
Pavement Licensing Policy

1. Introduction

- 1.1 The Business and Planning Act 2020 (as amended) was introduced as temporary legislation to assist businesses and remove existing bureaucracy around what were known as Tables and Chairs Licences under the Highways Act. The Business and Planning Act 2020 has now been amended by the Levelling Up and Regeneration Act 2023 which makes the Pavement Licence regime permanent.
- 1.2 The Act allows Chelmsford City Council to permit specified furniture to be placed on the highway (mostly footpaths and pedestrianised areas) although where applicable, businesses may still need the activity to be licensed, for example, sale of alcohol.

2. Definition of 'pavement licence'

- 2.1 A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, and for certain purposes.

3. Eligible Businesses

- 3.1 A person (which includes a body corporate) 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, ice cream parlours or similar.
- 3.2 A licence permits the business to use furniture placed on the highway in order 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.
- 3.3 A pavement licence does not licence the activity, only the placing of the furnishings.
- 3.4 The pavement licence is issued to a person or incorporated body. Where there is a change to that person or incorporated body then the licence will lapse, and a further application will need to be made by any new person.

4. Eligible Locations

- 4.1 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).
- 4.2 The Policy is intended to ensure that the locations where tables and chairs are permitted to be placed are such that they do not cause any safety concerns by way of obstructions (for emergency services vehicles) and that the areas remain accessible to all, including those with visual impairment or mobility requirements.
- 4.3 This policy is applicable throughout the Chelmsford City Council area, although its main impact is within the city centre as other areas with demand for tables and chairs tend to be on privately owned land.
- 4.4 Tables and chairs can only be placed in front of the façade the licence holder is responsible for, unless written permission has been obtained from the owner/operator of the premises whose façade the tables and chairs are proposed to be placed.
- 4.5 Tables and Chairs will not be permitted where they would restrict any pedestrianised public highway to less than 2.5 metres in width or impede any designated cycle route. There are certain city centre high footfall locations where 2.5 metres will be an insufficient minimum width, and more space will be required.

Chelmsford City Centre

- 4.6 The Council has approved particular restrictions to the granting of pavement licences in the pedestrianised area of Chelmsford Town Centre. These restrictions reflect the particular aspects and design of the area which is intended for flexible use, the high pedestrian footfall and lines of pedestrian movement, risk of congestion and needs of residents with visual or physical impairment. They also result from the consideration of people using the area who are neuro-diverse. Therefore, only certain parts of the pedestrianised area of the Town Centre are considered suitable for a pavement licence, and particular criteria must be met.
- 4.7 From 11 High Street northwards to the top of the High Street tables and chairs are only permitted in the hatched areas of the plan at Appendix 1. There must be a minimum width of 3 metres between the business façade and the tables and chairs, and a minimum 5 metre clear route along the centre of the street. The maximum depth of the area licensed for tables and chairs in this area is to be 2.5 metres. Following a decision by Regulatory

Committee there is an area to the front of 90 High Street with a depth of 1.6m where tables and chairs will be permitted to abut the front of the premises.

- 4.8 To the south of 11 High Street, including the lower section of the High Street, Springfield Road and Moulsham Street, tables and chairs are to be placed abutting the façade. The maximum depth of the area licensed for tables and chairs is to be 2.5 metres, unless it can be demonstrated that there is sufficient space to allow greater depth without compromising safety. Maximum depth of 2.5 metres does not apply to Exchange Square, Market Square or Backnang Square.

- 4.9 Chelmsford High Street Market: There is an exception to the 2.5 metre depth between Half Moon Square and the Town Sign on the High Street. This area is used for the High Street Market on a number of days of the week and the market stalls are placed in the centre of the High Street. When the stalls are in place they leave a minimum of 3m access on either side of the Street. Any pavement licence in this area must be in accordance with these criteria although the 2.5 metres maximum depth does not apply in this central area as there can be sufficient space for a larger depth. No Pavement Licence will permit tables and chairs to be placed where market stalls are authorised, on market days. Premises immediately adjacent to the ends of the High Street market area would not be permitted to place tables and chairs abutting their premises if this will obstruct the flow of pedestrians and the 3-metre access down the two sides of the High Street.

- 4.10 Any application for tables and chairs in front of Shire Hall must be considered by the Council's Regulatory Committee.

The specific requirements for the pedestrianised City Centre, including designated areas where tables and chairs would be permitted to be placed in addition to Tindal Square, are shown in the attached plan at Appendix 2.

5. Type of furniture permitted

- 5.1 Seating, tables and, if required, umbrellas and heaters (together with a secure base) as well as any proposed barriers to enclose the seating area are permitted.
- 5.2 The furniture must be fit for purpose and designed specifically for commercial outdoor use (and comply with all relevant BS standards). It must be kept in good order; damaged or faded items must be replaced.
- 5.3 This furniture is required to be removable, meaning that it is not a permanent fixed structure, and is able to be moved easily, and should be stored away when the premises are closed for activity.
- 5.4 There is an expectation that the type and style of furniture would be 'in keeping' with the local area.

5.5 Picnic benches and plastic tables and chairs designed for domestic use (e.g. white plastic furniture) are not permitted.

5.6 Any form of gazebo, or an enclosed shelter with one or more sides, is not permitted.

6. Toilet Provision

6.1 It is expected that toilets and associated handwashing facilities will be made available for customers. Both indoor and outdoor seating will need to be taken into account when calculating the number of toilets that may be required. In assessing the suitability and sufficiency of customer toilets, regard must be had to the Council's guidance on toilet provision, please contact safe.support@chelmsford.gov.uk for further information.

7. Barriers

7.1 When tables and chairs are in place a standard barrier consisting of a fabric banner and associated post/rail system **should** be used **if appropriate**. The function of the barriers is to demarcate and contain the tables and chairs but also to give a clear warning particularly to people with visual impairments.

7.2 The barriers shall be secured by a purpose designed post and rail system with weighted post bases to prevent being knocked or blown over and be of a height range of 800mm to 1000mm so to not visually obstruct views down the street or be an obstructing hazard

7.3 Street café barriers should be of a design to complement the character of the surrounding area. Banners should be of one design, in a plain style and can incorporate the business name or brand logo. Posts and rails should be stainless steel, chrome plated or powder coated.

8. Times of Operation

8.1 The tables and chairs can be placed on the highway only when the premises are open for business and in any event not before 6.00 am and normally until the close of business.

Where nuisance is likely to be caused to residents e.g. late at night, businesses may be required to remove the tables and chairs before the close of business.

9. Planning Permission

9.1 Once a licence is granted the applicant will also benefit from deemed planning permission to use the land for anything done only pursuant to the licence while the licence is valid, but not for any other purpose.

10. Consultation

- 10.1 Applications are consulted upon for 14 days, starting with the day after that on which the application is made to the Council (an application will not be considered to have been properly made unless each requirement has been met).
- 10.2 The Council will publish details of the application on its website at <https://www.chelmsford.gov.uk/business/licensing/incoming-licensing-applications/>
- 10.3 The Council is required by law to consult with the Essex County Council Highways Authority. In addition, to ensure that there are no detrimental effects in granting such a licence the Council will also consult with:
- Chelmsford City Council **Public Health and Protection Services**
 - Chelmsford City Council Planning Department
 - Essex Police
 - The appropriate Local Ward Councillor(s)
 - The appropriate Parish or Town Council

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

The Council must take into account representations received during the public consultation period and consider in their determination of the application.

11. Cost

- 11.1 There is an application fee and a renewal fee payable every two years. Details can be found on the application form and the Chelmsford City Council website.

12. Insurance

- 12.1 Operators must indemnify both Chelmsford City Council and Essex County Council in respect of injury, damage or loss arising out of the grant of permission (unless such claims arise out of the Councils' negligence). All operators must have public liability insurance in the sum of £10,000,000 in respect of any one event. A copy of this insurance must be produced to the Council before a licence will be issued.
- 12.2 The Licence holder shall make no claim or charge against the Council in the event of the furniture or other objects being lost, stolen or damaged in any way.

13. **Litter**

- 13.1 Refuse and litter deposited on the highway in the vicinity of the chairs and tables must be collected at not less than hourly intervals (or more frequent intervals if required under the Environmental Protection Act 1990).
- 13.2 Litter is not to be placed in the litter bins situated on the highway for use by the general public, but in the trade refuse bins.
- 13.3 All tables must be cleared as soon as practicable after being vacated by customers to avoid litter being deposited unnecessarily on the highway.

14. **Cumulative impact**

- 14.1 The Council can take into account the cumulative impact of multiple pavement licences in close proximity to each other. In particular, specific evidence that this may create a build-up of furniture and cause potential obstruction on the footway, particularly for disabled people, may cause the application to be rejected.

15. **Enforcement**

- 15.1 Notwithstanding the fact that a pavement licence has been granted under the legislation and the terms of this policy, if it appears that the permitted furniture or its use is causing obstruction, risks to public health or safety, anti-social behaviour or nuisance, the Council will consult with the licence holder to amend the licence or take the appropriate steps for its revocation.
- 15.2 If tables and chairs are being placed on the highway without the required licence the Council can remove these. This would be carried out following a Notice being issued to the premises operator to advise that they will be removed if not taken off the highway within a specified time period.
- 15.3 The Council reserves the right to charge reasonable removal and storage costs for the furniture if the owner wishes for it to be returned. The removal costs will be calculated using the officer time taken to arrange and carry out the removal. Any third-party storage costs will be charged back to the owner. The Council also reserves the right to dispose of unclaimed furniture as it sees fit and to invoice licence holders/owners for all costs associated with collection, storage and disposal of such furniture that has been removed in accordance with legislation.

16. **Miscellaneous Conditions**

- 16.1 The Licence holder must remove any furniture if required to do so to permit works in or the use of the highway by the Council, the County Council, the emergency services any statutory undertaker or telecommunications code operator or where the Licence holder has been notified of a special event taking place.

No charge can be made by the Licence holder for the use of the furniture.

All licences are renewable every two years.