



# Rotherham Metropolitan Borough Council

## Pavement licence



### **Business and Planning Act 2020**

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## Introduction

Businesses such as pubs, bars and restaurants have been hit hard by Covid-19. Many have been closed for an extended period and as they re-open, social distancing guidance will significantly affect their capacity to accommodate customers. The Business and Planning Act 2020 provides as part of a package designed to make it easier for businesses to make use of outdoor space for dining and the sale of alcohol, helping the hospitality sector get back on its feet again through the busy summer months.

The provisions in the Act temporarily modify the Licensing Act 2003 to provide an automatic extension to the terms of most premises licences which only permit the sale of alcohol for consumption on the premises to allow the sale of alcohol for consumption off the premises. This will make it easier for licensed premises to sell alcohol to customers for consumption off the premises in England and Wales, which will allow businesses to trade and maintain social distancing.

The new off-sales permission will permit off-sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the closure time of an existing outside area, whichever is earlier. Measures also temporarily suspend existing licence conditions in so far as they are inconsistent with the new off-sales permission.

Conditions on existing dual premises licences (permitting both on-sales and off-sales) that would prevent one or more of the following are also suspended under the temporary off-sales permission:

- (i) off-sales being made at a time when the premises are open for the purposes of selling alcohol for consumption on the premises (subject to a cut off time of 11pm or the closure time of an existing outdoor area, whichever is earlier);
- (ii) off-sales being sold in an open container; and,
- (iii) deliveries to buildings used for residential or work purposes

The new off-sales permission is authorised under section 172F(2) of the Licensing Act 2003 in respect of on-sales licences and section 172F(5) of the Licensing Act 2003 in respect of dual licences.

There are two main types of outdoor places from which alcohol will be consumed: (a) an outdoor place which is covered by the premises licence for on-sales, and (b) an outdoor space which is not covered by the premises licence and is therefore an off-sale (e.g. on a highway). The provisions in the Act will enable off-sales to be made into spaces not covered by the premises licence.

The permission is only given to businesses with premises licences, so those organisations with club premises certificates are not covered by the provisions in the Act. Where organisations with club premises certificates that do not permit off-sales, those organisations will need to seek permission to do so from the licensing authority.

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In addition, a premises licence that only permits on-sales will be excluded if, within the three years preceding on day 22 July 2020:

- a premises licence application was made for a licensed premises and permission for off-sales was refused;
- a licence variation seeking permission for off-sales was refused;
- a licence variation seeking to exclude the off-sales permission was accepted; or
- the premises licence was varied or modified on review to exclude off-sales.

## Pavement Licences

In accordance with the provisions of the Business and Planning Act 2020, local authorities can grant a Pavement Licence which would allow the licensee to place removeable furniture on the highway adjacent to their premise to permit the consumption of alcohol and/or use for the sale of food or drink for consumption off the premise.

This is a streamlined process to allow businesses to secure these licences in time for the summer and, where they are deemed to have been granted, allow these licences to remain in place for a year but not beyond 30 September 2021. (This may be subject to review by the Government)

Where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people.

This new process introduces a streamlined route for businesses such as cafes, restaurants and bars to obtain a licence to place furniture on the highway. This will support them to operate safely while social distancing measures remain in place. This will provide much needed income over the summer months and protect as many hospitality jobs as possible.

Pavement Café Licences are presently granted primarily under Part 7A of the Highways Act 1980. The fee varies between local authorities.

The fee for applying for a licence under the new process, is capped at £100 and the consultation period is 5 working days (excluding public holidays) starting the day after the application is sent electronically to the authority.

If the local authority does not determine the application before the end of the determination period (which is 5 working days beginning with the first day after the end of the public consultation period, excluding public holidays), the licence is deemed to have been granted for a year (but not beyond 30 September 2021). This is subject to amendment.

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.

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## Furniture

The furniture which may be used is 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, this means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

## Fee

The maximum fee for the grant of a Pavement Licence is capped by the Act at a maximum of £100, regardless of the size of the licensable area.

## Exclusions

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

## Where does this new process apply?

This process applies to England only, including London and other areas where statutory regimes other than the regime in the Highways Act 1980 may be relevant to the grant of licences for street furniture.

## Relation to other Licensed Premises

Pavement Licences only permits the placing of furniture on the highway. Other regulatory frameworks still apply such as the need for alcohol licenses and the need to comply with registration requirements for food businesses.

If the applicant has a licence to serve alcohol on-premises temporary amendments to the Licencing Act 2003, through the Business and Planning Act 2020, will allow them to sell alcohol for consumption off the premises without needing to apply for a variation of their licence. More details can be found in the [guidance accompanying the Business and Planning Act 2020](#).

Local authorities will also need to have regard to the Public Sector Equality Duty, under the Equality Act 2010 when devising and implementing the new licensing regime, which includes the need to have due regard to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act. Any businesses which apply for a pavement licence will also need to have regard to their own duties under the Equality Act 2010, such as their duty under s.29 of the Act not to discriminate in providing their service.

## Planning Permission

Planning permission is not a requirement for the purpose of a Pavement Licence and the licence holder can use the land for anything done pursuant to the licence while the licence is valid.

## Time Restrictions and Duration of Licence

A Pavement Licence will enable patrons to use the area until 23.00 hours unless there are concerns which will affect local residents or to prevent noise nuisance or any other reasonable reason.

The authority can specify the duration of the licence, subject to a minimum duration of 3 months. The Licensing Service aim to issue a licence for 12 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.

Where licence holders do not meet the conditions set out in the legislation or by any local conditions then the licence can be revoked at any time. A licence granted or deemed to be granted will not be valid beyond 30 September 2021. (Subject to review and amendment)

A Pavement Licence granted under the 2020 Act is deemed to be a temporary licence to support businesses while social distancing measures may still be in place.

As it is uncertain how long some form of social distancing measures will be in place for, the new process will remain in place until the end of September 2021 – giving certainty to businesses for the foreseeable future, supporting them to operate safely while social distancing measures are in place. It will also allow them enough time to apply for new licences under Part 7A of the Highways Act 1980 or equivalent provisions in any Local Act, if they want to extend their use of pavement furniture beyond the end of September 2021.

## Applications

An application to the local authority must:

- specify the premises and, the part of the relevant highway to which the application relates;
- specify the purpose (or purposes) for which the furniture will be used which must be to sell or serve food or drink, and/or for use by other people for the consumption of food or drink. In both cases the food or drink must be supplied from, or in connection with relevant use of the premises;
- specify the days of the week on which and the hours between which it is proposed to have furniture on the highway;
- describe the type of furniture to which the application relates, for example: tables, chairs, and/or stalls;
- specify the date on which the application is made;
- contain or be accompanied by such evidence of public liability insurance in respect of anything to be done pursuant to the licence as the authority may require; and
- contain or be accompanied by such other information or material as the local authority may require, for example how national and local conditions have been satisfied.

Local authorities may require applications to be made on a standard application form.

## Other Information Required

Local authorities may require the applicant to provide other information or material to help them make a swift determination. This could be included in their standard application form. Any requirements imposed should be reasonable and should be kept as minimal as possible. Examples of the information a local authority might require might include:

- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified (some authorities may require this on an OS Base Map);
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown;
- contact details of the applicant;
- evidence that the applicant has met the requirement to give notice of the application (for example photograph);
- (if applicable) reference of existing pavement licence currently under consideration by the local authority; and
- any other evidence needed to demonstrate how any local and national conditions will be satisfied.
- A copy of the premise's current insurance certificate. Public Liability cover should be a minimum of £5,000,000.

## Effect on Pending Applications made under the Highways Act

If an applicant has already applied for permission to place furniture on the highway under the Highways Act and their application has not been determined, they may proceed with that application.

However, that applicant may opt to make a fresh application for a pavement licence under the new process. In those circumstances the pending application will be deemed to have been withdrawn. If the fee for the pending application was paid the authority will not be permitted to charge a fee for the new application for a pavement licence.

## National Conditions

The 2020 Act sets out two conditions which apply to pavement licences which are granted or deemed to be granted these are:

### A Smoke Free Seating Condition

This condition will apply only to licences granted under the Business and Planning Act 2020, not existing licences permitted under Part 7A of the Highways Act 1980, or other relevant legislation. so that both smokers and non-smokers are able to sit outside, in order to protect public health by reducing risks of COVID transmission.

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.

## Pavement licences

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 which can be viewed [here](#).
- 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.

## A No- Obstruction Condition

When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order to do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:

- Section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users, but is clear that in most circumstances 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway,
- any 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, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway;
- 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. The available route must be entirely clear and not pass through an area with tables and chairs;
- so that where possible furniture is 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.

Section 149 of the Equality Act 2010 places duties on local authorities, to have due regard to: the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who don't, and foster or encourage good relations between people who share a protected characteristic and those who don't.

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Where a local authority sets a local condition that covers the same matter as set out in national conditions, then the locally set condition would take precedence over the national condition where there is reasonable justification to do so.

The national conditions and a pool of local conditions are attached at Annex B to this document

## Licensing Process

Once the information is submitted to the local authority the authority has 10 working days from the day after the application is made (excluding public holidays) to consult on, and determine the application. This consists of 5 working days for public consultation, and then 5 working days to consider and determine the application after the consultation.

If the local authority does not determine the application within the 10 working day period, the application will be deemed to have been granted.

## Consideration and Conditions

The local authority will need to consider a number of factors, when determining whether to approve the application. These include whether local conditions might be needed to make it possible to approve an application which would otherwise be unacceptable.

The Secretary of State may specify conditions for pavement licences, in Regulations. This is in addition to the statutory 'no obstruction' condition referred to in sections 5(4) and 3(6) of the Business and Planning Act 2020 Act and 'smoke-free' seating condition.

Authorities are encouraged to publish local conditions subject to which they propose to grant pavement licences so that applicants and those making representations are aware of them. When considering their powers in relation to local conditions they should bear in mind the requirements of and seek to impose conditions which have the same effect as the no-obstruction condition and the smoke-free seating condition. They should also take into account any national conditions which may be specified in the future in Regulations.

When setting local conditions and determining applications, issues authorities will also want to consider include:

- public health and safety including security – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
- considerations under the no-obstruction condition, in particular considering the needs of disabled people;

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- any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
- any other social distancing measures in place, for example any queuing systems that limit the space available on the pavement;
- whether there are other permanent street furniture or fixed structures in place on the footway that already reduce access; and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

Where a Pavement Licence has been granted the local authority may impose reasonable conditions whether or not they are published upfront. Any revision of licence conditions will be supported by a clear justification for the need of a condition, such as evidence raised during the consultation, which is in addition to any published local conditions. Conditions might, for example, limit the maximum number of chairs and tables, or type of furniture, time and days of operation with justification for this.

## Guidance

The government has published the [COVID-19 Secure: safer public places guidance](#), which provides owners and operators of public spaces with information and examples of measures that may be undertaken to adapt and manage public spaces in order to help social distancing. See [more detailed information on considering security implications in light of new Covid-19 measures](#).

See [specific advice on protecting queues\(PDF\)](#).

<http://https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill?>

When considering the minimum width needed for clear access, authorities and applicants will need to take into account any social distancing measures in place and ensure that these distancing measures are also applied to allow for safe passing of highway users and for the safety of any customers using the furniture, and any other likely users of the area.

## Grant of Licence

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

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

If the local authority does not determine the application before the end of the determination period, the application is deemed to have been granted subject to any local conditions published by the local authority before the application was submitted

## Refusal of Licence and Appeal Process

There is no statutory appeal process for these decisions, however, where Officers consider the refusal of a licence there will be an appeals process via the Council's formal complaints procedure.

### Consultation

The applicant is required to affix a notice to the premises, so it is easily visible and legible to the public on the day they submit the application to the local authority. They must ensure the notice remains in place for the public consultation period which is the period of 5 working days beginning with the day after the day the application is submitted to the authority. When counting 'working days' public holidays are not included. Applicants are encouraged to keep evidence of this. Applicants are encouraged to engage with any services operated in the vicinity for vulnerable customers, for example, care home or disability organisations nearby where individuals may be at particular risk.

The local authority must consult the highways authority, if they are not the highways authority; this is usually the County Council in a two-tier area, or Transport for London in London. For security advice, local authorities should consult Police Licensing Teams, Designing Out Crime Officers or Counter Terrorism Security Advisors. The authority must also consult such other persons as the local authority considers appropriate.

Members of the public can contact the council to make representations. Local authorities must take into account representations received from members of the public during the public consultation period which is the period of 5 working days starting the day after the application is submitted (excluding public holidays). In order to promote accessibility to those unable to access printed notices, Local Authorities are encouraged to consider using digital methods of publicity. They should also consider the needs of those who may find it more difficult to access online publications.

### Requirements of Notice

The notice must:

- be in the form which the local authority prescribes, if it prescribes one;
- state that the application has been made and the date on which it was made;
- indicate that representations relating to the application may be made to that local authority during the public consultation period and when that period comes to an end; and
- contain such other information or material as that local authority may require.

The applicant is encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

The Authority may require that other information is included in the notice such as:

- the statutory provisions under which the application is made;
- description of the proposed use of the furniture;
- address of the premises and name of the business;
- website for the council where the application and any accompanying material can be viewed during the consultation period;
- address (which might be an email address) to which representations should be sent during the consultation period; and

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- the end date of the consultation (5 working days starting the day after the application is submitted to the authority).

**A template site notice is contained in Annex A.**

## Representations and Publication of Application

The application will be published which will contain any information or material which the applicant has submitted with it on the Council's website or via an online portal.

We are also required to publicise the fact that representations may be made during the public consultation period and when that period comes to an end. This will be achieved by way of automatic notices, which members of the public can opt in to receive. Provision will also be made for those who may find it more difficult to access online publications. We will also have regard to the Equality Act 2010 and we will meet the requirements in the Public Sector Bodies (Websites and Mobile Applications) (No 2) Accessibility Regulations 2018, and therefore ensure that these are made accessible.

## Enforcement

Where it is found that a licence holder has breached a licence condition a Notice will be issued which will require the breach to be remedied. In such cases we may seek to take action to recover any costs.

The authority may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
  - there are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together or where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
  - this use of the highway is causing an unacceptable obstruction, breaching the non-obstruction condition – for example, the arrangement of street furniture prevents disabled people, older people or a wheelchair users to pass along the highway or have normal access to the premises along side the highway.
  - the use is causing 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;
  - 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
  - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.

In addition, if all or part of the relevant highways to which the licence relates become unsuitable where all or any part of the area of the relevant highway to which the licence relates becomes unsuitable for any purpose, the licence may be revoked

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For example, the licensed area (or road adjacent) is no longer to be pedestrianised. In such instances the Authority will provide reasons if these powers are used.

## Summary

**The licence only authorises the use of removeable furniture on an area of the highway adjacent to the business premises.**

**You may only apply if your business is:**

- a public house, wine bar or other drinking establishment; and/or
- for the sale of food or drink for consumption on or off the premises

**any furniture must only be used:**

- to sell or serve food or drink supplied from, or in connection with the relevant use of the premises and/or
- by other persons for the purpose of consuming food or drink supplied from, or in connection with the relevant use of the premises

**Only the use of following furniture may be applied for:**

- counters or stall 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
- umbrella, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink

**You will be required to submit a scale plan of your proposed licensed area which shows:**

- the intended setup of the area including any proposed furniture;
- the location of any heaters must be shown;
- the distance from the boundary of the licensed area to the building boundary;
- the width of the route left available on the highway for passage by pedestrians. You must also include and show any street furniture, for example lampposts, bike racks etc that are between the boundary of the licensed area and the kerb. In all cases, a minimum width of 1.8m clear passageway must be left for pedestrians
- Applications providing less than 1.8m will be rejected

**You must submit images of any temporary structure of coverings you propose to use**

**Your application must state all of the furniture types that you intend to use as your licence will be limited to this.**

**You are required to display a notice at the premises when you have submitted your application and email to us a photograph of it on display**

**Planning and Street Trading Consents are not required**

## Conditions to be attached to a pavement licence

### National Conditions (attached to every Pavement Licence)

1. A clear width of 2000mm between the obstacle edge and the edge of the footway should be regarded as the minimum, where this is not possible because of physical constraints 1500mm is the absolute minimum acceptable space.
2. The positioning of furniture should not discourage pedestrians from using the footway. The available route must be entirely clear and not pass through an area with tables and chairs
3. The non-smoking area should be indicated on the plan submitted as part of the application.
4. Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage must be displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) Regulations 2012.
5. No ashtrays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
6. Licence Holders must provide a minimum 2m distance between non-smoking and smoking areas.
7. The 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.

Public Health England has published guidance for smokers and vapers during the Covid-19 pandemic. A copy of the guidance is attached as Annex B to this document.

### Local Conditions

1. Except with the previous written consent of the Council, only the facilities detailed on the licence are to be placed on the public highway, and the facilities are only to be placed on the public highway between the times detailed on the licence in the permitted area specified in the licence and as shown on the plan for the licence.
2. Emergency access - For fully pedestrianised streets a minimum width of 3 metres must remain free and unobstructed to facilitate emergency vehicles. This figure may be increased where there is a heavy pedestrian flow. The area shall be vacated immediately if requested by the local authority, the Police, any other emergency service, or a statutory undertaker, without any liability for compensation, refund of application fee, or damage arising.
3. Access to the premises - A clear pathway of at least 1.2 metres wide shall be maintained to allow entrance and exit from the licensed premises. Public health and safety – The licence holder will be responsible for ensuring that uses conform to the latest guidance on social distancing and that any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening are in place.
4. No fire exits must be blocked or restricted in use by the placing of the furniture on the highway.
5. The licence holder will be responsible for any damage, including any stainage, to the highway during the operating hours of the licence.

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- 6.** The licence holder is not to make or cause to be made any claim against the Council in the event of any property of the licence holders becoming lost or damaged in any way from whatever cause.
- 7.** The granting of a pavement licence applies only to the applicant in respect of the premises concerned and is outside of and in addition to a licence to sell alcohol. Where alcohol is sold a premises licence under the Licensing Act 2003 must already be in place.
- 8.** The area to which this licence relates may only be used during periods that the premises is open for the purposes of selling alcohol for consumption on the premises, or until 2300hrs whichever is the earlier. This will be the case unless an earlier time is considered to be justified in which case the Council will notify the licence holder of the revised time in writing. The area covered by the licence must be cleared of customers and all furniture during periods that this licence is not in effect.
- 9.** Should the tables, chairs or other furniture be considered at any time to be causing an unnecessary obstruction, the Council or the police reserve the right to have them removed or relocated as deemed appropriate.
- 10.** Furniture used must be high quality and uniform in a café style. (NB plastic tables and chairs and other low quality patio furniture will not be permitted).
- 11.** The seating area must be enclosed by stable lightweight barriers to demark the seating area from the surrounding pedestrian areas. The barriers will either be of a solid canvas form or of a form containing solid elements at heights of 100mm and 1000mm above ground level.
- 12.** All furniture placed within the area must be suitably secured and not overhang beyond the licensed area.
- 13.** Furniture may display the name of the establishment but no other branding or advertising will be permitted.
- 14.** The seating area and immediate environment shall be kept free of litter and other matter generated by the use of the area and a suitable receptacle for litter must be provided for the use of patrons and emptied at suitable intervals. Where smoking is permitted in the seating area then separate bins for the resulting waste must be provided.
- 15.** The licence holder shall ensure that all vacated tables are cleared promptly of all uneaten food, crockery, cutlery and associated debris.
- 16.** The licence holder shall ensure that the tables, chairs and other furniture are maintained to a high standard and be in a clean, tidy and safe condition at all times.
- 17.** The licence holder shall ensure that the seating area is kept under supervision at all times of its operation and that customers are seated.
- 18.** A copy of the licence conditions and a plan of the permitted area shall be displayed on the premises.

## Conditions attached where required – this is not an exhaustive list

- 19.** There can be no deviation from this licence without the prior approval of the Licensing Authority. Any changes to any part of the pavement licence (including furniture, other items, the area or operating hours) is strictly prohibited under the terms of this licence.

## Pavement licences

'A boards' are only allowed in the pavement area if there is sufficient space for them to be accommodated safely within the designated area and inside of the barriers. 'A Boards' must not be placed on the highway at any time without written authorisation of the Council's Highways Team.

- 20.** The licence holder must ensure that there is sufficient staff working in the pavement area and regular supervision of the area to ensure that tables can be immediately cleared and cleansed on customers finishing their meals/drinks.
- 21.** The licence holder is encouraged to serve drinks in ceramic cups or polycarbonate glasses or bottles. This will be mandated by the Council if it is justified, in which case the licence holder will be notified of this in writing.
- 22.** The licence holder is solely responsible for the conduct of customers and staff within the pavement area. Unruly or rowdy behaviour which is not controlled is not acceptable, and may lead to the revocation of this licence. Prevention of Public Nuisance.
- 23.** No amplified music or sound is allowed in the pavement café area without the authorisation of the Licensing Authority.



**Section 2 Business and Planning Act 2020**

**Notice for Display by an Applicant for a Pavement Licence.**

**I/We**

*[name of applicant]*

**give notice that on**

*[date the application is made] (i.e. submitted)*

**I/We applied to Rotherham Metropolitan Borough 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 to the front of the premises for serving of food and drink)].*

**Any person wishing to make representations regarding this application may do so by writing to: Rotherham Metropolitan Borough Council Riverside House Wing A, Floor 3, Near Pod A33, Main Street, Rotherham, S60 1AE or by Email to <http://www.rotherham.gov.uk>.**

**The application and information submitted is published at XXXXXXXXXX**

**The date the notice was first displayed is**

**The last date for representations is**

*[last date for representations being the date 7days after the date the application is submitted to the local authority (excluding public holidays)]*

**Signed**

**Dated**

## Annex B

### Smoking and COVID-19

In the time of the coronavirus pandemic, taking action to protect and improve your health is particularly important.

Smoking causes damage to the lungs and airways and harms the immune system, reducing your ability to fight infection. Smoking is also very harmful to the cardiovascular system (the heart and the blood vessels that carry blood around your body), which has many negative impacts on health including increased risk of heart attack and stroke.

COVID-19 is a disease caused by a respiratory virus, SARS-CoV-2. People who smoke generally have an increased risk of contracting respiratory infection and of more severe symptoms once infected (for the specific risk on COVID-19, see below).

Stopping smoking will bring immediate benefits to your respiratory and cardiovascular health, including if you have an existing smoking-related disease. Overall it will also help to reduce the use of NHS services.

What do we know specifically about COVID-19 risks for smokers?

The [evidence on smoking and COVID-19](#) is mixed and developing. We do not yet have a clear picture on the impact of smoking on COVID-19 risks but there is no specific evidence to suggest that smokers are at greater risk. To reduce the risk of infection with the COVID-19 virus, Public Health England (PHE) strongly advises against sharing cigarettes.

#### **What are the risks of shisha smoking?**

Shisha smoking carries all the health risks of smoking, and sharing the mouthpiece greatly increases the risk of spreading COVID-19. PHE strongly advises against sharing any smoking devices.

#### **What are the risks of passive exposure to tobacco smoke?**

People who breathe in second-hand tobacco smoke are also at generally increased risk of harm to their lungs and hearts. Children are especially at risk as they have less well-developed airways, lungs and immune systems.

While there is no specific evidence of an increased risk of contracting COVID-19 from breathing in second-hand smoke, as always people who smoke should avoid exposing others to second-hand smoke.

#### **What is the best way to stop smoking?**

There is a lot of support available to help you to stop smoking and getting the right support can boost your chances of success by up to 3 times. Options include stop smoking aids (prescription tablets, nicotine replacement therapies and e-cigarettes, also called vapes), digital tools such as the NHS smokefree app, and expert help from your local stop smoking service. Visit the [NHS quit smoking](#) website to find out more and get your free Personal Quit Plan.

## **Vaping and COVID-19**

E-cigarettes (vapes) can be an effective aid to stopping smoking and staying smokefree. The evidence on the health risks of e-cigarettes is still developing, however, it's clear that vaping is far less harmful than smoking.

Visit the [NHS quit smoking](#) website for information and advice on using e-cigarettes to help you stop smoking.

### **What do we know about COVID-19 risks for vapers?**

It is unknown what effect vaping may have on your risk of infection with the COVID-19 virus, or on how it may affect the severity of illness from COVID-19. To reduce the risk of infection with the COVID-19 virus, PHE strongly advises against sharing vaping devices with anyone.

### **What are the risks of passive exposure to e-cigarette vapour?**

There is little evidence of harm to the health of bystanders from breathing in second-hand e-cigarette vapour. There is currently no evidence of an increased risk of contracting COVID-19 from breathing in second-hand e-cigarette vapour. However, in the absence of specific evidence, we recommend that vapers err on the side of caution and avoid breathing out clouds of vapour in the presence of others.

## Summary of procedure for grant of pavement licence

