



# **Pavement Cafe Policy**

**(Proposed changes have been made in red)**

**HIGHWAYS ACT 1980 Section 115E**

Revised **XXXX**

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## 1. GENERAL

### Introduction

Alfresco dining is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life and interest to an area. Darlington Borough Council (DBC) supports and encourages the provision of pavement cafes in the town centre; they can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live, and work in Darlington. **This assumed an even greater significance during the covid pandemic, when using outside space greatly assisted in the recovery of the hospitality trade.**

The idea of a pavement café is to offer the public the chance to eat and/or drink outside. It is not aimed at increasing the overall size of a public house. If the Council considers that the overall effect of an application will result in a significant increase in customers, additional facilities may be required at the premises to meet that need eg. toilets

Whilst the provision of pavement cafes is encouraged, it is important that they are properly administered and managed to ensure that they meet the high standards expected in Darlington town centre. They should not obstruct the highway or create a hazard for pedestrians, especially for those who are **visually impaired or have other disabilities.**

The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops and pedestrian crossings. Pedestrians' needs must be paramount. The expanse of the pavement café must not conflict with any access or dropped crossings that are required for free passage of normal road users. Barriers and tapping rails should be positioned and maintained to the satisfaction of Darlington Borough Council and should be totally removed outside the permitted hours of operation of the café, **except where approval has been given following consultation with all interested parties/agencies.**

The pavement café should occupy an area directly in front of and be visible from your existing premises. Emergency exit routes from your own and adjacent buildings should not be obstructed by the pavement café and emergency service vehicles must have access along all streets at all times, even in pedestrianised streets.

In general, all parts of the highway may be used for pavement cafés, assuming all safety and non-obstruction requirements are met. The exceptions are:

- Any carriageway or 'shared use surface'
- **Mandatory cycle lanes**
- Any highway verge
- Where width of the pavement makes it impractical.
- Where authorised street furniture makes it impossible

Licences will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the tables and chairs, or from customers visiting or leaving the licensed area, or
- Where there are concerns over the recorded level of personal injury accidents in the locality where the tables and chairs will be sited, or

- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes, or
- There is a conflict with Traffic Orders such as waiting restrictions, or
- The site obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use, or
- The tables and chairs obstruct the safe passage of users of the footway or carriageway, or
- The area to be licensed interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the licence holder, staff and customers to park in a safe manner, or
- The trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- The existing toilet and washing facilities are not adequate to accommodate an increased number of customers using the pavement café or
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage and collection of all refuse associated with their business or
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage of all tables and chairs off the highway without impeding any access or egress from the premises.

In considering the above matters, the standard guidance will be that a licence will only be issued if an unimpeded pedestrian route can be maintained at all times. The route shall ensure that all pedestrians and particularly those with a disability can maintain their normal path where feasible. All applications will be considered on their own merits.

Pavement café licences will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises and employ sufficient staff to provide table service to the outside area.

Pavement café licences will not be issued to self-service premises or takeaway food shops.

The Council will carry out periodic inspections to make sure that all the terms and conditions of the licence are being observed.

**DBC needs to take into consideration safety of all Publicly Accessible Locations (PALS) and this will be assessed before any pavement café licence is granted.**

A pre-licensing visit will be made to each premises upon receipt of an application for the grant, renewal or variation of a pavement café licence, to discuss the application process, the proposed operation of the cafe etc. to provide advice and information to the applicant.

Once the pavement café licence has been issued, further visits will be made to the premises to review the practical day-to-day operation of the café. **An additional assessment will be made at the end of the 'season' to evaluate the operation of the café over that period and to determine if any revision of the operating schedule is necessary.**

Any other visits to the premises will be made on a risk rated rationale determined by the findings of the above visits and/or complaints received during the period of the licence.

## 2. DEFINITIONS

In this Policy, the following phrases shall mean:

Pavement Café:	Pavement Cafés are considered to be tables and chairs placed on the public highway (includes pavements) where food and/or drink is served.
Market Day:	Usually Mondays and Saturdays *
Event Day:	Days when special events take place in the Borough
Normal Day:	Any day other than a Market Day when no special event is taking place in the Borough

\* May include craft and farmers markets regularly on Fridays and other specialist markets on Thursdays and other days throughout the year.

## 3. LEGAL SITUATION

Permissions to use the highway for pavement cafes are granted by the issue of licences by the Council as the Highway Authority under Section 115E of the Highways Act 1980.

Tables and chairs placed on the highway without permission are an illegal obstruction and the Council will take enforcement action in such cases.

A fine of up to £1,000 (Level 3) can be levied by a Magistrates Court for obstructing the highway

Granting a licence to operate a pavement café does not imply an exclusive right to the area. The operator of the café should be aware that the Council reserves the right to gain access to the café area for cleaning, repairing and maintaining the highway or street furniture. Other statutory organisations may also require access for maintenance and repair of their equipment. The Council therefore reserves the right to suspend the licence temporarily if, for any reason, it becomes necessary.

If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice requiring steps be taken to remedy the breach as are specified in the notice within such time as is so specified.

If a person who is served a notice and fails to comply with the notice, the council have the power to take whatever steps are necessary themselves.

Where a council has incurred expenses in the exercise of the power, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the Council from the licence holder.

Under the terms of the Highways Act 1980, the Council cannot grant permission unless it obtains the express consent of interested frontages who may be materially affected by the proposal.

Section 115A(7) of the 1980 Act states that “frontages” means: “the owners and occupiers of any premises adjoining the part of the highway on, in or over which facilities for recreation or refreshment or both, have been, are being or would be provided.”

For express consent to be required, the frontage would have to be affected by the placing of the structure etc between their own frontage and the highway, rather than a structure adjacent to their frontage

The pavement café must operate in accordance with the conditions of the licence. Any breach of the conditions may lead to action by the Highways Section and to a refusal of a licence in the future.

The Council will not permit any wheeled refuse containers, beer kegs, bottle crates, A-boards or advertising signs or any other unsightly or unapproved items to be placed on or adjacent to the pavement café area.

The barriers, table, chairs, and layout shall be as agreed by the Council and conform to the agreed plan at all times

Menu or advertising boards will not be accepted as part of the boundary or as a separate advertising opportunity within the pavement café or on the highway.

On expiry of the licence, where there has been an application to renew the licence prior to its expiry, these conditions shall be deemed to remain in force whilst the premises lawfully continue to operate as if a licence was in force.

The Licence holder shall make no claims or charge against the Council in the event of the street furniture being lost, stolen or damaged in any way from whatever cause except where the same is attributable to negligence on the part of the Council or any of its Officers.

If for whatever period or reason a public liability insurance policy is not in force, the Council shall be deemed to have withdrawn this licence for the period during which the said policy is not in force and the licence holder may be held liable for obstruction of the highway and prosecution under Section 137 of the Act.

The licence holder shall not cause or undertake any alterations to the highway surface.

The licence holder shall not assign, sub-let or part with this interest or possession of a licence.

The Council may at any time vary the conditions of a licence.

The Council will not grant a licence to persons under the age of 18 years.

The Council may suspend or terminate a licence if any of the conditions of the licence are breached.

A licence holder may terminate a licence at 21 days' notice by informing the Council in writing.

The licence does not take precedence over Police powers to preserve order.

#### **4. PRIVATE LAND**

This policy relates only to pavement cafés on a public highway. (Cafes on private land are not covered by this policy.) Although they may not require a pavement cafe licence they may require planning permission if the structures and fittings are not of a temporary nature.

Land that you might consider to be private may in fact have become highway if the public have enjoyed access over it for at least twenty years or if the Council have formally adopted the land. Before proceeding, it would be wise to check with Planning Services to establish if planning permission is necessary and with the Highways Authority to confirm land ownership. Please see Contacts at Section 19 of this document.

#### **5. RIGHTS OF ACCESS**

Authorised Officers of the Council and Police Officers shall have access to a pavement café at all reasonable times.

#### **6. ADVERTISING**

Advertising of **gambling services, vaping products** or alcohol (or their manufacturers) will not be permitted on the barriers or furniture within the Pavement Café area. **Tobacco advertising is already prohibited.**

Advertising may only relate to the premises or business and will require the approval of Darlington Borough Council.

#### **7. DESIGNING THE PAVEMENT CAFÉ**

##### **7.1 Size and Layout**

The size and layout of the proposed pavement café will be dependent upon the characteristics of the site outside of the premises, particularly the space available, taking into account the needs of other town centre users. It is not therefore appropriate for this Policy to set a standard size for the pavement café – see Layout Guide Dimension Criteria below

Plans to be submitted with an application shall be drawn to scale, with dimensions, including areas required, the number of tables and chairs to be provided and pinch points detailing width and length. Applications should take into account market and event days where relevant. Space should be left between the tables and chairs to allow access for all, including wheelchair users.

The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities.

The pavement café should:

- occupy an area directly in front of the Applicant's premises;
- be visible from these premises; and

- not extend beyond the width of its frontage.

Emergency routes from adjacent buildings and the Applicant's premises should not be obstructed by the Pavement Café. If the emergency services object to the proposal on safety grounds, it is very likely that the Council will refuse it.

## 7.2 Minimum Unobstructed Space Criteria

On a normal street, there must remain at least 2.0 metres (6.6 feet) of unobstructed space between the carriageway and the front of the pavement cafe to allow pedestrians to pass by safely.

On streets with high pedestrian usage, there must remain at least 2.75 metres (9 feet) of unobstructed space.

Each case will be judged on its merits and the unobstructed space will be set between 2.0 and 2.75 metres according to the frequency of pedestrian usage and other relevant parameters.

This requirement may however be waived by the Council in certain locations **where it is considered safe to do so**. In addition, a minimum of 2.0 m shall be left between the edge of the Pavement Café and the edge of any adjacent carriageway or vehicle route.

An absolute minimum clear width of 2.0 metre is required from any single point of obstruction e.g. bollard.

A 2.0-metre wide access to the premise should be kept clear at all times.

## 7.2 Layout Guideline Dimension Criteria

A table and two chairs are deemed to occupy a minimum of 2.0 metres by 1.0 metre. (This does not include space for circulation.)

A table and four chairs are deemed to occupy a minimum of 2.0 metres by 2.0 metres. (This does not include space for circulation.)

You must also make allowance for any other equipment and circulation requirements within the area applied for.

## 7.3 Lighting

The Applicant for a pavement café licence should, if intending to open beyond dusk, carefully consider the level of lighting in the proposed pavement café area. Whilst street lighting may be perfectly adequate for a public highway, it may need supplementing to allow the pavement café to operate safely.

Any additional lighting equipment and supply must be specified in the application to enable its impact upon the highway to be considered.

## 7.4 Tables and Chairs



All furniture shall be of high quality constructed of wood or metal and approved by the Council. High quality furniture made from a composite material may also be considered on a case by case basis. Parasols must not have any advertising on except for the name of the business. The advertising of gambling services, alcohol or smoking products is not allowed. All proposed furniture and parasols will be inspected by an Officer of the Council to ensure that they are adequate in quality, construction and colour prior to any licence being issued.

When choosing your furniture you should have regard to the highway surface on which it will stand. Uneven or sloping surfaces may require more sturdy styles of furniture and tables and chairs with narrow or thin legs may cause damage to certain paving.

It may be advisable to discuss this at an early stage and certainly before any furniture is purchased. Full details, including metric dimensions, materials and colours, of proposed furniture, ideally accompanied by photographs, illustrations or drawings, will be required as part of the application.

The Council reserves the right to reject applications where inappropriate furniture is proposed.

Tables, chairs, parasols, barriers, etc. shall not be stored on the highway when the pavement café is not open or when the furniture is not in use unless, in exceptional circumstances where permission has been granted following consultation with key stakeholders. If furniture is stored within the premises, any fire exit or escape route must not be blocked by stored furniture.

The Council reserves the right to refuse a licence to any applicant who has not made suitable arrangements for the internal storage and collection of refuse and to withdraw the licence if the approved arrangements are not adhered to.

The layout of the café's furniture and means of enclosure must provide adequate access and circulation space for all customers including wheelchair users and those with pushchairs, buggies, etc.

Tables and chairs should not be located where they will impede drivers' sight lines or obscure highway signs.

All necessary items shall be removed from the highway if requested by a police officer, an authorised Council Officer or representative of a public utility. These items shall remain off the highway for as long as is required.

## **7.5 Parasols**

To protect customers from excessive sun light, parasols shall be available for use at each table if the pavement café area is in direct sunlight, and a customer requests that a parasol be provided.

Parasol's metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

The design and colour of parasols will not be restricted to a particular type but they should be made of high quality materials and fabric and be of a uniform design and colour. Bright, garish or reflective colours should be avoided.

Parasols, when opened must not overhang the boundary of the pavement café and must remain closed in periods of high winds, Parasols should be safely secured and contained

entirely within the boundaries of the pavement café to ensure they do not cause an obstruction or present a danger to any user of the pavement café or any other users of the highway.

In some circumstances, it may be appropriate for larger freestanding parasols **or outdoor shade structure** covering several tables at once to be used. Each case will be dealt with on its merits.

Garden style umbrellas are not acceptable.

## 7.6 Space Heaters

If you intend to use space heaters their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

You will also be required to submit a formal risk assessment as required by the Management of Health and Safety at Work Regulations 1999 in support of your application. This should be carried out by a competent person (someone who has knowledge of the law, British Standards, and Health and Safety Executive Codes of Practice and Guidance).

In considering an application, the Council will have regard to the inherent safety of the equipment, its location, storage of Liquid Petroleum Gas cylinders, maintenance and training arrangements.

**The use of electric heaters will be considered subject to a risk assessment taking into account the siting of the heaters, location of electrical points, cables and protection from the weather.**

The Council will consider the adequacy of the risk assessment, which must:-

- identify the hazards e.g. fire, explosion, burns, impact from falling equipment / cylinders
- decide who may be harmed and how
- evaluate the risks and decide whether proposed precautions will be adequate or whether more could be done
- record findings
- review assessment and revise if necessary

## 7.7 Other Furniture

If you propose to use planters within your pavement café, good quality plastic or glass fibre may be permitted as a means of reducing their weight to maintain portability.

At least one children's high chair must be available for customers to use within the pavement café.

## 7.8 Barriers

Barriers or other means of enclosure are required in order to ease pedestrian movement, guide the visually impaired, protect users of the facility and contain the licenced area.

The entire pavement café (apart from entrances) **shall be enclosed in its entirety** with a suitable barrier and space will be required for circulation and access within the enclosed area in addition to that for tables and equipment.

Structures must be sturdy enough to prevent collapse if accidentally walked or stumbled into. They should consist of at least two solid horizontal elements; the lower element should not be more than 155 mm above the ground and the second element between 800 and 1000 mm above the ground.

Hoops or post and chain type barriers and low-level objects will not be acceptable

Barriers must not be permanently fixed to the ground where this is public highway.

Each barrier can incorporate the café logo if desired. The barriers should be supported by suitable 'feet' that do not cause a trip hazard to pedestrians particularly partially sighted people.

A collaborative approach may be considered where a number of small pavement cafes wish to combine their space into one pavement café area provided they all consent, and this will only be subject to approval if all key agencies agree. Where granted, should problems occur because of this agreement the Council reserves the right to require barriers to delineate each pavement café.

## 7.9 Accessibility

All pavement cafes should be accessible for wheelchair users.

Where access to the pavement café is not level, a suitable and stable ramp, sufficient to allow access by a reference wheelchair must be available at all times. (A reference wheelchair has: (a) total length of 1200mm including extra-long footplates (b) total width of 700mm.)

## 8. ALCOHOL

In order to supply alcoholic drinks at the pavement café you will need to obtain the permission of the Licensing Authority in the form of a premises licence. This is an entirely separate matter to granting a pavement café licence.

Drinks shall not be served to people standing outside the boundary of the pavement café, nor shall people purchasing drinks within the area be permitted to stand and drink or to take them outside of the area.

No alcohol shall be sold or consumed within the designated pavement café area unless in compliance with any beverage licence.

A pavement café licence should not be a means to extend the overall capacity of a public house. It is expected that a pavement café will enhance facilities by offering food and drink in a pleasant outdoor environment, however, if the service of alcohol only takes place in a pavement café and there is anti-social behaviour or disorder, then the pavement café licence may be reviewed, revoked or not renewed.

Drinking alcoholic beverages directly from bottles is not permitted in the pavement café area. Wine may however, be served from the bottle at outside tables. Soft drinks may be allowed in bottles on the provision that they are removed and safely disposed of immediately after the contents have been consumed. All glasses should be made of toughened or tempered safety glass, polycarbonate, plastic or paper cups.

The café area should be kept under supervision at all times of its operation and all patrons/customers should be seated at all times.

## 9. SMOKING

There will be a zero tolerance **no smoking** policy for all pavement cafes. A no smoking sign will be displayed at the entrance and a sign will be placed on each table. This ban is to include the use of vaping products.

Pavement cafes are not to be used as an outdoor smoking area and those wishing to smoke should be directed to a location away from the barriers where smoke will not drift across tables. Applicants will be asked to identify an area where they will direct smokers to.

## 10. FOOD

Food businesses are required by law to be registered with the local authority. This is an entirely separate consideration to granting a pavement café licence. This can be done by obtaining an application form from Environmental Health, please see Contacts section on page 15 of this policy.

The pavement café area is to be used only for the service and consumption of food and drink.

The Council expects food provision to be at the very least, the provision of sandwiches, pastries, cakes etc., extending to table meals.

All food offered for sale must be detailed upon a menu or menu board, available to each patron.

Items such as canapés, appetisers, cocktail snacks, nuts, crisps etc. will not be deemed to constitute food for the purposes of the pavement café licence.

Food and drink must not be stored or prepared outside the normal premises as there may be difficulties with temperature control and a risk of contamination. It is imperative that good food hygiene practices are followed at all times.

All the food and drink that is consumed within the pavement café area should be ordered and purchased there.

The crockery and cutlery used in pavement cafes should be of good quality and a uniform style. Plastic plates and cutlery are not acceptable.

Food should be served on plates and not in plastic or cardboard containers or paper bags or other wrappers.

All tables must be cleared of all uneaten food, used crockery, cutlery etc. and properly cleaned of any spillage immediately they are vacated by customers.

Any food spilt on the highway must be removed immediately and the area washed at the earliest opportunity. This will minimise the likelihood of birds scavenging in the area.

If birds roost on buildings or in trees adjacent to the pavement café, applicants should consider providing parasols or some other form of cover in order to minimise the risk of food contamination.

Food should never be placed in an unprotected area where a passing guide or assistance dog could be drawn to it.

The licence holder will be responsible for the cleanliness of the pavement café area at all times. Care should also be taken to ensure that litter does not stray or get blown further afield.

Menus should be readily available either at the tables or on request. A-boards must not be used to display menus or advertise the cafe as they can cause dangerous obstructions to pedestrians.

An area of approximately 5 metres around the site should be kept clear of any stray or windblown litter from the café.

The area should be swept when necessary to keep it clear of litter and refuse. Spillages and breakages, especially of glass and crockery, should be cleared up immediately. Care must be taken to avoid nuisance to customers and to ensure that hazards are not created during this work. The café area should be cleansed at the end of the trading day or as soon as practicable.

At least one suitable litterbin must be provided within the café area at all times of operation. **This litter bin should have a lid to prevent the contents being blown by the wind and prevent flying insects being attracted to the location.** Wheelie bins are not suitable for this purpose.

The use of barbecues, rotisseries, ice cream machines, drinks machines or any other equipment for the preparation and / or sale of food and drink for consumption on or off the premises will not be permitted within the pavement café area.

## **11. NOISE / NUISANCE**

The issuing of this licence does not in any way permit the playing of live or recorded music or **use of sound amplification equipment such as radio or television receiving sets** for the entertainment of customers using the external area. This is in order to prevent public nuisance to nearby residents and adjacent premises and cafes.

**Television screens will not be positioned to make them visible from the pavement café unless otherwise agreed in writing by the Council following consultation with key agencies. Where consent has been granted, the Council reserves the right to withdraw this at any time where there are concerns for public safety.**

Advice on how to minimise noise disturbance can be obtained from the Council's Environmental Protection team (see section 19 of this policy for contact details).

## **12. FEES**

The current fees payable for the grant and renewal of consent permits are available from the Licensing Office and the Councils website.

Fees are based on the size of the proposed external pavement café area.

Fees are due on an annual basis.

Fees are not refundable if the application is unsuccessful.

Fees are not refundable where a licence is surrendered.

### **Variations to Fee Structure**

The fee structure is reviewed annually as part of the budgetary process. Notice of the current scale of fees will be supplied to new applicants at the time of application.

### **13. INSURANCE**

The Licence holder shall indemnify Darlington Borough Council against all liability which may at any time be taken made or incurred in consequence of the use of Pavement Cafés and for this purpose must take out a policy of insurance in the sum of up to £5,000,000. The holder must also produce to the Council, on request, current receipts for premium payments and confirmation of annual renewals of the policy. (Applicants are advised to inform their insurance company of the intention to obtain a pavement café licence, as an existing policy for the premises may not automatically cover this function.)

### **14. MANAGEMENT**

The licence holder is responsible for the satisfactory conduct of people within the pavement café. Rowdy or unruly behaviour may lead to the suspension or termination of the licence.

### **15. HOURS OF OPERATION**

The **maximum** permitted hours of operation will be between:

**Monday to Sunday between the hours of 08.00 hours and 22.30 hours**

Please note that these are maximum hours that may be applied for. If there are objections to the total number of hours of operation requested then shorter hours may be offered. If no compromise can be agreed, then the application will be referred to the Council Licensing Committee for consideration.

Please also note that there is no drinking up period, therefore licence holders will be expected to manage the laying out and clearing of the pavement café within these hours. Posts, barriers, tables and chairs shall not be placed upon the highway before the commencement of operational hours and shall be removed entirely before the end of the operational hours.

The pavement café area shall be cleared of all waste and litter at the end of each and every licensed opening period.

### **16. APPLICATION REQUIREMENTS AND PROCESS**

Each application for **grant and/or renewal** will be accompanied by:

- i) A completed application form; and
- ii) Risk assessments covering Health and Safety and
- iii) The prescribed fee; and
- iv) A certificate of Public Liability Insurance of at least £5 million. This must indemnify the Highway Authority 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, and
- v) Details of brand, type and materials of proposed furniture; and
- vi) Details of any external lighting and heating equipment; and
- vii) Details of opening and closing times, and
- viii) Contact details for the applicant and of the property owner (if different) and
- ix) A site plan to scale of 1:100 (or 1:200 if considered adequate by officers). This should show:
  - The proposed boundaries of the café giving dimensions and distance from kerb line and street furniture such as bollards etc.
  - Building line
  - Kerb line
  - Layout and dimensions of tables and seating
  - Dimensions and points of access
  - Location and dimensions of parasols and any freestanding lighting and/or heating equipment.

If the plan is not to scale and/or does not contain full details with accurate dimensions, then the application will be rejected and returned.

**Applications shall be sent to**

**Licensing, Darlington Borough Council, Town Hall, Feethams, Darlington. DL1 5QT**

If a licence is transferred then the new licence holder shall produce a certificate of Public Liability Insurance of at least £5 million. This must indemnify the Highway Authority 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.

## **17. CONSULTATION**

### **Grant of Licence**

Where the application is for the grant of a licence, the Council will undertake a full consultation, which will include the Police, and various sections within the Council (Planning, Environmental Health, Highways, Utilities, Darlington Association on Disability (DAD), and, if the pavement café is to be located in the Market place, the Markets Officer will also be consulted.

The Council will publish street notices and will consult with nearby frontages that may be affected. The street notices, in the case of a first time application, will be displayed for a minimum of 28 days at the premises.

### **Renewal of Licence**

Where the application is to renew the licence, the Council will consult with the Police and Environmental Health only, unless there is a variation to the hours of operation, the size or layout of the pavement café when the Council will undertake a full consultation.

### **Variation of Licence**

Where the application is to vary the terms of the licence i.e. to increase the number of covers, or to amend the layout of the pavement café, the Council will undertake a full consultation.

### **Transfer of Licence**

Where the application is to transfer the licence, the Council will consult with the Police and Environmental Health only.

### **All Applications**

Applications for a Pavement Café Licence may be submitted with an alternative layout plan that would provide a bigger café area, at certain times or periods, however, only one pavement café layout may be provided at any one time. Pavement cafes licenced areas may not be divided by splitting the café into two discreet areas.

The Applicant shall provide a written assessment of the risks to which their employees are exposed whilst at work and must also assess whether there are risks to members of the general public that arise out of the general conduct of their business specifically in relation to the highway and also the remedies to such risks.

NB Reviews of risk assessments shall always be carried out when there is reason to suspect that a current assessment is no longer valid or on event days where activities affect the premises and the result of the review must be documented.

## **18. TERMS AND CONDITIONS**

The licences will run from the date they are issued renewable annually

The pavement café licence must be displayed in a prominent position in an external window facing the frontage.

On certain event days, the pavement café may be required to close. Should this be required a notification will be sent from the Council's Public Events Safety Advisory Group (PESAG) advising of the times and reason for the closure)

## **19. CONTACTS**

These contact details may prove to be useful:-



**Subject**

**Details**

**Planning**

**☎ 01325 388082**

**✉ [planning.enquiries@darlington.gov.uk](mailto:planning.enquiries@darlington.gov.uk)**

**Highway Enquiries**

**☎ 01325 388748**

**✉ [highways@darlington.gov.uk](mailto:highways@darlington.gov.uk)**

**Market Square/Pedestrian Heart**

**☎ 01325 388692**

**✉ [markets@darlington.gov.uk](mailto:markets@darlington.gov.uk)**

**Food/Health and Safety**

**☎ 01325 388566**

**✉ [customerservices@darlington.gov.uk](mailto:customerservices@darlington.gov.uk)**

**Licensing Enquiries**

**☎ 01325 405888**

**✉ [Licensing@darlington.gov.uk](mailto:Licensing@darlington.gov.uk)**

**Durham Constabulary**

**☎ 101 Ext 742782**

**✉ [Licensed\\_Economy\\_Team@durham.police.uk](mailto:Licensed_Economy_Team@durham.police.uk)**

**Street Fixtures/Furniture**

**☎ 01325 388777**

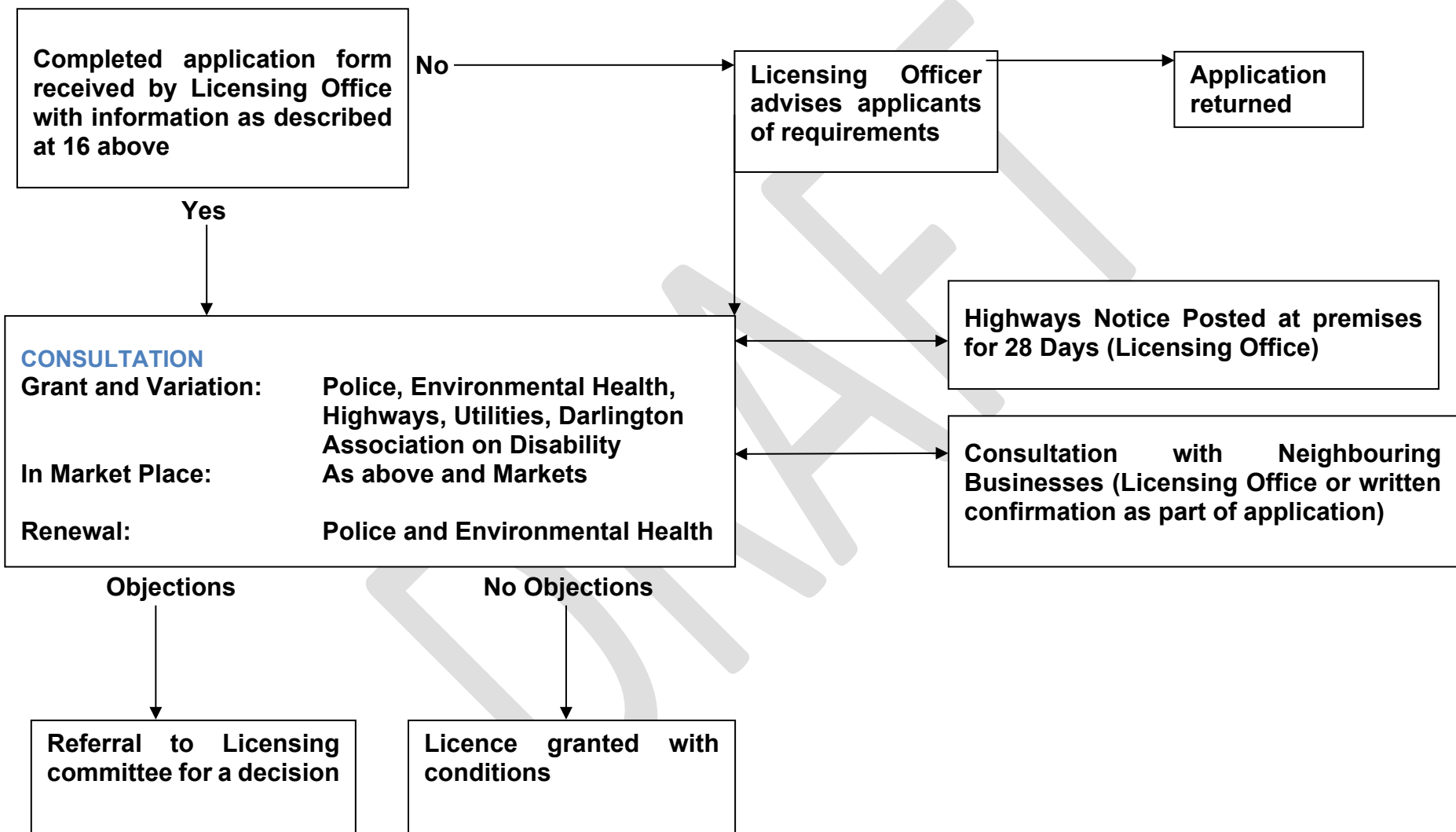
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## 20. SUMMARY OF PROCEDURE FOR GRANT OF PAVEMENT CAFÉ LICENCE

### Complete Information

### Not Complete



## 21. STANDARD CONDITIONS FOR PAVEMENT CAFÉ LICENCES

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### Policies

1. Licences shall be granted for a maximum of one year
2. Application Fees are payable in advance and shall not be refunded if application is unsuccessful
3. All licences shall be issued in accordance with the Policy in Relation to Pavement Café Licences revised 2022.

### General

1. The maximum permitted hours of operation as stated on the attached licence shall not be exceeded without prior permission from the Council.
2. A copy of the licence and pavement café layout plan must be displayed at the premises at all times.
3. Food and non-alcoholic drinks must be available at all times when the pavement café is open.
4. Smoking will not be permissible within the pavement café at any time. This includes the use of vaping products.
5. “No Smoking” sign will be prominently placed at each entrance and on each table.
6. Posts, barriers tables and chairs shall not be placed upon the highway before the commencement of operational hours and shall be removed entirely before the end of the operational hours. The area shall be left clean and tidy and free of any rubbish.
7. Furniture stored within the premises should not at any time block a fire exit.
8. The use of advertisement boards is prohibited
9. The advertising of gambling, alcohol or smoking/vaping products is prohibited
10. Barriers and parasols can advertise the name of the business only.
11. The café area must be supervised at all times whilst it is operational
12. No live or recorded music shall be played within any part of the Pavement Café.
13. Use of sound amplification equipment such as radio or television receiving sets is prohibited
14. Television screens will not be positioned to make them visible from the pavement café unless otherwise agreed in writing by the Council
15. Emergency routes from adjacent buildings and the applicant’s premises shall not be obstructed by the pavement café
16. The licence holder shall not cause or permit any alterations to the highway surface.
17. The licence holder shall not assign, sub-let or part with his interest or possession of a licence.
18. The Council may suspend or terminate a licence if any of the conditions of the licence are breached.
19. A licence holder may terminate a licence at 21 days’ notice by informing the Council in writing.

20. Authorised Officers of the Council and Police Officers shall have access to a pavement café at all reasonable times.
21. If requested by a police officer or an authorised officer of the Council, all items shall be removed from the highway. These items shall remain off the highway for as long as is required.

### **Management**

22. The licence holder shall be responsible for the conduct of people, both patrons and employees, within the pavement café area.
23. Patrons shall not be permitted to remove food, drinks, crockery or any cutlery from the pavement café.
24. Only patrons seated at tables shall be served or permitted within the pavement café

### **Service**

25. All tables must be cleared of all uneaten food, used crockery, cutlery etc. and properly cleaned of any spillage immediately they are vacated by customers.
26. No alcohol shall be sold or consumed within the designated Pavement Café area unless in compliance with any beverage licence.
27. Food must be prepared on the premises in an appropriate kitchen area.
28. Food and drink must not be stored or prepared outside the normal premises
29. All the food and drink that is consumed within the pavement café area must be ordered and purchased there.

### **Articles used in the Café**

30. All furniture shall be of high quality constructed of wood, metal or **suitable composite** and approved by the Council.
31. Parasols shall be available for use at each table if the pavement café area is in direct sunlight, and a customer requests that a parasol be provided.
32. Parasols, when opened must not overhang the boundary of the pavement café and must remain closed in periods of high winds
33. All alcoholic drinks shall be decanted from the bottle except when a customer has ordered a particular bottle of wine, in which case, the opened bottle may remain on the table or be decanted into a polycarbonate wine container. Staff shall ensure that all empty bottles are removed from the pavement café immediately.
34. Permitted receptacles to be used within the pavement café are:-
  - . Glasses made of toughened or tempered safety glass
  - . Glasses made of polycarbonate or plastic
  - . Paper Cups
  - . China cups, saucers and plates
  - . Metal Cutlery
35. At least one children's high chair must be available for customers to use within the pavement café.

36. The use of barbecues, rotisseries, ice cream machines, drinks machines or any other equipment for the preparation and / or sale of food and drink for consumption on or off the premises will not be permitted within the pavement café area.

### **Boundary and Barriers**

37. The entire pavement café (apart from entrances) shall be enclosed in its entirety with a suitable barrier, the design and dimensions of which must be agreed, in writing, by the Council. Space will be required for circulation and access within the enclosed area in addition to that for tables and equipment.
38. All activity associated with the pavement café shall be contained within the boundary including tables, chairs and other permitted equipment.
39. The agreed boundary and layout of the pavement café as defined by the plan attached to the Licence shall not be altered without the express permission of the Council.
40. Barriers must not be permanently fixed to the ground on a public highway.
41. Where access to the pavement café is not level, a suitable and stable ramp shall be provided at all times.
42. A minimum distance of 2.0 metres between the edge of the pavement café and the edge of any adjacent carriageway or vehicle route shall be maintained. If the pavement café is on a street with a high pedestrian usage this minimum may be increased to 2.75 metres. An absolute minimum clear width of 2.0 metre is required from any single point of obstruction e.g. bollard.

### **Litter**

43. The licence holder shall keep the area within the boundaries clean and litter free. Any litter that escapes from the inside of the licensed area to the outside of the area shall be collected by the licence holder
44. Suitable litter/refuse bin(s) **with lid** shall be provided within the pavement café area at all times of operation. The licence holder shall be responsible for disposing of all waste produced at the pavement café

### **Insurance**

45. The licence holder shall provide Public Liability insurance cover for the pavement café and shall indemnify the Council against all claims in respect of injury, damage or loss arising out of the granting of permission, (eg damage to the highway or highway furniture) to a minimum value of £5,000,000 unless such claims arise out of the Council's own negligence.
46. If for whatever period or reason a public liability insurance policy is not in force, the Council shall be deemed to have withdrawn this Licence for the period during which the said policy is not in force and the licence holder may be held liable for obstruction of the highway and prosecution under Section 137 of the Act.

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