



Policy for Pavement Licensing

How to get permission to use the area
outside your premises as
a café area

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Definitions

<u>appeal</u>	a review of our decision. You appeal to the Licensing Committee. The committee may uphold our decision (they agree with us) or overturn it (they agree with you).
<u>district</u>	the area covered by St Albans District Council.
licensed area	the area that you can set out tables and chairs for use by your customers
Licensing Committee	three councillors form the Licensing and Regulatory Committee sitting to decide your appeal
Licensing and Regulatory Committee	the committee set up by the Council to determine licensing and regulatory matters including pavement licensing
<u>pavement licence</u>	the permission given by us to allow you to use an area outside your premises as a café area for tables and chairs
public nuisance	noise disturbance or other nuisance caused to residents or neighbouring businesses
<u>we</u>	St Albans District Council, usually acting through its officers.
<u>you</u>	the licence holder granted the permission for the tables and chairs

Introduction

"Cafe Culture" is a growing trend in our District. There is a demand for eating and drinking outdoors, and many pubs, restaurants and cafes want to provide facilities to meet this demand by using the pavement.

In St Albans District there are existing pavement licences that add to the ambience and vibrancy of the city. Many more pubs, restaurants and cafes may wish to make use of the pavement for tables and chairs. However, if the use of pavement areas is not carefully controlled they can lead to pedestrians, in particular those with disabilities, being unable to use the pavement safely.

To regulate the number and location of pavement cafes, all premises must have a licence under section 115 of the Highways Act 1980 to place tables and chairs on the highway.

Our policy and procedure explains the requirements and standards we expect of an applicant for a pavement licence.

Our powers and duties

Our duty to regulate pavement licensing in the District comes from the Highways Act 1980 [section 115] under an agreement with Hertfordshire County Council.

Pavement licences are granted by officers under delegated authority from the Head of Legal Democratic & Regulatory Services. The Licensing and Regulatory Committee will determine the policy and sit as a Licensing Committee to determine appeals.

How will we use the policy?

The policy provides guidelines on the factors we consider when making our decision to grant or refuse a pavement licence.

Is the area you want to use suitable for a pavement licence?

Pavement cafes can be sited on the public highway. Seated areas that are sited on privately owned land or land to the rear of buildings or other courtyard areas do not require a licence.

To be suitable for a pavement licence the area you want to use must *behighway* as defined by section 115 Highways Act 1980:

- a highway in relation to which a pedestrian planning order is in force;
- a restricted byway;
- a bridleway;
- a footpath (including a walkway as defined in section 35(2) of the Highways Act 1980);
- a footway;
- a subway constructed under section 69 of the Highways Act 1980;
- a footbridge constructed under section 70 of the Highways Act 1980;
- a highway whose use by vehicular traffic is prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order

If your existing premises has either A3 or A4 use, you may not require planning permission for a pavement licence. Planning permission will be necessary if any permanent fixtures are proposed that constitute development. You should contact the Planning Department for advice.

How we decide about your application?

We will grant an application unless we receive objections and decide there are reasons not to grant your application. We will consider each application on its own merits. We will normally follow the policy. If we have to depart substantially from the policy we will explain why.

You must provide us with the following items when you apply:

- the completed original application form with full details of the proposed use
- the correct fee [cheque made payable to St Albans City & District Council]
- plans (see below for details)
- a copy of your public liability insurance certificate
- a copy of your other associated permissions i.e. Planning and any appropriate licences under the Licensing Act 2003 (if required)

Our standard conditions will be applied to all Pavement licenses. In addition to the standard conditions we may also impose special conditions on individual pavement licences.

- Considerations for access to underground apparatus such as water valves, stopcocks, Fire Hydrants and meter chambers.
- Confirmation of notice sent to any person(s) residing above and to the side of the proposed location.
- Confirmation of display of public notice.
- Indemnity and insurance details (minimum public liability cover for £5 million)
- A copy of the licence to serve alcohol in the area (if applicable)

Plans

Location Plan

Please supply an A4 plan clearly outlining the premises and the location of the proposed outdoor seating area. This should be an accurate Ordnance Survey plan outlining the application site in red and land in the applicant's ownership in blue (1:1250 or 1:500 scale plan as appropriate). The location plan may be included as part of a larger site plan.

Site Plan

Please supply a site plan of at least 1:200 showing the precise location and proposed setting out of the tables and chairs.

You should ensure that your plan has the following information on it:

- Access points
- Building lines
- Boundaries
- Kerbs
- Dimensions of seating area
- Table and chair arrangement
- Other furniture/items layout
- Plan and elevation (1:50) of barriers/enclosure

Advertising

You must complete the public notice at Appendix D, and display it on or near the premises. It should be in a location that is easily visible from the street for a period of at least 28 days from the date you send your application to us.

Consultations

You must publish a notice in accordance with the Highways Act 1980 and consult with those listed in Appendix A. We will take into consideration all representations made to us in deciding your application.

The licence applied for is covered by Section 115E of the Highways Act. The licence may be applied for directly by you or by your solicitor on your behalf.

Hours

The maximum hours that you can operate under a Pavement Licence is 08.00 to 23.00 hours.

Cost

The fee you have to pay for a licence will depend on the size of your café area:

Number of tables & chairs/seats	Grant	Renewal
2 tables and up to 8 seats	£120	£100
3-4 tables and up to 16 seats	£200	£180
5-10 tables and up to 40 seats	£285	£265
11 or more tables and over 40 seats	£345	£325

Refund of fees

If you stop trading or surrender your licence we will not normally give you back any of the fees, unless there are exceptional circumstances.

Where we refuse an application we will take an administrative fee from the total cost of the pavement licence. This will be:

20% of full fee paid after Licensing Officer's decision

50% of full fee paid after Licensing Committee decision

Insurance

You will be required to hold Public Liability Insurance to a value of £5 million cover. You must provide proof with your application.

We will consider the following factors in determining your application:

Protecting the public

We will consider our duty to protect the public as a key factor when we decide whether to grant or renew a pavement licence.

Size and Layout

Pavement café areas will normally be situated outside the main premises leaving an unobstructed 2.5 metre clear gap between the highway and the edge of the designated area. The area to be used must take into account other needs and uses in the vicinity, for example, pedestrian crossings, loading bays and street furniture.

Consideration to size and layout must be given to allow customers with disabilities to access and move around within the licensed area.

Safety

Applications will not be granted if pedestrians are forced to cross a pavement in a dangerous manner. Applications may be refused if there is insufficient space between tables and chairs to enable disabled people, particularly those in wheelchairs, to use the facilities, or if the proposed facility poses a risk to disabled people on the pavement. Applications will not be granted where health and safety risks may arise that cannot otherwise be avoided.

All emergency exits and routes from buildings and those associated with the highway must be kept clear.

Furniture must be suitable for outside use. All items contained within the enclosure must be portable enough to be brought in at the end of the licensed period of each working day and can be moved quickly in the event of an emergency.

The Licensed area

Applicants must submit details of the types of furniture that are to be used. Where it is necessary to use barriers to show where the licensed area is, the types of barriers proposed must be agreed by officers.

Applications in conservation areas will be referred to conservation officers for consultation. Furniture and barriers must be of high quality and be in keeping with the characteristics of the area in which it will be used.

When the licensed area is not in use, any barriers have to be removed. The only exception will be where planning permission has been sought and arranged for permanent/semi permanent barrier systems.

Licences will not be granted where access to local authority or utility company plant and equipment will be restricted.

Crime and Disorder

In considering such applications the Council will give particular consideration to section 17 of the Crime and Disorder Act 1998 and the Licensing Act 2003 (where applicable) Therefore, prior to granting any consent for tables and chairs on the pavement/highway, the Council will give significant weight to the views of the local police.

Public nuisance

Applications will be refused if they are likely to cause excessive amounts of litter, noise, disturbance, smell or other nuisance to users of the pavement/highway or adjacent properties, particularly residential properties.

It will be the responsibility of the licence holder to keep the licensed areas free of all litter during the hours of operation, including that blown into the enclosed area.

How long will I be able to operate under my licence?

We will normally grant a pavement licence to operate between 8 am and 11pm.

Applications outside of those hours will be considered on a case-by-case basis, and only granted in the absence of objections or once such objections have been resolved or withdrawn.

We will issue the licence to you for one year. You can renew by paying a renewal fee providing we are satisfied there are no reasons not to renew it.

We will not renew if you have failed to comply with licence conditions, or if there are highways works planned that will affect your licensed area.

If we decide to refuse or revoke

If we refuse your application for grant or renewal of a pavement licence you will be notified in writing within 10 days with the reasons for refusal.

If you are not satisfied with the decision you may request in writing within 21 days of the date of the refusal letter a hearing in front of the Licensing Committee for it to reconsider your application.

If we refuse your application we will refund part of the fee less any administrative costs. You can find details of these costs earlier in this policy.

Representation to the Licensing Committee

When you request a hearing by the Licensing Committee we will arrange it and advise you in writing of the date, time and place. You should attend the hearing and you can be represented by a solicitor, or supported by a friend or colleague. We will prepare an agenda for the hearing and you will receive a copy of it before the hearing. The agenda will contain the procedure and any officer reports.

We write to let you know the decision of the Licensing Committee within 5 working days of the hearing.

Additional information

Changes to the Licence

Any changes to the licence, including replacement furniture and operating times must be notified and agreed in writing with the Council. There is a fee of £50 to vary the licence.

Transfer

If you want to transfer your licence to a new licence holder, you must notify us by writing to us. If we agree we will issue a new licence. There is a fee of £50 to transfer the licence.

Licensed Premises – Licensing Act 2003

If you intend to carry out any licensable activity i.e. the sale of alcohol within the licensed area you should contact the Business Compliance Officer (Licensing) to find out if you need to vary your current premises licence to include the licensed area.

Public Spaces Protection Order (PSPO) (

Public Spaces Protection Order (PSPO) can be used by the Council to deal with the problems of alcohol related anti-social behaviour in public places. Failure to comply with an order is an offence punishable by a Level 3 fine or a fixed penalty notice.

If a premises licence issued under the Licensing Act 2003 covers the area outside the premises, or the area of highway is covered by your pavement licence, then the PSPO will not apply.

Enforcement

We may revoke the licence if you breach the conditions attached it. We may also revoke/suspend the licence if the land is required for other purposes, or for any other reason. We will give you 28 days' notice of our intention to revoke the licence. You can make representations to persuade us not to revoke the licence.

The following enforcement protocol will apply to pavement licences:

1. on the first breach of a licence condition, we may issue a written warning.
2. on the second breach we may issue a final written warning.
3. a third breach of conditions may result in the licence being revoked.

We will consider any breach on the facts.

Appendix A – Consultees

You have to send a copy of your application to each of the consultees set out in the table below

<p>Business Compliance Officer (Licensing) Regulatory Services St Albans City and District Council Civic Centre St Peters Street St Albans Herts AL1 3JE Tel: 01727 819542 Fax: 01727 819433 Email: licensing@stalbans.gov.uk Website: stalbans.gov.uk</p>	<p>Fire Protection Manager Fire Protection Mundells MU103 Welwyn Garden City AL7 1FT Tel: 01707 292310 Email: administration.cfs@hertfordshire.gov.uk</p>
<p>Licensing Officer Community Safety Unit St Albans Police Station Victoria Street St Albans Herts AL1 3JL Tel: 01727 796007 Email: Charlotte.Barnes@Herts.pnn.police.uk</p>	<p>Abel Smith House, Gunnels Wood Road, Stevenage, Hertfordshire, SG1 2ST Email: cschighways@hertfordshire.gov.uk Tel: 0300 123 4047</p>
<p>Planning Enforcement Officer St Albans City and District Council Civic Centre St Peters Street St Albans Herts AL1 3JE Tel: 01727 866100 ext 2346</p>	<p>Environmental Compliance Officer Regulatory Services Legal Democratic & Regulatory Services St Albans City & District Council St Peter's Street St Albans</p>

Email: planning@stalbans.gov.uk	Hertfordshire AL1 3JE T: 01727 819440 F: 01727 819433 Email: environmental@stalbans.gov.uk
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In addition to the above, you must send copies to the local Town or Parish Council if the premises fall within the area of a Town or Parish Council.. Details of Local Town or Parish Councils can be obtained from Regulatory Services.

If you have any queries about the application or completing the form, you can telephone the Business Compliance Officer (Licensing) (01727) 819542, or e-mail: licensing@stalbans.gov.uk

Appendix B Application Form

The guidance for the applicant document should be referred to prior to completing the application form to ensure applicants are able to meet the criteria applicable before applying for a permit.

<p>Applicant's name</p> <p>Company name/address and postcode:</p> <p>Telephone:</p> <p>E-mail:</p>
<p>Agent's details (if applicable)</p> <p>Company name/address and postcode:</p> <p>Telephone:</p> <p>E-mail:</p>

Name and Address of premises where it is proposed to place tables and chairs:

Telephone Number:

Please give the name of a **contact person** at these premises if different from Q1:

Please tick as appropriate:

Do you occupy these premises as

freeholder

leaseholder

tenant

other

To be completed by the freeholder or their authorised representative if applying for the first time.

I/We give our consent to this application being made:

Name:

Capacity:

Address:

Telephone Number:

Email address:

Signature or official stamp:

What is the nature of the business at these premises?(please be specific)

Location: _____

size of area (m), length: _____, width: _____

How many tables and chairs do you propose to have at the site?

Number of tables: _____ Number of chairs: _____

Number of umbrellas: _____

Details of furniture (e.g. type, colour, material, size):

Please indicate below the **proposed days and times of operation for the tables and chairs:**

Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Times of operation Start							
End							

What date would you like the licence to start?

Checklist:

- Completed application form
- Cheque for the relevant fee
- Your current Public Liability Insurance Certificate to the sum of at least £5 million.
- A scale plan of the area
- A location plan
- A copy of your completed public notice

Confirmation

By signing the box below you are confirming that you have:

- sent a copy of the attached public notice to the 15 properties residential or commercial that are nearest to your premises, with a copy of the letter sent to the properties attached.
- sent copies of the application to the consultees.
- read the Privacy Notice information that tells you how we will process your personal data with regard to the pavement licence application:

Privacy Notice

This privacy notice explains how St Albans City & District Council (the Data Controller) will use any personal information we collect about you when you use our services.

We will use your information for the purposes we have set out; keep it securely; destroy it when we no longer need it; tell you the rights applicable to this personal information and how to exercise them; tell you who to complain to.

All this information is set out in full on the privacy notice attached to this form.

Please read the privacy notice for more details – ATTACHED

We participate in the National Fraud Initiative and more details can be found on our website: <http://www.stalbans.gov.uk/community-and-living/community-safety/crimeprevention/fraud/nfi.aspx>

<http://www.stalbans.gov.uk/about-this-site/legal-notices/nfi.aspx>

Your signature:

Date:

Please return the **completed application form** to:

Licensing Team, Community Services, St Albans City and District Council, St Peters Street, St Albans AL1 3JE

Please read and retain the full Notice:

Privacy Notice for pavement licensing applications

This privacy notice explains how St Albans City & District Council (the Data Controller) will use any personal information we collect about you when you use our services.

What information do we collect about you?

The information that the Council will collect varies depending on how you use the Council's Services. We are using the information provided in this case because we have a legal obligation (Art. 6(1)(c)). This means we collect your personal information from you so that we can carry out a function we are required by law to carry out. In this case we are collecting personal information so that we can consider your application for a pavement licence.

How will we use the information about you?

We use the information to process your application for pavement licence and, if granted, to regulate your pavement licence. We may share the information with other departments at the Council to enable us to deal with your application but for no other purposes..

We will not share the personal information we hold with any external organisations except for consultees listed in the Pavement Licensing Policy. We will share the details of the application but not your personal details with the properties neighbouring your proposed site as set out in the Policy.

We may be required to share your personal information with the Police, Internal Audit or similar agency, or another Council for the purposes of preventing and detecting fraud.

We will ensure that all personal information is kept securely.

How long will we keep this information?

We will destroy this personal information in accordance with our Disposal Schedules. To determine how long we should keep information, we consider what the legislation states and what is good practice. This means we will securely destroy the information once we no longer need it. If you would like to know the specific period of time that relates to your personal information please contact GDPR@stalbans.gov.uk

Individuals' Rights

You have a right to request a copy of the personal information that we hold about you. If you would like a copy of some or all of your information, please contact foi@stalbans.gov.uk and ask for a subject access request.

If you consider we hold inaccurate personal information about you, you can contact us to ask for this information to be corrected. We will consider your request and respond within one month. Please contact GDPR@stalbans.gov.uk.

You can find out more about your rights on our website:

<http://www.stalbans.gov.uk/council-and-democracy/departmentsPoliciesPlans/data-protection/>

Cookies

Cookies are text files placed on your computer to collect standard internet log information and visitor behaviour information. This information is used to make your use of the internet better. For further information on how we use these and how you can control it, please visit <http://www.stalbans.gov.uk/about-this-site/legal-notice/cookies.aspx>

Changes to our Data Protection Policy

We have a Data Protection Policy in place and this can be found here:

http://www.stalbans.gov.uk/Images/GDPR%20Personal%20Data%20Policy%20Version%201%20-%202.3.18_tcm15-63804.pdf We review this policy annually.

Data Protection Officer

Our Data Protection Officer for the purposes of Articles 37 to 39 of the General Data Protection Regulation is Charles Turner, Solicitor to the Council. He can be

contacted by emailing GDPR@stalbans.gov.uk or calling 01727 819209 for our Complaints Team.

How to contact us

Please contact us if you have any questions about our Data Protection Policy, or concerns about how we handle your information: by emailing foi@stalbans.gov.uk or write to us at: FOI Team, St Albans City & District Council, St Peter's Street, St Albans, AL1 3JE.

Complaints

You have a right to complain to the Information Commissioner if you are unhappy with how we process your personal information. You can do so through their website: <https://ico.org.uk/concerns/> or by emailing: casework@ico.org.uk or calling their helpline on 0303 123 1113.

Appendix C

Conditions of Pavement Licence

The following conditions will be applied to all licences. Further additional conditions may be applied to licences where necessary.

1. You are only allowed to place furniture and structures on the pavement/highway during the hours granted on your licence. Outside of these hours you must remove the furniture and structures from the pavement/highway. You must leave the pavement/highway in a neat and tidy condition at the end of each day.
2. If you breach any of your conditions we may revoke or suspend the licence. We will give you 28 days notice in writing before we revoke or suspend the licence.
3. You must not cause any unnecessary obstruction of the pavement/highway or danger to people using the pavement/highway.
4. You must not allow people to gather and cause a nuisance or annoyance or danger to any persons lawfully using the pavement/highway.
5. You must not play music amplified or unamplified or any musical instruments radio or television whilst your licence is in operation.
6. You must not allow any excavations or indentations of any description in the surface of the highway or place or fix equipment of any description in the surface of the highway.
7. You must not allow the use of the highway for any other purpose at any time other than during the hours permitted by your licence.

8. You must not place any furniture or equipment or advertisement on the highway that is not specified in your Licence. You must not obstruct the access and exits to your premises.
9. You must ensure the licensed area and the immediately adjacent area is kept in a clean and tidy condition during the permitted hours. You must provide litterbins for rubbish as required by us. You should dispose of food waste appropriately.
10. You must remove all furniture, litterbins and other equipment placed on the highway at the expiry, surrender or revocation of the Licence.
11. During an emergency you must remove the permitted structures from the highway, if instructed to do so by;
 - Police officer
 - Fire officer
 - Paramedic
 - Undertaker
 - Utilities companies
 - Other authorised persons
12. You must remove the permitted obstructions from the highway if instructed to do so by the Highway Authority. They may require items to be moved from the area for maintenance or any other purpose.
13. You must display the Pavement Licence at the premises.
14. You must comply with any reasonable requests in relation to the use of the highway by officers on behalf of the Council.
15. You must provide suitable barriers around the permitted area where required by us.
16. You can only place the tables, chairs and umbrellas outside the premises between the hours of 08:00 and 23:00 hours.

17. You must indemnify the Council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use of the chairs and tables and other objects and for this purpose must take out at the your expense a policy of insurance approved by the Council in the sum of at least £5,000,0000 (FIVE MILLION POUNDS) in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.

18. You must not charge for the use of the chairs and tables and other furniture.

PUBLIC NOTICE

**APPLICATION TO PLACE TABLES AND CHAIRS
ON THE PUBLIC HIGHWAY**
HIGHWAYS ACT 1980, SECTION 115E

Application has been made to St Albans City and District Council under Section 115E of the Highways Act 1980 from

[Name of applicant]

on behalf of the occupier of the premises currently known as

[Name and address of premises]

for permission to place

[state how many chairs and how many tables]

on the public highway known as

[name of road on which premises are situated]

on the following days and times:

[state proposed days and times]

Plans showing the proposed layout of the tables and chairs are available for inspection during normal office hours at the St Albans City and District Council Offices for 28 days from the date of this notice.

Any person wishing to make representations to the Council regarding the proposal should send them in writing to Licensing Section, St Albans City and District Council, St Peters Street, St Albans, Herts AL1 3JE or via e-mail licensing@stalbans.gov.uk

[insert date, 28 days from the date the application was made to the Council]

Signed:

[signature of applicant/authorised representative]

[Date of notice]