

REPORT TO	DATE
Chief Executive, in Consultation with the Leader of the Council	27/07/2020



TITLE	PORTFOLIO	REPORT OF
Urgent Decision Under Standing Order 35 of the Council's Constitution: Adoption of the proposed Pavement Licensing Policy Business and Planning Act 2020	Cllr Sue Jones	David Whelan Shared Services Lead – Legal Deputy Monitoring Officer

Is this report a key decision? (i.e. more than £100,000 or a significant impact on more than 2 Borough wards)	Yes
Is this report confidential?	No

PURPOSE OF THE REPORT

1. Due to the current Covid-19 pandemic, to seek approval to adopt the proposed Pavement Licensing Policy - Business and Planning Act 2020.

RECOMMENDATIONS

2. To take an urgent decision under Standing Order 35 of the council's constitution to adopt the proposed Pavement Licensing Policy - Business and Planning Act 2020.
3. To delegate authority as described at Paragraph 19 of this report.

REASONS FOR THE DECISION

4. Previously Café pavement licenses were administered and issued by the Highways Authority. As part of the Business and Planning Act 2020 local authorities are required to put in place a policy regarding the licensing of pavements.
5. These licences are designed to be for a temporary period and will cease to have effect after 30th September 2021, unless the Government seeks to extend the scheme beyond this date.

CORPORATE OUTCOMES

6. The report relates to the following corporate outcomes:

Excellence, Investment and Financial Sustainability	x
Health, Wellbeing and Leisure	x
Place, Homes and Environment	x

Projects relating to People in the Corporate Plan:

Our People and Communities	x
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BACKGROUND TO THE REPORT

7. Since the ease of the Covid 19 lockdown restrictions on 4th July 2020 by the government, businesses within the food and drink industry have been able to open for customers to enter their premises. Before this they have only been able to operate a take away service, if they had the 'off sales' element on their licence.
8. Businesses have been made to risk assess their premises and restrict the amount of people able to enter their premises, requiring them to reduce the amount of seating areas and potential footfall of customers within their premises making sure that each table is at least 1-metre apart and social distancing measures are in place.
9. The licence will give the premises additional space onto the highway to place furniture such as tables and chairs on the pavement outside their premises increasing the amount of footfall the premises can accommodate, but still enforcing good social distancing practises.

PROPOSALS (e.g. rationale, detail, finance, procurement)

10. Pavement Licences are designed to support businesses selling food and drink such as cafes, pubs and restaurants.
11. The licence is designed to make it easier for premises serving food and drink such as bars, restaurants, cafes and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

12. The policy proposes not just to licence premises that offer licensable activities such as pubs, bars, restaurants, but to also offer the licence to cafes, snack bars, coffee shops, and ice cream parlors solely for the consumption of food and drink.
13. The licence is designed to be a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”. If a pavement licence was granted it would allow premises to place furniture such as tables and chairs on the pavement outside their premises.
14. The cost of a Temporary Pavement Licence is £100. Once an application is received, the local authority will consult the relevant responsible bodies such as the Highways Authority, Environmental Health, Police etc.
15. There is a 14-day determination period, ensuring that businesses can obtain licences in a timely and cost- effective manner aiding to their financial recovery. If an Authority does not make a decision within this time period, then the licence will be deemed to have been granted.
16. When an application is received the Licensing Authority has 3 options available when determining an application:
 - a) grant the licence in respect of any or all of the purposes specified in the application,
 - b) grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
 - c) refuse the application.

There is no right of appeal against an application that is refused.

17. The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.
18. Various conditions can be imposed on a licence either by the Council or via a National Condition. These can be found at Appendix 2 of Background Document 1. If conditions are breached the Council will be able to issue a notice requiring the breach to be remedied and the authority can act to cover any costs. A list of circumstances when a licence may be revoked can be found in section 5 of proposed policy found in Background document 1 of this report.
19. The policy seeks to delegate decisions in the following way;

Function		Decision Delegated to
Grant of Pavement Licence	Where, during the public consultation period, no	Licensing Officers.

	representations have been received.	
	Where, during the public consultation period, representations have been received.	Shared Services Lead – Legal & Deputy Monitoring Officer or Senior Solicitor in consultation with Chair/Vice Chair of Licensing/Portfolio holder
Revocation of Pavement Licence	In line with Paragraph 5 of the Policy above	Shared Services Lead – Legal & Deputy Monitoring Officer or Senior Solicitor in consultation with Chair/Vice Chair of Licensing/Portfolio holder
Remedial Notices	Breach of condition (case by case basis)	Licensing Officers

CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

20. All relevant responsible authorities have been consulted for comments regarding the proposed policy attached as background 1 to this report. 2 responses were received and can be found in the table below.

Planning	Planning response - From a Planning perspective – in the disclaimer that they are signing I would like to see them acknowledging that they have the proper planning permission in place for the use of the premise
Police	Nothing to add

21. The planning response received cannot be considered as the Business and Planning Act 2020 states planning permission is not required to place the additional seating onto the pavement.
22. The response from the Police is in support and that they have nothing further to add to the policy.

ALTERNATIVE OPTIONS CONSIDERED

23. There are no alternative options as this is national legislation that we must as a local authority adopt a policy.

AIR QUALITY IMPLICATIONS

24. None

RISK MANAGEMENT IMPLICATIONS

25. None

EQUALITY & DIVERSITY IMPACT

26. None

COMMENTS OF THE STATUTORY FINANCE OFFICER

27. The pavement licenses will generate new income but the volume and value is expected to be relatively low – around 20 cases or £2,000. There will be no additional costs to the council; there is no right of appeal, so there are no potential legal costs.

COMMENTS OF THE MONITORING OFFICER

28. The Business and Planning Act 2020 has been enacted and there is a requirement that a policy is adopted to allow applications to be determined. The relevant delegations will be approved once this decision is confirmed by the Leader, Chair of the Scrutiny Committee and the Chief Executive.

BACKGROUND DOCUMENTS

Background document 1 - South Ribble Draft Pavement Licence Policy

Background document 2 - Application Form SRBC- Business and Planning Bill

Background document 3 - Briefing all Members

Background document 4 - Temporary Pavement Licence FAQ's.

Report Author:	Telephone:	Date:
Chris Ward – Licensing Officer	01772 625330	20/07/2020

Approval of Urgent Decision

I confirm that I consider this decision is one of genuine urgency in accordance with Standing Order 35 of the Council's constitution:



Councillor David Howarth
Chair of the Scrutiny Committee

Dated: 31/07/20

Following careful consideration and assessment of the contents of the report, I approve the recommendations contained in the report in accordance with the Council's constitution in consultation with the Leader of the Council:



Gary Hall
Chief Executive

Dated: 31/07/20



Councillor Paul Foster
Leader of the Council

Dated: 31/07/20

Pavement Licensing Policy

Business and Planning Act 2020



Effective: (date)
Version 1 – First Policy Draft
June 2020

Contents

Section	Title	Page
1	Introduction	3
2	Scope	3
3	Application and Determination of Pavement Licences	4
4	Conditions	8
5	Enforcement	8
6	Review Procedures	9
Appendix 1	Site Notice Template	10
Appendix 2	Standard Pavement Licence Conditions	11
Appendix 3	National Conditions	13
Appendix 4	Scheme of Delegation	

1. Introduction

The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.

As the economy starts to re-open, on 25 June 2020 the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing short term obstacles that could get in their way.

The Business and Planning Act makes it easier for premises serving food and drink such as bars, restaurants and pubs, as lockdown restrictions are lifted but social distancing guidelines remain in place to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It will be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.

The Act also introduces a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from the South Ribble Council for the placement of furniture such as tables and chairs on the pavement outside their premise which will enable them to maximise their capacity whilst adhering to social distancing guidelines.

Currently, tables and chairs permissions are granted as Pavement licences by Lancashire County Council, the Highways Authority, under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a time consuming 28-day consultation period.

The new temporary measure places a cap on the application fee for businesses, and introduces a new 14-day determination period, ensuring that businesses can obtain licences in a timely and cost-effective manner aiding to their financial recovery.

2. Scope

2.1 Definition of pavement licence

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

2.2 Eligible Businesses

A business which uses (or proposes to use) premises for the sale of food or drink (alcohol or non alcohol) 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.

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.

2.3 Eligible Locations

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).

2.3 Type of furniture permitted

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, which in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

2.4 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted with the application:

- a completed Application Form submitted electronically and sent to licensing@southribble.gov.uk.
- the required fee of £100, paid by credit or debit card
- 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 plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence (for e.g. 3 months, 6 months, or a year);
- evidence of the right to occupy the premises (e.g. the lease);

- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- (if applicable) reference to any existing pavement licence currently under consideration by the local authority;
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million,
- a declaration as to the truth of the contents of the application and accompanying documents and an acknowledgement that the pavement licence is liable to revocation if the application contains false or misleading statements and
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

3.2 Fees

The fee for applying for a licence under the new process are set local but are capped at £100. The Council has determined that the fee for applications will be £100.

3.3 Consultation

Applications are consulted upon for 7 days, starting with the day on which a valid application was made to the Council.

The Council will publish details of the application on its website at www.southribble.gov.uk.

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application the Council will consult with:

- South Ribble Council Town Centre Management
- South Ribble Council Environmental Health Service (including Environmental Control and Food and Safety Teams)
- South Ribble Council Planning Department
- Lancashire Fire & Rescue Service
- Lancashire Police

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period.

Evidence of the site notice requirement must be supplied to the Council.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- 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 shown as Appendix 1.

3.5 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

- public health and safety – 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:
 - 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;
 - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
 - the impact on any neighbouring premises
 - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), and
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly 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.

3.6 Determination

Once the application is submitted the Council has 14 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 7 days for public consultation, and then 7 days to consider and determine the application after the consultation.

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 within the 14- day period, the application will be deemed to have been granted.

3.7 Approval of Applications

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement Licences between 09:00 and 21:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

3.8 Licence Duration

If the Council determines an application before the end of the determination period (which is 7days, beginning with the first day after the public consultation period, excluding public holidays) they can specify the duration of the licence, subject to a minimum duration of 3 months.

The expectation from the Government is that local authorities will grant licences 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. As such, the Council will normally grant applications until 30 September 2021.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a year.

A licence granted or deemed to be granted will not be valid beyond 30 September 2021.

3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against decision to refuse an application.

4. Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

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

However, this is not the case for the statutory no-obstruction condition which is as applies to all Licences. The National 'no obstruction' condition is shown in Appendix 3.

5. Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Social distancing controls, and applicants must ensure all such permissions, etc. are in place prior to applying.

If a condition imposed on a licence either by the Council or via a National Condition is breached the Council will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs.

The authority may revoke a licence in the following circumstances:

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;
 - the highway is being obstructed (other than by anything permitted by the licence);
 - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
 - 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.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or

road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

6. Review Procedures

This Policy covers the Temporary Permission for Pavement Licences under the Business and Planning Act which are scheduled to expire on 30 September 2021.

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement Licence's generally, relevant social distancing measures or as a result of local considerations within the South Ribble Borough.

BUSINESS AND PLANNING ACT 2020

Application for a Pavement Licence

[NAME OF PREMISES]

[FULL ADDRESS OF PREMISES]

TAKE NOTICE, [applicant name], has made an application on [DATE], pursuant to Section 1(1) of the Business and Planning Act 2020, for a Pavement Licence to be granted in respect of the premises detailed above.

[Days and times during which it is proposed to place street furniture on the highway]

A copy of the application can be viewed at the Civic Centre, West Paddock, Leyland, PR25 1DH, or online at www.southribble.gov.uk

Any person who wishes to make representations in relation to this application must do so in writing to Licensing, Civic Centre, West Paddock, Leyland, PR25 1DH, info@southribble.gov.uk or by the online portal. Representations must be made within the public consultation period which ends [DATE which is 8 days after the day on which the application is made].

Standard Pavement Licence Conditions

1. Being the licence holder of a Pavement Licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that South Ribble Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause. This may mean that the pavement licence will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
2. South Ribble Council requires evidence that the licence holder has Public Liability Insurance for the operation of the Pavement Licence. This must indemnify South Ribble Council and Lancashire County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.
3. Tables and chairs must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside a premises away from the highway.
4. South Ribble Council and/or Lancashire County Council are empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored. The Council will not be responsible for its safekeeping.
5. The licence holder is not to make or cause to be made any claim South Ribble Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
6. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
7. The method of marking the boundary of the licensed area must be agreed between the licence holder and the Licensing Department. Whatever method is agreed a 2 metre clear walkway must be maintained for the use of pedestrians.
8. Emergency routes to the premises and adjacent buildings must not be obstructed by the pavement furniture, which should not, in normal circumstances, extend beyond the width of the premises frontage.
9. Tables and chairs should be of an approved type and should be kept in a good state of repair. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council. Patio heaters must not be used.

10. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.
11. The licensee should ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises, is minimised.
12. The operation of the area must not interfere with highway drainage arrangements.
13. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority, Lancashire County Council and evidence of such agreement produced to Chorley Council by the licence holder on demand..
- 14.
15. All detritus (food and drink remnants, spillages, bottles, cans, wrappers, cigarette ends etc) be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the designated area benefitting from the pavement licence, for a distance of up to 10 metres from the boundary of the designated area benefitting from the pavement licence. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
16. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc, will be recovered in full from the licence holder by South Ribble Council or the Highway Authority.
17. The Licensee of a premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcohol within licensed area.
18. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcohol within the designated area benefitting from the pavement licence outside the hours in force for the premises itself.
19. The licence must be displayed on the premises with a plan of the agreed layout in clear view.
20. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.

21. Without prejudice to the obligation contained in Condition 3 The licence holder must cease to place remove any tables, chairs and other furniture immediately at the end of the licence period or on revocation of the licence.
22. There must be adequate provision made for the collection and containment of litter and, where directed, the Licensee must provide suitable litter bins.
23. The Licensee will ensure that the designated area is maintained in a clean and tidy condition. The Licensee shall also take appropriate precautions to prevent the immediate highway from becoming littered as a result of trading activities.
24. The Licensee shall at all times when the pavement cafe is in operation make available for customers toilets and hand washing facilities, to wheelchair accessible standards where it is practicable and reasonable to do so.
25. The Licensee will be responsible for the conduct of customers. They must not be a nuisance or annoy users of the highway or tenants of adjoining premises.
26. No speakers or playing of music shall be permitted.
27. No electrical cables shall be run along the ground in such a way that they create a trip hazard or are susceptible to mechanical damage.
28. South Ribble Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.

National Conditions

The Secretary of State publishes this condition in exercise of his powers under [clause 5(6)] of the Business and Planning Act 2020:

Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#).

Guidance on the effect of this condition

1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

Function		Decision Delegated to
Grant of Pavement Licence	Where, during the public consultation period, no representations have been received.	Licensing Officers.
	Where, during the public consultation period, representations have been received.	Shared Services Lead – Legal & Deputy Monitoring Officer or Senior Solicitor in consultation with Chair/Vice Chair of Licensing/Portfolio holder
Revocation of Pavement Licence	In line with Paragraph 5 of the Policy above	Shared Services Lead – Legal & Deputy Monitoring Officer or Senior Solicitor in consultation with Chair/Vice Chair of Licensing/Portfolio holder
Remedial Notices	Breach of condition (case by case basis)	Licensing Officers



FOR OFFICE USE Application No... Date... Fee Paid... Receipt No...

**Application for a Licence to use the Highway for a Street Café.
Business and Planning Act 2020**

Please read the notes and answer all the following questions	
Question 1 Your Name and Address Postcode Tel. No.	Question 2 Name and address of any person acting for you
Question 3 Describe the proposed location for the street café and address if different from the address in Q1 above.	
Question 4 Please state the main proposed materials (for example: furniture, umbrellas, boundary markers, colour, type, styles) and show them on your detailed layout plan.	
Question 5 Do you intend to alter any of the building and/or building frontage to accommodate the proposal? If YES, please show details of the alterations on your plan.	
YES/NO	
Question 6 Are there any lighting columns, litter bins, road signs, public seating, trees, etc. on the site within the boundary of the area proposed for the street café? If YES, please show them on your plan.	
YES/NO	
Question 7 Is proper sanitary accommodation available within the building to be used to service the Street café?	
YES/NO	

Question 8

Is it intended to seek a licence to serve alcohol within the street café area?

If YES, please answer Q9 below.

YES/NO

Question 9

What range of drinks (alcoholic and non-alcoholic) is it intended will be served within the street café area?

Give details below.

The applicant should be aware that the granting of a licence does not permit the sale of alcohol within the outdoor café area. Separate licensing arrangements apply for the sale of alcohol and the applicant should check the conditions on the Premises Licence or consult the Licensing Authority.

Question 10

Please read and sign the following statement.

I wish to apply for a licence to use the highway fronting the above-named property for the purpose of a street café as described in this application and the accompanying plans and enclose the required fee.

Signed.....

Date.....

Notes

Applications should be made to the , Licensing Section, South Ribble Borough Council, Civic Centre, West Paddock, Leyland, PR25 1DH, licensing@southribble.gov.uk

1. A location plan to Ordnance Survey quality to show the proposed area for the street café at 1:1250 scale.
2. A detailed plan (to show the proposed street café) at a scale of 1:50 or 1:100
3. Full manufacturers literature/details of the furniture/equipment to be used.
4. Details of the management arrangements for the street café.
5. The standard fee.
6. Proof of indemnification against all claims, injuries or accidents, with cover up to £5 million.

You will need two types of plans:

Location plan – to show where your proposal is situated in relationship to the surrounding area. You must clearly edge the site boundary in red. The plan should be of 1:1250, to Ordnance Survey quality.

Detailed plan (with elevations) – to show the proposed street café and its relationship to existing buildings and features. The plan should be a metric scale of 1:50 or 1:100 and the main dimensions should be clearly stated. It should include all the information required by the questions above.

Additional Notes:

Once an application has been submitted there will be a 7day consultation period. You must place a notice on your premise setting out what has been applied for and the date by which a representation should be submitted to the licensing authority.

BRIEFING TO MEMBERS

The Business and Planning Act 2020 was enacted on the 22nd July 2020 in the hope that changes to legislation will assist licensed premises which have been closed during the pandemic.

The proposals are two-fold :-

- 1) A new “Pavement Licence”, which is to be administered by local authorities. It is designed to make it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.
- 2) Alcohol licensing changes that will allow operators with existing alcohol on-sales licences to also serve alcohol for consumption off the premises and to make deliveries.

Pavement Licences

Pavement Licences are designed to support businesses selling food and drink such as cafes, pubs and restaurants. The way in which it is envisaged that this will happen is by introducing a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”. If a pavement licence was granted it would allow premises to place furniture such as tables and chairs on the pavement outside their premises.

This will enable them to maximise their capacity whilst adhering to social distancing guidelines.

Once an application is made to the local authority, the local authority would have to consult the relevant responsible bodies such as the Highways Authority, Environmental Health etc. The Act includes temporary measures to place a cap on the application fee for businesses, enforcement and revocation powers so councils can protect public safety and amenity, and introduces a new 14-day determination period, ensuring that businesses can obtain licences in a timely and cost- effective manner aiding to their financial recovery.

The Council has 3 options available to it when determining applications:

- **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.**

There is no right of appeal against an application that is refused.

Members are referred to the FAQ's in respect of pavement licences which can be found attached. A copy of the Council's Pavement Policy together with a copy of the Application form is also attached to this briefing paper.

Off Sales Extensions

The measures in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It is designed to be a temporary measure to "boost the economy", with provisions lasting until the end of September 2021.

The measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This will allow businesses to trade whilst keeping social distancing measures in place inside.

The provisions remove the need for any application to be made, therefore no fee will need to be paid. This is designed to deliver savings to businesses, as well as providing them with certainty about how they are able to trade. It will also reduce the burden on local authorities and the police, who will not need to scrutinize any applications for licence variations from the premises affected by these measures.

Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through this legislation.

The provisions will also apply temporary conditions to licences where there is a pre-existing permission for off-sales.

The conditions will set the hours of off-sales, allow off-sales of alcohol in open containers and allow deliveries of alcohol to residential or work buildings. Those conditions will suspend existing conditions that are more restrictive. So, for example, an existing condition that allowed off-sales only in closed containers would be suspended to allow sales in open containers.

If there were problems of crime and disorder, public nuisance, public safety or the protection of children arising from how the premises operated using the new permission, any responsible authority, including the police or environmental health, could apply for a new off-sales review. The off-sales review process is modelled on the existing summary review process. In the event that an off-sales review is triggered, it will only relate to off-sales authorised by virtue of these provisions, or conditions which have effect by virtue of these provisions: it cannot be used to revoke the existing licence or modify pre-existing licence conditions.

Should you have any further queries in respect of this briefing note, please do not hesitate to contact the licensing Team on licensing@southribble.gov.uk.

Temporary Pavement Licence

What is a Temporary Pavement Licence?

The Business and Planning Act 2020 delegates the issue of Temporary Pavement Licences to the local Council.

The objective of this legislation is to promote the use of outdoor spaces for the placing of "**Street Furniture**" (i.e. tables & chairs) on the highway as defined by S115A(1) of the Highways Act 1980, front of premises such as pubs, bars, restaurants, cafes, snack bars, coffee shops, and ice cream parlours solely for the consumption of food and drink, in order to minimise the potential spread and transmission of Covid-19, and to help boost the economy.

Generally, these highways are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited.

Why are they called Temporary Pavement Licence?

The reason why they are called **Temporary Pavement Licences** is because they will cease to have effect from after 30th September 2021, unless the Government seeks to extend the scheme beyond this date.

How Much Will a Temporary Pavement Licence Cost Me?

The cost of a Temporary Pavement Licence is £100.

What is "Street Furniture" and what are the basic rules?

Street Furniture is defined as:

- **Counters / Stalls for selling/serving food and drink, tables, shelves, chairs, benches, other forms of seating, umbrellas, barriers, heaters, and other articles used in connection with the outdoor consumption of food and drink.**
- **The Street Furniture must not cause an obstruction.**
- **The Street Furniture must be removed at close of business each day.**

How Do I Apply For A Temporary Pavement Licence?

You can download an application form [here](#) .(need to insert link) It's very simple to complete, but you will need to also submit a few other items with it, when giving it to us to process:

1. A location plans to Ordnance Survey quality to show the proposed area for the street café
2. at 1:1250 scale.
3. A detailed plan (to show the proposed street café) at a scale of 1:50 or 1:100
4. Full manufacturers literature/details of the furniture/equipment to be used.
5. Details of the management arrangements for the street café – Proof of Premises Owners or Leaseholders consent.
6. The standard fee.
7. Proof of indemnification against all claims, injuries or accidents, with cover up to £5 million
8. A copy of the Public Notice ([download here – need to add link to the example notice from our policy](#)) you must place on the front of the premises facing the highway.

What Happens After I Submit My Application?

A 7 day consultation period that commences on the first working day after you submit your completed application and additional documents to us. The Council will consult with the Highways Department at Lancashire County Council, the Police etc.

PLEASE NOTE: - You must place a Public Notice on the front of the premises facing the highway for this same 7 day period.

If there are no objections, or no objections that cannot be overcome during the consultation period, then we will grant you a Temporary Pavement Licence within 7 days of the consultation period ending.

If there are outstanding objections, then a decision will be made by the relevant Director/Shared Services Lead in consultation with the Chair of Licensing.

As this is a fast-track approach - all applications must have been determined within 14 days (commencing from the first working day after the application was received by the Council).

The Council has 3 options available to it when determining applications:

- **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.**

There is no right of appeal against an application that is refused.

Are There Any Other Rules I Need To Know About?

Any Temporary Pavement Licences that are granted have specific conditions attached automatically (set by the Government and the Council), in order to promote Covid-19

safe venues, and to prevent obstruction of the highway, and to prevent noise nuisance, littering, and anti-social behaviour.

In some cases, the Council could impose additional conditions designed to promote the above objectives.

So when thinking about your application, consider what impact your proposal may have on pedestrians and vehicles that may need to use the highway where you propose to site your outdoor Street Furniture.

What Happens If I Do Not Comply With My Licence Conditions?

If a condition imposed on a licence is breached the Council may issue a notice requiring the breach to be remedied and can charge the licence holder for any work the Council has to take put matters right (i.e. clearing up litter, etc).

The Council has the power to 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;
 - the highway is being obstructed (other than by anything permitted by the licence);
 - there is anti-social behaviour or public nuisance — for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
 - 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.
3. The local authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. It is good practice for local authorities to give reasons where these powers are used.