

# BUSINESS AND PLANNING ACT - 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 Epsom & Ewell 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 and it is a condition of this licence to provide such access. 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.

1. The licence holder must hold Public Liability Insurance for the operation of the Pavement Licence. This must indemnify Epsom & Ewell 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. Evidence of the insurance must be provided to the Council on request.
2. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The licence authorises the use the highway solely for the purpose of the licence and for no other purpose whatsoever.
3. Epsom & Ewell Borough Council reserves the right to revoke this licence at any time if any of the conditions are not fulfilled and maintained.
4. Tables and chairs must not be placed in position outside of the permitted times stated on the licence. 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.
5. Epsom & Ewell Borough Council and/or Surrey County Council are empowered following the service of the appropriate statutory notice, 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.

1. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.

1. 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.

1. Emergency routes to the premises and adjacent buildings must not be obstructed by the operation involved in the Pavement Licence, which should not, unless otherwise agreed, extend beyond the width of the premises frontage.

1. 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’s 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. . Where umbrellas are used they must be at a minimum height of 2 metres.
2. 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.

1. 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.

1. The operation of the area must not interfere with highway drainage arrangements.

1. 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.

1. 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 remove litter and rubbish on pedestrian walkways, left by persons using the premises, for a distance of up to 10 metres from the boundary of the premises. 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 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.
2. At no time is the playing of music allowed for customers using the licensed area under this Licence, nor is the use of speakers or other music equipment allowed to ensure noise nuisance is kept to a minimum for neighbouring properties.
3. The licence holder is not permitted to affix any fixtures, or make 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 the Council or Surrey County Council.

1. 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 the licensed area.

1. The licence must be displayed prominently at or on the premises where it can be conveniently read from the exterior of the premises with a plan of the agreed layout of the operation involved in the Pavement Licence and available for inspection by Authorised Officers of the Council

1. 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.

## 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.

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

Other conditions may be added at the discretion of the Council on an individual licence basis if it is felt necessary to fulfil the purpose of meeting the requirements of the licence.

## National Conditions

The Secretary of State publishes the following conditions in exercise of his powers under Section 5(5) of the Business and Planning Act 2020:

**No-obstruction condition**

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 below;-

(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.

**Smoke-free seating condition**

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 Government has issued guidance on the effect of the national conditions on the .GOV website under ‘Pavement licences: guidance’