

Temporary Pavement Licences

Briefing Note No. 20-27

Service : Enforcement, Highways Operations
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Temporary Pavement Licences

1.0 Purpose

- 1.1 The purpose of this briefing note is to brief the Licensing Committee on the introduction of Temporary Pavement Licences in response to central Government's proposals to stimulate the UK economy and the introduction of the Business and Planning Bill 2020.

2.0 Background

- 2.1 The Country was placed into national lockdown on 23 March 2020 due to the Covid-19 pandemic. Lockdown restrictions have been eased throughout May, June and July 2020. A proportion of hospitality businesses, pubs, bars, restaurants and cafes reopened on 4 July 2020.
- 2.2 Businesses reopening must adhere to strict social distancing measures and cleansing regimes to ensure the safety of their staff and customers. Social distancing measures have reduced the space for tables and chairs indoors and the space in general to accommodate standing customers in all establishments.
- 2.3 Central government announced the Business and Planning Bill 2020 on 25 June 2020, the aim of the bill is to make provision relating to the promotion of economic recovery and growth.
- 2.4 The Business and Planning Bill 2020 included provision for Temporary Pavement Licences. Local Authorities were instructed to make it easier for establishments selling food and drink to apply and utilise the highway/paved area outside of their premises for siting tables and chairs. It is hoped the provision of additional seating outside will encourage economic recovery.
- 2.5 The Bill reduced the current 30-day consultation period for considering highway table and chair applications to 10 working days.

- 2.6 The Government indicated that a fee of up to £100 could be charged for each licence. Wiltshire Council took the decision to issue the licences for free to support Wiltshire Businesses.
- 2.7 Temporary Pavement Licences will last for a period of 12 months from the date of issue.
- 2.8 A full Covid Secure risk assessment must accompany each application, and this will be reviewed by the council before the application is processed. All applicants must have appropriate public liability in place to site tables and chairs on council land.
- 2.9 Through effective team working between multiple departments the council has devised a process that allows applications to be processed within the 10-working day timeframe. A copy of the process flow is attached as Appendix A.

3.0 Current Position

- 3.1 The Council issued a countywide communication on 7 July 2020 inviting all relevant businesses to apply for a temporary pavement licence and setting out the application requirements. Applications will be managed by the Markets Team within the Enforcement Service who currently deal with applications for street furniture on the highway.
- 3.2 Each application will be assessed on a case by case basis. A set of standard terms and conditions have been drafted and are attached as Appendix B. It should be noted that there may be specific conditions attached to a pavement licence if the location demands as such. In addition, some applications may be refused due to there not being sufficient space on the proposed highway location where safe passage or Covid Secure space cannot be maintained. This criterion will remain the priority for the council over and above any licence request.
- 3.3 As of today, 23 July 2020, the Council has received 10 expressions of interest resulting in 7 formal applications for a temporary pavement licence. 1 licence has been issued to date with 6 applications in progress.

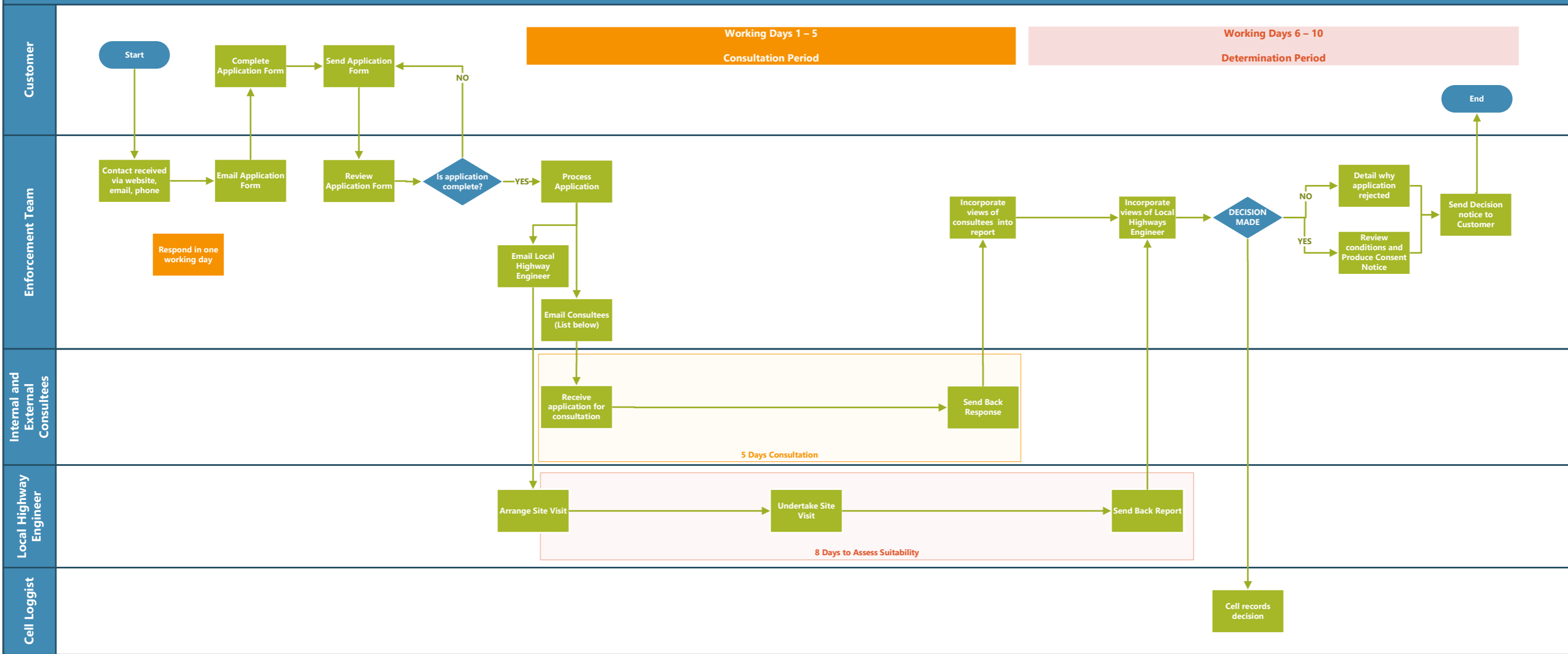
4.0 Summary

- 4.1 The Business and Planning Bill 2020 was approved on 22 July 2020. The council has moved quickly, ahead of the legislation becoming law, to implement a fast track a process for Temporary Pavement Licences.
- 4.2 The process has been successfully implemented and Wiltshire Council are now issuing Temporary Pavement Licences in an effort to support Wiltshire Businesses through the current difficult economic circumstances.

Briefing Note produced by Tom Ince (Principal Compliance Officer)

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Temporary Pavement Licence Application Process



- List of Consultees**
- Internal:**
- Public Protection (Licensing): publicprotectionnorth@wiltshire.gov.uk
 - Public Protection (Food Safety Team): publicprotectionwest@wiltshire.gov.uk
 - Traffic Engineering: Integrated.Transport@wiltshire.gov.uk
 - Webteam: webteam@wiltshire.gov.uk
- Note: Standard instructions to web team on template consultation email to redact and upload as part of public consultation.*
- Local Highways: Relevant Area Highway Manager
 - Parking Services: parkingservices@wiltshire.gov.uk
- External:**
- Local Ward Member – relevant to area.
 - City/Town/Parish Council – relevant to area.
 - Police: policeenquiryoffice@wiltshire.gov.uk
 - Fire: fire.safety@dwfire.org.uk
 - Chamber of Commerce: info@wessexchambers.org.uk

Consent Conditions for a Temporary Pavement Licence

1.0 General Conditions

- 1.1. Seating areas covered by this pavement licence must be placed directly against the frontage of the business and should not extend beyond the frontage of its own premises (unless previously authorised).
- 1.2. On footways a clear pedestrian route must be maintained. This should be a minimum width of 2 metres. Emergency exits from the premises or adjacent buildings must not be obstructed. Outside of town centres where footfall or traffic is infrequent, a minimum of 1.8 metres should be left between the boundary of the display and any space used by vehicles.
- 1.3. In pedestrianised areas a larger clear area may be required to aid the passage of emergency and delivery vehicles; disabled persons or in the area of bus stops, outside theatres or schools; or other places where the passage may be additionally narrowed by groups of pedestrians.
- 1.4. The design of the licensed area should be well defined so as to be clear to people with visual impairment and include solid elements near to ground level which are detectable by stick (visually impaired walker).
- 1.5. The area is for eating and drinking only; other activities such as cooking, live demonstrations or other activities or events that may draw additional crowds are not permitted and may require street trading consent or further permission from the council.
- 1.6. The licensed area must be kept clean and litter free by the licence holder who should ensure that litter does not stray onto neighbouring areas. Regular litter picking of the area, and if necessary the wider street, must be carried out to ensure this. Regular table clearance should be carried out to prevent litter. Litter bins must be provided and should be emptied on a regular basis.
- 1.7. This licence does not imply an exclusive right to the area and others may have rights over it for events, maintenance, repairs etc. In particular, utility providers, e.g. gas water, electricity, have rights under legislation. The licensed area may have to be removed while repairs are being carried out. There will be no compensation claims from the licence holder in these circumstances.
- 1.8. Licence holders must remove all furniture and the end of each trading day from the highway or council land. Businesses may also be requested to remove the furniture when the area is closed for community events or regular weekly markets and there will be no compensation in this circumstance.
- 1.9. The Council will take action to remove any furniture which does not form part of the agreed temporary licence. The licence may be withdrawn if a business fails to comply with the conditions listed within this document.
- 1.10. Adequate space must be left between tables for wheelchair access. If toilet facilities do not meet the requirements necessary for wheelchair access, a sign should be displayed to ensure people are aware of this.
- 1.11. When the licensed area is in use an enclosure will be required. The colour and materials of the enclosure should be considered carefully to ensure that it is not too visually dominant, but at close range contains key elements which stand out against the background. In some circumstances a design may be required to retain some continuity of design in the immediate area.
- 1.12. Good quality seating and tables are expected. A mixture of furniture is not recommended. The materials and colours should not be too bright, garish or overly reflective. Tables should be of a design to permit wheelchair use (Picnic-type benches are not suitable for people with disabilities).

- 1.13. The use of parasols, if proposed, should be considered as part of the overall design along with their locations, material and colour. These should be positioned so they cannot overhang the enclosure even if adjusted, as this could cause danger to passing pedestrians. They must be able to withstand moderate wind and be quickly lowered or removed in high wind.
- 1.14. Patrons should be seated only and their numbers should not exceed the permitted number.
- 1.15. Where alcohol is to be consumed, an alcohol licence is required that specifically includes the licensed area.
- 1.16. The conduct of people within the licensed area is the responsibility of the business operator. Unruly or rowdy behaviour may lead to the withdrawal or non-renewal of the temporary licence. Any request from the Police for this withdrawal or non-renewal will be taken extremely seriously. The Police may also request other conditions, for example the use of plastic containers, or increased supervision at their discretion.
- 1.17. The hours of operation of the temporary licensed area must be agreed and be adhered to at all times. They are subject to Police approval and are dependent on the location of the licensed area. In some areas delivery vehicle access will mean the operation must be restricted to certain hours.
- 1.18. No music is to be played within the area covered by the licence (or existing consented area).
- 1.19. No other items are permitted - this includes patio heaters.
- 1.20. Where new outdoor space is being allocated to practise social distancing for the purpose of eating and drinking, the licence holder should consider making this smoke-free. Where this is not possible, due to limited space, a designated smoking area, separate to a non-smoking dining area should be provided. This will ensure that both the comfort and safety of the public and employees can be maintained at all times. The licence holder should also provide waste receptacles for smoking to prevent littering of the highway. Any necessary cleaning of the area due to smoking related waste will be the responsibility of the licence holder.
- 1.21. The licence holder should be aware that smoking is prohibited in any substantially enclosed (less than 50% of the wall space is open) structure whether permanent or temporary, to include enclosed awnings, gazebos and marquees. Considerations should be made to avoid smoke drifting into enclosed areas.

2.0 COVID Secure Conditions

- 2.1 The proprietor must undertake a suitable and sufficient 'Covid Secure' risk assessment. Failure to complete a risk assessment which takes account COVID-19 or completing a risk assessment could constitute a breach of health and safety law and will negate these conditions and a licence will not be granted.
- 2.2 The opening up of the economy following the COVID-19 outbreak is being supported by NHS Test and Trace. Therefore, the proprietor should assist this service by keeping a temporary record of customers and visitors for 21 days, in a way that is manageable for the business, and assist NHS Test and Trace with requests for that data if needed. All GDPR protocols must be robustly applied by the proprietor.
- 2.3 The proprietor must provide clear guidance on expected customer behaviours, social distancing and hygiene to people on or before arrival. For example, on online booking forms and on-site signage and visual aids which explains to customers that failure to observe safety measures will result in service not being provided.
- 2.4 Before arrival it is advised that the proprietor request that customers order online, on apps or over the telephone to reduce queues and to make it easier to trace possible infection chains should the need arise.

- 2.5 Tables and chairs should be configured to accommodate for social distancing of a minimum of one metre plus the obligatory COVID secure precautions.
- 2.6 The proprietor should erect signage, displaying clearly to customers that social distancing guidelines must be adhered to at all times.
- 2.7 Staff to make regular announcements to remind customers to follow social distancing advice. The use of floor tape to mark areas to help people keep to a 1m distance is a good option.
- 2.8 Proprietors are to locate hand sanitiser at entry and exit points – staff to insist that customers use this precaution before being seated.
- 2.9 The proprietor must have in place, stringent sanitation and disinfectant procedures of tables, chairs, etc. which will need to be applied before and after every customer is seated.
- 2.10 Staff may wish to use face coverings when serving customers.
- 2.11 The same staff member must serve the customers throughout their stay.
- 2.12 The proprietor must provide single use menus, disposable condiments / single sachets or clean non-disposable condiment containers after each use.
- 2.13 The proprietor must consider where congestion maybe caused by people flow and 'pinch points' – Consideration must be given to safe pedestrian access at all times – **do not block pedestrian footpaths**. Note – Regular inspections will be conducted to ensure safe passage is maintained. Highway users and the safe passage to ensure social distancing on pavements and roads takes priority over any outdoor seating areas.
- 2.14 The proprietor must frequently clean and disinfect objects and surfaces that are touched regularly, using standard cleaning products.
- 2.15 Table service will need to be modified to minimise contact, reduce table touches and the use of disposable food service items. It is advised to change napkins and tablecloths after each customer or party's use.
- 2.16 The proprietor should encourage the use of contactless payments where possible, without disadvantaging older or vulnerable customers. If cash is offered, ask customers and staff to exchange cash by placing on a receipt tray.
- 2.17 Customers may arrive wearing face masks – do not let customers discard their face masks inappropriately or leave them on the tables. Normal cleansing and litter management arrangements should be applied.
- 2.18 Toilet facilities should be provided to customers. The proprietor must provide adequate hand washing and hand drying facilities (either paper towels or electrical driers) – **do not make 'cotton towels' available for this purpose**. Special care must be taken for thorough and regular cleaning of customer toilets. Setting clear use and cleaning guidance for staff assigned to toilet cleaning duty must be in place to ensure they are kept appropriately clean and social distancing is achieved as much as possible.

By signing this document, I confirm agreement to the above conditions for a period of 12 months and will adhere to them at all times. I understand that this temporary licence may be revoked if I breach any of the above conditions.

Signed:.....

On behalf of:.....

Print Name:.....

Dated:.....