

Business and Planning Act 2020 – Application for 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.

Chesterfield Borough Council (“the Council”) will consider your application for a Pavement Licence in accordance with the conditions attached at Annex A to this application form.

Prior to completing the application form, please note the following **important information**

- The licence may only operate between the hours specified by the Council in writing. Further restrictions on operating hours may be applicable at some locations and you will be advised if these restrictions apply at your location.
- The applicant shall have public liability insurance in the sum of at least **£5 million**.
- The licence shall run for **the period specified** (minimum 3 months) or until **30 September 2023**.
- The Council has **7 days** from the day after the receipt of a valid application to consult on it and then a further **7 days** to determine the application.

1 Details of the Business and Applicant

| | | | |
|--|-------------------|--|--|
| Business name* | | | |
| Applicant name* | | Position if applicable | |
| Address of business* (for the Pavement Licence) | Post Code: | | |
| Part of the Highway to which the application relates | | Purpose or purposes for which the furniture will be used (to sell or serve food or drink or consumption of food or drink) | |
| Name and address of Owner (if different to applicant) | | | |
| Telephone (daytime/office) | | Telephone (emergency out of hours) | |
| Email address | | | |

*These details will be included in a public notice on the premises and the local authority website

2 Details of the days of the week and the hours between which the furniture will be used

| | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday |
|--------------------------------------|---------------|----------------|------------------|-----------------|---------------|-----------------|---------------|
| Time from Not before 9am | | | | | | | |
| Time to No later than 11pm | | | | | | | |

3 Type of Furniture to which the application relates

| | | | |
|---|--|---|--|
| Details of proposed furniture Applicants are required to describe the type of furniture (including approximate sizes) | | | |
| Proposed Number of tables (including approximate sizes) | | Proposed number of chairs (including approximate sizes) | |

4 Sketch Diagram / Plan

Please provide a sketch diagram / plan of the area that will be included in the licence showing proposed layout of tables chairs and any barriers (Please include the dimensions of the area)

5 Conditions, Declaration and Indemnity

| | Enclosed | To follow (application will not be valid until received) | Agree (please indicate yes or no) |
|---|----------|---|--------------------------------------|
| Public Consultation I undertake to carry out the necessary public consultation in accordance with the requirements of the Act and note that if found to have failed to comply with these requirements the licence will be void and no compensation will be payable | | | |
| Public Liability Insurance (a copy of my public liability insurance indicating that the sum insured is no less than £5,000,000) | | | |
| Indemnity In the event of the Local Authority granting permission sought herein, I agree to indemnify and hold harmless the relevant Council(s) from and against all actions in law or inequity, damages, statutory or common law losses, costs charges and expenses arising in manner whatsoever out of the placing of tables, chairs and other items on pavements | | | |
| Conditions of Pavement Licence (Annex A) I have read, understood and give my undertaking to observe and abide by the conditions of the licence and any other additional conditions, which may be listed as part of this licence supplied to me | | | |
| Right to revoke or Suspend Pavement Licence I understand that the Local Authority has the right to revoke or suspend the licence and that no compensation will be payable | | | |
| Signature of Applicant | | Signature of Business owner (if different to applicant) | |
| Please print name | | Please print name | |
| Date Application made | | | |

**SCHEDULE OF CONDITIONS FOR PAVEMENT LICENCE
BUSINESS AND PLANNING ACT 2020**

1. The application form and the notes attached to it along with these Conditions form the licence.
2. The Licence is personal to the Licensee and cannot be transferred to any other person, business or organisation.
3. This Licence is granted under the Business and Planning Act 2020 (“the Act”) and will be restricted to the opening hours of the premises specified in the application or such other hours as may be agreed by Chesterfield Borough Council (“the Council”) in writing.
4. The Licensee shall comply with and obtain all other necessary statutory consents and approvals required in connection with the exercise of a refreshment facility on the highway and 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 consider consulting with the following Responsible Authorities
 - Derbyshire County Council Highways
 - Derbyshire Police
 - Derbyshire Fire and Rescue Service
 - Chesterfield Borough Council Planning
 - Chesterfield Borough Council Environmental Health
 - Chesterfield Borough Council Health and Safety
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.
8. The tables, chairs, barriers and other furniture (“the Equipment”) shall be of an appropriate design and shall be kept in good repair and condition at the Licensee’s expense. The layout shall be as shown on the plan attached to the Licence.
9. The Licensee shall remove all Equipment from the highway outside the opening hours specified in the Licence Application 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 Licensee shall make no claim or charge against the Council in the event of the Equipment being lost, stolen or damaged in whatever way from whatever cause.
11. The Licensee shall indemnify the Council against all actions, proceedings, claims, demands and liability which may be taken or made or incurred arising out of the Licensee’s use of the highway. For this purpose the Licensee shall insure against any damage, loss or injury which may occur to any person or property arising from the siting of the Equipment. Details of such public liability insurance, for the sum of at least £5 million in respect of any one event and the insurance shall take effect prior to the use of the highway for outdoor catering.
12. The licence shall run for the period specified (minimum 3 months) or until 30 September 2023 and shall remain in force only for such period of time as the Licensee remains the occupier of the Premises or until withdrawn by the Council under the Act or surrendered to the Council by the Licensee, subject to annual renewal.

13. The Licensee must –

- (a) 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; and
- (b) secure that the notice remains in place until the end of the public consultation period.

The Notice will be in the form as shown in Annex B

- 14. The Equipment must not obstruct pedestrian, emergency or delivery access to any premises or extend beyond the Licensed Area. A clear pedestrian route along the highway must be maintained at all times which must be no less than 1.5m wide. Where the Council considers there are circumstances which require a wider route, the minimum width of 1.5m may be increased. Normally the Equipment shall be placed against the building, however where additional space is available (such as a pedestrianised street) the Licence may allow for the Equipment to be sited away from the building. The Equipment shall not be positioned to discourage pedestrian usage. 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.
- 15. Activities shall be restricted to within the Licensed Area and controlled by the Licensee such that people do not congregate outside the Licensed Area.
- 16. It is also the Licensee's responsibility to manage and control customers' activities that affect other highway users outside of the licensed area.
- 17. The Licensee 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.
- 18. The Licensed Area will be suitably managed by staff to ensure the orderly conduct of customers and adherence to current social distancing guidelines. Standards of cleanliness and tidiness must be maintained to the satisfaction of the Council.
- 19. 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 waste shall be deposited in the permanent litter bins provided by the Council.
- 20. 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 Licensee.
- 21. Advertisements and signs are not allowed within the Licensed Area (other than on parasols) or on barriers without the prior consent of the Council.
- 22. No alcohol shall be consumed on the highway unless an authorisation has been issued by the Council under the Licensing Act 2003.
- 23. Musical entertainment will not be permitted in the Licensed Area unless a licence has been issued by the Council.
- 24. The Licensee shall be responsible for any rates, taxes and other out-goings which may be charged in connection with the Licensee's use of the Licensed Area.
- 25. If the Council considers that the Licensee has breached any condition of the licence, the authority may—
 - (a) revoke the licence, or
 - (b) serve a notice on the Licensee 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 Licensee fails to comply with the notice, the Council may revoke the licence or take the steps itself and recover the costs of doing so from the Licensee.

26. 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 Licensee pursuant to the licence),
 - (c) anything material stated by the Licensee in their application was false or misleading, or
 - (d) the Licensee did not comply with the duty in section 2(5) of the Act to display a notice of application.
27. There must be nothing done by the Licensee pursuant to the licence which would have one or more of any of the following effects –
- (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.
28. A compliance inspection may be conducted at any time from the commencement of the Licence or the issue of a Notice under condition 25 requiring the Licensee to remedy a breach of the Licence.
29. If the Licence is revoked all Equipment must be removed with immediate effect and the Licensee 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 licensee.
30. Where furniture is put in the Licensed Area which consists of seating for use by persons for the purpose of consuming food or drink, the Licensee must make reasonable provision for seating where smoking is not permitted.
31. The Council may vary or disapply any one or more of these conditions, or add any new condition, when determining any particular application.

ANY OBSTRUCTION OF THE HIGHWAY WHICH IS NOT SPECIFICALLY AUTHORISED BY THIS PERMISSION MAY RENDER THE LICENSEE LIABLE TO PROSECUTION.

NOTICE for display by an applicant for a Pavement Licence. Section 2 of the Business and Planning Act 2020

I/We.....
(insert Name of applicant), do hereby give notice that on

..... (insert date of application submitted)

I/We have applied to Chesterfield Borough Council for a 'Pavement Licence'
at:

.....
(insert Postal address of premises)

known as
.....(insert name premises is known by)

The application is for:

.....
.....

.....
(insert brief description of application – eg outdoor seating to the front of the premises for serving food and drink)

Any person wishing to make representations to this application may do so in writing

by e-mail to: Licensing@Chesterfield.Gov.uk

Or at

The Licensing Department, Chesterfield Borough Council,
Customer Service Centre, 85 New Square, Chesterfield, S40 1AH

The representation must be received by(insert last date for representations being 7 days beginning the day after the application was submitted to the local authority (excluding public holidays))

The application and information submitted with it can be viewed on the Council's website: (<https://www.chesterfield.gov.uk/business-and-economic-growth/licensing-and-regulation/alcohol-entertainment-and-late-night-refreshments-licensing-act-2003/current-licence-applications.aspx>).

Signed

Dated..... (insert date the notice was placed (must be the same as date of application submitted above))