



Shropshire
Council

Shropshire Council Trading Standards and Licensing

Pavement Permit Guidelines Highways Act 1980

April 2024

V5

Record of Changes

Version	Date	Changes	Responsible Officer	Next Review Due
Draft V4	Feb 2013	Final Draft V4	GM	
Draft V5	March 2013	Final Draft V5 – clarified that guideline document does not apply to 'A' boards (point 2.2). Point 3.3 minimum distances required clarified. Point 6.4 added re enforcement of permit conditions. Section 7: Review of Guideline document added.	GM	
Final V1	April 2013		GM	By April 2014
Draft V2	March 2014	Reviewed and updated following first year of usage. Removal of time restrictions on Pavement Permits	GM	April 2015
Draft v2	June 2014	Reviewed in light of further discussions.	KS	June 2014
Draft V2	June 2016	Amended to reflect changes in use, times and consideration of a move to a policy document.	GT	
Final V2	Feb 2017	Updated and finalised in the format of a guideline document	GT	February 2019
Final V3	June 2019	Reviewed with minor amendments	GT	As required
Final V4	August 2020	Reviewed with minor amendments, corrections and recognition of the Pavement licensing scheme.	GT	As required
Final V5	April 2024	Updated to reflect the permanent implementation and wider use of pavement licensing scheme for all food businesses and other minor amendments.	GT	As Required

1 Introduction

1.1 Local businesses, residents and visitors all want our town centres to be great places to visit. Our town centres provide a real opportunity for people to shop, have a meal, meet friends or visit the theatre or cinema. We want our town centres to be vibrant, busy, welcoming and safe places to visit; however, the safety of people using our towns is also important for everyone. It is not good for business if people trip or fall because our pavements are overly cluttered with chairs, tables and other objects or structures.

1.2 On the one hand local businesses want to expand the space they have by using part of the pavement area that spans their business premises. This helps to attract shoppers and visitors and boosts our local economy. On the other hand, residents and visitors alike want to be able to walk safely in our town centre streets without the risk of tripping or having to walk on busy roads to get around impediments placed on pavements by local traders. Similarly, businesses must consider the impact of their proposals on people with visual and mobility impairment, e.g. the elderly or wheelchair users.

1.3 The aim of this document is to strike the right balance between the needs of local businesses and residents by creating a simple, clear and cost-effective system for the administration and regulation of Pavement Permits for local businesses wishing to use part of the pavement. By adopting this approach, we believe we have developed guidelines which are fair and sensible, takes into account the reasonable needs and concerns of both residents and businesses, and which allows for effective regulation to ensure that everyone is complying with our requirements.

1.4 This document will be made available for both businesses and residents to refer to and will provide clear guidance on what businesses and the public can expect. We believe the content strikes a sensible balance, helping to promote vibrant, safe and accessible town centres, which everyone can benefit from and enjoy. We will keep these guidelines under review to ensure they remain fit for purpose and will consider any comments received from residents, businesses and the community.

1.5 In July 2020 a new temporary pavement licensing scheme was introduced under Business and Planning Act 2020 in response to the Covid-19 virus outbreak with this scheme being made permanent in April 2024. From April 2024 the pavement licensing scheme shall be utilised by any business whose premises use includes a 'relevant use'. A relevant use means either or both of the following -
(a) use as a public house, wine bar or other drinking establishment;
(b) other use for the sale of food or drink for consumption on or off the premises.

1.6 Pavement permits will therefore be utilised to cover requests to use a pavement/highway where the business use of the premises does not cover a relevant use i.e. non-food related. For example, a Flower shop wishing to place flowers for sale on the pavement outside their premises would require a pavement Permit.

1.7 This guidance relates solely to the application of the Highways Act 1980 to the use by business of the highway, i.e. under a Pavement Permit. Separate guidance is available for the pavement licensing scheme including any associated forms on the Council's website.

2 Legislation

2.1 The Highways Act 1980 deals with the management and operation of the road network in England and Wales. Pavement Permits are granted under Part VIIA (Provision of Amenities on Certain Highways), Section 115A-115K of the Highways Act 1980.

2.2 'Highway' is defined by S115A of the Highways Act 1980, namely:

- 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; and
- a local Act walkway.

2.3 Section 115B-D refer to the provision of services, etc. by councils; whereas Section 115E allows for a council to grant permission to others to use objects or structures on, in or over a highway for the following purposes:

- (i) for a purpose which will result in the production of income;
- (ii) for the purpose of providing a centre for advice or information; or
- (iii) for the purpose of advertising.

2.4 Section 115F, provides that a council may grant a permission upon such conditions as they think fit, including conditions requiring the payment to the council of such reasonable charges as they may determine (being such charges as will reimburse the council their reasonable expenses in connection with granting the permission).

2.5 Under Section 115G, a council shall not grant any permission under section 115E unless they have first published a notice under this section specifying a period (being not less than 28 days after the publication of the notice) during which representations regarding the proposal may be made to the council. Where a council have published a notice under this section, they shall not exercise the power or grant the permission to which the notice relates until they have taken into consideration all representations made to them in connection with the proposal within the period specified in the notice.

2.6 Section 115J states that consent may not be unreasonably withheld but may be given subject to any reasonable conditions. If consent is unreasonably withheld, or is subject to unreasonable conditions, then it can be referred for arbitration.

2.7 Section 115K refers to the enforcement of the terms of the conditions: a council may serve notice requiring the permit holder to take steps to remedy the breach within specified timescales. If this is not complied with, a council may undertake the steps themselves and recover their costs in so doing.

3 Scope of the Guidelines

3.1 These guidelines cover applications to Shropshire Council ('the Council') for Pavement Permits made under the Highways Act 1980 for the following:

- Display of goods for sale by non-food related retail premises, e.g. cycle shops, flower shops, DIY stores or any other premises where food related items are not sold.

3.2 The guidelines require consideration to be given to any items being placed on the public highway and whether there is safe passage around such items for pedestrians and other highway users.

3.3 These guidelines do not concern any of the following:

- A request for a Pavement Licence.
- The consideration and investigation of noise emanating from any premises or noise controls at Licensed Premises, both of which are subject to enforcement under separate legislation.
- The consideration and investigation of any breach of any condition under the licensing or planning regimes both of which are subject to enforcement under separate legislation.
- The use and positioning of 'A-boards' or any other advertising material placed on the highway.
- The placement of structures or other paraphernalia on the highway for short term events or other unrelated matters for which authority must be sought from the Council's Highways Team under separate consideration.

3.4 The area for which a Pavement Permit is sought must be part of the Highway as defined by Section 115A Highways Act 1980, as detailed in para. 2.2 above.

3.5 Applications will be considered for non-permanent furniture or structures to be placed on the public highway. Permanent structures such as decking or smoking shelters will not be considered under these guidelines as such structures would be considered to be a change of use of the premises/highway and would, therefore, require planning permission to be obtained prior to being put in place.

3.6 Where a relevant planning permission exists for the use of the pavement area in question, e.g. due to permanently installed features, then details of any such planning permission and conditions must be provided with any application.

3.6 Planning permission is not normally required by the Council for the placement of non-permanent furniture or structures on the pavement; however, it is the responsibility of the applicant to check this and the granting of a Pavement Permit in no way confers that such permission, if required, has been granted.

3.7 Any planning permission associated with the premises may contain restrictions on the permissible hours of use of the pavement area. The Pavement Permit merely allows the use of the pavement and is aimed at ensuring road and pedestrian safety. Therefore, any time restrictions that are imposed by any planning permissions will effectively control hours of use of the permitted area. Time restrictions will only be applied to Pavement Permits where necessary to secure road or pedestrian safety.

3.8 Each application will be considered on its merits. Pavement Permits may not be able to be accommodated in certain locations due to factors such as visual impact, width restrictions, obstructions, very heavy pedestrian flows or other such reasonable considerations.

3.9 As part of the application process, businesses are expected to show how their application would make a positive contribution to the vibrancy and ambience of the town centre. We will only consider applications which have been well designed and thought through and are sensitive to the local surroundings and the impact on residents and visitors alike. Simple designs are to be preferred and are more likely to benefit everyone.

4 General conditions including size and layout

4.1 Applications should take account of the site characteristics, safety considerations and the overall impact of their application on pavement users. They will be expected to be in line with the criteria set by the Council to maintain adequate highway space for both pedestrian and vehicle movement. Particular attention should be paid to the location of highway facilities in the immediate vicinity such as bus stops, pedestrian crossings, loading bays, etc.

4.2 Ideally, we will aim to maintain an absolute minimum width of 1.5 metres clear distance between the permitted area and the kerb; however, in many cases, we will require greater than 1.5 metres clear distance due to the requirement to maintain adequate clear passage for pedestrians. Therefore, each site will be considered on an individual basis in terms of its overall suitability. In considering a site's suitability, we will have regard to any relevant statutory guidance and codes of practice to inform decisions, such as the Public and Passenger Transport 'Mobility Guidance for Shropshire' document. If the width of the pavement does not safely allow for the requested use by the applicant, the application is likely to be refused.

4.3 The permitted area shall be clearly identifiable, preferably by the use of a physical barrier or through using the equipment or goods contained within the permitted area. If this is not feasible or practicable, an alternative method should be proposed by the applicant that takes into account access along the pavement by disabled and visually impaired pedestrians and that defines the area and boundary

of the permitted area containing the equipment/goods taking into account the health and safety of the public and employees.

4.4 If, on assessment, the application reveals any significant risk to pedestrians or road users the permit will not be granted. Particular regard will be given to the impact on those with a disability in informing any decision. If in doubt, third party assistance may be sought by the Council in determining suitability of any proposals.

4.5 The general conditions contained within Appendix 1 to these guidelines shall apply to all Pavement Permits.

4.6 Subject to Appendix 1, permitted areas should meet the following criteria where appropriate:

- a) The permitted area will, in the main, be sited adjacent to the premises to which it relates and within the limits of the front and/or side of the premises in question unless otherwise agreed and specified on the Pavement Permit.
- b) Any equipment must be stable and should ideally not be more than 2 metres high unless there is a sound business need and it can be demonstrated that the display poses a minimum risk to pedestrians.
- c) Any equipment/goods associated with the Pavement Permit are only permitted on the pavement during hours in which the business premises is open and, where appropriate, only during times permitted under the planning and licensing regimes. At all other times such equipment/goods shall be removed from use.
- d) In all circumstances, the permitted area is the sole responsibility of the individual business and the Council insists that third party public liability insurance is taken out to indemnify the Council against any accidents or claims which may arise or be attributable to the presence of the equipment on the public highway. Evidence of this will need to be provided prior to a Pavement Permit being granted.
- e) Under no circumstances shall the proposal lead to excavations, fixture to or damage of any kind to the public highway.
- f) In no circumstances shall the proposal interfere with the visibility for traffic and pedestrians.
- g) Any equipment/goods associated with the Pavement Permit must be removed if the Council or other authorised organisation have to carry out repairs or works to the public highway (including equipment beneath the highway).
- h) In all circumstances all equipment associated with a Pavement Permit must be of good quality and design. Details should be submitted to the Council with every application but will be considered during any on-site inspection. All equipment must be kept in good repair and condition.

- i) Where barriers form part of the permitted area these need to be clearly visible and strike a contrast with the surrounding environment taking into account the needs of disabled and visually impaired pedestrians.
- j) All equipment or goods associated with any permitted area should, wherever practicable, be secured, fastened, weighted, or balanced to prevent them from being easily moved by external forces, such as the effects of the weather, or to withstand being knocked by passing pedestrians.

5 Application Process (New Applications/Renewals)

5.1 There are some general rules for applicants:

- a) You can apply for a new permit at any time.
- b) Please follow these provisions so that we have all the necessary information to process your application quickly. **Appendix 2** contains a checklist of documents that must be submitted when applying for a Pavement Permit.
- c) The relevant fees will be published on the website and provided with the application pack.
- d) Application fees are not refundable.
- e) All new applications will require a visit by a Council officer to discuss the application and how the applicant will meet these guidelines, assess the applicant's proposals and the equipment to be used and to undertake an assessment of the area's suitability for such use. Such a visit may be unannounced.

5.2 It is important to provide all the information we have requested to avoid delays in determining applications. On receipt of your application, we will review it and determine whether any other permissions are necessary – this will normally be clear from the checklist you will have completed as part of your application.

5.3 The new application will then progress as follows:

- a) If your application meets all the required criteria you will be required to display a notice, clearly visible on the outside of your premises, outlining your proposals and inviting representations from interested parties. This notice will be supplied to you by the Council and must be displayed from the date of the notice until your application has been determined. We will also outline the details of your application on the Council's website for a period of 28 days. This provides an opportunity for residents, other businesses in the vicinity and other interested parties to make representations to the Council in respect of your application.

- b) If necessary, other agencies, for example the Police, Fire and Rescue or other internal Council services, may also be consulted directly during the application process.
- c) We will consider any objections received. All reasonable objections will have to be satisfactorily resolved before the permission is granted. We will keep you updated on the progress of your application, but this may result in a delay in completing the application process.
- d) If your application fails to meet any criteria we will let you know why at the earliest opportunity and advise you what you need to do to meet all the criteria. We will give any applicant the opportunity to amend their application in order to meet any concerns identified during the application process. If your application is subsequently refused, we will explain the basis for the refusal, but we will not refund any application fees.
- e) We will aim, depending on the complexity of the application and allowing for adequate consideration and resolution of objections, to complete the application process within a timely manner taking into account any issues that arise.
- f) You will be required to display the valid Pavement Permit in a prominent place ensuring that the permit is visible from the outside of the premises so that members of the public and Council officers are able to view that you have the necessary authorisation to use the pavement in this way.

5.4 Where a valid Pavement Permit already exists for a premises but the business ownership changes during the period of the Permit, the new owner is required to notify the Council of the change as soon as practicable and if a permit is required then they will be required to submit a new application in accordance with section 5.3, with confirmation of third party public liability insurance in accordance with condition 4.6(d) above and payment of the standard fee. A full consultation process will be undertaken.

5.5 In order to remain valid Pavement Permits should be renewed within the specified renewal period. The renewal period is any time within 28 days before the expiry date of the Permit. Where a renewal has not been submitted in accordance with this section then a new application will be required to enable continued use of the pavement and will be subject to the new application process at section 5.3 of these guidelines, which will require the full consultation process to be undertaken. Renewals received after this period will not be considered except in exceptional circumstances and only considered when made in writing.

6 Regulation and Enforcement

6.1 We want to ensure that regulation and enforcement of the Pavement Permit process is fair and proportionate, and we expect businesses that are granted a Pavement Permit to abide by the conditions set out in these guidelines and on the Permit itself. However, we will periodically assess whether businesses are

complying with the terms and conditions of the Permit and provide guidance relevant to the premises.

6.2 Any businesses found to be operating without the necessary permissions will be asked to remove the obstructions and/or apply for a Permit through the normal process. If they fail to do so, then appropriate action may be taken to remove the obstruction to the highway and any expenses so incurred will be recovered from the business.

6.3 Any business with a Permit found to be in breach of the conditions of the Permit may be served a written notice requiring them to take such steps to remedy the breach within such time as is considered reasonable. If they fail to do so, the Council may take the steps themselves and any expenses so incurred may be recovered from the person on whom the notice was served. In certain cases, the Council may consider revoking a Permit where conditions are not being followed or use information in respect to identified breaches in deciding whether or not to renew a Permit.

6.4 It is the responsibility of the Permit holder to ensure that their use of the pavement does not cause noise or annoyance to anybody and that they comply with any statutory controls. If complaints are received about activities as a result of the use of the pavement then these will be investigated in accordance with the relevant legislation. The Pavement Permit scheme does not regulate noise or annoyance.

7 Review of Guideline document

7.1 These guidelines will be reviewed as required to take into account any changes in legislation, to ensure that the content remains appropriate and to ensure that the issuing and enforcement of Pavement Permits is having the desired effect of regulating the use of the pavement to the benefit of all involved.

Appendix 1

General Permit Conditions

These general conditions are applicable to all Pavement Permits and are to be read in conjunction with the guidelines applicable at any time and any special conditions included on a Pavement Permit.

- 1.1 **Other Conditions:** The granting of this Permit does not override any conditions imposed on that premises by way of any planning permission, or any other restriction or permit granted by any other Council department. Such conditions may relate to times of use of the pavement, area of pavement to use, , etc.
- 1.2 **Transfer of Permit:** A Pavement Permit is not transferrable. A change of business/owner operating from a premises will require a new permit application to be made.
- 1.3 **Charges by Permit Holders:** No charge shall be made by the Permit Holder for the use of the table and chairs and other objects within the permitted area.
- 1.4 **Removal of Equipment:** The Permit Holder shall remove the equipment and goods from the highway at all times when the premises is closed to the public and during times not permitted under any planning regime.
- 1.5. **Term of Permit:** The Permit will be valid for a period of 1 year commencing on the date of issue unless surrendered earlier by the permit holder or revoked in accordance with condition 1.7 below. An application to renew an existing Permit, including the associated fee, must be submitted during the applicable renewal time frame which is any time 28 days before the expiry date of the Permit. Only in exceptional circumstances, which must be provided in writing, will a renewal application be considered outside of this time frame. Failure to renew the Permit will require a new application to be submitted along with the applicable fee.
- 1.6. **Insurance:** The Permit Holder shall maintain throughout the Permit period insurance indemnifying the business and the Council against any injury or damage to any person or property and against any claim, liability, expense or demand arising by reason or in consequence of the permission granted. The cover shall be not less than £5,000,000 in respect of any one accident or series of accidents arising from one incident during the period of insurance. A copy of the insurance cover shall be submitted with any application.
- 1.7. **Revocation of Permit:** The Council may revoke the Permit by giving 30 days' notice in writing to the Permit Holder where:
 - (i) any failure to adhere to the Permit guidelines or conditions in force at the time or where any Permit guideline or condition associated with the Permit is contravened or if said contravention has not been rectified within agreed timescales; or

- (ii) revocation is necessary to enable the Council to exercise any of its statutory functions; or
 - (iii) there is a change in the ownership of the premises to which the permission relates and the Council has not received a new owner renewal or new application within 28 days of the change happening; or
 - (iv) there are changes in circumstances that lead to the existing permitted use creating an unacceptable risk to pedestrians.
- 1.8. **Highway Works 1:** All furniture shall be removed from the permitted area if any statutory undertaker or licensed telecommunications operator requires access to plant on, over or beneath the permitted area and shall not be replaced until works on the apparatus are complete and any necessary re-instatement completed.
- 1.9. **Highway Works 2:** All furniture shall be removed from the permitted area if the Council as the Highway Authority requires access to the permitted area to carry out any works whatsoever and shall not be replaced until the works are completed. The Council will not be liable for any resulting loss of business or other disruption to the operator's business.
- 1.10. **Cleansing Works:** All furniture shall be removed from the permitted area if the Council requires access to the permitted area to carry out any cleansing related works and shall not be replaced until the works are completed. The Council will not be liable for any loss of business or other disruption caused by third parties.
- 1.11. **Expiry of Permit:** Upon expiry or revocation of the Permit the Permit Holder shall remove any structures from the highway and reinstate the highway to its former state and condition and in default thereof the Council will be empowered to carry out such work of reinstatement and recover its expenses in so doing from the permit holder.
- 1.12. **Other Permissions:** The granting of a Permit does not obviate the need to gain any other relevant permissions, for example, it does not permit the sale of alcohol within the pavement café area for which separate licensing requirements apply.
- 1.13. **Duties:** Nothing in this Permit shall fetter any of the statutory rights or duties for the time being vested in the Council as the local Highway Authority nor shall this licence absolve the holder from his/her legal responsibilities under the Highways Act 1980 or any other legislation.
- 1.14. **Permit applications:** All Pavement Permit applications (New and Renewal) must be submitted in accordance with the guidelines applicable at any given time, using the appropriate forms and including the applicable fees.
- 1.15. **Permit Fees:** No application for a Pavement Permit (new or renewal) will be considered unless the applicable fee has been paid. Pavement Permit fees will be specified on the Council website. Permit fees are non-refundable and this includes circumstances where a Permit application has been withdrawn

or refused or where a Permit has for whatever reason been revoked or cancelled.

Highway/Pedestrian Access

- 2.1. **Pedestrian Requirements:** At all times there shall be at least 1.5 metres clear distance to allow pedestrians to pass safely. In certain busy streets a clear separation greater than 1.5 metres will normally be required between the permitted area and kerb.
- 2.2. **Access to Premises:** Where the use directly fronts the premises there must be an unobstructed corridor to the shop entrance of 1.5 metres.
- 2.3. **Road Safety:** Normal road safety considerations will apply and in certain circumstances the Council may override the provisions of paragraph 2.1. Access for emergency vehicles must be maintained at all times.
- 2.4. **Demarcation of Permitted Area:** The permitted area shall be clearly identifiable, preferably by the use of a physical barrier or through using the equipment or goods contained within the permitted area. Where this is not feasible, an alternative method shall be used that takes into account access along the pavement by disabled and visually impaired pedestrians and which clearly defines the area and boundary to contain the equipment/goods (tables, chairs, etc.) taking into account the health and safety of the public and employees.

Public Health and Amenity

- 3.1 **Public Health:** The permitted area together with associated outdoor and pavement areas including an area of 1 metre around the permitted area must be regularly cleansed and floor debris and other waste immediately removed.
- 3.2 **Litter:** There must be adequate provision made for the collection and containment of litter including cigarettes and, where directed, the holder must provide suitable litter-bins.
- 3.3 **Health & Safety 1:** Permitted areas must not obstruct any existing doorway or fire exit whether belonging to the premises or not.
- 3.4 **Health & Safety 2:** Furniture/goods stored within the premises should not at any time block a fire exit.
- 3.5. **Music:** Music (amplified or otherwise) shall not be permitted within the permitted area.
- 3.6. **Amenity:** All structures and equipment used by the Permit Holder in the permitted area must be kept clean and in good repair and condition.

Management

- 4.1. **Display of Permit:** The Permit must be displayed so that it is visible from outside of the premises.
- 4.2. **Removal and Cleaning of permitted area:** All equipment and structures placed on a public highway must be removed from the highway upon the cessation of the day's trading and the area cleansed to the satisfaction of the Council and, in default, the Council may itself remove the equipment and structures and recover its expenses in so doing from the Permit Holder.
- 4.3. **Notice of condition breach:** Where any condition attached to this permission is not being adhered to the Council may serve a notice requiring the said breach to be rectified within a specific timescale. Failure to comply with such a notice may result in revocation in accordance with condition 1.7 above.
- 4.4. **Consideration of permission renewal:** The Permit Holder's attention is drawn to the Highways Act 1980 section 115K (failure to comply with terms of permission). Failure to comply with Permit conditions may be taken into account by the Council when it considers whether to grant any subsequent permission to the applicant.

Please contact Shropshire Council Trading Standards and Licensing for general advice on Pavement Permits or the application process.

Trading Standards and Licensing, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury SY2 6ND.

Tel: 0345 678 9026

Email: licensing@shropshire.gov.uk

Appendix 2

Application Checklist

- Fully completed application form
- Copy of any existing planning permissions you hold
- A site plan detailing your proposals, including barriers, etc
(please also show the area applied for including the measurements to show that there is sufficient area around the proposed area to enable proper consideration of the application. Please indicate on the plan the location of other street items such as bus stops, litter bins, pedestrian crossings etc. nearby.)
- Details of the equipment/goods to be used:
(include the whether any furniture, chairs, tables, umbrellas etc, to be used).
- Proof of £5 million Public Liability insurance cover
(ensure this information is added to the application form as required)
- The appropriate fee
(depending on whether the application is for a new permit or a renewal of an existing permit (cheques to be made payable to Shropshire Council)
- Details of how the boundary of the Pavement Permit is to be defined
(need to consider how visually impaired and disabled individuals will be able to identify the permitted area)