



## Supplementary Licensing Committee

### Business and Planning Act 2020 – Pavement Licence

**Date:** 22 July 2020

**Key decision:** Yes

**Class:** Part 1

**Ward(s) affected:** All

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### Outline and recommendations

At the time of drafting this Report to Members, the legislative status, is that the Business and Planning Act 2020 is having a 2nd reading in the House of Lords merely as a Bill. It is anticipated that the Bill will receive Royal Assent within days and prior to the Committee Hearing. Should there be any legislative changes made to the Act, between now and presenting this Report to Members, Council officers will update Members at Committee.

For the present therefore, Members are informed that use of the word Act throughout the Report reflects the practicalities.

The Business and Planning Act 2020 is being introduced by the Government to make it easier for premises serving food and drink to seat and serve customers outdoors as lockdown restrictions are lifted but social distancing guidelines remain in place. This is to be done through temporary changes to planning procedures and alcohol licensing.

For Members to:

1. Note the new provisions under the Business and Planning Act 2020 with regards to Pavement Licences and Off sales of alcohol.
2. To agree to the proposed fee of £100 per pavement licence application.
3. To agree that this borough will be applying local conditions to pavement licences (see annex 2) either expressly or by default pursuant to the Business and Planning Act 2020.
4. The above recommendations are all conditional upon and will take effect from the date when the Bill receives Royal Assent and becomes law, as the new Business and Planning Act 2020.

## **Timeline of engagement and decision-making**

25 June 2020 – Government publishes new Business and Planning Bill

4 July 2020 – Business with ‘on sales’ for alcohol and food are allowed to reopen their premises.

20 July 2020 – final reading of Bill by House of Commons.

July 2020 – Sign off at Mayor and Cabinet

22 July 2020 – Supplementary Licensing Committee to set Licensing Fee.

End of July 2020 – expected date for Bill to receive royal assent and come into effect.

### **1. Summary**

1.1. On Thursday 25 June 2020 the Business and Planning Bill was introduced to the House of Commons by the Government. The Bill is expected to speed through Parliament with it likely to complete all remaining stages by 20 July 2020 and to become law at some point soon after.

1.2 The Bill introduces the following key changes:

1. A new licence – a ‘pavement licence’. The operators of businesses selling food and drink may apply to their local authority for authorisation to put furniture such as tables and chairs on the highway adjacent to their premises to sell food and drink from and/or for their customers to use.
2. Automatic entitlement in law to Off sales of alcohol where business already have a premises licence for On sales of alcohol. This is subject to specific exemptions and conditions.

1.3 As the country emerges from lockdown, the aim of the proposed legislation is to provide a quicker and cheaper process for businesses to gain permission to use pavement areas adjacent to their premises to enable them to seat customers outside and continue to trade during the period of the coronavirus pandemic and ease the burden of social distancing on businesses by enabling them to use outside spaces.

### **2. Recommendations**

1.2. For Members to:

1. Note the new provisions under the Business and Planning Act 2020 with regards to Pavement Licences and Off sales of alcohol.
2. To agree to the proposed fee of £100 per pavement licence application
3. To agree that this borough will be applying local conditions to pavement licences (see annex 2) either expressly or by default pursuant to the Business and Planning Act 2020.
4. The above recommendations are all conditional upon and will take effect from the date when the Bill receives Royal Assent and becomes law, as the new Business and Planning Act 2020.

### **3. Policy Context**

3.1 The new pavement licence will sit alongside existing legislation under London Local Authorities Act 1990 which enables businesses to sell goods from the pavement and use the pavement for seating customers.

- 3.2 The new pavement licence is only applicable to business providing food and drink, therefore it's likely that businesses that who take up this new licence option will also have a premises licence under the Licensing Act 2003 to sell alcohol, provide late night refreshment or regulated entertainment.
- 3.3 The new licensing regime introduced as part of the new Act has implications for and supports the following priorities in the Corporate Strategy 2018 to 2022:
- a) Priority, 1, Open Lewisham, Lewisham is a welcoming place of safety for all, where we celebrate the diversity that strengthens us;
  - b) Priority 4, Building an inclusive local economy, everyone can access high-quality job opportunities, with decent pay and security;
  - c) Priority 6, Making Lewisham Greener, Everyone enjoys our green spaces, and benefits from a healthy environment as we work to protect and improve our local environment and
  - d) Priority 7, Building safer communities, every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.
- 3.4 The new Act also supports the Vision for Evening and Night Time Economy Offer in Lewisham 2019.

#### **4. Background**

- 4.1 The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.
- 4.2 As the economy starts to re-open, the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing short term obstacles that could get in their way. The Business and Planning Act 2020 makes it easier for premises serving food and drink such as bars, restaurants and pubs, to seat and serve customers outdoors as lockdown restrictions are lifted but social distancing guidelines remain in place. This is to be done through temporary changes to planning procedures and alcohol licensing.

#### **5. New Provisions under the Business & Planning Act 2020**

- 5.1 The Act introduces the following key changes;
- a) Automatic entitlement to Off Sales of Alcohol - The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales without licensees having to apply for that authorisation from the Council. The default hours in which off-sales will be permitted will be the same as those in which on sales are permitted. Any premises who wishing to open for longer hours must still apply to the Council for a licence variation. The Act also provides provisions around conflicting off sales conditions and the temporary suspension of these, for example time restrictions or restrictions on sales of alcohol in open containers. There are exceptions for licensees who have previously made an application to add off sales authorisation to their licence within the last three years and were refused, or who had off-sales removed

from their licence at a review in the last three years. This is called a 'disqualifying event' and they do not benefit from this new right in the Bill.

- b) The Pavement Licence - The Act also introduces a temporary fast-track process for businesses who sell food and drink to obtain permission in the form of a 'pavement licence', for the placement of furniture such as tables and chairs on the pavement outside their premises which will enable them to maximise their capacity whilst adhering to social distancing guidelines. To obtain this licence business owners must make an application to the Council and undertake a short consultation period of 7 days before the licence is determined. The fee for this licence will be no more than £100 and will last a minimum of 3 months.

5.1 The above measures are temporary to help boost the economy, with provisions lasting until the end of September 2021.

5.2 This report is based on the current details of the Bill and published guidance. Officers will submit a further report to Members of this Committee in the event that there are any material changes between now and when the Bill receives Royal Assent.

## **6. The Existing Regimes**

6.1 With regard to sale of alcohol, this is governed by the Licensing Act 2003, where business can apply for a licence to sell alcohol either on or off the premises or both. Conditions are usually attached to the licence with the aim of promoting the licensing objectives in the act.

6.2 With regard to using the highway, the Council currently administers table and chairs and forecourts licences under the London Local Authorities Act. These licences are a source of income for the Authority. Before licences are granted permission may also be required from the relevant highways agency, which is often Transport for London. Applicants have to undertake a 28 day consultation period, conditions may be placed on the licence and licence fees are payable on a monthly basis.

## **7. Process for Pavement Licence Applications**

7.1 Eligible businesses who can apply for a pavement licence include a business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises), for example public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

7.2 A licence permits the business to use furniture placed on the highway 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.

7.3 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).

7.4 The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

7.5 This furniture is required to be removable, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

7.6 Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

## **8. Fees & Fee Setting**

8.1 The provisions of the act allow for local authorities to charge a fee for the application, with a maximum cap of £100.

8.2 This report asks Members to agree to a fee of £100 per application for a pavement licence in the borough.

8.3 As with some other statutory licensing regimes such as Licensing Act 2003, this charge would not cover the cost of administering or enforcing the pavement licence regime. More it is a nominal fee, with the aim to make it easier and cheaper for businesses to apply to use the pavement as part of their everyday activities whilst social distancing measures are in place.

## **9. Consultation**

9.1 Applications are consulted upon for 7 days, starting the day after the day on which a valid application was made to the Council. The Council must publish applications received.

9.2 The applicant is required to affix a notice to the premises for a period of 7 days.

9.3 The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are as minimal detrimental effects from the application as possible it is proposed the Council will also consult with:

- Lewisham Planning Authority
- Lewisham Highways Authority
- Lewisham Environmental Services
- Metropolitan Police
- London Fire Brigade
- Lewisham Ward Councillors
- Safer Lewisham Business Partnership
- Known Resident groups

9.4 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 these when determining the application.

- 9.5 Members should note that 7 days is a short period for consultation in comparison to other licensing regimes in force, for example a premises licence under the Licensing Act 2003, which requires a 28 day consultation period.

## **9. Determining applications**

- 9.1 Once the application is submitted the Council has 14 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 7 days for public consultation, and then 7 days to consider and determine the application after the consultation period has ended.
- 9.2 If the local authority determines the application before the end of the determination period, the local authority can:
- grant the licence in respect of any or all of the purposes specified in the application,
  - grant the licence for some or all of the part of the highway specified in the application,
  - impose conditions on any licence granted, or
  - refuse the application.
- 9.3 If the Council does not determine the application within the 14 day period, the application will be deemed to have been granted subject to any published local or national conditions (see section 10).
- 9.4 There is no right of appeal where applications are refused.

## **10. Proposed Standard Conditions**

- 10.1 The Government has published draft statutory guidance which encourages Authorities to set local standard conditions to make it possible to approve an application which would otherwise be unacceptable.<sup>1</sup>
- 10.2 This report asks Members to agree to publish and enforce the proposed standard conditions for the new pavement licence regime as outlined in appendix 2.
- 10.3 The need to publish standard conditions is to ensure that all licences granted are to be undertaken with clear guidelines of operation around access and obstruction, prevention of nuisance, public safety, use of furniture and times of use. This will also ensure that where licences are 'deemed granted' they will be granted for 12 months subject to the standard conditions published by the authority. This is particularly pertinent given the short timescales allowed under the Act for the authority to determine an application.

## **11. Enforcement & Revocation**

- 11.1 If a condition imposed on a licence is breached the local authority will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs. The authority may revoke a licence in the following circumstances:
1. For breach of condition, (whether or not a remediation notice has been issued)

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<sup>1</sup> <https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

## 2. Where:

- There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;
  - The highway is being obstructed (other than by anything permitted by the licence);
  - There is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
  - It comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
  - The applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The local authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. It is good practice for local authorities to give reasons where these powers are used.

## 12. Safety Concerns

- 12.1. Amendments are currently being made to the Bill as it goes through the stages of government sign off. One amendment that looks likely to be included is the necessity of Councils to consider all aspects of enabling pavement licenses to operate safely, and that may include suspension of parking bays, changes to speed limits and alteration to parking arrangements. This will be pertinent in high footfall areas.

## 13. Financial implications

- 13.1. Whilst there are provisions in the Act to charge a fee for the new pavement licence, it is expected that existing licensees under the street trading regime will cancel their current forecourt licences and opt to apply for this cheaper pavement licence. This will likely result in a loss of income for the Council during the period in which these licences are operational which is until 30 September 2021.
- 13.2. There are currently 57 licences that hold a forecourt licence to place tables and chairs on the highway. These bring the council an estimated amount of £75,000 in income across a 12 month period.

## 13. Legal implications

- 13.1 The Council's Constitution, provides the terms of reference of the Licensing Supplementary Committee. It states "From time to time, [this Committee is] to exercise all licensing and registration functions (including the setting of fees as appropriate) to the extent they are not the responsibility of the Licensing Committee..."

13.2 The Licensing Supplementary Committee has the express power to delegate “to the Executive Director for Community Services and such officer as he/she may nominate:- authority to exercise all of the Council’s licensing and registration functions under all existing and future relevant legislation, and as amended from time to time...”

13.3 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

13.4 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

13.5 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.

13.6 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

13.7 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:  
<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

13.8 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:



- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

13.9 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

#### **14. Equalities implications**

14.1 The Council's Comprehensive Equality Scheme (CES) for 2016-20 provides the overarching framework and focus for the Council's work on equalities and helps to ensure compliance with the Equality Act 2010. The CES has five objectives as follows:-

- a) Tackle victimisation, discrimination and harassment
- b) Improve access to services
- c) Close the gap in outcomes between citizens
- d) Increase mutual understanding and respect within and between communities
- e) Increase participation and engagement

14.2 A key consideration when undertaking the new licensing regime for pavement licences is to have due regard to for the amount of space the extra street furniture will have and the potential impact on the rights of the physically disabled. A key priority in establishing a process for this licensing regime locally is ensuring licences do not negatively impact on disabled residents and visitors to the borough.

14.3 The government has set a national condition to be attached to all licences that 'clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility'.

14.4 It is proposed under the standard conditions in appendix 2 that the minimum space that must be available between the edge of the curb of the pavement and any furniture placed on the highway is 2.1 metres and in high footfall areas this is extended to 5 metres. Additionally the reallocation of disabled parking bays for use for the purposes of a licence will not be permitted by the Council.

#### **15. Climate Change and Environmental Implications**

15.1 There are no environmental implications associated with this report.

#### **16. Crime and Disorder Implications**

16.1 The nature of the pavement licence is to enable activities that often take place indoors to occur outside of premises on the highway. Therefore it is expected that

there is likely to be issues with neighbouring properties being affected by an increase in noise and other disturbances from the activities within the footprint of the licence, which in turn could be exacerbated by the cumulative effect of the number of pavement licences operating in any one area at any one time.

16.2 The standard conditions proposed to be added to all granted licences in the borough include conditions to address public nuisance. These cover matters including the playing of music and providing a terminal hour of 10pm for the licence.

16.3 Where there are concerns raised by residents of nuisance or crime and disorder, the Crime, Enforcement & Regulation Service will investigate the complaint and working with the Police to enforce conditions and promote safety. There are powers available under the Act to revoke licences where necessary.

## **17. Health and Wellbeing implications**

17.1 The new Act has implications around public health given its aim of enabling businesses to operate under the Covid 19 social distancing regulations. Businesses will be able to utilise the pavement as an alternative seating area for customers given the need to ensure capacities inside premises are managed according to government guidelines. There is strong evidence that activities taking place outdoor helps to prevent the spread of coronavirus.

### **Glossary**

<b>Term</b>	<b>Definition</b>
Appeal	Asking a court to overturn a lower court's decision. If the decision of a court is disputed it may be possible to ask a higher court to consider the case again by lodging an appeal.
Consultation	A requirement of the application process, where interested persons can make representations for or against the application during a specified time period outlined in legislation.
Licence	An authority to do something.
Licensing Authority	The Council (London Borough of Lewisham) Under section 3 of the 2003 Act, the licensing authority's area is the area for which the authority acts.
Licensee	The holder of a licence to do something.
Licensing Committee	A committee of not less than ten and not greater than 15 Council members to which the discharge of the licensing function is delegated by the Council. The whole committee may sit or delegate its responsibility to sub committees consisting of at least three members.

Term	Definition
Premises Licence	A written authorisation from the Licensing Authority allowing a premises to carry out Licensable Activities under the Licensing Act 2003.
Street Trading Licence	“Street trading licence” means a licence granted under Part III of the London Local Authorities Act 1990 and valid for the period specified therein being not less than six months and not more than three years.
Variation	Application to make changes to an existing premises licence. A minor variation is one where the application does not negatively impact on licensing objectives, and as such, only requires a 10 day consultation period. A full variation is one that is deemed could negatively impact on licensing objectives and therefore requires a full 28 day consultation process.

#### **Report author and contact**

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## **Appendix 1**

### **Business and Planning Bill 2020 and Explanatory Notes**

<https://publications.parliament.uk/pa/bills/lbill/58-01/119/5801119.pdf>

<https://publications.parliament.uk/pa/bills/cbill/58-01/0148/en/200148en.pdf>

### **Pavement Licence Guidance**

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

## **Appendix 2**

### **Proposed Standard Conditions**

#### **Licence**

1. The licence must be displayed on the premises with a plan of the agreed layout of the pavement café for inspection by authorised Officers.
2. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.
3. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period or on revocation of the licence.
4. Lewisham Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.

#### **Times of Use**

5. The Licence allows the use of tables and chairs in the permitted area between the hours of 9am and 10pm. Outside of these times all furniture must be removed and stored away within the premises.
6. Tables and chairs must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside a premises away from the highway.

#### **Furniture**

7. Tables and chairs should be of an approved type and should be kept in a good state of repair. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council.
8. Tables and chairs must be separate rather than being an integrated unit, and be of a design so not to be blown over by the wind. Tables and chairs must be suitable for outside use and if damaged must be replaced.
9. Patio heaters and Marquees must not be used.
10. Where umbrellas are used they must be at a minimum height of 2 metres.

11. Tables, chairs and umbrellas shall not be positioned to obstruct sight lines of drivers of vehicles at junctions.
12. Lewisham Council are empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored. The Council will not be responsible for its safekeeping.
13. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc., will be recovered in full from the licence holder by Lewisham Council or the Highway Authority.
14. The installation of barbecues, electric generators, rotisseries, ice cream machines, drinks machines and other equipment for the sale of food and drink for consumption on or off the premises will require consent from the Licensing Authority. The Council reserves the right to refuse the use of such equipment.

### **Access**

15. Permission to operate a pavement café does not imply an exclusive right to the area of public highway. The licence holder must be aware that Lewisham Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc. or any other reasonable cause. This may mean that the pavement café will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
16. Emergency routes to the premises and adjacent buildings must not be obstructed by the Pavement Café, which should not, in normal circumstances, extend beyond the width of the premises frontage.
17. The operation of the area must not interfere with highway drainage arrangements.
18. Where licences are granted in areas where the pavement is usually used for purposes of a regular Market (e.g. Deptford High Street, Lewisham High Street, Catford Broadway) the licence is only applicable on days where the Market is not operating. It is the responsibility of the licence holder to establish what days the Market usually operates before making an application.

### **Insurance**

19. Lewisham Council requires evidence that the licence holder has Public Liability Insurance for the operation of the Pavement Café. This must indemnify Lewisham Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £10 million in respect of any one incident.
20. The licensee shall keep available their proof of public liability insurance at all times and shall present it for inspection when required to do so by an authorised officer of the Council, Transport for London or by a Police Officer.
21. The licence holder is not to make or cause to be made any claim against Lewisham Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.

### **Obstruction**

22. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
23. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.
24. The method of marking the boundary of the licensed area must be agreed between the licence holder and the Licensing Authority. Whatever method is agreed a minimum of 2.1 metres clear walkway must be maintained for the use of pedestrians between the edge of the seating area and the kerb of the pavement.
25. Where licences fall within the Transport for London Road network (i.e. A2, A20, A202, A21 and A205 (South Circular)) the minimum clear passage required will depend on the intensity of pedestrian usage at that location. Where licences may be permitted clearance will be up to 4 metres.
26. Where licences fall within the following high footfall areas, a minimum distance of 3.5m clear walkway must be available at any time between the edge of the seating area and the kerb of the footway:

<b>Road Name</b>	<b>Area</b>
Albion Way	Lewisham High Street to o/s Methodist Church
Baring Road	Chinbrook Road to Wydeville Manor Road
Blackheath Village	Whole road
Brockley Road	Brockley Grove to Merritt Road
Brockley Road	Harefield Road to Brockley Cross
Catford Broadway	Includes access way to shopping centre
Dartmouth Road	Derby Hill to London Road
Deptford High Street	Whole road
Douglas Way	Deptford High Street to Idonias Street
Kirkdale	Sydenham Road to Peak Hill Avenue
Lee Road	Blackheath Park to Blackheath Village and Independents Road
Lewis Grove	Whole road
Lewisham High Street	Whole road
Lewisham Road	Rennell Street to Lewisham Hill
Limes Grove	Lewisham High Street to Clipper Way
Montpelier Vale	Whole road
Royal Parade	Whole road
Station Road	Whole road
Sydenham Road	Kent House Road to Kirkdale
Tranquil Vale	Blackheath Village to Royal Parade
Winslade Way	Whole road
Catford gyratory	Whole road
London Rd	Sydenham,
Bromley Rd/Downham Way	Whole Road
Lewisham High Street	Opposite old Fire Station
Lewisham High Street	Around KFC
Lewisham High Street	Opposite Police Station/around NatWest
Lee High Road	Around building 13
New Cross Road	Around New Cross Gate station/Iceland/311/186 New Cross Rd

#### **Public Safety & Prevention of Nuisance**

27. The licensee should ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises, is minimised.

28. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
29. At no time is the playing of music allowed for customers using the licensable area, nor is the use of speakers or other music equipment allowed to ensure noise nuisance is kept to a minimum for neighbouring properties.
30. All electrical cabling used to supply electricity to the pavement site, and all wiring, plugs, sockets and electrical equipment used,, must comply with current British Standards, Electricity at Work Regulations and I.E.E. Regulations in force at the time and the requirements of the electricity supplier.

#### **Litter**

31. All detritus (food and drink remnants, spillages, bottles, cans, wrappers etc) be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the Facility, for a distance of up to 10 metres from the boundary of the Facility. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.

#### **Sale of Alcohol**

32. The Licensee of a premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within licensed area.
33. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the Facility outside the hours in force for the Premises Licence itself.
34. The Licensee of a premises licensed under the Licensing Act 2003 must adhere to the footprint of their existing plan when making sales of alcohol. The pavement licence does not enable the licensee to make sales of alcohol from the street where that area does not fall within the licensable area on the premises licence. The pavement licence can only be used to serve and consume alcohol.

#### **NOTES**

These conditions should be read in conjunction with any mandatory national conditions concerning pavement licences, if the premises is licenced under the Licensing Act 2003, any relevant conditions attached to the premises licence, the latest government requirements concerning coronavirus and social distancing and any other relevant requirement of the Business and Planning Act 2020.

The licence holder is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.

London Borough of Lewisham reserves the right to revoke this licence at any time if any of the above conditions are not complied with.

### **Appendix 3**

#### **National Conditions**

The Secretary of State publishes this condition in exercise of his powers under [Section 5(6)] of the Business and Planning Act 2020:

Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#).

Guidance on the effect of this condition

1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.