



LICENSING COMMITTEE

Tuesday, 18th October 2022 at 6.30pm

Meeting to be held at Belle Vue Square Offices, Belle Vue Suite, Skipton

Committee Members: The Chairman (Councillor Moorby) and Councillors Harbron, Heseltine, Ireton, Jaquin, Madeley, Mulligan, Myers, Ogden, Solloway and Whitaker. (One vacancy - Independent).

Please note the following advice in advance of the meeting:

Whilst there is no longer a legal requirement to wear a face covering or continue to social distance, please be considerate towards the wellbeing of others.

Anyone showing Covid symptoms or feeling unwell, are asked not to attend and in-person meeting, this is in the interest of general infection control. Further guidance can be found at <https://www.gov.uk/coronavirus>

AGENDA

- 1. Apologies for Absence** – To receive any apologies for absence.
- 2. Minutes** – To approve the minutes of meeting held on 12th July 2022.
- 3. Public Participation** – In the event that any questions/statements are received or members of the public attend, the public participation session will proceed for a period of up to fifteen minutes.
- 4. Declarations of Interest** – All Members are invited to declare at this point any interests they have in items appearing on this agenda, including the nature of those interests.

(Note: Declarations should be in the form of:

a “**disclosable pecuniary interest**” under Appendix A to the Council’s Code of Conduct, or “**other interests**” under Appendix B or under Paragraph 15 where a matter arises at the meeting which relates to a financial interest of a friend, relative or close associate.

A Member of Council who has a disclosable pecuniary interest must leave the room and not take part in the discussion or vote. When declaring interests under Appendix B or Paragraph 15 of the Code, Members must move to the public seating area, not vote, and speak only if members of the public are also allowed to speak at the meeting.)

5. **Window Tint Policy** – Report of the Licensing Manager. Attached.

Purpose of Report – To consider a request from the Taxi trade to review the window tint policy.

6. **Pavement Licensing Policy** – Report of the Licensing Manager. Attached.

Purpose of Report – To update on amendments to the Business and Planning Act 2020.

7. **Any other items** which the Chairman decides are urgent in accordance with Section 100B(4) of the Local Government Act, 1972.

8. **Date and Time of Next Meeting** – Tuesday, 24th January 2022 at 6.30pm.

Agenda Contact Officer:

David Smith, Democratic Services and Scrutiny Officer

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E-mail: committees@cravenc.gov.uk

10th October 2022

AGENDA ITEM 2

LICENSING COMMITTEE

12th July 2022

Present – Councillors Ogden (Vice-Chairman), Heseltine, Ireton Jaquin, Myers, Solloway and Whitaker.

Officers – Solicitor to the Council and Deputy Monitoring Officer, Licensing Manager, Assistant Licensing Officer and Democratic Services and Scrutiny Officer.

Apologies for absence was received from Councillors Moorby and Mulligan.

Start: 6.40pm

Finish: 7.26pm

The minutes of the Committee's meeting held on 12th May 2022 were confirmed and signed by the Chairman.

Declarations of Interests – None.

Minutes for Report

LIC.260

WORK PROGRAMME 2022/2023

The Licensing Manager submitted a report asking Members to consider and set the work programme for the 2022/2023 municipal year.

It was customary for the Committee at its first meeting of the municipal year to set its own annual work programme. That enabled the Committee to take a structured approach and still have flexibility to deal with any issues arising during the year.

The report summarised the work of the Committee during 2021/2022 and whilst most of the work had been completed, there was still a review outstanding on the Council's window tint policy. The review had been delayed due to a request from the taxi trade to review the Table of Fares.

Members were asked to agree to a review of the window tint policy during 2022/2023 but due to local government reorganisation in North Yorkshire the Licensing Manager recommended that no other items should be added to the work programme unless any unscheduled items were needed to be dealt with by the Committee.

Instead, the focus would be on proactive enforcement of licence holders. The licensing team would carry out more inspections of premises licensed under the Licensing Act and Gambling Act and there would be more taxi rank inspections working alongside North Yorkshire Police road traffic officers.

During the ensuing debate, Members discussed the new licensing arrangements that would be required as a result of LGR. It was requested that a progress update on licensing matters in the context of LGR was presented to the next Committee. Details of window tint policies (if any) across North Yorkshire councils would be provided to Members so that they could consider further whether it would be beneficial to progress a review and undertake the statutory consultations. Members noted that, by statute, there had to be one Committee for the whole of the new Council in respect of premises licences (liquor) but that taxi licensing matters could be delegated to Area Committees.

The Solicitor to the Council conveyed to the Committee that a Corporate Governance work stream was looking at all statutory policies needed to be in place for day one to ensure the new authority was operating safely and legally. The remainder of the policies would be categorised in a work programme for review and harmonisation in the future.

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Resolved – (1) That, the work of the Licensing Committee during 2021/2022 is noted.

(2) That, the work programme for 2022/2023 as set out in the report now submitted is agreed.

LIC.261

OVERVIEW OF LICENSING SERVICES

The Licensing Manager submitted a report providing Members with an overview of the work of the licensing team during 2021/2022, including enforcement and compliance monitoring.

The licensing service was responsible for dealing with a variety of licensing regimes including taxis, premises licensing under the Licensing Act 2003, gambling, pavement licensing and charitable collections. The appendices to the report set out details of the types of licence applications made and provided comparisons with previous years.

The Licensing Manager's report also presented to Members, a proposal for enforcement and compliance monitoring for the remainder of the municipal year.

Resolved – (1) That, the report is noted.

(2) That, the draft licensing compliance monitoring and enforcement plan for 2022/2023 is approved and the Licencing Manager is authorised, in consultation with the Chair and Vice-Chair, to make minor amendments to the plan.

LIC.262

ANY OTHER BUSINESS

The Licensing Manager verbally reported to Members that a successful evening enforcement operation had been carried out in conjunction with North Yorkshire Police regarding Craven licenced taxi vehicles as well as those from neighbouring authorities that were in the District at the time of the operation. The majority of vehicles were in compliance with Craven's Taxi Licensing Policy.

LIC.263

DATE AND TIME OF NEXT MEETING

Tuesday, 4th October 2022 at 6.30pm.

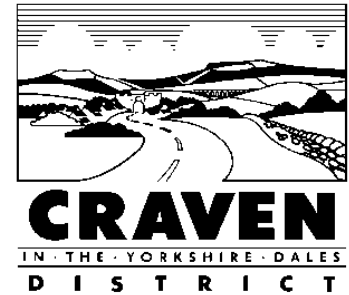
Chairman.

Licensing Committee – 18 October 2022

Window Tint Policy

Report of the Licensing Manager

Lead Member – Councillor Chris Moorby



Ward(s) affected: All

1. Purpose of Report

- 1.1 To consider a request from the Taxi trade to review the window tint policy

2. Recommendations – Members are recommended to:

Confirm that the window tint policy is to be reviewed and authorise the Licensing Manager to carry out the statutory consultations and to report responses received to a subsequent meeting

3. Report

- 3.1 At the Licensing Committee on 12 July 2022 it was agreed that details of window tint policies across North Yorkshire councils would be obtained to enable Members to consider further whether it would be beneficial to progress a review of the this Council's policy and undertake the statutory consultations (LIC.260). This information appears at **Appendix A**.
- 3.2 Members are asked to review the benchmarking information provided and consider whether to progress with the requested review of the window tint policy.
- 3.3 If Members are minded reviewing the policy, it is recommended that officers carry out the statutory consultations and report any responses received to the next meeting of this Committee.

4. Financial and Value for Money Implications

4.1 If Members agree to review and amend the table of fares a cost for consultation will be incurred which is recoverable under Hackney Carriage & Private Hire Licence fees.

5. Legal Implications

- 5.2 Any vehicle licence holder aggrieved by the imposition of a condition relating to window tints can appeal to the Magistrates with 28 days of the condition being imposed.

6. Contribution to Council Priorities

- 6.1 Supporting the wellbeing of our communities

6.2 Impact on the declared Climate Emergency
Not applicable.

7. Risk Management

7.1 Not applicable.

7.2 Chief Finance Officer (s151 Officer) Statement

A Chief Finance Officer statement is not required for this report.

7.3 Monitoring Officer Statement

A Monitoring Officer statement is not required for this report.

8. Equality Impact Analysis

8.1 Not applicable.

9. Consultations with Others

9.1 District and Borough Councils in the County of North Yorkshire

10. Background Documents

10.1 Not Applicable

11. Appendices

- Appendix A – Window tint benchmarking

12. Author of the Report

Name Tim Chadwick
Telephone: 01756 706251
E-mail: tchadwick@cravenc.gov.uk

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

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Window Tint Policies at other NY councils as at 19.07.22

Authority	Email address	Respondent	Policy wording
Craven	licensing@cravenc.gov.uk		“All glazing must at all times comply with Road Vehicles (Construction and Use) Regulations 1986 regulation 32 with regards to the level of tint. A minimum light transmission value of 70% shall be maintained in all windows except a windscreen, which shall have a minimum light transmission value of 75%. Tinted films applied to the vehicle windows are not permitted.”
Hambleton	licensingteam@hambleton.gov.uk		No reply received however in their Taxi policy dated Sept 2021 online: under 2.2.1 Vehicle specification: “The front windscreen allows at least 75% of light through and the front side windows allow at least 70% of light through.”
Harrogate	licensing@harrogate.gov.uk	Chris Doyle Licensing Enforcement Officer chris.doyle@harrogate.gov.uk	“Window tints that are standard at the point of manufacture of the vehicle are permitted. No retrofit tints will be permitted.” <i>Our policy was recently reviewed and went out to consultation with the trade and received no comments in relation to window tinting.</i>
Richmond	Gen.licensing@richmondshire.gov.uk licensing@richmondshire.gov.uk	Vince	“The front windscreen allows at least 75% of light through and the front side windows allow at least 70% of light through.”
Ryedale	licensing@ryedale.gov.uk	Mark Heaton Senior Licensing Officer	“Have sufficiently transparent windows so as not to compromise road safety and comply with current legislation”

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		<p>Landline: 01653 600666 ext 43256 Mobile: 07917 478 590</p> <p>Mark.heaton@ryedale.gov.uk</p>	<p>*see end of document for draft wording for new NY Taxi Policy which Mark supplied</p>
Scarborough	Licensing.services@scarborough.gov.uk	Kerry	<p>“All glazing must at all times comply with Road Vehicles (Construction and Use) Regulations 1986 regulation 32 with regards to the level of tint. A minimum light transmission value of 70% shall be maintained in all windows except a windscreen, which shall have a minimum light transmission value of 75%. Tinted films applied to the vehicle windows are not permitted. Where vehicles are brought on to fleet or currently on fleet with factory fitted tinted windows variation to the requirement of this paragraph is to be requested on a case by case basis. If this is refused the glass must be replaced with compliant glass.”</p>
Selby	licensing@selby.gov.uk	<p>Paula (she copied in Sharon Cousins scousins@selby.gov.uk)</p>	<p>“10.8 Tinted windows</p> <p>All windows must be sufficiently transparent so as not to compromise road safety or prevent clear vision into the vehicle. As a guide, vehicles fitted with manufacturers tinted windows will only be accepted if the front windscreen allows 75% of light, all other windows must allow at least 70% of light to be transmitted through them. Any vehicles with windows darker than the above specification and which do not allow the occupants to be clearly visible from the exterior will not be licensed (notwithstanding the exceptions made in section 10.9).</p>

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			<p>10.9 Non-standard vehicles</p> <p>Vehicles which do not conform to the above type of specification may still be considered for licensing, and further conditions may be attached to ensure the safety of the public. Each application will be considered on its merits by the Licensing Committee who may inspect the vehicle.</p> <p>In allowing for non-standard vehicles, the Council aims to include executive vehicles, limousines and novelty vehicles in the transport hire industry. It is not to make exceptions for substandard vehicles which would not otherwise be licensed.”</p>
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Business and Planning Act 2020 – Pavement Licensing



Report of the Licensing Manager
Ward(s) affected: All

1. **Purpose of Report** –To provide update on amendments to the Business and Planning Act 2020.

2. **Recommendations** –

- I. Consider the report
- II. Approve the Pavement Licensing Policy
- III. Authorise the Solicitor to the Council and Monitoring Officer and Licensing Manager to determine applications for Pavement Licences
- IV. Approve the Pavement Licence application fee of £100

3. **Background**

3.1 The Business and Planning Act 2020 (The Act) received Royal Assent on 22nd July 2020 and took immediate effect. The Act has been enacted in an attempt to restart the British economy due to the Coronavirus pandemic and has introduced a range of new measures to help businesses to quickly adjust and adapt to the ‘new normal’.

3.2 To support businesses, the government has introduced as part of The Act a simpler temporary licensing process for outdoor seating areas to be permitted on the Highway which enables pubs, restaurants and cafés to temporarily use the public highway. This is a fast-tracked system and applications will be determined within 14 days of receipt. This includes a 7-day consultation with relevant parties. A maximum fee of £100 can be charged. Previously the pavement licensing regime was administered by the highway authority.

3.3 This temporary provision was originally due to expire on 30th September 2021, however in July 2021 the Government extended that period to 30th September 2022.

3.4 On 22nd July 2022, the Government again extended the period to 30th September 2023 during which the Fast Track Pavement Licence provisions will continue to apply. The relevant regulations are The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2022

- 3.5 The regulations apply to applications made on or after the 22nd July 2022. Existing Fast Track Pavement Licences expired on the 30th September 2022. Operators therefore need to make a fresh application in order to continue to benefit from the provisions.
- 3.6 These Regulations are a temporary stop-gap, to allow operators to continue to benefit from the Fast Track Pavement Licence regime (should they so choose), pending the provisions in the Levelling Up and Regeneration Bill currently being debated and scrutinised by Parliament, and intended to make the Fast Track Pavement Licence regime permanent, although subject to certain changes, for example the fees for an application, the consultation period, and the minimum and maximum durations a pavement licence may have effect.
- 3.7 Additionally, to assist licensed premises, under the Licensing Act 2003, the government provided extensions and modifications to OFF premise alcohol consumption permissions. With an auto-entitlement to any premise already licensed for ON premise consumption to be given permission to sell OFF premise. The government has suspended any condition attached to a licence which restricts OFF premise sales. For example off sales must be in a sealed container. These new permissions are only applicable if a premise has not previously had a request for OFF premise sales refused. There is a limit to the auto entitlement which is 2300hrs. On the 22nd September 2022 the Government confirmed this relaxation and under the Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations the permissions will continue until September 2023.
- 3.8 It is intended the new licensing regime and Licensing Act regime will be in effect until 30th September 2023 unless the temporary period is extended by regulations made by the Secretary of State or is otherwise suspended, removed or varied or superseded by the provisions of the Levelling Up and Regeneration Bill.

4. Report

- 4.1 An amended draft policy for pavement licensing can be found at Appendix A along with the proposed conditions.
- 4.2 The policy and conditions have been created, in consultation with internal departments, legal services and environmental health. Along with partner districts authorities in North Yorkshire and North Yorkshire Highways.
- 4.3 All licences issued will carry locally set conditions along with mandatory conditions that The Act sets out, two conditions which apply to pavement licences which are granted or deemed to be granted these are: a no-obstruction condition and a smoke-free seating condition. These 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.

4.4 All applications for a pavement licensing must be made electronically. This will be done by way of an e-form on the Council Website.

4.5 Under the new licensing pavement regime, a maximum fee of £100 can be set. A basic cost analysis was carried out in 2020 to calculate the time and cost to process an application following which it was determined the maximum fee of £100 should be charged. It is proposed this application fee remains unchanged.

5 Consultation

5.1 In creating the policy, a number of key agencies have been consulted on. Environmental health, North Yorkshire Police Licensing and the Highways Authority.

5.2 When the policy was first adopted following consultation, it was agreed with Environmental Health that there should be a set terminal hour, to prevent nuisance. This was decided to be 2100hrs. It is proposed this remains unchanged. Applications can be made with a terminal hour beyond this and will be viewed on case by case basis.

5.3 All application made for a pavement licence will be shared as part of a consultation process, with those listed at 5.1. Along with local residents, the planning department and the local parish council. This consultation will last 7 days starting the day after receipt of the application. Applicants must advertise the application, by way of notice at the premise and the Licensing authority also must advertise the application on the council's website. The application must be then determined by the local authority within 7 days of the close of the public consultation.

6.0 Application Refusals

6.1 There is no statutory appeal process against decision to refuse an application however the Council will follow a discretionary review process. Should an applicant be aggrieved by the decision of their application they may submit a written objection within 5 working days of receipt of their determination notice. Relevant objections to a decision will be referred to a licensing subcommittee to determine the application.

7.0 Implications

7.1 Financial Implications –

7.2.1 Legal Implications – The Council is required under the Business and Planning Act 2020 to determine applications for Pavement Licences. There is no statutory right of appeal however in implementing the Policy and determining applications decisions may be subject to Judicial Review.

- 7.3 **Contribution to Corporate Priorities** – Promoting the wellbeing of Craven’s communities
- 7.5 **Risk Management** –. None
- 7.6 **Equality Impact Assessment** – The Council’s Equality Impact Assessment has not been carried out.
8. **Consultations with Others** – Legal Services, Environmental Heath, Highways Authority
9. **Access to Information: Background Documents** –
<https://www.gov.uk/government/publications/pavement-licences-draft-guidance>

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

<https://www.gov.uk/government/publications/levelling-up-and-regeneration-further-information/levelling-up-and-regeneration-further-information>

<https://www.legislation.gov.uk/ukpga/2020/16/contents/enacted>
10. **Author of the Report** – Tim Chadwick – Licensing Manager 01756 706257

Appendices – Appendix A – Draft Pavement Licensing Policy



Pavement Licensing Policy

Effective:
Version 2

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1. Introduction

The Business and Planning Act was brought in as an emergency piece of legislation in July 2020 in response to the COVID pandemic, and permitted a quicker, cheaper, and streamlined service for licensed premises to apply to place tables and chairs outside their premises

The Government has extended the period during which the Fast Track Pavement Licence provisions apply until 30th September 2023 by virtue of The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022.

The Regulations extend a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from Craven District 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 for such period as the local authority may specify in the licence but in all circumstances such a licence may not extend beyond 30 September 2023. This process provides a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. This will provide much needed income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.

The previous date of 30th September 2022 will continue to apply in relation to any pavement licence applied for before the date these Regulations come into force, though the holder of such a licence may be able to apply for a further licence.

Currently, tables and chairs permissions are granted as Pavement licences by North Yorkshire 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.

Government guidance on pavement licences can be accessed at <https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal#applications>

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 for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include but are not limited to: 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 via the online application form, and the following will be required to be submitted with the application:

- a completed Application Form submitted electronically to: licensing@cravenc.gov.uk
- the required fee of £100 paid by credit or debit card –instructions for payment are available online at the time of application.
- 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 a description of 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 purpose for which the furniture will be used: to sell or serve food or drink and/or for use by people for the consumption of food or drink in connection with the relevant premises
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,

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- 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 of 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, and
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

There is no renewal mechanism under The Act. Licence holders will need to apply should they wish to extend any provision afforded to them under any licence currently in force that expires September 2022.

3.2 Fees

The Council has determined that the fee for applications will be £100. The fee is for processing the application and is non-refundable.

The fee must be paid at the time the application is submitted to the Council for the application to be considered valid.

3.3 Consultation

Applications are consulted upon for 7 days, (in this policy, 'days' means any day except Christmas Day, Good Friday and any Bank Holiday in England in respect of the consultation period and determination period) starting with the first day after the day a valid application was made to the Council.

The Council will publish details of the application on its website at <http://www.cravencdc.gov.uk/pavementlicence>

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:

- Craven District Council Environmental Health Service (including Environmental Food and Safety Team)
- Craven District Council Planning
- North Yorkshire Fire & Rescue Service
- North Yorkshire Police
- The appropriate Parish or Town Council
- The Business Improvement District – Premises in Skipton only

Members of the public and others listed above can contact the Council at licensing@cravencdc.gov.uk 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 and email address to which representations should be sent during the consultation period; and
- the end date of the consultation (7 days starting the first 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, reasonable crowd management measures needed as a result of a licence being granted;
- 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.

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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 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 subject to any local or national conditions.

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 7 days, beginning with the first day after the public consultation period, excluding public holidays) it will 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 licences until 30th September 2023

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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.

3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement licence to be granted, 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 however the Council may reconsider applications by an internal review process. Where an applicant is aggrieved by the decision on their application they may submit a written objection within 5 working days of receipt of the determination notice. Relevant appeals will be referred to the licensing subcommittee to determine the 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 statutory '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 Consent 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, , 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 –
 - the highway is being obstructed (other than by anything permitted by the licence);

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- 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 2020

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement licences generally, or as a result of local considerations within the Craven District.

Site Notice Template for display by an applicant for a Pavement Licence.

[Section x] of the Business and Planning Act 2020.

I/We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to Craven District Council for a 'Pavement Licence' at:

(postal address of premises)

known as

(name premises 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 to this application may do so by writing, preferably by email, to:

Pavement Licensing
Craven District Council
1 Belle Vue Square
Skipton
North Yorkshire
BD23 1FJ
licensing@cravencd.gov.uk

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

The application and information submitted with it can be viewed on the Council's website at: www.cravencd.gov.uk/pavementlicence

Signed

Dated *(date the notice was placed which must be the same date as the date of application)*

Standard Pavement Licence Conditions

1. Permission to operate a pavement café does not imply an exclusive right to the area of public highway. The licence holder must be aware that Craven District 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 café 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. Craven District Council requires evidence that the licence holder has Public Liability Insurance for the operation of the Pavement Café. This must indemnify Craven District Council and North Yorkshire 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. Craven District Council and/or North Yorkshire 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 Craven District 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 Café, 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.

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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.
14. All detritus (food and drink remnants, spillages, bottles, cans, wrappers 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 Facility, for a distance of up to 10 metres from the boundary of the Facility. 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.
15. 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 Craven District Council or the Highway Authority.
16. 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 alcoholic liquor within licensed area.
17. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the Facility outside the hours in force for the premises itself.
18. The licence must be displayed on the premises with a plan of the agreed layout of the pavement café.
19. 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.
20. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period or on revocation of the licence.
21. It is the responsibility of the Pavement licence holder to ensure regular checks are conducted of the Pavement Café area throughout operating hours

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22. Craven District 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.