

LICENSING ACT 2003 SUB COMMITTEE MEETING

Date: Thursday 22 July 2021
Time: 10.00 am
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Brindle, Naghi, Robertson and Garten (Substitute Member)

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Election of the Chairman
4. Disclosures by Members and Officers
5. Disclosures of Lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information
7. Wildwoods, Earl Street - Pavement Licence 1 - 33

ALTERNATIVE FORMATS

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact Democratic Services** on committee@maidstone.gov.uk or **01622 602899**.

To find out more about the work of the Committee, please visit www.maidstone.gov.uk

Issued on Wednesday 14 July 2021

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

Licensing Sub Committee

21st July 2021

Pavement Licence Appeal

Final Decision-Maker	Licensing Sub Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	High Street

Executive Summary

In line with our Pavement Licensing Policy an application for a Pavement Licence was refused because a site assessment did not meet the public safety requirements of our policy and a representation was received. Although there is no statutory appeal process for these applications, this applicant has been given the opportunity to state their case to Licensing Sub Committee.

Purpose of Report

Members are asked to consider and determine the appeal from Mr Roy Pereira against the refusal of a Pavement Licence for the area outside Wildwood Restaurant, 37 – 41 Earl Street, Maidstone, Kent, ME14 1PF.

This report makes the following recommendations to this Committee:

1. That Members give consideration to the application for a Pavement Licence by Mr Roy Pereira taking into account the consultation representation

Timetable

Meeting	Date
N/A	

Pavement Licence Appeal

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<ul style="list-style-type: none"> There is no impact on Corporate Objectives as the matter has been dealt with in accordance with our Pavement Licence policy 	Senior Licensing Officer
Cross Cutting Objectives	<ul style="list-style-type: none"> No implications have been identified 	Senior Licensing Officer
Risk Management	<ul style="list-style-type: none"> Risk Management issues are covered within the approach taken by Pavement Licence policy and the processing of this application has been in accordance with policy. 	[Senior Licensing Officer
Financial	<ul style="list-style-type: none"> No implications have been identified 	Senior Licensing Officer
Staffing	<ul style="list-style-type: none"> No implications have been identified 	Senior Licensing Officer
Legal	<ul style="list-style-type: none"> There is no statutory appeal process against a decision to refuse a pavement licence application. However the opportunity has been given to the applicant to mitigate against the reasons for refusal to Licensing Sub Committee whose decision will be final. 	Senior Licensing Officer
Privacy and Data Protection	<ul style="list-style-type: none"> No implications have been identified 	Senior Licensing Officer
Equalities	<ul style="list-style-type: none"> No implications have been identified 	Senior Licensing Officer
Public Health	<ul style="list-style-type: none"> No implications have been identified 	Senior Licensing Officer
Crime and Disorder	<ul style="list-style-type: none"> No implications have been identified 	Senior Licensing Officer
Procurement	<ul style="list-style-type: none"> No implications have been identified 	Senior Licensing Officer
Biodiversity and Climate Change	<ul style="list-style-type: none"> There are no implications on biodiversity and climate change. 	Senior Licensing Officer

2. INTRODUCTION AND BACKGROUND

2.1 The Business and Planning Bill 2019-21 was made law in July 2020 and introduced a range of measures intended to support the economy recover from the disruption caused by the COVID-19 outbreak in the UK. The Bill introduced a number of urgent measures to help businesses succeed in new and challenging conditions and removed short term obstacles that could get in their way.

The provisions made it easier for businesses that sell food and drink for consumption on or off the premises to seat and serve customers outdoors through temporary changes to regulatory procedures (Highways, Planning and Street Trading) and the alcohol licensing regime. The Bill introduced a new licence known as a "pavement licence".

2.2 A pavement licence authorises the operator of a business selling food and drink to put furniture such as tables and chairs on the highway adjacent to its premises to sell food and drink from and/or for its customers to use. These licenses were initially meant to expire on 30 September 2021 but the provisions have been extended to September 2022.

2.3 On 11th May 2021 an application for a Pavement Licence was received from Mr Roy Pereira to place tables and chairs on the road outside Wildwood Restaurant, 37-41 Earl Street, Maidstone, Kent, ME14 1PF, Monday to Sunday 11:30 – 17:00. The application form is attached as Appendix 1 and the plans as Appendix 2.

2.4 Prior to the application being made the applicant was made aware that tables and chairs could not be placed on the pavement outside the premises due to the depth of the pavement. It would not be possible for them to comply with the requirement specified by the Highways conditions at no 9 of a pavement licence.

Highway Authority Conditions

- *No tables, chairs or temporary street furniture sited on a footway are to be placed within 1.2m of the edge of an adjacent carriageway. A minimum clear footway width of 1.5m must be obtained at all times and 2m in busy locations or at busy times except in the following circumstances where additional width may be required:*

A – Proposals which place furniture within 20m of a road junction or roundabout.

B – Proposals which place furniture within 15m of a push button, zebra crossing or pedestrian island crossing.

C – Proposals which place furniture within 5m of a bus stop

Additional widths may be required to accommodate social distancing in line with the guidance issued by the Secretary of State.

- *Every table, chair and item of temporary street furniture shall be positioned so that it does not impede the surface water drainage of the highway nor obstruct*

access to any premises unless the consent of the occupier of these premises has been obtained.

- *No items shall be sited as to obstruct access to any premises unless the consent of the occupier of these premises has been obtained. No items shall be sited in such a way that is obstructs any fire exits or dry risers etc.*
- *No tables, chairs or temporary street furniture shall be left on the highway longer that is necessary. Tables, chairs and temporary furniture within a pedestrianised area cover by a traffic Regulation Order shall only be placed on the highway during the hours of pedestrianisation. Tables, chairs and temporary street furniture shall be taken inside and stored during the hours when business is not trading.*
- *All tables, Chairs and temporary furniture shall be separated from the remaining highway using disability compliant barriers. This means that barriers MUST:*
 - (a) Be between 1000mm and 1200mm in height*
 - (b) Have a continuous tapping rail (150mm to 200mm deep) or panel edge either on the ground or up to a maximum height of 200mm above the ground.*
 - (c) Have a colour contrast to ensure they are highly visible.*
 - (d) Be continuous around the area of tables, Chairs and temporary street furniture except for the access point*
- *No tables, chairs or temporary street furniture shall remain on the highway pursuant to this permission after the period of the pavement license has expired.*
- *The licensee shall be responsible for keeping the designated area in a clean and tidy condition at all times and shall ensure that any associated debris is removed at the end of each day and make good any damage caused to the surface area.*
- *No apparatus such as power cables or water pipes shall be allowed to be laid across or suspended above the highway for the purposes of providing services to outside areas on or off the highway.*
- *No wastewater or other substances shall be discharged on to the highway or highway drainage system*

Maidstone Borough Councils Pavement Licence Policy is attached as Appendix 3

- 2.5 As Earl Street has been temporarily pedestrianized with vehicle permitted between 5.30pm and 9am for loading/unloading and disabled parking, the applicant felt they could submit an application for tables and chairs to be in the road Monday to Sunday 11:30 – 17:00. Licensing attended the address to carry out a site assessment and attach the photos taken as Appendix 4, these photos were taken during the pedestrianized hours of 9am and 5 -30 pm and quite clearly show vehicles in the area.

- 2.6 The pavement licence consultation took place between 13th and 20th May 2021 with 1 objection received from KCC highways on the 14th May 2021, Appendix 5.
- 2.7 A decision to refuse the application was made on public safety grounds after considering the objection and the site assessment criteria at page 6 of the Pavement Licensing Policy (Appendix 3). It was felt that although Earl Street has been temporarily pedestrianised it clearly was not being enforced and that posed a danger to any customers that may be seated in the road outside Wildwood Restaurant. The applicant was advised and that letter is attached as Appendix 6.
- 2.8 The applicant submitted an appeal request on 26th May 2021 which is attached as Appendix 7.
- 2.9 Attached to this report is the procedure that is used for hearing applications with representations the Committee may wish to follow in their considerations, adapted as necessary. Appendix 8
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3. AVAILABLE OPTIONS

- 3.1 Grant the licence.
- 3.2 Grant the licence subject to additional conditions or requirements.
- 3.3 Refuse the licence.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 There is no statutory appeal process for these decisions, however this applicant was given the option to appeal to the Licensing Sub-Committee.
- 4.2 Members needs to consider the application in accordance with our Pavement Licensing Policy and consider whether the reasons for refusal were sufficient when determining this application for a pavement Licence.
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5. RISK

- 5.1 There are no Risk Management issues as the matter has been dealt with in accordance with our Pavement Licensing Policy.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 N/A
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 N/A

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Application Form
 - Appendix 2: Plans
 - Appendix 3: Pavement Licensing Policy
 - Appendix 4: Site Assessment Photo's
 - Appendix 5: KCC Highways objection
 - Appendix 6: Refused decision Notice
 - Appendix 7: Applicant's appeal e-mail
 - Appendix 8: Hearing Procedure
-

9. BACKGROUND PAPERS

[*Business and Planning Act 2020*](#)

[Pavement Licence Guidance](#)

[Pavement Licence conditions](#)

Application for a Licence to use the Highway for a Street Café

Business and Planning Act 2020

APPENDIX 1

Please read the notes and answer all the following questions.

Please state which Licensing Authority you are applying to

Maidstone Borough Council

Title

Mr

First name

roy

Last name

pereira

Applicant details

Your address

[Redacted]

Postcode

[Redacted]

Telephone number

[Redacted]

Email address (REQUIRED)

[Redacted]

Name of establishment/business

1

Is anyone acting on your behalf for the purpose of this application?

Yes

No

Details of the person acting on your behalf

Title

First name

Last name

Address of person acting for you

Postcode

Telephone number

Email address

Questions about your application

Is the proposed location different to your address above?

Yes

No

Describe the proposed location for the street café

Outside Wildwood

Address

Wildwood Restaurant
37-41 Earl Street

Postcode

ME14 1PF

Number of tables applied for Number of chairs applied for

Dimensions of the area of the street or pavement permitted to use (in metres) Width
Depth

Please state the main proposed materials (for example: furniture, umbrellas, boundary markers. Colour, type, styles) and show them on your detailed layout plan.

outside furniture and logo barriers

Please give details of what purpose will the furniture be used for

serving of dining customers

Do you intend to alter any of the building and/or building frontage to accommodate the proposal? Yes No

If yes, please show details of the alterations on your plan.

Are there any lighting columns, litter bins, road signs, public seating, trees etc. on the site within the boundary of the area proposed for the street café? Yes No

If yes, please show them on your plan.

Is proper sanitary accommodation available within the building to be used to service the street café? Yes No

Is it intended to serve alcohol within the street café area? Yes No

What range of drinks (alcoholic and non-alcoholic) is it intended will be served within the street café area?

wines beers & spirits

What dates would you like the licence to start and finish? (minimum is three months)

Hours during which the tables and chairs will be on the street

	From	To	Tick here if you are closed that day
Monday	<input type="text" value="11:30"/>	<input type="text" value="17:00"/>	<input type="checkbox"/>
Tuesday	<input type="text" value="11:30"/>	<input type="text" value="17:00"/>	<input type="checkbox"/>
Wednesday	<input type="text" value="11:30"/>	<input type="text" value="17:00"/>	<input type="checkbox"/>
Thursday	<input type="text" value="11:30"/>	<input type="text" value="17:00"/>	<input type="checkbox"/>
Friday	<input type="text" value="11:30"/>	<input type="text" value="17:00"/>	<input type="checkbox"/>
Saturday	<input type="text" value="11:30"/>	<input type="text" value="17:00"/>	<input type="checkbox"/>
Sunday	<input type="text" value="11:30"/>	<input type="text" value="17:00"/>	<input type="checkbox"/>

The applicant should be aware that the granting of a licence does not permit the sale of alcohol within the outdoor café area. Separate licensing arrangements apply for the sale of alcohol and the applicant should check the conditions on the Premises Licence of  consult the Licensing Authority.

Social distancing measures

Provide further information for the following questions to support your application:

- Outline the social distancing measures that will be applied when this licence is in use. i.e. waiter/waitress service etc.
- Outline how the table and chairs will be managed.
- Outline how local nuisance will be managed.
- Will the placement of the table and chairs allow for people to pass with a minimum of 1.5+ metres?

tables & chairs will be used for sole purpose of waiter service customer behaviour both internally and external seating will be supervised by managers and dealt with appropriately.

this area wouldn't interfere with pavement access

Declaration

Please read and the following statement and check the confirmation box.

I wish to apply for a licence to use the highway fronting the above named property for the purpose of a street café as described in this application and the accompanying plans and will pay the required fee.

Applicant's confirmation

Date this application is being made

13/05/2021

Notes

Applications should be made to the Licensing Manager of your Local Authority.

- One plan showing the proposed extent of the area requested (in relation to the premises), with the position of proposed street furniture, including tables, chairs, space heaters, planters barriers or any other proposed furniture etc
- Photographs of proposed street furniture and if possible, manufacturers literature and details of furniture to be used
- The fee of £100
- Proof of public Liability Insurance which covers up to £5 million

You will need two types of plans:

Location plan – to show where your proposal is situated in relationship to the surrounding area. You must clearly edge the site boundary in red.

Detailed plan (with elevations) – to show the proposed street café and its relationship to existing buildings and features. The main dimensions should be clearly stated. It should include all the information required by the questions above.

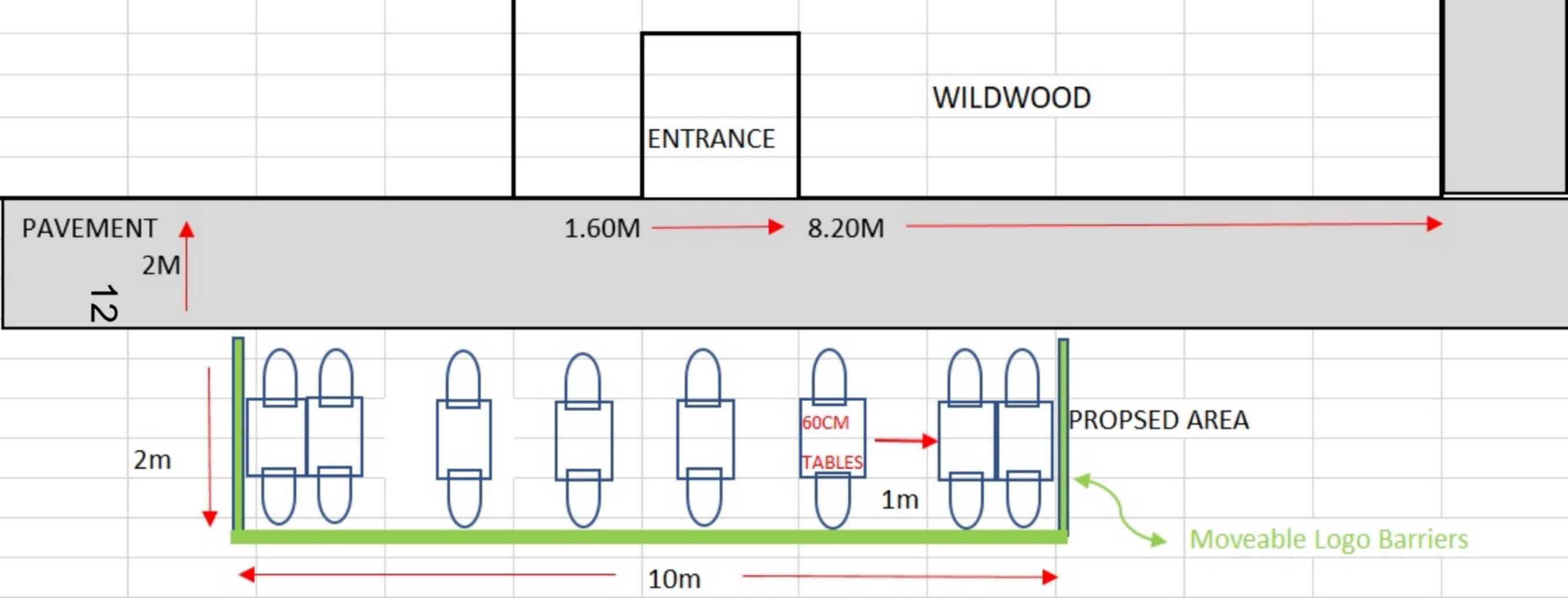
Additional Notes:

Once an application has been submitted there will be a 7-day consultation period. You must place a notice on your premise setting out what has been applied for and the date by which a representation should be submitted to the licensing authority.

MAIDSTONE PARISH
11



AR
3/63



WILDWOOD

ENTRANCE

PAVEMENT
2M
12

1.60M → 8.20M →

2m

60CM
TABLES

1m

PROPOSED AREA

Moveable Logo Barriers

10m

Licensing
Partnership



Pavement Licensing Policy

Effective: July 2020

Contents

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1. Introduction

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.

As the economy starts to re-open, on 25 June 2020 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 makes it easier for premises serving food and drink such as bars, restaurants and pubs, as lockdown restrictions are lifted but social distancing guidelines remain in place to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

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. It will be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.

The Act also introduces a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from the District or Borough Council for the placement of furniture such as tables and chairs on the pavement outside their premise which will enable them to maximise their capacity whilst adhering to social distancing guidelines.

Currently, tables and chairs permissions are granted as Pavement licences by Kent County Council, the Highways Authority, under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a time consuming 28 day consultation period.

The new temporary measure places a cap on the application fee for businesses (£100), and introduces a new 14-day determination period, ensuring that businesses can obtain licences in a timely and cost effective manner aiding to their financial recovery.

2. Scope

2.1 Definition of pavement café

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, for certain purposes.

2.2 Eligible Businesses

A business 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, and ice cream parlours.

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.

2.3 Eligible Locations

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).

2.3 Type of furniture permitted

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.

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

The Council would also expect the type of furniture to be 'in keeping' with the local area.

2.4 Planning Permission

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.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made electronically to the Council, and the following will be required to be submitted with the application:

- a completed Application Form
- the required fee of £100, paid by credit or debit card
- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence (for e.g. 3 months, 6 months, or up to 30 September 2021);
- photos showing the proposed type of furniture and information on potential siting of it within the area applied;

- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, (caveat: there may be rare circumstances where a different minimum value may be agreed in advance before submission of application).
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

3.2 Fees

The fee for applying for a licence under the new process are set locally, but are capped at £100. The Council has determined that the fee for applications will be £100.

3.3 Consultation

Applications are consulted upon for 7 days, starting with the day after which a valid application was made to the Council.

The Council will publish details of the application on its website at:-

<https://pa.sevenoaks.gov.uk/online-licensing/>

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application the Council will consult with:

- Environmental Health Service
- Police
- Fire Service

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.

3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of the site notice requirement must be supplied to the Council.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;

- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (5 working days starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 1.

3.5 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
 - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
 - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
 - the impact on any neighbouring premises
 - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

3.6 Determination

Once the application is submitted the Council has 10 working days from the day after the application is made (excluding public holidays) to consult on, and determine the application. This consists of 5 working days for public consultation, and then 5 working days to consider and determine the application after the consultation.

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, and impose conditions, or

- refuse the application.

If the local authority does not determine the application within the 10 working day period, the application will be deemed to have been granted.

3.7 Approval of Applications

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Café Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Café Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement Café's between 07:00 and 23:00. However, there may occasions where longer hours maybe permitted. *An example of this may be where a premises has longer licensed operating hours and has previously held a highways licence for those hours without prior issue or problem.*

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

3.8 Licence Duration

If the Council determines an application before the end of the determination period (which is 5 working days, beginning with the first day after the public consultation period, excluding public holidays) they can specify the duration of the licence, subject to a minimum duration of 3 months.

The expectation from the Government is that local authorities will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space. As such, the Council will normally grant applications until 30 September 2021.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a year.

A licence granted or deemed to be granted will not be valid beyond 30 September 2021.

3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Café, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against decision to refuse an application.

4. Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

However, this is not the case for the statutory no-obstruction condition which is as applies to all Licences. The National 'no obstruction conditions is shown in Appendix 3.

5. Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Social distancing controls, and applicants must ensure all such permissions, etc. are in place prior to applying.

If a condition imposed on a licence either by the Council or via a National Condition is breached the Council 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) or
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 Council 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. The Council will give reasons where these powers are used.

6. Review Procedures

This Policy covers the Temporary Permission for Pavement Licences under the Business and Planning Act which are scheduled to expire on 30 September 2021.

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement Café's generally, relevant social distancing measures or as a result of local considerations within the District / Borough.

Appendix 1

Site Notice Template for display by an applicant for a Pavement Licence.

[Section x] of the Business and Planning Act 2020.

I/We (*name of applicant*),

do hereby give notice that on (*date of application*) [I/we] have applied to (*insert name of council*) for a 'Pavement Licence' at:

(*postal address of premises*)

known as

(*name premises known by*)

The application is for:

(*brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink)*)

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

Licensing Partnership
c/o Sevenoaks District Council
Argyle Road
Sevenoaks
TN13 1HG

licensing@sevenoaks.gov.uk

by: (*last date for representations being the date 5 working days after the date the application is submitted to the local authority (excluding public holidays)*)

The application and information submitted with it can be viewed on the Council's website at:
(web link to follow)

Signed

Dated (*date the notice was placed which must be the same date as the date of application*)

Appendix 2**Standard Conditions Attached to a Pavement Licence**

1. The licence must only be used for the purpose of placing removable furniture 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 licence holder's business premises.
2. Furniture may only be placed within the area of the highway identified on the plan that accompanied the application for the licence.
3. The licence holder shall not make excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
4. The licence holder must observe and comply with any direction made by a Police Officer, Fire and Rescue Officer, or authorised officer of the local authority in relation to the use of the highway, including any direction to remove furniture from the highway.
5. The licence holder must at all times hold a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million (caveat: or other amount agreed in advance before submission of application).
6. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.
7. The licence holder must not allow customers using the area to engage in anti-social or disorderly behaviour.
8. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that the conditions above are being adhered to.

9. Highway Authority Conditions

- *No tables, chairs or temporary street furniture sited on a footway are to be placed within 1.2m of the edge of an adjacent carriageway. A minimum clear footway width of 1.5m must be obtained at all times and 2m in busy locations or at busy times except in the following circumstances where additional width may be required:*

A – Proposals which place furniture within 20m of a road junction or roundabout.

B – Proposals which place furniture within 15m of a push button, zebra crossing or pedestrian island crossing.

C – Proposals which place furniture within 5m of a bus stop

Additional widths may be required to accommodate social distancing in line with the guidance issued by the Secretary of State.

- *Every table, chair and item of temporary street furniture shall be positioned so that it does not impede the surface water drainage of the highway nor obstruct access to any premises unless the consent of the occupier of these premises has been obtained.*

- *No items shall be sited as to obstruct access to any premises unless the consent of the occupier of these premises has been obtained. No items shall be sited in such a way that is obstructs any fire exits or dry risers etc.*
- *No tables, chairs or temporary street furniture shall be left on the highway longer that is necessary. Tables, chairs and temporary furniture within a pedestrianised area cover by a traffic Regulation Order shall only be placed on the highway during the hours of pedestrianisation. Tables, chairs and temporary street furniture shall be taken inside and stored during the hours when business is not trading.*
- *All tables, Chairs and temporary furniture shall be separated from the remaining highway using disability compliant barriers. This means that barriers MUST:*
 - (a) Be between 1000mm and 1200mm in height*
 - (b) Have a continuous tapping rail (150mm to 200mm deep) or panel edge either on the ground or up to a maximum height of 200mm above the ground.*
 - (c) Have a colour contrast to ensure they are highly visible.*
 - (d) Be continuous around the area of tables, Chairs and temporary street furniture except for the access point*
- *No tables, chairs or temporary street furniture shall remain on the highway pursuant to this permission after the period of the pavement license has expired.*
- *The licensee shall be responsible for keeping the designated area in a clean and tidy condition at all times and shall ensure that any associated debris is removed at the end of each day and make good any damage caused to the surface area.*
- *No apparatus such as power cables or water pipes shall be allowed to be laid across or suspended above the highway for the purposes of providing services to outside areas on or off the highway.*
- *No wastewater or other substances shall be discharged on to the highway or highway drainage system*

Appendix 3**STATUTORY CONDITIONS ATTACHED TO A PAVEMENT LICENCE**

1. Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6). These effects are:
 - (a) preventing traffic, other than vehicular traffic, from—
 - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
 - (ii) passing along the relevant highway, or
 - (iii) having normal access to premises adjoining the relevant highway,
 - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
 - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
 - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
2. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.







From: StreetworksMid@kent.gov.uk <StreetworksMid@kent.gov.uk>
Sent: 14 May 2021 17:22
To: Felicia.Smith@sevenoaks.gov.uk; communityprotection@maidstone.gov.uk;
 west.division.licensing@kent.pnn.police.uk; streetscene@maidstone.gov.uk;
 buildingsafety.maidstone@kent.fire-uk.org
Cc: licensing@maidstone.gov.uk; Susan.Laporte@kent.gov.uk
Subject: RE: Pavement Licence Application - Wildwood 21/00936/LIPAV

EXTERNAL EMAIL: Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Felicia

KCC Streetworks do not support this table and chairs application. As there is no physical restriction and the TTRO is not being enforced on site we feel this not a sterile area. The location directly behind the planter is a waiting/queuing area for vehicles wishing to exit at the Pudding Lane. We feel this would create a conflict of vehicles and would not be safe.

Kind regards

Remy Laporte | Senior Streetworks Coordinator- Tonbridge and Malling and Maidstone | Highways Asset Management | Kent County Council | Aylesford Highways Depot, St Michaels Close, Aylesford, Kent, ME20 7BU | Tel 03000 418333 | Email streetworksmid@kent.gov.uk

From: Felicia Smith <Felicia.Smith@sevenoaks.gov.uk>
Sent: 13 May 2021 12:18
To: communityprotection@maidstone.gov.uk; Kent Police - West Division Licensing <west.division.licensing@kent.pnn.police.uk>; Streetworks Mid - GT <StreetworksMid@kent.gov.uk>; streetscene@maidstone.gov.uk; buildingsafety.maidstone@kent.fire-uk.org
Cc: 'licensing@maidstone.gov.uk' <licensing@maidstone.gov.uk>
Subject: FW: Pavement Licence Application - Wildwood 21/00936/LIPAV

Dear Sir/Madam

Business and Planning Act 2020: Pavement Licence Application

The Licensing Partnership have received an amended application for the Wildwood pavement licence after a change was proposed for the timing of when the tables and chairs will be on the street.

Please find attached the application and relevant supporting documentation.

If you have any comments to make about this application, please send these to licensing@sevenoaks.gov.uk and quote the reference **21/00936/LIPAV**. Comments should be made by **20/05/21** unless specified otherwise.

Yours Sincerely

Felicia Smith
Licensing Technician

Sevenoaks District Council, Council Office, Argyle Road, Sevenoaks, Kent TN13 1HG
Tel: 01732 227004

Name/Address
By e-mail

Date: 25th May 2021

Dear Mr Pereira

**BUSINESS AND PLANNING ACT 2020
SECTION 3 PAVEMENT LICENCES
21/00936/LIPAV-WILDWOOD, 37-41 EARL STREET, MAIDSTONE, KENT,
ME14 1PF**

With reference to your application dated 11th May 2021 under the above Act, I regret to inform you that your application for a Pavement licence has been refused. The reasons are ;

1. When considering s 3.5 of Maidstone's Pavement Licensing Policy the site assessment shows the area to be unsuitable for the placement of tables and chairs.
2. An objection received by Kent County Council's Highways Department (KCC), (see attached).

When determining the application it is felt that the nature of the site in relation to its surroundings and its users is unsuitable and that the placement of tables and chairs at this site at any time would compromise the health and safety of the general public. Traffic waiting at the traffic light's outside the premises would pose significant risk to customers who are seated at table's placed in the road. This concern is also raised by KCC.

There is no statutory appeal process for these decisions, however, refused applications may be appealed by writing to the Licensing Sub-Committee within 14 days of refusal.

If I do not hear from you within **14 days from the date of this letter** I will assume that you do not wish to pursue your application further. I will then arrange for a refund of the application fee to be sent to you in due course.

Yours sincerely

Lorraine Neale
Senior Licensing Officer
t 01622 602528
e lorraineaneale@maidstone.gov.uk

From: Jonny Plant
Sent: 26 May 2021 13:37
To: Lorraine Neale <LorraineNeale@maidstone.gov.uk>
Cc: Felicia Smith <Felicia.Smith@sevenoaks.gov.uk>; Louise Davis <LouiseDavis@Maidstone.gov.uk>;
roy < >
Subject: RE: Wildwood Outdoor License - 37-41 Earl St, Maidstone ME14 1PF
Importance: High

Dear Loraine,

Please can we appeal this decision.

We desperately need that space given all the issues we have suffered and it seems that our competition have been granted an unfair advantage by the Council both in terms of visibility and capacity.

Furthermore there are currently large planter boxes blocking both sides of the road and narrowing the road and protecting the area that we have applied for.

In the interests of safety, fairness and protecting jobs in the area, please reconsider this decision.

Many thanks.

Yours sincerely,

Jonathan Plant

LICENSING SUB COMMITTEE**ORDER OF PROCEEDINGS**

- a) The Chairman will introduce those present and ensure that everyone understands the procedure to be followed.
- b) The Head of Housing and Community Services or relevant Officer will briefly describe the application.
- c) The Applicant will then present his case.
- d) The Objector(s) may then ask the Applicant questions.
- e) Members will then ask the Applicant any questions.
- f) The Objector(s) will then be given the opportunity to present his/her case.
- g) The Applicant may then ask the Objector(s) any questions.
- h) Members will then ask the Objector(s) any questions.
- i) Members may then ask any further questions of clarification from any party.
- j) Both parties will then be asked to sum up, the Objector(s) first followed by the Applicant.
- k) Members will then ask the Head of Housing and Community Services or relevant Officer if there are any further matters to be raised before the matter is considered.
- l) The Sub Committee will then decide the appeal and may ask the Applicant, the Objector(s), the Head of Housing and Community Services or relevant Officer and any other parties to leave, the Committee Clerk will be the only person apart from Members to be allowed to remain. Any representative of Legal Services (if present) may be requested to remain by the Chairman.
- m) After consideration all parties will be invited to return and the Chairman will announce the decision.