



TRAFFORD
COUNCIL

Guidance Notes & Published Conditions for a Pavement Licence

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Part 1 – Guidance Notes

1.0 Introduction

1.1 Many pubs, restaurants, wine bars and cafés wish to make use of the pavement to set up stalls for the selling of food or drink, tables, counters or shelves on which food or drink can be placed, chairs or benches for seating, umbrellas, barriers, heaters and other articles used in connection with consumption of food and drink for their customers.

1.2 Having tables and chairs on highway land can be a vital part of the life and character of an area. However, if they are not carefully controlled, they can be a hazard for pedestrians. People with impaired vision, in wheelchairs or with prams can be particularly disadvantaged. In some places, people eating or drinking outdoors can also cause considerable noise nuisance for residents.

1.3 The town centre has much to offer and the authorities, whose functions are to facilitate developments as well as regulate, have worked together to strike a balance between the different concerns.

1.4 This guide explains how to make an application for a pavement licence. It gives details on how the application will be dealt with. It outlines expectations around the process and (in part 2) contains the published conditions of any licence granted or deemed granted, and lists contact details if you require any further information or assistance.

2.0 Requirement and standards for a tables and chairs licence

2.1 Before any amenity use on the highway is proposed or established, the following matters must have been fully considered.

- Space - Is there room for the use as proposed?
- Environment - Is the quality of air and the immediate environment suitable for the use proposed?
- Other needs - What other footway uses and users need to be considered?
- Neighbours - How will the proposed use affect the neighbouring properties?
- Regulations - Does the proposal meet the various criteria outlined in the regulations and this guide?

3.0 The requirements when placing tables and chairs on the highway

3.1 A minimum width of unobstructed footway of 1.8 metres must be provided for safe and convenient pedestrian movement. This allows wheelchairs and prams to pass comfortably and provides a reliable, safe route for blind and partially sighted pedestrians.

3.2 However, additional width may be required in streets where there is a high level of pedestrian activity or permanent obstructions such as street furniture.

3.3 A minimum distance of 0.75 metres from the face of the building is required to satisfactorily accommodate a seated customer on a chair. Tables and chairs should normally be placed adjacent to premises, at the back of the footway. In special areas this requirement may be waived.

3.4 The positioning of tables and chairs should never discourage pedestrians from using the footway. The available route past must be straight, obvious and unobstructed; it should not pass through the area used by the tables and chairs.

4.0 Location guidelines for tables and chairs on the highway

Fully pedestrianised streets

4.1 A fully pedestrianised street is one where vehicles have no right of entry; however, the emergency services may need access at any time. In these types of street it may be preferable for the tables and chairs to be placed away from the building frontage towards the centre of the street. A minimum of 1.8 metres must be retained as a pedestrian access way between the front of the building and the line of the table and chairs. This distance may be increased at the discretion of Trafford Council.

4.2 The tables and chairs may be able to occupy a space up to the centre line of the street, but must not encroach on areas fronting adjoining properties; the exact extent will be determined by the Council. This configuration will allow adjoining properties and properties opposite each other to site tables and chairs on the highway and retain pedestrian access along the line of the shop fronts.

Pedestrianised street with vehicle access at specific times

4.3 Tables and chairs will normally only be permitted outside the hours of vehicular access. The hours of permission will normally commence at least 30 minutes after the end of the hours of vehicular access. (Vehicles and tables and chairs will only be allowed at the same time in such streets if adequate pedestrian space remains, is clearly defined, and adequately protected or where traffic is sufficiently light for vehicles and pedestrians to share the same area). Even during the hours when vehicles are normally excluded, tables and chairs can occupy only the area agreed, in order to ensure a free and unobstructed route for emergency vehicles.

Streets with footway and carriageway

4.4 A minimum, unobstructed pavement width of 1.8 metres measured from the face of the kerb is required for pedestrian movement. Where there is any street furniture (such as lamp posts, bollards, parking meters, benches, flower beds etc.), a 1.8 metre, unobstructed pavement width is required from the line of the street furniture. Where there is heavy pedestrian flow, additional footway space may be required. Tables and chairs may occupy no more than half the total width of the footway.

Special areas

4.5 There may be areas in Trafford where, as part of an overall environmental scheme, alternative arrangements for tables and chairs on the public highway might be considered. There may be instances where, for reasons of particularly high pedestrian and/or traffic flow, the positioning of tables and chairs will need especially careful consideration. Trafford Council will treat all cases on their merits, but may wish to impose additional measures of control in such locations.

5.0 Boundary enclosure guidelines for tables and chairs on the highway

5.1 Where the refreshment use or street café is in use a temporary form of enclosure can be used, with adequate openings to permit access. The function of this boundary enclosure will be to demarcate and contain the area and give a clear warning, particularly to people with visual impairments. A low level-tapping rail should be incorporated into the enclosure. It is essential that it is sufficiently lightweight in construction, to enable it to be dismantled and stored in the premises outside the approved hours. Nevertheless, the enclosure should not be so light that it is moved by the wind. It should be of contrasting colour, so as to be visible to the partially sighted, but should not be too visually dominant.

6.0 Furniture guidelines to tables and chairs on the highway

6.1 A standard design of seating and tables will not be insisted upon but a reasonable quality will be requested and a mixture of furniture is not recommended.

6.2 The materials and colours should not be too bright, garish or overly reflective. White plastic furniture will not normally be approved.

6.3 Tables should be of a design to allow wheelchair use. The use of umbrellas will have to be specified if used as part of the design along with their location, material and colour. These must be positioned so they cannot overhang outside the enclosure. Limited advertising of the premises or a supplier may be considered on umbrellas but this should not be too dominant and limited to logos of about 150mm x 450mm.

7.0 Environmental guidelines to tables and chairs on the highway

7.1 In certain areas the quality of air, e.g. traffic fumes may be to a standard, which would not be conducive to sitting/eating/drinking out in. It is advisable to consider traffic volumes and the nearness of bus stops, taxi ranks and other areas where air quality may not be of a high enough standard.

7.2 The provision of toilet facilities is required for all pavement cafés seating in excess of 6 people. Where there is already internal seating associated with the building, additional toilet facilities may be required if overall occupancy figures are increased.

7.3 It will be expected that the approved licensed area will be kept clean and litter free and it would also be ensured that litter does not stray onto the neighbouring area.

7.4 Should litter be deliberately dropped onto the highway, this is an offence and could be the subject of a fine should it be observed by an Environmental Enforcement Officer. This will include litter deliberately dropped by those occupying the licensed area.

7.5 It is a requirement that operations are concluded, and all tables and chairs are removed from the highway by 23.00.

7.6 External public address systems or amplified music will not be allowed within the licensed area.

7.7 Seating space contained in the licensed area must be included in total occupancy figures for the premises.

8.0 Other considerations to a pavement licence application

8.1 It is vitally important that the needs of adjoining properties, nearby residents, pavement users and delivery/emergency services are fully considered when proposing a use on the highway.

8.2 These needs will be examined closely by the authorities that are dealing with the formal applications made under the current legislation. It may be helpful if you have consulted with neighbours, support groups or service providers to enclose any letters of support for the proposal and/or detail proposed measures to satisfy potential objectors.

8.3 The use of gas patio heaters is not permitted due to environmental and safety impacts.

8.4 The use of outdoor barbeques is not permitted due to safety impacts

8.5 The specific use of A Boards is not permitted outside of the licenced boundary to ensure that the remaining pavement is as free from obstruction as possible.

8.6 The smoking of tobacco is not permitted within the licensed area and at least one 'no smoking' sign shall be visibly displayed within it.

9.0 Planning consent for a tables and chairs Licence

9.1 Planning Consent is not required under the current legislation.

10.0 If permission is granted for a Tables and Chairs Licence

10.1 The granting of a license does not give an automatic right of renewal in subsequent years.

10.2 The highway license will limit the hours during which the tables and chairs may be placed on the highway and will require that outside these hours all furniture is removed and the highway cleaned or if appropriate washed down.

10.3 The responsibility for removing tables and chairs and other obstructions from the highway rests with the owner/operator of the premises.

10.4 The license will also require litter to be collected within the licensed area and the highway to be kept in a clean and tidy condition.

10.5 If umbrellas are proposed, conditions will be imposed to ensure that they are adequately secured and positioned so as not to project outside the designated area as marked on the highway. Special additional conditions may be added to the license or permission as and when necessary.

10.6 Tables and chairs placed outside require extra care on the part of management and staff to ensure that amenities of the area are not adversely affected.

10.7 It will be the responsibility of the licensee to ensure that the conditions of the highways license, planning permission and justice's licence are adhered to. The licensee will be responsible for the behaviour of and actions by his customers whilst in the licensed area.

10.8 Trafford Council has powers to ensure compliance with the terms and conditions imposed on a license and to recover any expenses in so doing.

10.9 As part of the coordinated consultation process, Greater Manchester Police may request the following:

- The use of toughened or non-glass drinking vessels for outside use
- No bottles outside
- Use of door staff as supervisors of the external area

10.10 Trafford Council will require the licensee to contain their activities and customer activities to within the licensed area. In particular, the licensee will agree not to provide refreshments for consumption elsewhere on the highway or on any land, which is public open space. A Public Spaces Protection Order (PSPO) is in place in Trafford, which designates areas that alcohol cannot be consumed in public. This will not apply to a licensed area, but will be beyond the boundary of the premises. Measures should be considered to support the PSPO.

11.0 Fees

11.1 The legislation permits the local authority to charge a fee of up to £100, Trafford Council has decided to not charge any fee for a pavement licence application, this decision was taken as a small measure to help support businesses through the pandemic. No duration limit will be prescribed on the licence. The government has set the expiry date of 30 September 2021, although the Secretary of State has the power to extend this date if necessary.

12.0 Attachments to be included with your application

12.1 To apply for permission to place tables and chairs on the highway, please complete the on-line application form and provide the following information in an electronic format:

- Contact details
- Photograph of the public notice in situation at the premises;
- Photos or brochures showing types of furniture, umbrellas etc.
- Specification describing details, materials and colours (these could be notes on plans).
- A location plan showing location of premises surrounded by a red line, so that the application site can be clearly identified, preferably an OS Base Map.
- A plan showing the proposed area to be covered by the licence including boundary, kerb and building lines, points of access including the property, key dimensions, seating and other furniture layout, preferably a 1:50 scale plan but with measurements if not to scale.

13.0 Public Consultation

13.1 On the day the application is made, the person submitting the application must also fix a notice of the application to the premises so that it is readily visible to members of the public who are not at the premises. This notice must remain in place until the end of the 7 day consultation period.

13.2 The notice has to be in the prescribed form and must state the date when the application was made to Trafford Council, detail how representation can be made to the local authority and indicate the date when the public consultation period comes to an end.

13.3 On receipt of your application, Trafford Council will consult the relevant Ward Councillors, Greater Manchester Police, Trafford Council Licensing Authority, Health & Safety, Pollution Control Authority, Planning Control, and Traffic Control.

13.4 The application will also be advertised on the Council Website.

14.0 Determination of applications and conditions

14.1 Before making a determination in respect of the application, Trafford Council must take into account any representations made to it during the public consultation period. After the end of consultation period, Trafford Council may grant the pavement licence or reject the application. Please note that the Council may grant a licence in respect of any, or all, of the purposes in relation to the submitted application, and grant some, or all, of the relevant part of the highway specified in the application.

14.2 As with any other public function, in determining an application, Trafford Council must have regard to its wider duties, including:

- The prohibitions on unlawful discrimination etc. in S29 of the Equality Act 2010;
- The Public Sector Equality Duty contained in S149 of the Equality Act 2020;
- The prohibition on acting in a way which is incompatible with right under ECHR by virtue of S6 of the Human Rights Act 1998;
- The need pursuant to S17 of the Crime and Disorder Act 1998 to have due regard to the likely effect of the exercise of its functions on, and the need to do all that
- it reasonably can to prevent (a) crime and disorder in its area (including antisocial
- and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area and (c) re-offending in its area;
- Its duty under S89 of the Environmental Protection Act 1990 to keep relevant highways clear of litter and refuse.

14.3 If Trafford Council do not notify the applicant of its determination by the end of the determination period, the licence application is deemed granted as applied for.

14.4 A pavement licence may be granted by Trafford Council subject to such conditions as it considers reasonable. Trafford Council has published conditions which it proposes to grant pavement licences. Where a pavement licence is granted, it is deemed to be granted subject to these conditions, in addition to any conditions the Secretary of State may publish.

15.0 Enforcement

15.1 If Trafford Council considers the licence holder to have breached any condition of the licence, the Council may revoke the licence or serve a notice on the licence-holder requiring the taking of steps to remedy the alleged breach. Should the licence holder fail to take the steps as outlined in the notice, then the Council may take the steps itself and recover the costs of doing so from the licence holder, or revoke the licence.

15.2 Over the course of the duration of the licence,

16.0 Change of circumstances

16.1 A change in circumstances refers to:

- Business details
- Ownership
- A reduction of details of furniture and other equipment

16.2 If you wish to increase your footprint on the current licence, a new application would need to be submitted.

Part 2 - Conditions

National Condition

1. 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

Section 3.1 of Inclusive Mobility provides:

A clear width of 2000mm allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. The absolute minimum, where there is an obstacle, should be 1000mm clear space. The maximum length of restricted width should be 6 metres (see also Section 8.3). If there are local restrictions or obstacles causing this sort of reduction in width they should be grouped in a logical and regular pattern to assist visually impaired people. It is also recommended that there should be minimum widths of 3000mm at bus stops and 3500mm to 4500mm by shops though it is recognized that available space will not always be sufficient to achieve these dimensions.

Local Conditions

1. For streets with footways and carriageways, the maximum width of any licensed area shall not exceed one third of the useable width of the footpath.
2. A minimum unobstructed footpath width of 1.8 metres must be left clear and available and free from obstruction to allow for safe and convenient pedestrian movement. The distance in this respect is to be measured from the edge of the licensed area to any significant amount of street furniture (such as lamp posts, bollards, parking meters, fences etc.) or to the kerbside or edge of the road in the absence of any street furniture as described. Where there is heavy pedestrian flow, additional footpath space may be required.
3. In respect of fully pedestrianised streets, a minimum width of 1.8 metres or a minimum of one half of the total width of the public highway (whichever is the greater) must remain free and unobstructed to facilitate pedestrian movement. However, where there is heavy pedestrian flow, additional footpath space may be required. The unobstructed route shall fall equally either side of the centre line of the footway to ensure the space available for any permitted display, or

in the case of pavement café licences, tables and chairs, is shared equally between premises on either side of the street.

4. Only the licensed and designated area shall be used for placing tables and chairs on the highway at any time.
5. Only those tables, chairs, items or displays specifically applied for and authorised on this licence shall be permitted within the designated area. No other furniture of any description, other than litter receptacles shall be placed within the designated area.
6. The licence holder shall keep their licensed area and the immediate area in a clean and tidy condition during the permitted hours and at the end of each daily period of use. The holder will ensure that appropriate precautions are taken to prevent the highway from becoming littered as a result of trading activity and shall provide a litter bin for their customers where necessary.
7. All displays, tables, chairs and any other structures associated with this licence shall be removed at the end of each trading day.
8. Suitable storage for tables, chairs, or any other items associated with the licence shall be identified by the applicant at the time of application and must be utilised for safe storage of those items at all times when not in use.
9. All tables and chairs shall be durable and suitable for outside use. No damaged furniture shall be used at any time.
10. No display items, tables, chairs, structures or goods associated with the display or pavement café shall be positioned in any way so as to obstruct the sight line of drivers of vehicles in and around the vicinity of the display or pavement café.
11. There shall be no playing of music or any amplified sound to any extent that may be perceived as causing a nuisance to neighbouring premises or any other person in the vicinity. The holder shall not use or permit any music playing, music reproducing or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst trading under this Licence, unless varied by a special condition of this Licence.
12. No licence holder shall cause or permit a nuisance to be created by noise, smell or any other unreasonable form to be emitted or associated with the licensed area in any way.

13. No electrical cables, wiring or any other like obstruction, shall be permitted to run along the ground in such a way as to create a trip hazard or which may be susceptible to mechanical damage.
14. A Clear pathway of at least 1.1 metres in width shall be maintained at all times, which will allow reasonable egress and access to the shop premises.
15. In the event of a request by a Police Officer, an authorised Officer of the Council or an Officer of a relevant public utility, any tables, chairs, display equipment or goods, shall be removed immediately for whatever period is so required.
16. Notice of application for a new or renewal of a tables and chairs licence must be displayed in the window of the premises to which it relates, in such a manner so as to be clearly visible from the outside. Such notice must be at least A4 in size and will be displayed for a period of not less than 7 days, beginning the day after submission of the application to Trafford Council.
17. If possible, this Licence as issued must be displayed in a clearly visible position where it can be read by prospective customers. If this is not possible, the Licence must be available for inspection when requested to do so by a Police Officer or authorised Officer of the Council.
18. This licence is not transferable and as such will cease to have effect should the licence holder cease to own or to be employed by the establishment.
19. The granting of this licence, does not remove the right of the Local Authority to consider and if deemed appropriate, enforce any breaches of Highway Law, particularly that legislation relating to the obstruction of the public highway.
20. The holder shall trade strictly in accordance with this Licence.
21. The holder shall not place on the street, or affix to any equipment placed on the street, any advertising material, unless varied by a special condition of this Licence.
22. The holder shall not fix any equipment, nor make any excavations or indentations in the surface of the street.
23. The holder shall not place on the street any furniture or equipment other than that permitted by this Licence. All such furniture or equipment must be maintained in a clean and tidy condition, and must not obstruct the entrance to, or exit from, any premises.

24. The holder shall not do anything in the street which may cause danger, nuisance or annoyance, damage or inconvenience to the Council, any adjacent/neighbouring premises, or to members of the public.
25. The holder shall indemnify the Council and their agents, servants, workmen etc. from and against all proceedings, damages, claims or expenses in respect of an injury (including personal injury) which may be sustained in connection with the tables and chairs licensed area and the provision of facilities under this Licence.
26. Licence Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the activities of the business. If food is sold, the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the Council on application. Proof of cover must be produced to an officer of Trafford Council as required.
27. The Council may revoke this Licence at any time and shall not be liable to pay any compensation to the holder in respect of such revocation.
28. This Licence does not relieve the holder, or any person employed to work at the premises, of any obligation to comply with all other general and local legislation, and in particular the Road Traffic Acts; the Food Safety Act 1990; the Town and Country Planning Acts; the Control of Pollution Act 1974; the Environmental Protection Act 1990; the Licensing Act 2003; any Orders or Regulations made thereunder; and local Byelaws. It shall be the obligation of the holder to familiarise themselves and their employees with any such legislation. The Council reserves the right to revoke this Licence upon any alleged breach.
29. All Licence Holders shall take such precautions as necessary to ensure the safety of the public and themselves when carrying out their business. It is advisable to carry out a simple risk assessment to assess any possible risks and take steps to mitigate or eliminate the identified risk, especially in relation to measures concerning COVID-19.
30. The licence holder must inform the Council of a change in his/her contact address during the period of the licence within seven days of such a change taking place.
31. Smoking of tobacco is not permitted within the licensed area and at least one 'no smoking' sign shall be visibly displayed within it.

32. If a time is not already prescribed on the licence, it is a requirement that operations must be concluded, and all tables and chairs removed from the highway by 23.00hrs and not re-placed until 06:00hrs the following day.