



### **Joint Meeting of Cabinet Member for City Services and Cabinet Member for Policing and Equalities**

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**Time and Date**

11.00 am on Friday, 31st July 2020

**Place**

This meeting will be held remotely. The meeting can be viewed live by pasting this link into browser: <https://youtu.be/rqngF3kVzlk>

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**Public Business**

1. **Election of Chair**
2. **Apologies**
3. **Declarations of Interest**
4. **Temporary Pavement Licensing Policy** (Pages 3 - 28)

Report of the Director of Transportation and Highways

NOTE: In accordance with the Constitution, Councillor R Brown, Chair of the Scrutiny Co-ordination Committee, has been invited to attend the meeting for this item of business to agree the need for urgency such that call-in arrangements will not apply. The reason for urgency being that as soon as the Business and Planning Bill is passed, the temporary licensing arrangements will come into operation the following day to enable the granting of licences for businesses to place furniture within the highway to allow them to trade outside in response to the need to maintain social distancing.

5. **Any Other Items of Public Business which the Cabinet Members decide to take as a matter of urgency because of the special circumstances involved.**

**Private Business**

**Nil**

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Julie Newman, Director of Law and Governance, Council House, Coventry

23<sup>rd</sup> July 2020

Note: The person to contact about the agenda and documents for this meeting is Michelle Salmon, Governance Services Officer, Tel: 024 7697 2643, Email: [michelle.salmon@coventry.gov.uk](mailto:michelle.salmon@coventry.gov.uk)

Membership:

Councillor P Hetherton (Cabinet Member for City Services)

Councillor AS Khan (Cabinet Member for Policing and Equalities)

Non-voting Members

P Akhtar (Deputy Cabinet Member), A Andrews (Shadow Cabinet Member), R Brown (By Invitation), M Heaven (Shadow Cabinet Member), P Hetherton (Cabinet Member), AS Khan (Cabinet Member) and G Lloyd (Deputy Cabinet Member)

By invitation:

Councillor R Brown (Chair of Scrutiny Co-ordination Committee)

If you require a British Sign Language interpreter for this meeting  
OR if you would like this information in another format or  
language please contact us.

**Michelle Salmon**

**Governance Services Officer**

**Tel: 024 7697 2643**

**Email: [michelle.salmon@coventry.gov.uk](mailto:michelle.salmon@coventry.gov.uk)**



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Joint Meeting of Cabinet Member for City Services and Cabinet Member for Policing and Equalities

31 July 2020

**Name of Cabinet Member:**

Cabinet Member for City Services – Councillor P Hetherington  
Cabinet Member for Policing and Equalities – Councillor A S Khan

**Director Approving Submission of the report:**

Director for Transportation and Highways

**Ward(s) affected:**

All

**Title:** Temporary Pavement Licensing Policy

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**Is this a key decision?**

No - Although the proposals affect more than two electoral wards, the impact is not expected to be significant.

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**Executive Summary:**

On 25 June 2020, the Government announced a proposed relaxation to planning and licensing laws in order to help the hospitality industry recover from the Coronavirus lockdown. The Business and Planning Bill 2019-21 will make it easier for premises serving food and drink such as bars, restaurants and pubs, to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing, as lockdown restrictions are lifted but social distancing guidelines remain in place.

The Bill proposes a temporary fast-track process for these businesses to obtain permission, in the form of a Pavement Licence, from the Council for the placement of furniture such as tables and chairs on the highway outside their premises which will enable them to maximise their capacity whilst adhering to social distancing guidelines.

In readiness for when the Bill is enacted, which is likely to occur at the end of July, a policy has been produced which sets out how the process for the new temporary Pavement Licence will operate in the city.

In order to give the greatest incentive to businesses, the draft Temporary Pavement Licensing Policy proposes that there will be no fee for applications for Pavement Licences in Coventry. Existing Tables and Chairs Licences will also be extended free-of-charge while the provisions of the Bill relating to Pavement Licences apply (until 30 September 2021). The Policy also specifies that the Council will normally grant Pavement Licences until 30 September 2021.

The Policy contains the Council's local standard conditions which will apply to all Pavement Licences. It also sets out the grounds on which an application can be refused and the circumstances in which a Pavement Licence can be revoked.

**Recommendations:**

The Cabinet Member for City Services and the Cabinet Member for Policing and Equalities are requested to:

- 1) Approve, in principle, the draft Temporary Pavement Licensing Policy (Appendix A to the report).
- 2) Delegate to the Director for Transportation and Highways the power to approve final amendments to the draft Policy once the Bill has been enacted to ensure that the Policy is fully compatible with the Act.

**List of Appendices included:**

Appendix A – Temporary Pavement Licensing Policy

**Background papers:**

None

**Other useful documents**

Business and Planning Bill 2019-21:

<https://publications.parliament.uk/pa/bills/cbill/58-01/0148/200148.pdf>

Pavement Licences – national draft guidance:

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance>

Working safely during Coronavirus – national guidance for restaurants, pubs, bars and takeaway services:

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery>

**Has it been or will it be considered by Scrutiny?**

No – however, the Chair of the Scrutiny Co-ordination Committee has been invited to this meeting for this item of business to agree the need for urgency such that call-in arrangements will not apply.

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

## **Report title:** Temporary Pavement Licence Policy

### **1. Context (or background)**

- 1.1 On 25 June 2020, the Government announced a proposed relaxation to planning and licensing laws in order to help the hospitality industry recover from the Coronavirus lockdown. The Business and Planning Bill 2019-21 will make it easier for premises serving food and drink such as bars, restaurants and pubs, to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing, as lockdown restrictions are lifted but social distancing guidelines remain in place. The measures included in the Bill look to modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It will be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.
- 1.2 The Bill also proposes a temporary fast-track process for these businesses to obtain permission, in the form of a Pavement Licence, from the Council for the placement of furniture such as tables and chairs on the highway outside their premises which will enable them to maximise their capacity whilst adhering to social distancing guidelines.
- 1.3 Currently, tables and chairs permissions are granted as Tables and Chairs Licences by the Council in its capacity as Highways Authority, under Part 7A (s.115) of the Highways Act 1980. The initial licence fee for the first year of the licence is currently between £350 and £450, depending on the size of the proposed licensed area. The annual licence payable thereafter is currently £125. All fees are reviewed annually.
- 1.4 The current application process for Tables and Chairs Licences includes a statutory 28-day public consultation period. The Bill proposes a new consultation period for Pavement Licence applications of seven days (excluding public holidays), followed by a determination period of seven days (excluding public holidays).

### **2. Options considered and recommended proposal**

- 2.1 In readiness for when the Bill is enacted, which is likely to occur at the end of July, a policy has been produced which sets out how the process for the new temporary Pavement Licence will operate in the city.
- 2.2 The Bill proposes a cap of £100 on the application fee for a Pavement Licence. In order to give the greatest incentive to businesses, it proposed that there will be no fee for applications for Pavement Licences in Coventry. Existing Tables and Chairs Licences will also be extended free-of-charge while the provisions of the Bill relating to Pavement Licences apply (until 30 September 2021), subject to no issues having arisen during the previous licence period.
- 2.3 The process for applications, including the information an applicant must provide, is set out in the new Temporary Pavement Licence Policy.
- 2.4 It also describes how members of the public can make representations on Pavement Licence applications and who the Council will consult before determining an application.
- 2.5 The Policy lists the issues the Council will take into account when considering the suitability of an application. These include public health and safety, public amenity and accessibility.

- 2.6 The expectation from Government is that local authorities will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space. As such, the Council will normally grant applications until 30 September 2021.
- 2.7 In the event the location applied for is deemed unsuitable for a pavement café, 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 a decision to refuse an application.
- 2.8 The Bill specifies that if the Council does not determine the application within the consultation and determination period of 14 days (excluding public holidays), the application will be deemed to have been granted. Therefore, the Policy sets out the Council's local standard conditions which will apply to all Pavement Licences, whether granted, or deemed to have been granted. The statutory no-obstruction condition and the National Condition (as referenced in the Policy) will also apply to all Pavement Licences. In some cases, additional bespoke conditions may be required. This will be determined when assessing an application, on a case by case basis.
- 2.9 The Policy sets out the circumstances in which a Pavement Licence may be revoked. Furthermore, the case remains that an obstruction of the highway is an offence under The Highways Act 1980 and will be dealt with by the Council as Highways Authority or the Police. A Pavement Licence does not confer on the Licensee immunity in regard to other legislation that may apply, e.g. Planning, Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, social distancing controls, and applicants must ensure all such permissions, etc. are in place prior to applying.
- 2.10 The Cabinet Members are recommended to approve, in principle, the Temporary Pavement Licensing Policy.
- 2.11 As there are some discrepancies between the draft national guidance on which the Policy is based and the Business and Planning Bill 2019-21 as published relating to the length of the consultation and determinations periods, the Cabinet Members are recommended to delegate to the Director for Transportation and Highways the power to approve final amendments to the Policy once the Bill has been enacted, to ensure that the Policy is fully compatible with the Act.

### **3. Results of consultation undertaken**

- 3.1 Internal consultation has been undertaken with all relevant Council departments, as well as key external stakeholders including West Midlands Police, West Midlands Fire Service, Coventry Business Improvement District and the Coventry City of Culture Trust.
- 3.2 It was not possible to undertake public consultation on the draft Policy due to the short timescale before the Pavement Licence provisions will become law.

### **4. Timetable for implementing this decision**

- 4.1 Once approved by the Cabinet Members and the Director for Transportation and Highways, the Temporary Pavement Licensing Policy will take effect. This will enable officers to bring the application process into operation and consider and determine applications in a timely manner when the Act becomes law.

## 5. Comments from the Director of Finance and the Director of Law and Governance

### 5.1 Financial implications

In deciding not to charge a fee for pavement licences nor a renewal fee for existing Tables and Chairs Licences during the period to 30 September 2021, the Council will forgo income:

Licence	Estimated Impact	Fees Forgone
Existing tables and chair licences that would be due for renewal during this period	Approximately 17 licences affected	£2,125
New requests for temporary pavement licences	The level of interest to date has been low therefore numbers are expected to be between 10 and 30.	£1,000 to £3,000

It is not expected that the administration of the new pavement licences will result in additional costs to the Council as it is expected to be managed within existing staffing resources.

Therefore, the introduction of this policy is not considered to result in a material financial loss to the Council.

### 5.2 Legal implications

When enacted the provisions of the Business and Planning Act 2020, (likely to be enacted later this month on or around receiving Royal Assent), will see the introduction of the measures surrounding, amongst other things, the Pavement Licences referred to in this report. The policy document prepared by officers sets out the processes and procedures involved based on the contents of the Bill and guidance. Officers have also agreed a standard set of Terms and Conditions that will apply to the said Pavement Licences going forward.

Those Pavement Licences granted by the Council under the new Act will remain in force until 30<sup>th</sup> September 2021, unless the Act is extended.

Those licences granted pursuant to s.115 of the Highways Act 1980, will remain available on request

## 6. Other implications

### How will this contribute to the Council Plan?

The Temporary Pavement Licensing Policy will enable eligible businesses in the hospitality sector to maximise their capacity by utilising parts of the public highway for pavement cafés whilst adhering to social distancing guidelines. The Temporary Pavement Licensing Policy will ensure that public health and safety is protected, public amenity is not infringed, and public access is maintained. By doing so, it will contribute to the following aims set out in the Council Plan:

- Supporting businesses to grow
- Developing the city centre
- Raising the profile of Coventry
- Helping local people into jobs
- Creating an attractive, cleaner and greener city

- Making communities safer
- Supporting the regeneration of Coventry's economy

### **6.1 How is risk being managed?**

Due to the significantly shorter consultation and determination periods specified in the Bill, there is a risk that applications may not be determined within the required period and will therefore be deemed to have been granted. To mitigate this risk, the necessary processes and procedures will be put in place to ensure that representations from the public and other stakeholders can be made easily and in a timely manner, thereby enabling applications to be determined within the specified period. Furthermore, the Council's local standard conditions are set out in the Temporary Pavement Licensing Policy. As a result, these will apply to all Pavement Licences, whether granted, or deemed to have been granted.

### **6.2 What is the impact on the organisation?**

The necessary processes and procedures will be put in place to minimise the amount of officer time required to process applications.

### **6.3 Equality Impact Assessment (EIA)**

The local conditions specified in the Temporary Pavement Licensing Policy and the National Condition published by the Secretary of State will ensure that clear routes of access along the highway will be maintained, considering the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people. Barriers will be required to be used to assist to guide visually impaired people.

### **6.4 Implications for (or impact on) climate change and the environment**

Conditions set out in the Pavement License Policy require that pavement cafés do not interfere with highway drainage arrangements, that the café area and surrounding area is kept clean and that waste is managed and disposed of appropriately.

### **6.5 Implications for partner organisations?**

Conditions are included in the Pavement License Policy to protect public safety and ensure that pavement cafés do not create nuisance or generate anti-social behaviour.

**Report author(s):****Name and job title:**

Martin Wilkinson  
Senior Officer – Traffic Management

**Service:**

Transportation and Highways

**Tel and email contact:**

Tel: 024 7527 0950

Email: martin.wilkinson@coventry.gov.uk

Enquiries should be directed to the above person.

<b>Contributor/approver name</b>	<b>Title</b>	<b>Service Area</b>	<b>Date doc sent out</b>	<b>Date response received or approved</b>
<b>Contributors:</b>				
Greg Payne	Head of Traffic and Network Management	Transportation and Highways	17/07/2020	21/07/2020
Rachel Goodyer	Traffic and Road Safety Manager	Transportation and Highways	17/07/2020	21/07/2020
Caron Archer	Team Leader (Traffic Management)	Transportation and Highways	17/07/2020	20/07/2020
Debbie Cahalin-Heath	Licensing Manager	Streetscene and Regulatory Services	17/07/2020	21/07/2020
Michelle Salmon	Governance Services Officer	Law and Governance	17/07/2020	20/07/2020
Councillor R Brown	Chair of Scrutiny Co-ordination Committee	-	17/07/2020	17/07/2020
<b>Names of approvers for submission: (Officers and Members)</b>				
Graham Clark	Lead Accountant	Finance	17/07/2020	21/07/2020
Rob Parkes	Team Leader, Legal Services	Law and Governance	17/07/2020	17/07/2020
Colin Knight	Director for Transportation and Highways	Transportation and Highways	17/07/2020	19/07/2020
Councillor P Hetherton	Cabinet Member for City Services	-	17/07/2020	22/07/2020
Councillor A S Khan	Cabinet Member for Policing and Equalities	-	17/07/2020	17/07/2020

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# Coventry City Council

## Temporary Pavement Licensing Policy

Draft

Effective: (date)  
Version 2 - Draft  
July 2020

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Draft

## **1. Introduction**

The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.

As the economy starts to re-open, on 25 June 2020 the Government announced a proposed relaxation to planning and licensing laws in order to help the hospitality industry recover from the Coronavirus lockdown.

The Business and Planning Act (hereinafter the Act) makes it easier for premises serving food and drink such as bars, restaurants and pubs, to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing, as lockdown restrictions are lifted but social distancing guidelines remain in place.

The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It is a temporary measure to boost the economy, with provisions lasting until the end of September 2021.

The Act also introduces a temporary fast-track process for these businesses to obtain permission, in the form of a Pavement Licence, from Coventry City Council (hereinafter the Council) for the placement of furniture such as tables and chairs on the highway outside their premises which will enable them to maximise their capacity whilst adhering to social distancing guidelines.

Currently, tables and chairs permissions are granted as Tables and Chairs Licences by the Council in its capacity as Highways Authority, under Part 7A (s.115) of the Highways Act 1980. The initial licence fee for the first year of the licence is currently between £350 and £450, depending on the size of the proposed licensed area. The annual licence payable thereafter is currently £125. The application process includes a statutory 28-day public consultation period.

The Act places a cap of £100 on the application fee for a Pavement Licence and introduces a new public consultation period of five working days (excluding public holidays), followed by a determination period of five working days (excluding public holidays).

## **2. Scope**

### **2.1 Definition of Pavement Licence**

A Pavement Licence is a licence granted by the Council, 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 Pavement 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.

### 2.3 Eligible Locations

Licences will 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. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

Applications for locations on land owned by the City Council that is not part of the public highway are determined separately by the Council's Property Development Team.

### 2.3 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; and
- barriers, umbrellas, planters, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which means it is not a permanent fixed structure, and is able to be moved easily, and stored away at the end of the daily licensing period. The Council may use appropriate temporary marking, where necessary, to mark the extent of the Site.

Barriers must be provided and have solid cross rails at the top and bottom so that they can be easily detected by visually-impaired pedestrians.

### 2.4 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.

However, separate planning permission is still required for any proposed permanent fixed structure.

### 2.5 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 its website, and the following will be required to be submitted with the application:

- a completed Application Form
- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- a plan clearly showing the proposed area covered by the licence application in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of proposed tables and chairs, together with any other items that the applicant wishes to place on the highway. The dimensions on the plan shall include the length and width of the proposed area, the length of the frontage of the premises, the width of the pavement/footway and the dimensions of any other fixed item in the proposed area.
- the days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence (for e.g. 3 months, 6 months, or a year);
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- reference of any existing Tables and Chairs Licence (if applicable)
- details of any existing authorisation to sell or supply alcohol under the Licensing Act 2003 (incl. licence number)
- evidence that the applicant has met the requirement to give notice of the application (a copy of the notice and a photograph of the notice affixed to the premises);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, and
- any other evidence needed to demonstrate how the Council's standard conditions, and any national conditions will be satisfied (see Appendices 2 & 3).

#### 3.2 Fees

The fee for applying for a licence under the new process are set locally, but are capped at £100. In order to give the greatest incentive to businesses, the Council has determined that there will be no fee for applications for Pavement Licences. Existing Tables and Chairs Licences will also be extended free-of-charge while the provisions of the Act relating to Pavement Licences apply (until 30 September 2021).

#### 3.3 Consultation

Applications are subject to a public consultation period of five working days (excluding public holidays), starting the day after the day on which a valid application is made to the Council.

The Council will publish details of the application and accompanying material on its website at [www.coventry.gov.uk/pavementlicences](http://www.coventry.gov.uk/pavementlicences).

To ensure that there are no detrimental effects to the application, the Council will also consult with:

- Coventry City Council Environmental Health Team
- Coventry City Council Food Safety Team
- Coventry City Council Licensing Team
- Coventry City Council Events Team
- Coventry City Council Public Realm Team
- Coventry City Council Planning Team
- Coventry City Council Highways Team
- West Midlands Police Licensing Team
- West Midlands Fire Service
- Coventry Business Improvement District
- Ward Councillors

Members of the public and other stakeholders, including those listed above, can contact the Council to make representations.

The Council must consider any representations received during the public consultation period when determining the application. The period in which the licence must be determined is five working days (excluding public holidays), commencing the first day after the public consultation ends.

If the Council does not make a determination by the end of the determination period, the licence for which the application was made is deemed to be granted by the Council to the applicant.

### 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 and legible until the end of the public consultation period.

A copy of the site notice must be submitted with the licence application.

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 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;
- state the address to which representations should be sent during the consultation period; and

- the end date of the consultation (five working days starting the day after the application is submitted to the Council).

A site notice template is shown as Appendix 1.

### 3.5 Site Assessment

When considering the suitability of an application, issues the Council will take into account include:

- public health and safety – 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 including public events 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:
  - 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 structures in place on the footway that already reduce access;
  - the impact on any neighbouring premises
  - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people, 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 Council, 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 10 working days from the day after the application is made (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.

If the Council determines the application before the end of the determination period, the Council 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, and impose conditions, or
- refuse the application.

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

### 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.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences granted under the Act are shown in Appendix 2. Bespoke conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement Cafés between 9am and 9pm. 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 that are less than those specified above in appropriate circumstances.

### 3.8 Licence Duration

If the Council determines an application before the end of the determination period (which is 5 working days, beginning with the first day after the public consultation period, excluding public holidays), it may specify the duration of the licence, subject to a minimum duration of 3 months.

The expectation from Government is that local authorities will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space. As such, the Council will normally grant applications until 30 September 2021.

If a licence is 'deemed' granted because the Council does not make a decision on an application before the end of the determination period, then the licence will be valid for a year, or until 30 September 2021, whichever is the sooner.

A licence granted or deemed to be granted will not be valid beyond 30 September 2021. Should an applicant wish to continue to place tables and chairs on the highway after 30 September 2021, they must submit an application for a Tables and Chairs Licence at least two months prior to the expiry of their Pavement Licence via the Council's website.

### 3.9 Refusal of Applications

In the event the site is deemed unsuitable for a pavement café, 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 a decision to refuse an application.

#### **4. Conditions**

All licences, whether granted, or deemed to have been granted, are subject to the Council's standard conditions (see Appendix 2), the statutory no-obstruction condition (see Appendix 3) and the National Condition (see Appendix 4).

In some cases, additional bespoke conditions may be required. This will be determined when assessing an application, on a case by case basis.

#### **5. Enforcement**

The Council works 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 Council as Highways Authority or the Police.

A Pavement Licence does not confer on the Licensee immunity in regard to other legislation that may apply, e.g. Planning, Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, social distancing controls, and applicants must ensure all such permissions, etc. 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 by the applicant. There may be additional costs for such permissions. Issuance of a Pavement Licence does not supersede a requirement for such permissions, and its validity would be conditional on the securing of such permissions.

If a condition imposed on a licence either by the Council or via a National Condition is breached, the Council will be able to issue a notice requiring the breach to be remedied and it can take action to cover any costs.

The Council may revoke a licence in the following circumstances:

1. for breach of condition, (whether or not a remediation notice has been issued) or
2. where:
  - 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.
3. The Council 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. The Council will give reasons where these powers are used.

Where a business is found to be placing furniture on the public highway without a licence, appropriate enforcement action will be taken.

## **6. Review Procedures**

This Policy covers temporary Pavement Licences under the Business and Planning Act which are scheduled to expire on 30 September 2021.

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of pavement cafés generally, relevant social distancing measures or as a result of local considerations within the City of Coventry.

## Appendix 1 - Site Notice Template

For display by an applicant for a Pavement Licence

[Section TBC] of the Business and Planning Act 2020.

I/We *(name of applicant)*,

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

*(postal address of premises)*

known as

*(name premises known by)*

The application is for:

*(brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink))*

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

[pavementlicences@coventry.gov.uk](mailto:pavementlicences@coventry.gov.uk)

Written representations can also be hand-delivered to the Council House, Earl St marked clearly 'FAO: Traffic Management'

by: *(last date for representations being the date 5 working days after the date the application is submitted to the Council (excluding public holidays))*

The application and information submitted with it can be viewed on the Council's website at: [www.coventry.gov.uk/pavementlicences](http://www.coventry.gov.uk/pavementlicences)

Signed .....

Dated *(date the notice was placed; this must be the same date as the date of application)*

## Appendix 2 - Standard Pavement Licence Conditions

The following standard conditions will be attached to all Pavement Licences granted or deemed to have been granted. These conditions are for the purposes of safety, good neighbourliness, to maintain the use of the highway by the public and allow any necessary access that may be required. Bespoke conditions may be attached to any Pavement Licence where the Council considers it appropriate in the circumstances of any particular case.

- 1A. Subject to the Licensees covenants contained in this Licence the Council pursuant to Section [            ] of the Business and Planning Act 2020 permits the Licensee (and its authorised employees, visitors and customers) to use the Site for the placement of the Licensees Equipment during the Licence Period
1. The Licensee is permitted to use the Licensees Equipment placed on the Highway within the licensed area (hereinafter the Site) 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 and for no other purpose whatsoever. The permitted hours are 9am to 9pm, unless otherwise specified in the licence
2. The Site must be located adjacent to the Premises and cannot extend in front of other premises, unless expressly permitted in the licence
3. No charge shall be made by the Licensee for the use of the Licensees Equipment or other objects placed on the Site
4. No alcohol shall be sold on the Site unless a Premises Licence has been obtained by the Licensee (at the Licensee's own expense) for the supply of alcohol on the Site pursuant to the Licensing Act 2003 or any modification or re-enactment thereof
5. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcohol on the Site outside the permitted hours
6. All beverages for consumption on the Site must be served in plastic or polycarbonate glasses. No beverages are to be served in glass bottles
7. The Licensees Equipment including any barriers and any other objects shall not be placed on the Site outside the permitted hours detailed in the licence. The Licensees Equipment shall be stored securely in the building and the Site left in a clean and tidy condition
8. Where the Licensee fails to comply with condition 7, the Council may remove the Licensees Equipment and the reasonable and proper costs of doing so shall be a debt due from the Licensee to the Council. The Council will not be responsible for the safekeeping of the Licensees Equipment
9. An unimpeded route must be maintained at all times for people wishing to use the Highway, as per the National Licence Condition. The width of the available footway must be at least 2 metres at all times.

10. The Licensee shall not interfere with the surface of the Site and shall notify the Council as soon as reasonably practicable upon identification of any repair/maintenance work required to the surface of the site. Any costs incurred as a result of damage to the Highway, due to the positioning of the Licensees equipment, will be recovered in full from the Licensee by the Council
11. The Licensees activities on the Site must not interfere with highway drainage arrangements
12. The Licensee shall remove their equipment including any barriers and any other objects placed on the Site immediately if requested to do so by the Council, its contractors, statutory undertakers or the emergency services and shall not replace them until authorised to do so by the Council, its contractors, statutory undertakers or the emergency services. The Council has no liability to pay compensation to the Licensee for any resulting loss including for the avoidance of doubt loss of profit
13. The Licensee shall not use or permit to be used the Site or any part or parts thereof for any purpose or activity which is or may be dangerous, offensive, noxious, noisome, illegal or immoral or which are or may become a nuisance to the Council, the general public or the owners occupiers or users of any adjoining or neighbouring property or the Highway
14. The Licensee shall not use or permit to be used on the Site or within the immediate vicinity any equipment to produce generate or amplify sound
15. At all times the Site shall be kept in a clean and tidy condition and free from all rubbish at the Licensees own expense to the satisfaction of the Council. All waste shall be contained at all times ensuring a minimal risk of it being dislodged by the general public or windblown from the Site. The Licensee shall also take reasonable steps to ensure that the area within 50 metres of the site is free from litter related to the Licensees business (howsoever generated)
16. Waste from the Licensees operations must not be disposed of in the permanent litter bins provided by the Council
17. No electrical cables shall be run along the ground of the Site in such a manner that would create a tripping hazard
18. No advertising shall be permitted on the Licensees Equipment or any barrier or other equipment placed on the Site by the Licensee, save for the trading name of the business operating at the premises
19. The Licensees Equipment should be of an approved type and should be kept in a good state of repair and condition. Barriers must be provided and have solid cross rails at the top and bottom so that they can be easily detected by visually-impaired pedestrians
20. The Licensee shall be responsible for the conduct of customers using the Site. Customers must not be a nuisance or annoy users of the highway or tenants of adjoining premises

21. The Licensee must take out and maintain for the Licence Period a Public Liability insurance policy providing an indemnity of at least £5,000,000.00 for any one event and shall when reasonably requested by the Council produce evidence of such policy. The policy must indemnify and keep the Council indemnified against all losses claims demands actions proceedings damages costs expenses or other liability arising directly or indirectly from the Licensees use and occupation of the Site or taken made or incurred in consequence of the use or presence of the Licensees Equipment and other objects placed on the Site
22. The Licensees Equipment must not, at any time, be allowed to obstruct the emergency access route from the host or neighbouring premises.
23. No heating equipment of any kind (save for any specified in the Licence) shall be permitted on the Site
24. To obtain and comply with all Requisite Consents in connection with the use of the Site
25. To pay any rates taxes charges assessments duties and outgoings (if any) arising by reason of the use of the Site by the Licensee
26. Notwithstanding any other provision(s) contained in the Licence the Council may at any time during the Licence Period and subject to a minimum of one (1) months prior written notice require the Licensee to refrain from placing the Licensees Equipment on the Site (or any part or parts of it) when an event is to take place near the Premises. In the event of the Council serving such a notice it will specify the following:
  - the name and purpose of the event
  - the date(s) and/or expected duration of the event
  - confirmation as to whether the whole or part of the Site is required
  - the date the Licensee may reasonably expect to resume use of the Site
27. Where there is within the Site street furniture of any kind lamp columns existing structures within the highway including for the avoidance of doubt bollards the Licensee takes the Licence subject to their existence and agrees that the Council is in no way liable for any accidents or incidents caused by or involving them whilst the Site is in use pursuant to the Licence
28. The Licence confers no tenancy upon the Licensee and does not give the Licensee exclusive possession of the Site or any part of it
29. The Council is not to be liable for the death of or injury to the Licensee its employees visitors or customers or for any damage to any property of theirs or for any losses claims demands actions proceedings costs or expenses or other liability incurred by them in the exercise or purported exercise of the rights granted by the Licence (save in respect of death and personal injury only to the extent that the Council is found to be negligent)
30. The Council does not undertake that the Site is or will become or remain fit for the purposes for which the Licence is granted, and the Licence does not authorise any unlawful interference with the convenience of persons using the Highway the rights

of the owners occupiers or users of any adjoining or neighbouring property or the rights of any statutory undertaker

31. The Licensee shall make no claim or charge against the Council in the event of the Licensees Equipment or other objects being lost stolen or damaged in any way from any cause whatsoever
32. A copy of the Licence shall be kept on public display on the premises and be available for inspection by when required
33. In the event of breach by the Licensee of the terms of the Licence the Council may by written notice require the breach to be remedied within such reasonable time period as is specified in the notice
34. If the Licensee does not comply with the terms of any written notice served by the Council on the Licensee pursuant to clause 30 the Council may take such reasonable steps as are reasonably necessary to remedy the breach and the reasonable proper costs of doing so shall be a debt due from the Licensee to the Council
35. If a breach is in the opinion of the Council incapable of remedy or the Licensee has failed to comply with the terms of the aforementioned notice then the Council may terminate the Licence in accordance with condition 36
36. The Council may by written notice served on the Licensee terminate the Licence absolutely as follows:
  - On the expiration of any such notice period as may be specified in the written notice served by the Council pursuant to conditions 33 - 35
  - With immediate effect if in the opinion of the Council any breach of the Licence is incapable of remedy
  - On the expiration of such period as may be specified in the written notice served on the Licensee (being a period of not less than one (1) month) if the Council (in its capacity of Highways Authority) reasonably and properly considers termination of the Licence is necessary for the purpose of exercising its functions as Highways Authority
  - Where it believes there is a risk 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 Licensee provided false or misleading statements in their application; or
  - the Licensee did not comply with the requirement to affix the notice to notify the public for the relevant period
37. The Licence shall cease and determine absolutely upon the termination or expiry of the Lease (however arising) (where applicable)
38. Where the Licence expires is terminated or determines (however arising) the Licensee shall remove the Licensees Equipment including for the avoidance of doubt of all tables, chairs together with any barriers or other equipment installed as part of the Licence from the Site and leave the Site in a clean and tidy condition to the reasonable satisfaction of the Council

39. The Licensee shall rectify within one (1) month of determination at its own cost any damage caused to the Site by the Licensee its employees visitors or customers or the Licensees Equipment within the Licence Period to the reasonable satisfaction of the Council

40. Where the Licensee fails to comply with the terms of conditions 38 and 39 the Council may remove the Licensees Equipment and make any repairs to the Site deemed necessary by the Council and the reasonable and proper costs of doing so shall be a debt due from the Licensee to the Council

### **Definitions to the Standard Pavement Licence Conditions**

**“Council”** means Coventry City Council of Council House Earl Street Coventry CV1 5RR

**“Licensee”** means [ ] (Company Registration Number [ ]) whose registered office address is situated at [ ] or [ address [ ]

**“Premises”** means the building known as [ ] in the City of Coventry shown for identification purposes only edged in blue on the Plan

**“Highway”** means the public highway adjoining/fronting the Premises and known as [ ] in the City of Coventry

**["Lease”** means the lease for the Premises dated [ ] made between [ ] (1) and [ ] (2) ]

**“Licence Period”** means the period commencing on [ ] and ending on [ ] being the period for which the Licensee is licensed to use the Site unless terminated sooner

**“Licensees Equipment”** means those [ ] placed on the Site by the Licensee in accordance with the terms of this Licence which shall at all times conform to the Council's policy relating to the placement of tables and chairs on the highway

**“the Plan”** means the plan attached to this Licence

**“Requisite Consents”** means all planning permissions consents approvals licenses certificates and permits (whether of a public or private nature) in connection with the use of the Site by the Licensee

**“Site”** means the land shown for the purposes of identification only edged and cross-hatched red on the Plan;

### Appendix 3 – Statutory No-obstruction Condition

Nothing done by the Licensee pursuant to the licence may have one of the specified statutory effects debarring grant of the licence, namely the effect of:

- (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

### Appendix 4 - National Condition

The Secretary of State publishes this condition in exercise of his powers under [clause 5(6)] of the Business and Planning Act 2020:

Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#).

Guidance on the effect of this condition

1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

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