



# **Pavement Licensing Statement of Principles**

## **2026 - 2028**

North Somerset Council, Licensing Team, Town Hall,  
Walliscote Grove Road, Weston-super-Mare, BS23 1UJ  
Tel: 01934 426 800

## Contents

- 1. Introduction
- 2. Legal Framework
- 3. Eligible Businesses
- 4. General considerations
  - 4.1 Pavement licences on private land
  - 4.2 Planning permission
  - 4.3 Right of access
  - 4.4 Effect on neighbours
- 5.0 Designing the Pavement Café
  - 5.2 Size and Layout
  - 5.6 Security and counter terrorism
  - 5.7 Accessibility
  - 5.8 Smoke-Free legislation
  - 5.9 Alcohol in the pavement licence area
- 6.0 Furniture Design
  - 6.1 Tables & Chairs
  - 6.2 Parasols
  - 6.3 Means of enclosure
  - 6.4 Planters
  - 6.5 Patio heaters
  - 6.6 Lighting
  - 6.7 Advertising
- 7.0 Fees and charges
- 8.0 Managing the Pavement Cafe
  - 8.1 Insurance
  - 8.2 Safety
  - 8.3 Environmental Implications
- 9.0 General Operation
- 10.0 Application Requirements
- 11.0 Determination of applications
- 12.0 Licensing Committees
- 13.0 Renewals
- 14.0 Licence conditions
- 15.0 Variations
- 16.0 Surrender and cancellation
- 17.0 Compliance and enforcement
  - 17.6 Removal of furniture
- Appendix A** Highways Act 1980 permissions
- Appendix B** Notice template.
- Appendix C** Standard conditions
- Appendix D** Useful contacts

## 1. Introduction

Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life, and interest to an area.

North Somerset Council permits tables and chairs to be placed on the Highway outside premises which provide food and/or drink for consumption by its customers. This includes restaurants, cafes, public houses, and retail outlets.

The Business and Planning Act 2020 provides a streamlined and cheaper route for businesses such as cafes, restaurants, and bars to secure a licence to place furniture on the highway. This will provide much needed income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.

This policy is intended to help businesses understand where the placing of objects or structures on the highway might be permitted. Any Pavement Licence permissions are required to be maintained to a high standard and enforcement action will be taken to ensure that obstruction to the highway is kept to a minimum.

Whilst the Council wishes to encourage pavement cafes, it is important that they are properly located and managed. This is to ensure that they meet the standards we expect in North Somerset and that they do not obstruct the highway nor create a hazard for pedestrians, especially for visually impaired and other disabled people.

## 2. Legal Framework

- 2.1 “Street Cafés” were previously covered by regulations made under the Highways Act 1980 S.115. The area for any Street Café permission being a highway as defined by Section 115A of the Highways Act 1980.

This has now been replaced by provisions made in the Business and Planning Act (BPA) 2020, made permanent under the Levelling Up and Regeneration Act 2023. The permissions are now referred to as “Pavement Licences.”

Anyone wishing to place non-removable items in a pavement licence area will still need to apply for permissions under the Highways Act as a separate process. Further information on this is shown at **Appendix A.**

- 2.2 Both operators of pavement licences, (on private forecourts or the highway) and the council itself must comply with the Equality Act 2010. It requires that all disabled people can physically access any pavement café area and freely use the highway.
- 2.3 The Local Authority may grant a person permission to use objects or structures on the highway which would otherwise be known as an obstruction.

Although there is no strict statutory definition, the licence could include such things as:

- Tables, chairs, and parasols
- Planters
- Barriers, screens, or enclosures to contain tables, chairs and/or outside designated smoking areas etc.

- 2.4 The Licensing Authority has the power to impose conditions on permissions granted under this legislation.
- 2.5 The legislation also requires a council to publish a notice before any permissions are granted.

It also gives it powers to serve notice where the permission granted is breached, requiring not only remedy of the breach but the recovery of any expenses plus interest incurred where the council remedy the breach themselves.

- 2.6 The Licensing Authority may revoke or amend a pavement licence if:

- it considers the highway is no longer suitable for use,
- if there are risks to public health or safety,
- Use of the highway is causing an unnecessary obstruction,
- The use is causing anti-social behaviour or public nuisance.

The Licensing Authority may revoke a pavement licence if:

- There is a breach of condition (whether a remedial notice has been issued or not),
- An applicant is shown to have provided false or misleading statements in their application,
- The applicant did not comply with the requirement to display a notice of application through the consultation period.

- 2.7 In cases where there is any doubt about the ownership or responsibility in relation to a “highway” applicants should seek their own legal advice prior to making any pavement licence application.

### **3. 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 licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.

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.

Businesses that do not use their premises for the sale of food or drink, for example salons, are ineligible. Though they can apply for permission to place furniture on the pavement under the Highways Act 1980.

### **4. General considerations**

#### **4.1 Pavement Licences on Private Land**

This policy relates only to pavement licences on a public highway. Cafés on private land are not covered by the Business & Planning Act legislation.

Land previously deemed to be in private ownership may have become part of the highway if the public have enjoyed access over it for at least twenty years or if the Council has formally adopted the land.

#### **4.2 Planning Permission**

Once a pavement licence is granted, or deemed to be granted, the applicant will benefit from deemed planning permission to use the land for anything in connection with the pavement licence whilst it is valid.

#### **4.3 Right of Access**

Authorised Officers of the Council and the Police shall have access to a pavement café at all reasonable times for inspection purposes.

#### **4.4 Effect on neighbours**

The applicant is 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.

### **5. Designing the Pavement Café**

#### **5.1 The overall objectives of a Pavement Café will be:**

- To make the district attractive to visitors and residents.
- To protect the safety of users of the highway and users of the café.
- To ensure that access for emergency services is maintained.

#### **5.2 Size and layout**

The size of any café area will depend on the type of usage and the available space. Public safety will be paramount as a principle; however, each application will be determined on its own merits. There must always be sufficient room for pedestrians and others to use the footpath considering streetlight columns, waste bins and any other street furniture. Access to fire hydrants must also be maintained.

#### **5.3 The layout of the proposed pavement café will be dependent upon the characteristics of the site outside of the premises, particularly the space available (considering the needs of other users), and it is not appropriate for this Policy to set a standard size for the café area.**

#### **5.4 Footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2 metres is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters.**

Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1.5 metres could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other. Each case will be treated on its own merits.

#### **5.5 The area should consider other needs of the area such as kerbside parking, pedestrian routes and crossing points. These must all be identified within any plan.**

- 5.6 When considering public health and safety, local authorities should seek to ensure a balanced consideration for security implications, particularly the risk to groups of people from interaction with hostile vehicles, and the creation of large crowds in new public spaces.

The impact of several pavement licences in an area may result in larger, distributed, or dense crowds of people.

The licensing authority will factor this into their security planning process and ensure the [overall security arrangements for an area are adapted as appropriate](#).

Examples of appropriate measures could include increased CCTV surveillance, manned guarding, vehicle security barriers and ACT (Action Counters Terrorism) training for businesses.

Additional [guidance is available for managing the most common security implications](#) and how to protect crowds and [queues of people](#). This includes information on suggested Counter Terrorism licence considerations, which local authorities are encouraged to consider when determining pavement licence applications.

## 5.7 Accessibility considerations

When determining if furniture constitutes an unacceptable obstruction, local authorities must consider the needs of disabled people. To do this, authorities should consider the following matters when setting conditions, determining applications and when considering whether enforcement action is required:

- **Spacing** - Section 3.2 of [Inclusive Mobility](#) - gives advice on the needs of particular pavement users and sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. It also sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2m is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1.5m could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
- **Barriers** – is there a need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, this will need to be balanced to ensure any barriers do not inhibit other street users, as such barriers may create a further obstacle in the highway. Advertising boards are not included in the definition of furniture within the pavement licensing regime, therefore, should not be used as a barrier.

- **Pedestrian Movement** – consider any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people, and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs.
- **Cumulative impact** - multiple pavement licences in close proximity to each other. Is there specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people.
- **Health & Safety** - where possible furniture should be non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

## 5.8 Smoke free Legislation

The pavement licensing regime includes a national smoke-free seating condition which seeks to ensure customers have greater choice, so that both smokers and non-smokers can sit outside.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

## 5.9 Alcohol Guidance

The purpose of setting up pavement cafes is to attract people to North Somerset, to enjoy a relaxed and continental style of eating/drinking not merely to extend licensed premises, this will be borne in mind when applications are considered.

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. A pavement licence does not negate the need to obtain approvals under other regulatory frameworks, such as the need for a licence to sell alcohol, and the need to comply with registration requirements for food businesses.

The Licensing Act 2003 provides a regime for the control of the sale or supply of alcohol, regulated entertainment, and late-night refreshment.

If alcohol is to be sold or supplied as part of a pavement café operation, additional permissions will be required under the Licensing Act 2003. Advice on this can be found on the [Council website](#).

## **6.0 Furniture Design**

The furniture which may be placed on the pavement 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; and
- umbrellas, barriers, heaters, and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable and related to the serving, sale and consumption of food or drink. The Licensing Authority will be pragmatic when determining what is 'removable' but in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away at night.

### **6.1 Tables and Chairs**

These shall be robust and of excellent quality. They should also be separate and of a design to allow use by disabled or wheelchair users. The design should complement the area in which they are used. Picnic style tables with fixed benches will not be acceptable.

The Council reserves the right to reject applications where inappropriate furniture is proposed. Full details of proposed furniture shall be required upon submission of the application, including dimensions, material and a photograph or drawing of the proposed furniture.

### **6.2 Parasols**

If parasols are to be used, then their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

Parasols, when opened, should be safely secured, and contained entirely within the boundaries of the pavement café to ensure they do not cause an obstruction or present a danger to any user of the pavement café or any other users of the highway.

The design and colour of parasols will not be restricted to a particular type, but they should be made of high-quality materials and fabric and be of a



uniform design and colour. The base of the parasol must not cause a trip hazard in the pavement café area.

### **6.3 Means of Enclosure**

The council may require the tables and chairs placed on a highway to be contained by means of a 'barrier.' This is to:

- Contain the tables and chairs so that the area is distinguishable to pavement users.
- Prevent "drifting" of the furniture or barriers outside of the authorised area.
- To assist blind and visually impaired pedestrians.

Barriers should:

- Have a solid horizontal bar/element at a minimum of 150mm above ground level to be detectable by a visually impaired person using a mobility cane ("tapping rail")
- Not exceed 1.5 metres in height
- Be removed entirely from the highway when outside of the times authorised by the licence. It must be therefore lightweight in construction or portable but robust enough to withstand winds or being pushed over.
- Compliment the surrounding area. Any designs must be authorised by the Council.
- Be supported by suitable 'feet' that do not cause a trip hazard to pedestrians particularly visually impaired people.
- Must not block any emergency exits.
- Hoops or post chain type barriers and low-level objects will not be acceptable.

### **6.4 Planters**

- These offer a simple robust solution to providing a barrier which requires less maintenance, monitoring in poor weather and offer an opportunity to create an attractive outdoor space.
- These must be lightweight enough to be removed daily, but stable enough to resist weather conditions. Wheeled planters are acceptable so long as they can be locked into position whilst in use.
- Planters must also comply with tapping rail requirements (150mm above ground level) and be between 1m and 1.5 in height.

### **6.5 Patio Heaters**

Patio or similar external LPG space heaters are not permitted within pavement café areas.

Space heaters which are not powered by gas may be considered on a case-by-case basis.

## **6.6 Lighting**

The applicant for a Pavement Café licence should; if intending to open beyond dusk, carefully consider the level of lighting in the proposed area. Whilst street lighting may be perfectly adequate for a public highway, it may need supplementing to allow the Pavement Café to operate safely. Any additional lighting equipment and supply must be specified in the application to enable its impact upon the highway to be considered.

## **6.7 Advertising**

An element of advertising may be incorporated in the establishment of a pavement café, for example as part of parasol and barrier design, but shall require the prior approval of North Somerset Council.

A single advertising board (A-Board) will be accepted within a permitted pavement licence area. Any additional A-boards will need a separate permission under the Highways Act 1980 ([See Appendix A](#)).

## **7. Fees and Charges**

**7.1** Fees will be set locally, and it is for the licensing authority to determine the appropriate charge. Any changes made will take effect from the 1<sup>st</sup> of April each year. The full fee MUST accompany the initial application.

**7.2** Fees are capped at a maximum of £500 for first time applications and £350 for renewals. These fees are contained in the Council published [fees and charges](#) and are for a 2-year permission.

## **8. Managing the Pavement Café**

### **8.1 Insurance**

The applicant is required to indemnify the Council against all actions, demands, costs, charges, or expenses arising from the use of the highway under the permission granted. The Council therefore requires the licence holder to take out third party public liability insurance to the sum of at least £5,000,000, shown to cover the pavement café area.

### **8.2 Safety**

The permission holder must ensure that all equipment and services comply with all relevant legislation and statutory requirements.

When not in use the furniture, barriers and other permitted equipment must be stored securely.

Only the correct amount of furniture specified in the licence may be out within the permitted area.

### **8.3 Environmental Implications**

The pavement café area must always be kept clear of litter and clean. Evidence of a scheduled cleaning record shall be provided on request.

Ashtrays or similar receptacles must be provided in areas where smoking takes place. Serious consideration should be given to division of pavement cafe areas, where space permits, into smoking and non-smoking sections and to be clearly marked.

Premises should take all possible steps to use reusable crockery and cutlery together with polycarbonate or shatterproof glasses. Sustainable alternatives to “single use” items should be used where possible.

Guidance on bans and restrictions of single use items can be found on the GOV.UK website.

External public address systems shall not be permitted. The playing of live or recorded music may also be subject to statutory control and applicants should make their own enquiries accordingly. Applicants should fully address, and control and potential nuisance(s) caused by their patrons. Inappropriate or anti-social behaviour within the permitted area may lead to enforcement action.

It is imperative that the needs of neighbours, nearby residents or businesses including all agencies are fully considered including companies that require access to the highway for maintenance repair.

## **9. General Operation**

- 9.1 The provision of a pavement café must be carefully managed to ensure that the public are not put in danger of injury or harm.
- 9.2 A pre-licensing visit will be made to each premise upon receipt of an application for the grant or renewal of a pavement café licence, to discuss the application process, the proposed operation of the cafe etc. to provide advice and information to the applicant.
- 9.3 Once the pavement café licence has been issued, a further visit will be made to the premises to review the practical day-to-day operation of the café.
- 9.4 The Council will carry out periodic inspections to make sure that all the terms and conditions of the licence are being observed.
- 9.5 Licences will be granted for a maximum of two years and are renewable after those two years.
- 9.6 Licences for new sites will be subject to a three-month probationary period.
- 9.7 Hours of operation will be determined on the application merits. Normally the following hours will apply:
  - Licensing hours for street furniture will normally be granted between the hours of 08:00 hours to 23:00 hours.
  - All furniture should be removed between the hours of 23:00hrs to 08:00hrs.
  - Where the premises are licensed under the Licensing Act 2003, barriers can remain in place until either the premises close, or no later than 04:00hrs to create a “smoking area”. No furniture other than approved

space heaters and parasols should be present in the “smoking area” and neither alcoholic drinks, bottles nor glassware should be present in this area after 23:00hrs.

- 9.8 Where such a smoking area is permitted it will be required to be covered by CCTV and by SIA door staff and comply with smoke free regulations.
- 9.9 The licence issued by the authority may be issued electronically for the holder to print and display. A copy of the licence must be displayed on the premises in a position where it is visible to patrons
- 9.10 A copy of the licence and plan must be always kept on the premises and be available for inspection.
- 9.11 When the area of a pavement café has been agreed, a definitive plan of the area showing the boundaries and the dimensions will be attached to, and form part of, the licence.

## **10. Application Requirements**

- 10.1 No tables, chairs or other furniture should be placed upon the highway until the application is determined and the applicant has been advised of the outcome.
- 10.2 Incomplete applications will not be accepted.
- 10.3 Applicants are required to submit the following at the time of application:
  - a completed and signed application form
  - the correct fee
  - 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 in relation to the highway, if not to scale, with measurements clearly shown.
  - the proposed duration of the licence (for e.g. 3 months, 6 months, maximum 2 years etc.).
  - evidence of the right to occupy the premises e.g. the lease.
  - contact details of the applicant.
  - photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied for.
  - any other evidence that shows how the furniture to be introduced is in accordance with national guidance regarding accessibility (such as use of good colour contrast, suitable physical barriers around chairs and tables and or other appropriate measures); and
  - any other evidence needed to demonstrate how any local and national conditions will be satisfied, including the ‘no-obstruction’ national condition.

## **11. Determination of applications**

- 11.1 All applications will be considered on their own merits.

- 11.2 Once the information is submitted to the local authority, the authority has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 calendar days for public consultation, and then 14 calendar days to consider and determine the application after the consultation.

If the local authority does not determine the application within the 14-day determination period, the application will be deemed to have been granted subject to any local conditions published by the local authority before the application was submitted.

- 11.3 Valid applications will also be referred to:

- relevant departments within the council including (but not limited to) the Highways Authority and Food/Health & Safety service.
- Avon and Somerset Constabulary, the appropriate Ward Councillor, Town, or Local Parish Council,
- and any other agencies it deems appropriate for comment.

Applicants may wish to hold discussions with these parties, to resolve any issues raised during consultation, prior to a decision being made. A list of useful contacts is shown at [Appendix D](#).

- 11.4 A public notice will be placed by the applicant at or near to the proposed premises, detailing the proposals including the times and days of intended operation. A template example is shown at [Appendix B](#).

- 11.5 A notice will be published on the Council website detailing the application and how interested parties may make representations during the consultation period.

- 11.6 Any comments and concerns received, which remain unresolved, will be assessed for relevancy by licensing officers. If deemed appropriate the matter will be heard and determined by a Licensing /Regulatory Committee. (See section 12).

- 11.7 Where no relevant representations are received, or relevant representations are resolved by negotiation, applications may be approved by licensing officers under delegated authority arrangements.

- 11.8 Licences will not **normally** be granted where:

- A significant effect on road safety would arise either from the siting of the tables and chairs, or from customers visiting or leaving the permitted area,
- Where there are concerns over the recorded level of personal injury accidents in the locality where the tables and chairs will be sited,
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes,
- There is a conflict with Traffic Orders, such as waiting restrictions,
- The site obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use,

- The tables and chairs obstruct the safe passage of users of the footway or carriageway, in particular disabled or older people.
- The trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage and collection of all refuse associated with their business.
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage of all tables and chairs off the highway without impeding any access or egress from the premises.

## **12. Licensing Committee**

- 12.1 Where relevant comments are received in respect of an application, and are not resolved by negotiation, the application will be put before a licensing/regulatory committee for determination.
- 12.2 Both the applicant and the person making comments will be advised of the hearing time and date, and provided with a copy of the report to be made to the sub-committee.
- 12.3 Both parties will be given the opportunity to address the sub-committee, and ask each other questions of fact, before a decision is made on the application. The sub-committee may also ask questions of any party that they feel relevant to the determination process.
- 12.4 The sub-committee may:
- grant the licence in respect of any or all the purposes specified in the application,
  - grant the licence for some or all of the area of the highway specified in the application, and impose conditions, or
  - refuse the application.

Written confirmation of the decision will be sent to all parties within 7 days of the subcommittee hearing.

- 12.5 Where there are breaches of conditions or other serious concerns about the operation of the pavement licence, the permission may be reviewed by the Licensing/Regulatory Committee and either amended, suspended or revoked.
- 12.6 There is no statutory right of appeal against the Councils' decision regarding the determination, suspension or revocation of any pavement licence permissions.

## **13. Renewals**

- 13.1 It is the responsibility of the permission holder to ensure that renewal applications are made prior to the expiry of an existing licence, for permissions to continue uninterrupted.

- 13.2 Should a renewal application be received after the expiry of a previous licence, it may be treated as a new application, attract a higher fee and require additional information to be supplied.
- 13.3 Renewals in respect of previous licences must be made by submission of a completed renewal form together with evidence of the required insurance, and the appropriate renewal fee.
- 13.4 All renewal applications will be subject to such consultation as the Licensing Authority sees fit. If there have been no alterations since the issue of a licence and the Authority have received no complaints about the operation of the pavement café, the presumption will be to renew the permission.

#### **14.0 Conditions on a licence**

The Business and Planning Act 2020 Act sets out two conditions which apply to pavement licences which are granted (or deemed to be granted;) these are: a no-obstruction condition and a smoke-free seating condition.

##### **14.1 No obstruction condition**

The presence of a pavement licence should not prevent traffic, other than vehicular traffic, from

- entering the relevant highway at a place where such traffic could otherwise enter it,
- passing along the relevant highway,
- having normal access to premises adjoining the relevant highway,
- preventing any use of vehicles which is permitted by a pedestrian planning order, or which is not prohibited by a traffic order,
- preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway,
- 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.

##### **14.2 Smoke-free condition**

- A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.
- 14.3 The Licensing Authority may also impose additional local conditions. There is an expectation that these will be supported by a clear justification for the need of such a condition.

The local conditions set by North Somerset Council are at [Appendix C](#).

## **15. Variations**

### **15.1 Minor Variation**

If any of the changes detailed below are required for an existing licence, this must be submitted in writing:

- Change of licence holder's address
- Reduction of licensed hours
- Reduction in size of permitted area
- Decrease in number of tables/seating capacity
- Change to authorised furniture/barrier design or type
- Change of premises name

Applicants will be required to provide sufficient documentation to confirm any changes in name or address and specifications of any newly proposed equipment.

### **15.2 Full Variation**

For any of the changes below to an existing licence, a new application will be required:

- Extension of permitted hours
- Increase in size of permitted area
- Increase in number of tables.

A revised site plan and layout will be required with the application.

A fee is payable for the new application – see section 7 above.

## **16. Surrender/Cancel licence Application**

To surrender or cancel a pavement café licence, written notification shall be required.

Once a pavement café licence has been surrendered it cannot be reinstated, and any further permissions would require a new application.

## **17. Compliance/Enforcement**

17.1 It is recognised that well-directed enforcement activity by the council benefits not only the public but also responsible business operators.

17.2 North Somerset Council will actively enforce the provisions of the Pavement Café scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Council's Regulatory Services Enforcement Policy, copies of which are available free of charge. If you require a copy, please contact the Licensing Team.

17.3 The following principles will be adhered to when carrying out pavement cafe enforcement activities:

- a) **Openness:** The Council will be open about how it enforces the legislation in relation to street trading. It will consult with interested parties and ensure



that officers discuss compliance failures or problems with persons experiencing difficulties.

- b) **Helpfulness:** The Council will work with people to advise on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers.
- c) **Proportionality:** The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk or wider public benefit. Officers will have regard to the human rights of all parties involved in its enforcement activities.
- d) **Consistency:** The Council will carry out its duties in a fair, equitable and consistent manner. Officers will have regard to national Codes of Practice and guidelines and the contents of this document.

- 17.4 If a condition imposed on a licence (either by the local authority or nationally) is breached, the local authority will be able to issue a notice requiring the breach to be remedied.

If the licence-holder fails to do so, the local authority may amend the licence, with the consent of the licence-holder, revoke the licence or itself take steps to remedy the breach and can take action to recover any costs of so doing.

Local authorities are encouraged to regularly review licences and enforce any breaches.

- 17.5 Any unauthorised highway use, constituting an unreasonable obstruction will be investigated and enforcement action taken where necessary.

- 17.6 In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, local authorities can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

- 17.7 North Somerset Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of Pavement Café licensing, you should in the first instance contact the Licensing Team Manager.

- 17.8 If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

## **Appendix A\_- Highways Act 1980 permissions.**

1. Non-removable items, A-boards and furniture required where the premises does not propose to sell food, or drink will still be covered by regulations made under the Highways Act 1980 S.115. The area for any permission must be a highway as defined by Section 115A of the Highways Act 1980.

Both operators and the council itself must comply with the Equality Act 2010. It requires that all disabled people can physically access any permitted area and freely use the highway.

2. The Licensing Authority may grant a person permission to use objects or structures on the highway which would otherwise be known as an obstruction.

The objects or structures are termed “amenities” and although no strict statutory definition is given, could include such things as:

- Tables, chairs and parasols.
- Planters.
- Barriers, screens or enclosures to contain tables, chairs and/or outside designated smoking areas etc.
- “A” Boards or other advertising boards.

3. This permission applies if the objects or structures on the highway are for a purpose which will result in the production of income, to provide information or for advertising.
4. The Licensing Authority has the power to impose conditions on permissions granted under this legislation.
5. The legislation also requires a council to publish a notice before any permissions are granted and gives it powers to serve notice where the permission granted is breached, requiring not only remedy of the breach but the recovery of any expenses plus interest incurred where the council remedy the breach themselves.
6. Anyone without lawful authority or excuse, who in any way wilfully obstructs the free passage along a highway commits an offence(s) contrary to section 137 of the Act.
7. In cases where there is any doubt about the ownership or responsibility in relation to a “highway” applicants should seek their own legal advice prior to making any application.
8. Applicants will need to provide a map of the proposed area including any proposed items and will need to provide evidence of £5m public liability insurance. Other supporting information may be required at the time of application.
9. Applicants are advised to contact the Licensing Team for further information, details of any fees and relevant application details.

## Appendix B – sample notice template



**Application Reference:**

**Date of Notice:**

**Type of application made:**

Grant/ renewal of a Pavement  
Licence

**Date application made:**

**Name of applicant:**

**Address of application premises:**

**Licensing activities proposed:**

**Date by which representations must be made:**

**Further Information and details of the application can be found online at:**

<https://n-somerset.gov.uk/business/licences-permits/register-applications-received>

### **Representations**

If you wish to make a representation against the above application, please note the following:

1. The representation must be received by the Licensing Authority by no later than the date specified in this notice.
2. The representation must be in writing. You can send a representation by email to [Licensing@n-somerset.gov.uk](mailto:Licensing@n-somerset.gov.uk)
3. We cannot accept anonymous representations.

# Appendix C

## Standard Conditions in respect of Pavement Café Licences

1. Permitted hours, between 08:00hrs and 23:00hrs. unless otherwise indicated.  
Permitted days – All week  
Where the licence allows additional provisions for a controlled smoking area, permitted hours for this activity shall be between 23:00hrs and 04:00hrs the following day.

Duration of permission – two years from the grant of the Licence

Permitted location as outlined in red on attached drawing

Permitted furniture or equipment – *As per individual licence*

2. The Holder shall at all times ensure that the street furniture shall not be placed outside of the permitted area.
3. The Holder shall at all times ensure that the street furniture in use is of the type and description detailed in the application for a Licence.
4. The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the North Somerset Council.
5. The holder(s) shall return this Permission to the Offices of North Somerset Council immediately on revocation of this Permission.
6. The holder shall have in force public liability insurance of no less than £5 Million pounds single event cover and shall provide the Council with a copy of this both on application and renewal of permission.
7. The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
8. Nothing shall be done by the licence-holder pursuant to the licence, (or any activity of other persons which is enabled by the licence,) so as to have an effect specified below:
  - preventing traffic, other than vehicular traffic, from—
  - 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),
  - passing along the relevant highway, or
  - having normal access to premises adjoining the relevant highway,
  - preventing any use of vehicles which is permitted by a pedestrian planning order, or which is not prohibited by a traffic order,
  - preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - 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.

8. The holder(s) shall ensure that a copy of these conditions is always on prominent display within the permitted location.
9. Non-compliance with any condition of this permission resulting in any complaint to the Council or to the Police will render the holder(s) liable to a written notice. Failure to comply with such a notice within the terms and timescale quoted shall result in review and/or revocation of the licence.
10. No alcohol shall be consumed within the Permitted area unless a Premises Licence has been issued by the Licensing Authority (under the Licensing Act 2003) for the premises to which the permitted area relates.
11. The holder(s) shall ensure that all drinking glasses in which drinks are served shall be of either plastic or strengthened glass and that no drink shall be served in a glass bottle from which it is intended or likely that a customer will drink.
12. The holder(s) shall ensure that adequate supervision is provided over the permitted area during the times of operation to comply fully with these conditions.
13. The Holder shall ensure that music played within the Permitted area shall not cause a nuisance and annoyance and if requested by any employee of the Council and/or a police officer the Holder will reduce the volume and/or cease playing the music completely.
14. The holder(s) shall not make any excavations or indentations of any descriptions whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
15. The holder(s) shall (if required) before exercising the privilege granted by this permission place removable physical barriers within the perimeter of the area coloured red in the attached plan and shall ensure that such barriers are removed at the end of each daily period of use and at the expiry, surrender or revocation of this permission.
16. The holder(s) shall not place on the highway any furniture, equipment, or advertisement other than as permitted by the Council and must maintain the same in a clean and tidy condition and not place them to obstruct the entrance to or exit from any premises.
17. The holder(s) shall not assign underlet or part with any interest or possession given by this Permission or any part thereof, but the holder(s) may surrender it at any time.
18. The holder(s) shall maintain the area shown on the plan attached to this Permission and outlined in red and the immediately adjacent area in a clean and tidy condition during the permitted hours and shall leave the same clean and tidy condition and unobstructed at the end of each daily period of use and on revocation or surrender of this permission.
19. The holder(s) shall provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers, and similar discarded items, together with those for

cigarette waste. These must be emptied regularly and at the end of each period of use.

20. The holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the end of each daily period of use and at the expiry, surrender or revocation of this Permission.
21. The holder(s) shall suspend the operation of any permission granted at the request North Somerset Council to enable any street works to be conducted on or near the permitted location.
22. The Holder shall make no claim or charge against the Council in the event of the street furniture being lost stolen or damaged in any way from whatever cause.
23. Furniture shall be placed in such a way as to make reasonable provisions for seating where smoking is not permitted.
23. If the permission is revoked, or terminated early by the holder(s), North Somerset Council shall not in any circumstances whatsoever be liable to pay any compensation or refund any fees to the holder(s) in respect of such revocation.
24. The Holder shall not make any claim against the Council for any loss of earnings revenue or profits which may occur if this Licence is withdrawn either temporarily or permanently for any reason whatsoever.
25. This permission shall continue for a period of two years from the date of issue unless a shorter term has been agreed or it is terminated by either party beforehand.
26. No additional provisions for external controlled smoking areas shall be granted unless the premises has a valid licence to sell alcohol under the Licensing Act 2003.
28. Where the licence allows for additional provisions for a controlled smoking area, this area shall be covered by CCTV installed at the premises. The area shall also be supervised at all times by a member of staff holding a valid Security Industry Authority (SIA) licence.

# Appendix D

## Useful contacts

Service	Postal Address	Telephone Number
<b>Avon and Somerset Constabulary</b>	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	<b>101</b>
<b>Avon Fire and Rescue Service</b>	The Fire Station Milton Avenue Weston-super-Mare BS23 3JS	<b>0117 926 2061</b>
<b>North Somerset Council</b>		
<b>Licensing Team (Licensing Authority)</b>	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	<b>01934 426 800</b>
<b>Streets and Open Spaces (Highway Authority)</b>	Castlewood Tickenham Road Clevedon BS21 9AX	<b>01934 888 802</b>
<b>Environmental Protection Team (Nuisance Issues)</b>	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	<b>01275 884 882</b>
<b>Food and Health and Safety Team</b>	Castlewood Tickenham Road Clevedon BS21 9AX	
<b>Planning (Development Control)</b>	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	<b>01275 888 811</b>
<b>Inclusion Team</b>	Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	<b>01934 634 989</b>