



Please reply to:

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Date: 21 October 2024

Notice of meeting

Licensing Committee

Date: Tuesday, 29 October 2024

Time: 7.00 pm

Place: Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames TW18 1XB

To the members of the Licensing Committee

Councillors:

S.A. Dunn (Chair)
M.J. Lee (Vice-Chair)
M. Arnold
C. Bateson

S. Bhadye
T. Burrell
R. Chandler
D.C. Clarke

J.T.F. Doran
K.M. Grant
B. Weerasinghe

Councillors are reminded to notify Committee Services of any Gifts and Hospitality offered to you since the last Council meeting so that these may be entered in the Gifts and Hospitality Declaration book.

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

www.spelthorne.gov.uk customer.services@spelthorne.gov.uk Telephone 01784 451499

AGENDA

Page nos.

1. Apologies and Substitutes

To receive any apologies for absence and notification of substitutions.

2. Minutes

3 - 4

To agree the minutes of the meeting held on 01 October 2024 as a correct record.

3. Disclosures of Interest

To receive any disclosures of interest from Councillors in accordance with the Council's Code of Conduct for Members.

4. Pavement Policy 2025-2028

5 - 32

To approve the draft Pavement Licensing Policy for adoption.

**Minutes of the Licensing Committee
1 October 2024**

Present:

Councillor S.A. Dunn (Chair)

Councillors:

C. Bateson

T. Burrell

J.T.F. Doran

S. Bhadye

D.C. Clarke

K.M. Grant

Substitutions: Councillors K.E. Rutherford (In place of M. Arnold)

Apologies: Councillors M. Arnold, M.J. Lee, R. Chandler and B. Weerasinghe

10/24 Minutes

The minutes of the meeting held on 23 July 2024 were agreed as a correct record.

11/24 Disclosures of Interest

There were none.

12/24 Review and Setting of Fees & Charges for the licensing of Hackney Carriages, Private Hire, and Private Hire Operators

The Principal Licensing Officer presented the proposed Fees and Charges for the Licensing of Hackney Carriages, Private Hire, and Private Hire Operators for consultation purposes.

The Principal Licensing Officer explained the proposed fees would cover increased costs to the service. A full cost analysis had been done to ensure the costs would be met and no surplus would be generated.

The Committee queried if it would be beneficial to add a slight increase to cover any unexpected costs that arose during the year, and the Principal

Licensing Officer explained these would be identified as part of the next cost analysis exercise.

The Committee **resolved** to approve the proposed licensing fees and charges set out in the report for consultation purposes and statutory advertising requirements.

13/24 Gambling Act Policy 2025-2028

The Committee considered the Gambling Act Policy 2025-2028 for recommendation to Council.

The Principal Licensing Officer presented the Gambling Act Policy 2025-2028. Consultation on the policy had been undertaken, and the only substantial response received was from Gamcare. Gamcare had made a number of positive suggestions, though it was advised the suggestions be reviewed in the context of the Gambling Act Review and forthcoming white paper consultations. The proposed policy had been written in line with current legislation, and any changes to that legislation would prompt a review of the policy.

A member of the Committee felt the policy should be amended to address support for residents with gambling addiction, and sanctions for premises should be considered. The Principal Licensing Officer advised gambling premises were heavily regulated, and if there were any concerns about the operation of the premises, this would be reported to the Gambling Commission. Other members of the Committee felt it was appropriate to recommend the policy for adoption by Council to have a policy in place in a timely manner, and that the recommendations made by Gamcare could be considered when new legislation came into effect.

The Committee **resolved** by majority to recommend the adoption of the Gambling Act Policy 2025-2028 by full Council.

Councillor Clarke voted against the recommendation without the inclusion of an additional section related to gambling addiction.

Licensing Committee



29 October 2024

Title	Pavement Licence policy
Purpose of the report	To make a decision
Report Author	Lucy Catlyn, Principal Licensing Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	N/A
Corporate Priority	Environment
Recommendations	Committee is asked to: 1. Approve the draft Pavement Licensing Policy for adoption
Reason for Recommendation	To have a clear policy and standard local conditions for pavement licensing which has been updated in line with legislation. To also review the fee charged.

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none"> Legislation (Business and Planning Act 2020) has changed on Pavement Licensing. 	<ul style="list-style-type: none"> Need to update our policy and fees
This is what we want to do about it	These are the next steps
<ul style="list-style-type: none"> Need to have a clear pavement licensing policy with standard local conditions and fee. 	<ul style="list-style-type: none"> Committee to approve draft policy for adoption.

1.1 This report seeks to obtain authority from the Licensing Committee to approve the draft Pavement Policy for adoption.

2. Key issues

- 2.1 With Schedule 22 of the Levelling Up and Regeneration Act 2023, the government have permanently moved pavement licensing to the district/ borough level, away from the highways authority and amended the Business and Planning Act 2020 to introduce some changes to processes and introduce enforcement powers.
- 2.2 The draft policy is attached as **Appendix A**. The changes are fully in line with the new legislation and do not propose anything in addition other than an opportunity to tidy up some of the wording of the 2020 Pavement Licensing policy.
- 2.3 When the responsibility for Pavement Licensing was transferred from Surrey County Council to Spelthorne Borough Council, the Government initially made

provision under the Business and Planning Act 2020 for the Council to charge a maximum fee of £100 in order to support businesses during COVID. However, the legislation has been changed and the new fee caps set in legislation are £500 for a new application and £350 for a renewal.

2.4 A cost calculation exercise has been undertaken and it is proposed to charge the maximum fees of £500 for a new application and £350 for a renewal. The proposed fees have been calculated based upon timings and estimated costs for processing of applications, site assessments, compliance checking after licence is issued, etc. It should be noted that this will not cover the Council's total costs due to the amount of interaction and advice applicants require.

2.5 A public consultation was undertaken from 25 July 2024 and 22 August 2024. there have been a total of seven replies which are summarised below and attached at **Appendix B:**

- It has been suggested by the Business Improvement District (BID) that we should have a no-glassware policy during evenings and weekends. None of the other Surrey Licensing Authorities have this as a condition. No evidence has been provided to substantiate a need for no glass in Spelthorne. Comments have been provided in the pre consultation with stakeholders about the effects on the climate in having no glass.
- Surrey Highways have asked for 2 additional conditions. In addition they have stated that Public Liability Insurance only lasts 12 months and that we should not issue a licence for longer than this. It is not practicable to only issue for this period of time and legislation is in place for two years.
- Complaint about the fee. There was also a comment on other Council's charging less, however this could be because they are yet to update their policies. It was also suggested it could be charged by turnover. Both comments have not been considered to reduce the fee as the Licensing Authority needs to ensure that the costs are recovered from Pavement Licensing Applications.
- Comments from Counter Terrorism which have been included in the policy.
- Comment that barriers should be in colours which contrast with the ground and with walls or other obstacles. In addition that rope barriers should not be used. The policy has been amended to include this and that rope barriers should not be used where possible.

3. Options analysis and proposal

Policy Review

- 3.1 **Option 1** – Adopt the policy and allow minor amendments to be made to the Policy be approved by the Senior Environmental Health Manager and the Chair of the Licensing Committee, or;
- 3.2 **Option 2** - Adopt the Policy as proposed with an amendment added that businesses must not allow glass outside and allow minor amendments to be made to the Policy as per 3.1.
- 3.3 The preferred option is for Licensing Committee to adopt the policy and proposed fees. In addition allow minor amendments to the Policy as per 3.1.

Fee setting

- 3.4 To agree to the proposed fees of £500 for a new application and £350 for a renewal; or;
- 3.5 To leave fees as they currently are or amend the proposed fees. Both options will mean the Council is not covering the costs of the service.

4. Financial management comments

- 4.1 Should the fees be agreed then the Council will be recovering the maximum permitted in line with legislation. Costs associated with consultation and publication are minimal and will be met from within existing Licensing budgets.
- 4.2 To date the Council has received income of: -

2020/21	£800
2021/22	£1200
2022/23	£1800
2023/24	£1300
2024/25 (to 05.07.2024)	£710

5. Risk management comments

- 5.1 Fees may be challenged in the High Court (Judicial Review) or by complaint to the Local Auditor. It is therefore important that the process the Council follows is fair, open, and transparent.

6. Procurement comments

- 6.1 This report refers to a draft policy for which there are no Procurement considerations.

7. Legal comments

- 7.1 Although the Council is not required by law to have a pavement licensing policy in place it is good practice to have such a policy. The policy will assist the Council in making decisions that are transparent and consistent.
- 7.2 When determining pavement licence applications the Council must have regard to Guidance issued by the Secretary of State.
- 7.3 The Guidance states that the expectation is for local authorities to be pragmatic and to grant licences for a maximum period of 2 years unless there are good reasons for granting a licence for a shorter period.
- 7.4 The Council will need to consider several factors when determining whether to approve a pavement application, including whether conditions are required to approve an application for a licence.
- 7.5 The Council will also need to consider factors including public health and safety including security, public amenity, accessibility, and the needs of other users of the relevant space.
- 7.6 There is no statutory right of appeal in relation to the Council's decision to either approve or reject a pavement licence application. An applicant may apply again for such a licence.
- 7.7 There is a risk that applications are deemed granted if they are not determined within the 28-day period. The Council can minimise this risk by ensuring appropriate resources are in place to handle the volume of applications received within 28 days of receipt.

8. Other considerations

8.1 In revising the policy the Council will have a Pavement Policy and cost recovery in the future will be achieved.

9. Equality and Diversity

9.1 An Equalities Screening Assessment has been carried out. The revised draft policy does not have any impact on protected characteristics.

10. Sustainability/Climate Change Implications

10.1 Should the Committee determine that there should be a no glass policy then this could have a sustainability/climate implication and contradict the Council's commitments to climate change.

11. Timetable for implementation.

11.1 The proposed timetable is as follows:

- Report to Licensing Committee on 23 July 2024 to obtain approval to consult on the revised draft policy.
- Consult with stakeholders between 25 July 2024 and 22 August 2024.

11.2 Report to Licensing Committee on 29 October 2024 to seek a recommendation to adopt a final proposed policy.

11.3 CPRC to recommend adopting the proposed fees October 2024.

12. Contact

12.1 Lucy Catlyn, Principal Licensing Officer (01784 444295)
l.catlyn@spelthorne.gov.uk or licensing@spelthorne.gov.uk

Background papers: None

Appendices:

- Appendix A: Draft Pavement Licence Policy.
- Appendix B: Stakeholder Comments

Documents referenced in this report

- Business and Planning Act 2020
- Levelling Up and Regeneration Act 2023

Pavement Licensing Policy 2024-2029

Business & Planning Act 2020

Effective: 22 July 2020
Version 1 – First Policy
Version 2 Amended – 29 October 2024

DRAFT

Contents

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1. Introduction

The Council will review this policy every five years, or sooner in light of any significant changes to legislation or guidance and consult on any proposed amendments. If the Council make any changes, then the policy will be re-published.

Minor amendments to the Policy can be approved by Senior Environmental Health Manger and the Chairman of the Licensing Committee.

Background

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

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

The Business and Planning Act 2020 ('the Act') made it easier for premises serving food and drink such as bars, restaurants and pubs to operate, as lockdown restrictions were lifted but social distancing guidelines remained in place to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The Act also introduced a fast-track process for these businesses to obtain permission, in the form of a "pavement licence", from Spelthorne Borough Council for the placement of furniture such as tables and chairs on the pavement outside their premises, which will enable them to maximise their capacity whilst adhering to social distancing guidelines.

Previously, tables and chairs permissions were granted as pavement licences by Surrey County Council, the Highways Authority, under Part 7A of the Highways Act 1980.

Current Position

The regulations under the Business and Planning Act 2020 in respect of pavement licensing have been amended and made permanent by the Levelling Up and Regeneration Act 2023 which received Royal Assent 26 October 2023. The amendments include:

- Increasing the public consultation period to 14 days (with a further 14 days to determine)
- Increasing the statutory fee cap
- Additional enforcement powers for unlicensed activity
- Duration of licences – no longer a minimum of three months and can be granted for up to two years.

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 permits the licence-holder to place removable furniture on the public highway 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: 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).

2.4 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. This means it cannot be a permanent fixed structure, and is able to be moved easily, and stored away.

Barriers:

- Barriers should be in colours which contrast with the ground and with walls or other obstacles.
- Barriers should be solid fabric barriers where possible.

2.5 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.

This does not change the usual adopted public highway and Section 130 of the Highways Act. Other permits or permissions maybe required from other authorities. For example, the use of Advertising board (A Boards) within or part of the license is not considered acceptable, and the County Councils A Board policy will apply.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

Applications for new and the renewal of Pavement Licences must be made electronically to the Council, and the following will be required to be submitted with the application:

-
- a completed Application Form,
- the required fee,
- proof of the applicant's identity and right to work,
- 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 or immovable object e.g. column, bollards etc item in the proposed area,
- the proposed days of the week and times of day on which, it is proposed to put furniture on the highway,
- the proposed duration of the licence,
- photos or brochures showing the proposed furniture and information on potential siting of it within the area,
- (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 displayed
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £10 million, and
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

NOTE: a renewal cannot be submitted after expiry of the current licence. A new application would be required.

3.2 Fees

The fee for applying for a licence are set locally, but are capped at £500 for a new licence and £350 for a renewal.

Application fees must be paid by debit/credit card at the time the licence application is submitted to the council and the receipt must accompany the application in order for the application to be considered valid and for the consultation period to commence.

The fee is an 'application' fee for the processing of the application. The fee will not be refunded if the application is withdrawn, refused or if a licence is surrendered or revoked before expiration.

3.3 Consultation

Applications are consulted upon for 14 days, starting with the day after which a valid application was received by the Council.

The Council will publish details of the application on its website.

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are no detrimental effects to the application the Council will consult with:

- Spelthorne Borough Council Economic Development
- Spelthorne Borough Council Environmental Health Service
- Spelthorne Borough Council Asset Management
- Spelthorne Borough Council Planning
- Neighbourhood Services
- Spelthorne Borough Council Town Centre Management
- Surrey Fire & Rescue Service
- Surrey Police
- The appropriate Local Ward Councillor(s)
- The Spelthorne Business Improvement District
- Spelthorne Borough Council Community Safety Team
- Counter Terrorism Policing South East

Members of the public and others listed above can contact the Council to make representations at licensing@spelthorne.gov.uk

The Council must take into account representations received during the public consultation period and consider these when determining the application. The full names and address of the representee should be submitted.

3.4 Site Notice

On the day an application for a pavement licence is made, the applicant must 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 (licensing@spelthorne.gov.uk) to which representations should be sent during the consultation period; and
- the end date of the consultation (14 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 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
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are 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.

Counter Terrorism Security recommend that public health and safety is included as criteria for considering the suitability of an application. This is interpreted wider than Covid issues, applying to security in general.

3.6 Determination

Once the application is submitted the Council has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 days for public consultation, and then 14 days to consider and determine the application after the consultation period has ended.

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,
- impose conditions, or
- refuse the application.

If the local authority does not determine the application within the 28 day period, the application will be deemed to have been granted subject to any published 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 to apply 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 they can specify the duration of the licence, subject to a maximum of 2 years.

The Council will normally grant applications for two years unless a shorter period has been requested or it is necessary for good reason, such as known upcoming street works, for example.

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 period of two years.

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.

3.10 Variation of licences

There is no provision in the legislation to apply for a variation of a pavement licence. Should the licence holder wish to vary the licence, they would need to submit a new application.

As an alternative to revoking the licence, the Licensing Authority may, with the consent of the licence holder, amend the licence if it considers that –

- (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted.
- (b) As a result of the licence
 - I. There is a risk to public health or safety
 - II. Anti-social behaviour or public nuisance is being caused or risks being caused, or
 - III. The highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence).

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 licence does not confer the holder with 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 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.

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:
 - 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.

Unlicensed activity

Where a person/business puts removable furniture on a relevant highway and is not authorised to do so, the licensing authority may, by issuing a notice, require the person/business to:

- Remove the furniture before the date specified on the notice and

- Refrain from putting furniture on the highway unless authorised to do so.

Contravention of such a notice may lead to the authority removing the furniture and storing it, and require the person/business to pay the authority's reasonable costs in removing and storing the furniture and to refuse to return the furniture until those costs are paid.

If, within the period of three months beginning with the day on which the notice is served, the person/business does not pay those reasonable costs, or does not recover the furniture, the local authority may-

- Dispose of the furniture by sale or in any other way it thinks fit, and
- Retain any proceeds of sale for any purpose it thinks fit

In this section, 'authorised' means authorised by –

- A pavement licence,
- Permission under Part 7A of the Highways Act 1980, or
- Permission granted under any other enactment

6. Policy Review

This Policy covers the processes and procedures for Pavement Licences under the Business and Planning Act 2020 (as amended by the Levelling Up and Regeneration Act 2023).

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 Spelthorne Borough.

Appendix 1

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

NOTICE OF APPLICATION FOR A PAVEMENT LICENCE
Section 2(5) of the Business and Planning Act 2020

I/We _____

(name of applicant),

do hereby give notice that on _____ *(date of application)*

I / we *(delete as applicable)* have applied to Spelthorne Borough Council for a 'Pavement Licence' at: _____

(postal address of premises)

known as _____

(name premises is known by)

The application is for: _____

(brief description of application)

Any person wishing to make representations to this application may do so by writing, preferably by email, licensing@spelthorne.gov.uk or: Environmental Health Spelthorne Borough Council, Council Offices, Knowle Green, Staines-Upon-Thames TW18 1XB

by: _____ *(14 days starting the day after the date of the application).*

The application and information submitted with it can be viewed on the Council's website: [Licensing applications open to representations - Spelthorne Borough Council](#)

Signed _____

Dated *(date of application)* _____

This notice must be displayed from the date of application until the end of the public consultation period, which is 14 consecutive days, starting the day after the application date (Christmas Day, Good Friday and a day that is a bank holiday in England cannot be counted). The date the notice is signed and the date of application must be the same date.

Appendix 2**Standard Pavement Licence Conditions**

1. Permission to operate a pavement licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that Spelthorne Borough 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. Spelthorne Borough Council requires evidence that the licence holder has Public Liability Insurance for the operation of the pavement licence. This must indemnify Spelthorne Borough Council and Surrey 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 £10 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. Spelthorne Borough Council and/or Surrey County Council are empowered to remove and store or dispose of furniture from the highway, at the cost to 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 Spelthorne Borough 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 issued by the Secretary of State.
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 furniture set up in connection with this licence, 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 Spelthorne Borough Council's Licensing team.

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 licence holder shall 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.
 - a. *Pavement Licence Applicant to confirm the premises management team have accessed the Protect UK website or downloaded the Protect UK Mobile Phone APP and viewed [Risk Management Basics | ProtectUK](#) and [Hostile Vehicle Mitigation \(HVM\) | ProtectUK](#) as part of the application process.*
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) must 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 Spelthorne Borough Council or the Highway Authority.
16. The licence holder 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 the pavement licensed area.
17. The licence holder 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 pavement licensed area 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 licence.
19. The licence holder must remove any tables, chairs and other furniture immediately at the expiry of the licence period date or on revocation of the licence.

20. The licence holder must make sure the licensed area is regularly monitored to ensure that customers are not causing a noise disturbance or other forms of anti-social behaviour.
21. The licence holder will ask customers causing a disturbance e.g. noise, anti-social behaviour to behave in an orderly manner and if they do not do so after warning then they will be asked to leave.
22. The licence holder will display a sign/s in a prominent position to remind customers to be considerate towards neighbours
23. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst exercising privileges granted by this permission, that is audible outside the premises.
24. The licence holder will only take orders/serve customers who are seated and must ensure that customers are not standing in the licensed area with food or drink.
25. The licence holder will cease taking orders / serving customers 30 minutes prior to the time the licence permits the use of the seating area in order to ensure that the seating area is closed by the closing time specified on the pavement licence.
26. The licence holder is to encourage customers to leave by the closing time specified on the pavement licence and also to leave quietly.
27. Where the location of the premises is in a residential area, the licence holder shall provide rubber feet to chairs and tables to reduce noise when furniture is moved
28. The licence holder 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.

NOTES

These conditions should be read in conjunction with any mandatory national conditions concerning pavement licences, if the premises is licenced under the Licensing Act 2003, any relevant conditions attached to the premises licence, and any other relevant requirement of the Business and Planning Act 2020.

The licence holder 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.

Should the licence holder not be on the premises then they must make arrangements for a responsible person to be on site who can ensure compliance with the conditions of the licence.

Spelthorne Borough Council reserves the right to revoke this licence at any time if any of the above conditions are not complied with.

National Conditions

Statutory conditions attached to a pavement licence

1. Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6). These effects are:
 - (a) preventing traffic, other than vehicular traffic, from:
 - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
 - (ii) passing along the relevant highway, or
 - (iii) having normal access to premises adjoining the relevant highway,
 - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
 - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
 - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
2. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

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

1. Condition relating to clear routes of access:

The no-obstruction condition is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act. When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order to do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:

- Section 3.2 of [Inclusive Mobility](#) - gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of

Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.

- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway. Advertising boards are not included in the definition of furniture within the pavement licensing regime, therefore, should not be used as a barrier;
- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs;
- the cumulative impact of multiple pavement licences in close proximity to each other and if there is specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people;
- so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

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

2. Condition relating to smoke-free seating

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside

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

Ways of meeting this condition could include:

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

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

Appendix 4

Inclusive Mobility

You can access more information on Inclusive Mobility and the Government's guide to best practice on improving access to public transport and creating a barrier-free pedestrian environment below:

[Inclusive mobility: making transport accessible for passengers and pedestrians - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/guidance/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians)

Comments to Pavement Policy Consultation

Other Public Comments:

<p>Surrey Highways</p>	<p>Thanks for sending this through. My comments below</p> <p>Public Liability insurance usually renews annually so we would recommend the maximum licence duration was no more than 12 months.</p> <p>2.5 Could a comment be added within the Planning section to the effect that</p> <p>“this does not change the usual adopted public highway and Section 130 of the Highways Act. Other permits or permissions maybe required from other authorities. For example, the use of Advertising board (A Boards) within or part of the license is not considered acceptable, and the County Councils A Board policy will apply. “</p> <p>3.1 plan to include any fixed or immovable object, e.g. lamp column, bollards, etc.</p>
<p>Business</p>	<p>Why is it that considering our business are only just recovering after COVID AND the cost of living trade slump does the pavement licensing fee have to increase to £350.00 per year. This is eqvialnt to 1 whole weeks worth of coffee sales... Why are we penalised all the time!!! It is hard enough trying to make the business succeed as it is.</p>
<p>Visit Staines</p>	<p>We appreciate the opportunity to provide feedback on the proposed pavement licence policy and, in principle, agree with the policy's direction. However, we would like to raise two specific concerns:</p> <p>1. Fee Increase: The proposed increase in the fee from £100 to £500 is notable. While we recognize that this amount is common across many regions, we would like to point out that other boroughs in Surrey have opted for a more modest fee:</p> <ul style="list-style-type: none"> ○ Elmbridge: £50 ○ Mole Valley: £100 ○ Tandridge: £100 <p>Would the Council consider reducing the fee to a more comparable amount? Alternatively, could there be provisions to protect smaller businesses, perhaps by adjusting the fee based on turnover?</p>

	<p>2. Glass Policy: The issue of glass usage has been raised multiple times over recent months, with significant support from Surrey Police. While we are not advocating for a full ban, we propose a restriction on glass usage during evenings and weekends. We understand that concerns have been raised about waste management and single-use plastic, but there are practical alternatives available. I have previously shared examples of reusable plastic options that address these concerns, and I am attaching further information, including the Surrey Police's support for a no-glass policy and links to examples of multi-use plastic cups.</p> <p>We hope you will take these points into consideration as you finalize the policy.</p> <p>Thank you for your time and attention.</p>
<p>Counter Terrorism</p>	<p>Thank you for your invitation to submit comments with regards to Spelthorne Borough Council 'Draft Pavement Policy 2024 – 2029'</p> <p>These comments are submitted from the perspective of the Counter Terrorism Security Advisor (CTSA) role. Comments have been made taking into account MHCLG document Pavement licences: guidance - GOV.UK (www.gov.uk) published 2nd April 2024 including signposted information contained within Section 5.3 'How can local authorities consider security?'</p> <p><i>Policy Inclusions.</i></p> <p><i>We would recommend under Section 3.5 of your Policy, 'Site Assessment' that 'public health and safety including security' is included as a criteria for considering the suitability of an application. We interpret this condition as being wider than Covid issues, applying to security in general.</i></p> <p><i>Without this inclusion, any comments made taking into account the remaining factors of public amenity and accessibility, would be limited and not allow for recommendations within the MHCLG guidance at Section 5.3 'How can local authorities consider security?'. Our primary objective as consultees being to assist Local Authorities ensure a balanced consideration for security implications, particularly the risk to groups of people from interaction with hostile vehicles, and the creation of large crowds in new public spaces.</i></p> <p><i>In order to assist with managing the security risks we propose additional conditions for inclusion at Appendix 2. These</i></p>

	<p><i>conditions will ensure that the applicants are educated as to the risks to groups of people from interaction with hostile vehicles and the creation of large crowds in a new public space, and in a cost effective non burdensome manner. They align with your existing policy Condition 11 in regards to minimising the safety and risk to customers / users of the public highway / adjacent land or premises, and are as follows:</i></p> <p>Condition</p> <p><i>(i) Pavement Licence Applicant to confirm they have considered security implications from the additional pavement seating, particularly the risk to groups of people from interaction with hostile vehicles, and the creation of large crowds in public spaces. The considerations will be assisted by completing measures at subsections (ii) and (iii)</i></p> <p><i>(ii) Pavement Licence Applicant to confirm staff employed by or at the premises have completed the free ACT Awareness E-learning within a reasonable period not exceeding one month from the grant of a pavement licence. ACT Awareness e-Learning ProtectUK</i></p> <p><i>(iii) Pavement Licence Applicant to confirm the premises management team have accessed the Protect UK website or downloaded the Protect UK Mobile Phone APP and viewed Risk Management Basics ProtectUK and Hostile Vehicle Mitigation (HVM) ProtectUK as part of the application process.</i></p> <p>I am more than happy to discuss any of the above inclusions, and should the above wording not be compliant with how you would like the Policy written, please let me know any revised wording you propose.</p> <p>In addition we will still look to suggest additional conditions/comments on a case by case basis for those locations deemed to present an enhanced security risk as allowed for in Section 4 of your policy where necessary and proportionate.</p>
<p>Member of Public</p>	<p>I write to praise and endorse the response sent by *REDACTED* from SCAN.</p> <p>Of course it is pleasant for customers to sit outside cafes, particularly in summer. But this should not be at the expense of people with disabilities. I attend the Spelthorne Older People's Forum and the Forum for Physical & Sensory Disabilities, and there are a lot of people in Spelthorne living with mobility or sensory impairments. They are also entitled to enjoy our streets. It is not just wheelchair users who need space: narrow spaces are also difficult for anyone with</p>

	<p>problems with mobility or with balance, particularly if pavements slope or have obstacles or irregularities. Pavement cafes need barriers suitable for users of long canes or guide dogs. Barriers should be in colours which contrast with the ground and with walls or other obstacles. This is important for partially sighted people, who may not have canes or dogs.</p>
Planning	<p>Licensing, Thank you the opportunity to comment on the Council's Pavement Policy. Having reviewed the Policy, the LPA has no comments to make.</p>
Member of Public	<p>Thank you for consulting me on this draft policy. I am broadly in favour of the policy as drafted but am concerned that interpretation may not be clear and that appropriate enforcement may not be applied in all cases.</p> <p>Under Standard Pavement Licence condition.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". This 2.0m is reiterated under the National Conditions, which adds " A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other. This is qualified elsewhere in the guidance. The condition requires that a seating area must be clearly marked and the license application must therefore implicitly include barriers. Under condition 23. "The licence holder will only take orders/serve customers who are seated and must ensure that customers are not standing in the licensed area with food or drink" To me this implies table service is mandatory. When combined with the need for barriers around the seating in condition 7, the use of table service ensures the position of furniture can be monitored and is less likely to be moved to create obstructions.</p> <p>I note under National Conditions Advertising boards are not included in the definition of furniture within the pavement licensing. I am concerned about this but appreciate this is outside the Council's licensing regime.</p> <p>Looking further at the subject of barriers I see that National conditions includes "any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users." This effectively precludes the use of a single 'rope' between posts such as at The George and promotes the use of 'solid' full height barriers. I consider the use of fabric barriers suitable to achieve this in most cases. I hope that my comments will enable you to ensure placement</p>

	of furniture on pavements in a manner which avoids obstruction and hazards and is in accordance with Governments guide to best practice, as noted at the bottom of the document.
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