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**BUSINESS AND PLANNING ACT 2020**

**PAVEMENT LICENCE**

**GUIDANCE FOR APPLICANTS**

**Data Protection**

**Please note that the Council may provide information submitted on any application form for a licence and permission to other statutory authorities, such as the Home Office, the Department of Culture, Media and Sports (DCMS), Her Majesty’s Revenue and Customs (HMRC) and, in the case of application under the Gambling Act 2005, the Gambling Commission. The Council is under a duty to protect the public funds it administers, and to this end may use the information you have provided for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. The information may be shared with our partner local authority Havant Borough Council.**

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.

The Business and Planning Act allows businesses serving food and drink to apply for a Pavement Licence to assist their business with social distancing guidelines by authorising furniture, such as tables and chairs, to be placed on the Highway adjacent to their premises, to sell or serve food or drink supplied from or in connection with the premises and for consumption of food and drink.

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

**A Boards are not considered as “furniture” for the purposes of this licence and therefore ARE NOT PERMITTED TO BE USED ON THE HIGHWAY AS PART OF THIS LICENCE.**

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).

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.

Pubs, wine bars or other drinking establishments, and any other premises used for the sale of food or drink for consumption on or off the premises can apply.

This is a temporary measure to boost the economy, with provisions lasting until 30 September 2021.

1. **APPLICATION**

New applicants will be required to submit the following electronically to; [licensing@easthants.gov.uk](mailto:licensing@easthants.gov.uk)

1. an application form
2. a location plan which identifies the land and surrounding properties (where applicable) to which the application relates, preferably to a scale of 1:1250, and with the direction of North and an indicator (e.g. an arrow) pointing to the location of the proposed area
3. a plan of the area to be licensed (see details below for requirements for the plan)
4. the licence fee of £100
5. a copy of your public liability insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million

Plan

* Must be to the scale of 1:100, and this scale must be stated.
* The boundary of the area to be licensed must be outlined with a red continuous line.
* A hatched area showing a clear walkway of 1.5 metres which must be maintained for the use of pedestrians
* the location of access points leading to the entrance of the premises
* a layout indicating where the furniture such as tables and chairs will be placed
* indicated on plan must be any tree, bollards, street lighting, cycle stands, taxi ranks, bus stops and/or anything similar.

Site Notice

When the Licensing Team confirm to you that your application is valid, you must on the same day 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.

The Site Notice must:

* state that the application has been made and the date on which it was made;
* state the days and times requested;
* state the address of the premises and name of the business;
* describe the proposed use of the furniture;
* describe the furniture to be used;
* 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

You must provide a photograph of that notice and a photograph of where it is displayed by email to [licensing@easthants.gov.uk](mailto:licensing@easthants.gov.uk)

Fee

The fee for the application is £100. Once your application and supporting documents have been submitted electronically to [licensing@easthants.gov.uk](mailto:licensing@easthants.gov.uk) you will be contacted by Licensing to take the payment over the phone.

1. **CONSULTATION**

The consultation period for applications is 7 days, starting the day after the valid application has been received.

The Council will publish details of the application on its website at [www.easthants.gov.uk](http://www.easthants.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:

* East Hampshire District Council, Environmental Health – Food & Safety
* East Hampshire District Council, Environmental Health – Environmental Protection
* East Hampshire District Council Planning
* Police
* The appropriate Local Ward Councillor(s)
* The appropriate Parish or Town Council

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

The Council must consider representations received during the public consultation period when determining the application.

1. **DETERMINATION OF APPLICATION**

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](https://www.gov.uk/government/publications/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.

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.

A licence will expire on 30 September 2021 if a determination is made by the local authority within 14 days.

If the local authority does not determine the application within the 14 days period, the application will be deemed to have been granted for a year.

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 and the National Conditions which will be attached to all Pavement Licences is available on our website [www.easthants.gov.uk](http://www.easthants.gov.uk) Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

1. **MARKET DAYS**

Where licences give consent to trade in the town centres, they may not be able to do so on market days if the licensed area includes an area upon which a market is held.