



Pavement Licence Guidance

Updated 11 August 2023

For the use of these items on the public highway:

- **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 and other articles used in connection with the outdoor consumption of food or drink.**

We hope you find this guidance useful.

Please contact us at Highwayslicensing@southwark.gov.uk if you would like any further information or guidance.

We look forward to helping you.

Pavement Licences

Pavement licences can now be issued until 30th September 2024.

There must be a balance between the needs of businesses and the needs of residents who may be affected by noise. You must also ensure there is enough space for the public to pass in order to meet Equality Act 2010 duties.

Summary of Pavement Licence rules:

- Pavement Licences can be used on a footway, they cannot be used on a carriageway that is open to traffic.
- Pavement licences are only for use on the public highway, they cannot be granted on private land. To place items on private land contact the relevant land owner to request their permission and check with Licensing.regen@southwark.gov.uk that your premises licence allows the use of the tables outside.
- Southwark Council do not allow road closures specifically to enable the use of tables and chairs.
- Tables and chairs can be placed outside and adjacent to premises, they cannot be placed in a position that means customers have to cross a carriageway or cycle path to get to them.
- There must be a minimum of 1.5 metres of footway space remaining next to the licenced area for people to pass, more than 1.5 metres will be required in busy areas and on TfL red routes.
- The standard end time for the use of tables and chairs outside is 10pm. At 10pm tables and chairs must be removed or be rendered unusable. 8am is the earliest time they can be used.
- There must be a non-smoking area as part of the licenced area. Any smoking area must be at least 2 metres from non-smoking tables.
- Gazebo canopies may be used as part of a licenced area in some places, they must not block CCTV coverage and must never be more than 50% enclosed. Only use sides on a gazebo if the weather would make the seating area unusable (wind/rain/strong sun), at other times sides should not be used (see appendix 1)
- Heaters can be used if they are powered by electricity. A risk assessment must be completed for the use and storage of heaters, they cannot be stored on the highway. Make a plan to offset all carbon emissions created by the use of your heaters.

Updated Legislation

The Business and Planning Act 2020 has been amended and now applies until 30th September 2024, therefore Pavement Licences can be used up to that date. If your current licence ends on 30th September 2023 you will need to apply for a new licence.

It is necessary to obtain a pavement licence to place items outside a business on the public highway, this includes;

- 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 and other articles used in connection with the outdoor consumption of food or drink.

You must consider the impact on disabled highway users and ensure that the furniture you place on the highway does not create dangerous situations and does not restrict access on the public highway.

Although social distancing restrictions have been lifted, you should still act to keep customers safe and take reasonable steps to reduce potential harm. If any restrictions are re-imposed the area must be reorganised to allow for social distancing immediately at the onset of those restrictions. It is the responsibility of business to put measures in place to keep customers safe. It is also the responsibility of the business to maintain the safety of the equipment used and to monitor the area in and around the licenced area.

Most applications will be assessed individually. In areas with a high density of shops/pubs/bars/restaurants applications may need to be assessed cumulatively.

For the purposes of the pavement licence it is assumed you have permission to provide alcohol for consumption as 'off sales'. Contact our Licencing team if you have queries about your premises licence.

<https://www.southwark.gov.uk/business/licences/business-premises-licensing/alcohol-late-night-refreshment-and-entertainment-licences>

Health and Safety

You are reminded to ensure your organisation carries out a Health and Safety Risk Assessment under the Management of H&S at Work Regulations 1999 – including considerations of Centre for the Protection of National Infrastructure guidance (links below). If you need advice on health and safety contact ohs@southwark.gov.uk

'Action Counters Terrorism' (ACT) learning must be completed as part of the application process; this enables you to meet condition 17 of the pavement licence:

17. The responsible person (Applicant) must ensure that ALL Personal Licence Holders, those with delegated authority, and staff employed by or contracted to the relevant licensed premises; register and successfully complete nationally recognised counter terrorism training product referred to as ACT eLearning package within 10 days of the Pavement Licence application being made OR can demonstrate that the ACT eLearning product has been successfully completed by those employed or contracted to the relevant licensed within the preceding 12 month period of the pavement licence being granted (ACT eLearning Certificates are provided on successful on-line completion).

Your pavement licence application requires the certificate that is given once the online course is completed, you should attach this when submitting your online application.

To obtain further ACT eLearning information (FAQ) visit;
<http://www.NaCTSO.GOV.UK>

To register and complete ACT eLearning (as a business or individual) visit;
<https://ct.highfieldelearning.com/>

Fees

The pavement licence costs £100, this is a standard fee for all applications. You can pay online when making your application.

Renewal, Application and Consultation

Renewals

To renew your licence, read this updated guidance document and read the updated conditions of the licence to make sure you can meet them. Log in to your account and attach any updated documents, making sure your public liability insurance is updated and your site plan is accurate. Your site plan must show how many items are on the highway and the measurements of the remaining footway available for pedestrians and wheelchair users (minimum 1.5 metres, preferably more). You will need to display the consultation notice again for 5 working days (see timeline below).

<https://licencesandservices.southwark.gov.uk/sf/control/login>

Follow the same procedure as you did during your previous application using the online application (details below), including putting up the consultation notice.

New Applicants:

To apply online you will need these documents in pdf or jpg format ready to upload to the online page:

- Public liability insurance to a value of £5,000,000 or more.
- If not paying online: Your company bank details on letter headed paper, or other evidence of your bank details, this is required to set your company up on our finance system.
- A plan of the area you are applying for, this can be hand drawn if that is easier. It should show the width of the area you wish to use, and the width of the remaining highway for pedestrians (minimum 1.5 metres, preferably more). It should also show where tables and chairs will be located within the space. It must include a non-smoking area.
- A form of I.D. you can upload to create your account.
- Proof of your address and the premises address.
- Evidence of ACT eLearning completion (see details in the Health and Safety section above)

During the application you will create an account page that will enable you to see the status of your application during the process and after the application is processed. Once you have submitted the application, a consultation notice will be produced automatically for you to print off and display.

There is a requirement for a consultation with new and amended pavement licence applications. This takes 5 working days. The process is as follows:

Day 0: Premises submits a Pavement Licence application to the Council online at <https://www.southwark.gov.uk/business/licences/roads-and-highway-licences/pavement-licences> and displays a notice that is visible outside the premises. The notice will be produced by the application system for you to print off. An example Notice is shown at the end of this document for reference. The consultation starts the working day after the application is submitted.

Working Day 1 – 5: The consultation lasts 5 working days. The notice must be kept visible from outside the premises at all times.

Working Day 1 – 5: The Council sends the notice to relevant authorities via email to allow for representations to be made.

Working Day 6 – 10: The Council assesses the application, reviews any representations and recommends any extra conditions or reasonable adjustments to the application. A site meeting may be requested if it has not already been carried out.

Working Day 6 – 10: The Council informs the premises of the result. The licence will be granted, granted with additional conditions or will be refused for reasons that will be clearly explained. If the Council does not respond to the application by the end of day 10 the licence is deemed to have been granted.

The pavement licence can be used once it is granted and is confirmed by a Council officer at any point during day 6 to 10 i.e. after the consultation period has ended.

Inspections will be carried out regularly. If you do not comply with reasonable requests of a Council Officer or Police Officer to rectify any breaches, the licence may be revoked.

Please read the conditions shown below. You will need to agree and adhere to these conditions to benefit from the use of a pavement licence. The council may add or change these conditions depending on the area surrounding the premises, for example, we may require more than 1.5 metres of clear footpath in busy areas.

Before you make your application, please consider: The effect on neighbouring residents, how can you mitigate any impact? E.g. non-smoking tables if your outside area is below flats. How will neighbouring businesses be affected? Will your activities impact on deliveries or the operation of another business? Speak to your neighbours to let them know you are applying, perhaps they have concerns that you can deal with before they become an issue for the granting or operation of your licence.

Pavement Licence Conditions

A pavement licence cannot be issued on a carriageway, unless there is a Traffic Order in place to close the road to vehicular traffic. Currently the Council do not issue traffic orders specifically for the use of tables and chairs.

Customers must not have to cross a cycle path or carriageway to reach the tables and chairs.

Pavement Licence Standard Conditions

1. The licence document must be displayed at all times in clear view for inspection by officers of the Council or Police.
2. The licence only gives permission for the use of the area and/or items specified in the licence document as agreed. No outside area will be permitted for use outside the hours of 08:00 and 22:00. All items should be removed from the highway to a secure location or be rendered un-useable by 22:00.
3. The Licensee must have obtained public liability insurance to the value of £5 million or more prior to their occupancy of the public highway.
4. The Licensee shall not in any way interfere with the surface of the public highway and shall be responsible for the cost of any remedial works resulting from damage caused by any such interference. The Licensee agrees to indemnify the Council from and against any claim in respect of any injury damage or loss arising directly or indirectly out of the grant of this pavement licence and the use by the public of the licensed street furniture.
5. Unless specified otherwise in the Licence document, a minimum of 1.5 metres of space either on the footpath/footway or to the public highway kerb edge will be kept free of any obstructions. This clear space is reserved for the movement of pedestrians and wheelchair users and must not be blocked by street furniture or by customers.
6. The licence granted will be exercised in such a manner as not to cause a nuisance, disturbance or danger to the occupiers of adjoining properties or the users of the highway. Any traffic or pedestrian management equipment required in conjunction with the granted licence will be placed in the appropriate location at all times during operation of the pavement licence.
7. Any tables or area where smoking is allowed must be at least 2 metres away from any non-smoking area.
8. The Licensee shall remove street furniture from the public highway immediately if requested to do so by Southwark Council, its agents, contractors or by a statutory undertaker. Additionally, the Licensee must abide by instructions from the Police and emergency services to remove street furniture. In these circumstances a request should be made to Southwark Council before street furniture is replaced.
9. If a condition imposed on a licence, either by the local authority or nationally, is breached the local authority can issue a notice requiring the breach to be remedied and the authority can take action to cover any costs. The authority may revoke a licence in the following circumstances: For breach of condition, (whether or not a remediation notice has been issued) or where: a) There are risks to public health or safety – for example by allowing users to breach government guidance on social distancing by placing tables and chairs too close together; b) The highway is being obstructed (other than by anything permitted by the licence) c) 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; d) 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 e) The applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.

<p>10. The Council may serve a Notice on the Licensee requiring them to remedy any breach of the terms of this licence. In the event that the Licensee fails to comply with the Notice, the Council may itself take the steps required by the Notice and recover from the Licensee any reasonable cost incurred.</p>
<p>11. Any notices served by the Council pursuant to this licence shall be deemed to have been sufficiently served if addressed to the Licensee and sent by email, post or left at the premises.</p>
<p>12. The Licence is issued for a specific square meterage and number of items. If any items are found outside the licenced area they may be removed under the Highways Act 1980.</p>
<p>13. Staff or security personnel must be present to monitor outside areas at all times, at a ratio of 1 marshal for 100 customers or less. It is acceptable to share this responsibility with neighbouring premises if appropriate.</p>
<p>14. Cutlery and glassware must only be present in any outside area when in use by a customer. Cutlery and glassware must not be left unattended. Plastic or re-useable plastic are preferred for use in outdoor areas.</p>
<p>15. Reasonable Local Conditions can be added or amended at any time by the Local Authority. A local condition is one that improves the amenity of the area around the premises. The conditions of the pavement licence may be amended at any time.</p>
<p>16. 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.</p>
<p>17. The responsible person (Applicant) must ensure that ALL Personal Licence Holders, those with delegated authority, and staff employed by or contracted to the relevant licensed premises; register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package within 10 days of the Pavement Licence application being made OR can demonstrate that the ACT eLearning product has been successfully completed by those employed or contracted to the relevant licensed premises within the preceding 12 month period of the pavement licence being granted (ACT eLearning Certificates are provided on successful on-line completion).</p>

NOTICE

[Clause 2] of the Business and Planning Act 2020.

I/We **name of applicant**

do hereby give notice that on **date the application is made (i.e. submitted)** [I/we] have applied to Southwark Council for a 'Pavement Licence' at: **postal address of premises**

known as **name premises is known by**

The application is for: **brief description of application (e.g. outdoor seating with a surrounding barrier, total area of 8 square metres. 2 metres of footway space remaining)**

Any person wishing to make representations to this application may do so by writing to: Highwayslicensing@southwark.gov.uk

by: **date. 5 working days after the date shown above**

The application and information submitted with it can be viewed on the Council's website: www.southwark.gov.uk

Signed

Dated.....

Notice Guidance notes:

Substitute the numbers with the following information:

(1) name of applicant

(2) date the application is made (i.e. submitted)

(3) name of local authority

(4) postal address of premises

(5) name premises is known by

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

(7) address to which where representations can be sent (this could be an email address or via a portal).

(8) last date for representations being the date 5 working days after the date the application is submitted to the local authority (excluding public holidays)(2)

(9) the website address where the application can be viewed

(10) date the notice was placed (must be the same date as (2))

Appendix 1

Pavement Licences during the winter months

Southwark Council reviewed our procedures to enable us to help hospitality businesses as much as we can during the winter months. Southwark Council will allow umbrellas, gazebo canopies and heaters as part of pavement licences, where it is appropriate and agreed with a Council Officer of the Highway Licensing team. Agreement will be on a case by case basis, each location brings with it factors that need to be considered, therefore a borough wide approach is not possible.

If you wish to add cover and heating to your outside area it is preferred that you use umbrellas with integrated electric heaters, but cables cannot cross an area that pedestrians will use. We realise that the storage of these items may not be practical in many locations therefore we will allow an alternative in some cases.

Gazebos

In some cases we may allow the use of a gazebo to cover an area of tables and chairs on the highway that has a pavement licence. A gazebo will only be allowed if it has practically the same effect as a large umbrella, sides can only be used when the weather would make the seating area unusable, and even then it must be more than 50% open.

Any barriers or screens around the gazebo canopy must not create an enclosed space. Once sides are used and cover more than 50% it becomes an inside area, the pavement licence is intended for use as an outside area only.

There must be a pavement licence in place to allow the tables and chairs associated with the gazebo canopy.

Gazebo canopy restrictions:

- Must be weighted in line with manufacturers' instructions. Any items used to weight the gazebo must not create trip hazards to the users of the licenced area and must not encroach on any part of the highway used by pedestrians.
- Nothing can be attached to the highway (i.e. screwed into the surface of the highway). The cost of repairing any damage caused will be charged back to the licence holder or premises.
- The gazebo on the highway must not be enclosed. Using a gazebo without sides maintains airflow and reduces hidden spaces on the highway.
- CCTV coverage must not be blocked and there must not be a reduction of natural surveillance, this will be location dependant. If CCTV is blocked this could breach your premises licence conditions.
- Do not trail electrical cables across a public highway.
- Gazebos must be removed immediately at the request of a Council officer or the emergency services.
- Must be stored off the highway when not in use.

Additional considerations:

Are you located in a conservation area? The use of gazebos may have a detrimental effect on the character of the area. If a gazebo canopy is permitted there must not be any advertising on it and it must be a plain neutral colour.

Once a Gazebo is more than 50% enclosed it becomes a smokefree premises under the Health Act 2003. Creating an inside area on the highway is not permitted in any circumstances.

Outdoor heaters

If heaters are requested, we may allow electric powered heaters in certain locations. Free standing electric heaters can be used if a risk assessment is produced to show how they will be managed safely.

Gas heaters use significantly more energy and do not align with the Councils aim to improve air quality and must be avoided. The storage of gas bottles also bring with them many Health and Safety requirements. Gas heaters should not be purchased for use on the Public highway, only use electric powered heaters where they are necessary.

You should make a plan to offset the emissions created by the heaters you use.

What you need to do

If you wish to use additional umbrellas or heaters, or would like to check if you can use a gazebo canopy as part of your current pavement licence, please contact Highwayslicensing@southwark.gov.uk outlining your plans and including the appropriate risk assessment. <https://www.hse.gov.uk/simple-health-safety/risk/index.htm>

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