



Cannock Chase District Council

Business & Planning Act 2020

Pavement Licence Information for Applicants

The Business and Planning Act 2020 received Royal Assent on 22 July 2020 and came into effect immediately to help hospitality premises during the Covid-19 pandemic. It sets out a fast track process for pavement licences allowing licence holders to place removable furniture over certain highways adjacent to the premises.

Local authorities are now accepting applications and the timescale for determination is limited to 10 working days. There is a consultation period of 7 days starting the day after the application is made, followed by a 7 day determination period.. If the local authority does not determine the application by the end of that time, the licence is deemed to have been granted for a year but not beyond 30 September 2021.

Applications

Applicants must submit details of the proposed furniture with the application. The application form can be found on the Council's website and only furniture defined in the Act will be permitted, i.e.

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

The application must be made electronically to licensingunit@cannockchasedc.gov.uk

On the same day that the application is made, the applicant must display a notice of application at their premises. The notice must remain in place for the 7 days consultation period which starts the day after the application is made.

The notice is available on the Council's website and must be displayed so as to be readily visible to, and can be read easily by, members of the public who are not on the premises.

The Council also has a duty to publish the application and any information or material required by the local authority under subsection (2)(f), of the Act.

Pavement licence granted by the Council will expire on 30 September 2021 but may be surrendered at any time.

Government guidance on pavement licences can be found here: <https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

Guidance on pavement licence from the Local Government Association (LGA) can be found here: <https://local.gov.uk/licensing-outdoor-drinking-and-dining>

Risk Assessment

The licence holder must complete a health & safety risk assessment which will help them identify the specific actions needed and understand how to work safely and keep customers safe during the pandemic. Importantly, licence holders must ensure that customers comply with the social distancing guidelines. The risk assessment could include:

- the number of people able to access the premises safely
- how seating areas will be spaced out/rearranged to enable social distancing
- how mechanisms for ordering/serving food and drink will be managed to reduce social contact (eg table service, apps etc)
- processes for cleaning and hand sanitising
- use of PPE/plastic screens
- approach to eg screening live sport, snooker/ pool and other activities in licenced premises, and how the risks of these will be managed.

Sector specific risk assessment guidance on restaurants, pubs, bars and takeaway services can be found here:

<https://assets.publishing.service.gov.uk/media/5eb96e8e86650c278b077616/working-safely-during-covid-19-restaurants-pubs-takeaway-services-310720.pdf>

A template for a risk assessment can be found here:

<https://www.hse.gov.uk/simple-health-safety/risk/index.htm>

Guidance on working safely can be found here:

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>

Licensed premises are required to ensure that they engage with the NHS test and trace procedure so as to allow the NHS trace the spread of the virus and isolate new infections. This plays a vital role in giving an early warning if the virus is increasing again, locally or nationally. Guidance on Test and Trace can be found here:

<https://www.gov.uk/guidance/nhs-test-and-trace-how-it-works>

Off Sales

The Act also amends the Licensing Act 2003 so that any premises with licences which currently only permit drinks to be consumed on the premises will be permitted to allow sales for consumption off the premises. The default extension will not however apply to premises which in the last three years have been refused permission for an off-sales licence, or have had this permission revoked. The new permission will permit off-sales until 11pm.

Premises that already have an off sales licence with a cut-off time before 11pm will also be permitted to provide off sales until 11pm or until the current on-sales licensing hours for that premises end, whichever is the earlier. Where off sales were permitted beyond 11pm these can continue.

The Act sets out an expedited off-sales review process which will enable responsible authorities under the Licensing Act to apply for a review of an off-sales licence if they believe one or more of the Act's objectives are being contravened.

Government have provided guidance on off sales which can be found at:

<https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill/alcohol-licensing-guidance-on-new-temporary-off-sales-permissions>

Conditions

The Act provisions include a statutory 'no obstruction' as well as a 'smoke-free seating' condition which requires licence holders to make reasonable provision for seating where smoking is not permitted. Where no conditions on smoking are imposed by the council, then the Act requires the licence holder to make reasonable provision for seating where smoking is not permitted.

The statutory "no obstruction" condition can be found at section 3(6) of the legislation which can be found at: <https://www.legislation.gov.uk/ukpga/2020/16/contents/enacted>

The Council intends to leave it to licence holders to make reasonable provision for non smoking seating however Action on Smoking and Health (ASH) have produced a briefing note which licence holders may find useful. The note can be found at:

<https://ash.org.uk/wp-content/uploads/2020/07/ASH-Briefing-for-councils-on-smoke-free-pavement-Licences-200724FINAL.pdf>

Licence holders also have a statutory duty to ensure that they consider the needs of disabled people.

Councils can impose any additional reasonable conditions which include the following matters:

- maximum number of chairs and tables
- type of furniture
- hours of operation with justification for this
- removal of furniture
- maintaining public liability insurance
- use of plastic/polycarbonate drinking vessels
- barriers/separation from footway
- noise/nuisance.

The Council's licence conditions are published on the council's website along with the application form, general terms and conditions of the licence and the public notice which must be displayed at the premises following application.

Contact details:

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