 2.9. Servicing is an important factor in the appearance of the Pavement Café, so it will be a requirement that tables are cleared as soon as they become vacant and the area, as a whole, kept clean and tidy and the pavement regularly washed.

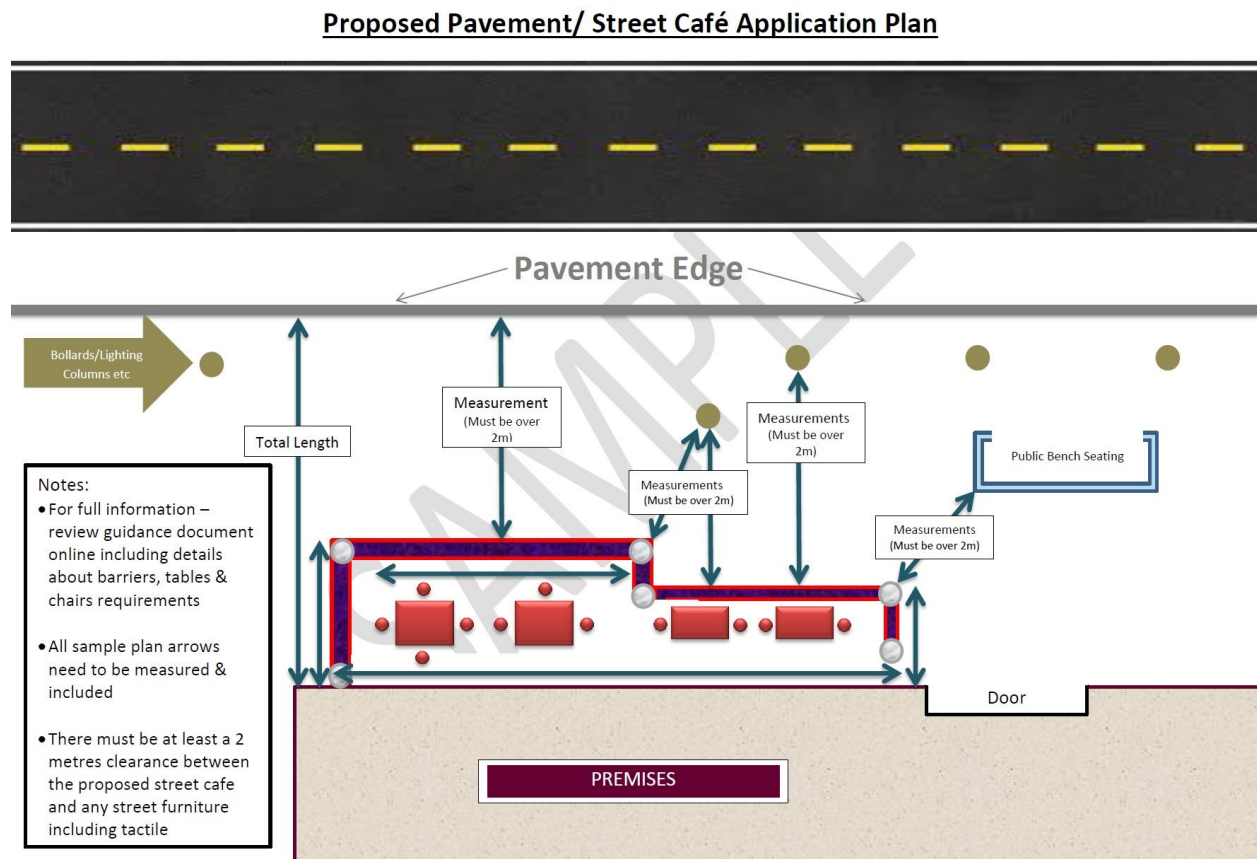
- 2.10. Nuisance, Noise and Public Safety the Council will seek to ensure that the proposal will not result in noise nuisance to any nearby noise-sensitive premises such as residential accommodation.
- 2.11. Applications for Pavement Café Licences should look to operate between the recommended times of 08.00 to 23.00.

3. Procedures for submitting and determining applications

3.1. You should provide us with a draft plan of the proposed Pavement Café before applying, so we can check the validity of this before you submit your application. It will need to include the following:

- It must identify the location of the building line and kerblines adjacent to the proposal or the opposite building line in a pedestrianised street, together with dimensions the area for tables and chairs.
- The plans should also show any entrances to premises within or adjacent to this area plus that area which is a private forecourt, location of trees, lampposts and other street furniture.

3.2. Example Plan of Pavement Café Licence:



Upon submission of the plan, you will also need to include;

- A completed application form
- The fee of £100, this can be made by bank card over the phone.

- Public liability insurance certificate, providing cover of £5 million, this must explicitly state that the proposed outside area on the public highway is included.
- A layout plan following the sample plan guidance, submitted plans will be assessed on a case by case basis.
- Details of the furniture, including quantity, material composition, drawings and photos.
- Evidence of where the furniture will be stored.
- If space heaters are being used, a full risk assessment must be provided.
- Written consent from neighbouring premises if you propose to use their frontage.

An applicant is 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.

3.3. When you have all the required documents, please follow the application procedure below:

- If you wish for us to check your application and supporting documentation before it is submitted please email this over to generallicensing@sthelens.gov.uk and we can advise you.
- To formally submit your application please email the application and all supporting documents as listed above to us on the above email.
- Once the application has been submitted you will be contacted for payment, please provide a phone number for us to contact you on to take this payment over the phone via bank card, please note that your application will not be deemed accepted until payment is received.
- You will then receive a confirmation email that the application has been accepted.
- On the same day the application form is submitted a public notice (template can be downloaded here) must be displayed on the premises for a total of 7 days starting the day after the application has been submitted.
- Please note that if any valid representations are received this may result in changes to your application or the refusal of the request in its entirety.
- After the 7 day public consultation period, St Helens Council then has 7 days to consider and determine the licence starting the day after the consultation has ended, if the Council does not determine your application in this time period the licence is deemed granted.
- You will be issued with a licence for the pavement café area, a copy of this must be displayed at the premises, the licence will include a list of the standard conditions which must be adhered to.

4. **Standard Conditions**

The following standard conditions will apply to all licences granted:

- 4.1. The granting of a pavement café licence applies only to the applicant in respect of the premises concerned and is in addition to a licence to sell alcohol. Where alcohol is sold a premises licence under the Licensing Act 2003 will be required.
- 4.2. Any licence granted will conform with all Government Guidance published in relation to social distancing,
- 4.3. Any changes to any part of the pavement café (including but not limited to furniture, barriers the area or operating hours) is strictly prohibited under the terms of this licence.
- 4.4. All customers using the pavement café will be required to be seated.
- 4.5. Pavement café licences are issued in the name of the operator/licence holder. If the operator/licence holder changes, the licence holder is obliged to transfer the pavement café licence to the new operator/licence holder.
- 4.6. Where emergency repairs or maintenance of the pavement/highway is to be undertaken, the Council will endeavour to give the licence holder notice. The Council will not be liable for any loss of earnings whilst such works are carried out. The licence holder must allow the Council reasonable access for such works.
- 4.7. The licence holder must, as soon as reasonably practicable upon identification, notify the Council's Highway section of any repair/maintenance work required to the highway surface, up to 1 metre, within or around the licensed area.
- 4.8. No items such as but not limited to tables and chairs are not permitted to be affixed to the highway, street furniture, post or column.
- 4.9. It will be the responsibility of the licence holder to keep the licensed area clean and free of litter, during licensed/operational hours. Commercial waste from the licence holder's operations must not be disposed of in the litterbins provided by the Council or in the litterbins provided by the licence holder in the licensed area. Licence holders are expected to comply fully with their obligations under the Environmental Protection Act 1990 (section 34 Duty of Care) with respect to commercial waste produced on the premises and receptacles provided for that purpose will not be stored within the licensed area.
- 4.10. The Licence holder is responsible for the cleaning of the pavement café area and any area where Commercial Waste bins are stored within 1 metre of the boundary of the licensed area.
- 4.11. The Council accepts no liability for items that are lost, stolen or damaged.
- 4.12. Outside of the permitted hours of the licence all tables, chairs, barriers, portable planting and any other external free-standing equipment shall be removed and stored clear of the public highway.

- 4.13. The licence can be suspended for such part of the area defined in the plan as may be required at any time by any Statutory Services (e.g. water, gas and electricity) in execution of their duties.
- 4.14. The Council shall be entitled to suspend the licence on a temporary basis on the occurrence of a special event or any other circumstance, which the Council considers to necessitate a temporary suspension.
- 4.15. The licence holder shall be permitted to set out furniture in the area as outlined on the plan attached to the licence. The subletting of the permission granted by the licence is prohibited. Only those items detailed in the application submitted to the Council may be used as part of the pavement café.
- 4.16. The Council reserves the right to suspend/revoke the licence in the event of any breach of any term or condition of the licence.
- 4.17. The licence holder shall ensure that the pavement café area is always properly supervised by a member of staff the pavement café is open.
- 4.18. All pavement café licences are subject to inspection by an authorised officer of the Council to ensure compliance with conditions. A copy of the pavement café licence must be kept on the premises at all times and be available for inspection by an authorised officer or other authorised person.
- 4.19. Patrons are prohibited from consuming alcoholic drink bought from the premises, for consumption on the premises, outside of the pavement café area.
- 4.20. Advertising on barriers and furniture items will be limited to the name of the premises and subject to any Advertisement Consent required from the Council's planning section.
- 4.21. In premises where alcohol is served, all alcoholic drinks must be served in polycarbonate or shatterproof glasses where available.
- 4.22. No amplified music or sound is allowed in the pavement café area.
- 4.23. Licence holders are required to obtain public liability insurance covering the business for up to £5,000,000 at all times the pavement café 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 will result in suspension of the licence.
- 4.24. Where space heaters are used, the connections must be fit for purpose and checked on a regular basis. A risk assessment must be provided for the use of space heaters.
- 4.25. There should be a minimum of 2 metres clear space between any item of furniture and the edge of the pavement.
- 4.26. At least one third of the pavement café licence will be designated a no smoking area and a no smoking sign will be placed on each table in this area. There will be a minimum of 2 metres distance between the smoking and non-smoking areas.
- 4.27. Further Conditions may be added to the licence as and when the Council considers necessary.

5. **Breach of Conditions**

5.1. If a condition imposed on a licence (either by the local authority) or nationally is breached, the local authority may revoke the licence or issue a notice requiring the breach to be remedied. The authority can take action to recover any of its costs if action is required in default of the notice.

5.2. The authority may revoke a licence in the following circumstances:

5.3. Where:

- Some or all of the part of area covered by the licence has become unsuitable for use as a pavement café,
- There is a risk to public health or safety,
- Antisocial behaviour or public nuisance is taking place in the pavement café,
- There are items placed on the highway causing obstruction that don't form part of the licence,
- False or misleading information has been provided by the licence-holder in their application,
- The licence holder failed to affix a clear and visible copy of the notice on the premises for the entire public consultation period,
- There has been a breach of any of the conditions of the licence.

6. **Contact Details**

- 6.1. To contact Licensing via the phone while our office is closed, please call 01744 676770.
- 6.2. Alternatively, you can contact us via email: generallicensing@sthelens.gov.uk.
- 6.3. Please be aware the phone lines are busy and we would advise you to email us. Please note that we aim to answer your email on the same working day or the next available working day.