

Application procedure and Determination of Pavement Licences

1 Submission of the Application

- 1.1 An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted with the application:
- a) a completed Application Form
 - b) the required fee of £100, paid by credit or debit card
 - c) a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
 - d) a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that the applicant wishes to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
 - e) a risk assessment demonstrating how the applicant will manage social distancing and the conflict between pedestrians using the footway, those using the tables and those queuing to access the premises,
 - f) the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
 - g) the proposed duration of the licence (for e.g. 3 months, 6 months, or a year);
 - h) evidence of the right to occupy the premises (e.g. the lease);
 - i) evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
 - j) a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £10 million, and

2 Fees

- 2.1 The fee for applying for a licence under the new process is £100.
- 2.2 Application fees must accompany the application in order for the application to be considered valid and for the consultation period to commence.
- 2.3 The fee is an 'application' fee for the processing of the application. The fee will not be refunded if the application is withdrawn, refused or if a licence is surrendered or revoked before expiration.

3 Consultation

- 3.1 Applications are consulted upon for 7 days, starting with the day after the day on which a valid application was made to the Council.
- 3.2 The Council will publish details of the application on its website at
- 3.3 The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are no detrimental effects from the application the Council will also consult with Swale Borough Council Environmental Health Service, Ward Councillors and Parish Councils.

3.4 Members of the public can contact the Council to make representations. All applications can be viewed at www.swale.gov.uk/consultations-2

3.5 The Council must take into account representations received during the public consultation period and consider these when determining the application.

4 Site Notice

4.1 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.

4.2 The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of compliance with the site notice requirement must be supplied to the Council.

4.3 A template Site Notice is available from www.swale.gov.uk/pavement-licence

5 Site Assessment

5.1 The following matters will be taken into account by the Council in considering the suitability of the proposed application:

- a) public health and safety – for example, ensuring that users 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;
- b) public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour, excessive noise and litter; and
- c) accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made.
- d) If the location of the premises to be licensed is subject to a road closure order during certain times, consideration will be given to the placing of tables, chairs and removable furniture in the road providing that they are not placed more than 30 minutes before the time the road closure begins and are removed no later than 30 minutes before the time the road closure ends

5.2 Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and take any issues around noise, and nuisance into consideration as part of the proposal.

6 Determination

6.1 Once the application is submitted the Council has 14 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 7 days for public consultation, and then 7 days to consider and determine the application after the consultation period has ended.

6.2 If the local authority determines the application before the end of the determination period, the local authority can:

- a) grant the licence in respect of any or all of the purposes specified in the application,

- b) grant the licence for some or all of the part of the highway specified in the application,
- c) impose conditions on any licence granted, or
- d) refuse the application.

6.3 If the local authority does not determine the application within the 14 day period, the application will be deemed to have been granted subject to any published local or national conditions.

7 Approval of Applications

7.1 The Council may approve applications meeting the criteria contained within these guidelines.

7.2 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 and appearance and location of the furniture corresponding to the application.

7.3 A copy of the Council's standard conditions, which will be attached to all Pavement Café Licences are shown at www.swale.gov.uk/pavement-licence

7.4 Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

7.5 The Council generally will only permit Pavement licences between opening time of the premises and 23:00

7.6 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.

8 Licence Duration

8.1 If the Council determines an application before the end of the determination period (which is 7 days, beginning with the first day after the end of the public consultation period, excluding public holidays) the duration of the licence will be specified, subject to a minimum duration of 3 months.

8.2 The expectation from the 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.

8.3 If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a year.

8.4 A licence granted or deemed to be granted will not be valid beyond 30 September 2021.

9 Refusal of Applications

- 9.1 If the site is deemed unsuitable for a Pavement licence, or if relevant representations are made which cannot be mitigated by imposing conditions, then the application may be refused.
- 9.2 There is no statutory appeal process against a decision to refuse an application.