

Barnsley Metropolitan Borough Councils Pavement Licensing

Policy 2026 –2031

1. Introduction

- 1.1 This Policy sets out how Licensing will determine applications for Pavement Licences under the Business and Planning Act 2020. This Policy also provides guidance for applicants on how to make applications, conditions that may be imposed on Pavement Licences, and what factors the Council will consider when determining an application.
- 1.2 Pavement licences were originally introduced as a temporary measure to assist businesses during the Covid-19 pandemic and provide a fast-track procedure to apply for tables and chairs outside hospitality premises. In April 2024, those temporary measures were amended to become a permanent licence type for businesses to use going forwards, and a renewal process was introduced.
- 1.3 This licence type enables furniture to be placed on a pavement, which may only be used for the sale or consumption of food or drink from that premises. The types of business that may apply for a pavement licence are restricted to pubs, bars, cafes, restaurants, coffee shops, or other similar premises.
- 1.4 All applications, including renewals, will be subject to a consultation period before a decision is made to grant or refuse the application. All licences will be granted for a period of 12 months.
- 1.5 In order to reflect any changes in the Pavement Licensing, either locally or nationally, the Council undertakes to review this policy at least once every five years but will also consider a policy review at any time should there be significant issues arising in the interim.
- 1.6 The Barnsley Future Council plan defines an achievable vision for the future in which Barnsley is an innovative and vibrant 21st Century market town at the

centre of a modern dynamic economy and is a great place to live. The urban core of Barnsley is home to 82,000 people. Barnsley town centre is the focus for the Borough's main shopping, administrative, commercial and entertainment activities. It has long been famous for its market, and more recently has become noted for its expanding club scene and night life. To the west of the urban core is the lightly populated attractive hilly country centred on the neighbouring market town of Penistone. To the south and east, and separated by open land, are the dispersed towns and villages of the former coalfield, which are the home to some 95,000 people.

1.7 Barnsley town centre has been transformed into a modern urban living space offering shoppers and visitors exciting retail, recreational, entertainment and cultural experiences that will enable it to compete successfully with neighbouring centres. Regeneration in the Borough's rural areas will be based on diversification and sustainable development. Cultural and leisure facilities, appropriate in type and scale, will be encouraged in the smaller market towns.

1.8 Integral in making Barnsley a great place to live is ensuring that its communities are attractive, safe living environments with convenient access to good quality local services and amenities, including leisure, entertainment and cultural facilities.

1.9 Neighbourhoods must be clean, safe and secure and their environments respected and cared for. They must also be friendly and caring places where people are welcome from all backgrounds and cultures and both young and old alike will feel part of the community.

1.10 In this regard, the Council recognises local residents' needs for a safe and healthy environment in which to work and live and the importance of having safe and well-run pavement licensed areas will contribute to this by ensuring areas are safe for all.

1.11 Promoting a smoke free environment is a key initiative of Barnsley Council. The **make smoking invisible** campaign aims to reduce smoking prevalence to

below 5% by 2030. The campaign involves smoke and vapes free areas across the borough. In line with this campaign the council encourages all pavement licensed areas to be smoke and vape free.

1.12 In 2016 Barnsley council introduced a PSPO to help address antisocial behaviour in Barnsley Town Centre, this order was renewed in 2019 and again in 2022 with some additional prohibitions and requirements added including the following:

No open containers of alcohol on the streets except within the boundary of a licensed premise, any Café pavement licensed area or when being carried between the licensed café pavement area and the nearest exit/entry point of the Licensed premises to which the pavement licence is controlled by.

This pavement licence policy supports the requirements of the current PSPO.

1.13 The Terrorism (Protection of Premises) Act 2025 - Martyn's Law

Martyn's Law sets out that the procedures and measures that must be put in place by organisations for their premises or event to strengthen the protection of public spaces and events against terrorist attacks. The measures required should be determined by what is appropriate and reasonably practicable for individual premises and circumstances. Licence holders should consider the nature of the premises or event, their activities, and resources when determining what measures should be in place. Those responsible for certain premises and events must take appropriate action to reduce the risk of harm to their workers and the public.

2. General principles and legislative requirements

2.1 The Council is responsible for the regulation of pavement licences within the borough.

2.2 In exercising its discretion when carrying out its regulatory functions, the Council will have regard to the powers contained in the Business and Planning act 2020 which have been made permanent by the Levelling Up and Regeneration Act

2023.

2.3 The Council will work in partnership with other local authorities, statutory bodies and agencies, especially those located in South Yorkshire, to ensure, wherever possible, that a consistent approach is taken on licensing matters across the region.

2.4 The Policy sets out how Barnsley Council will work to ensure that there is a level playing field for business owners operating in the Council area, ensuring that persons operating these types of businesses are compliant with legislation.

2.5 Pavement licensed areas are outdoor areas allowing hospitality businesses serving food or drink for immediate consumption, to extend the footprint of their business into public areas such as pedestrianised zones or footways. Businesses who want to benefit from this must seek authorisation through an application for a pavement licence.

2.6 Applications for a pavement licence can be found on the councils website:-

Link to be provided

2.7 Pavement licences are issued through powers set out in The Business and Planning Act 2020. The Act was passed to promote economic recovery and growth in response to the economic impacts of the global Covid-19 pandemic. The Act included urgent provisions designed to make it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

2.8 Since the Business and Planning Act 2020 received royal assent in July 2020 it has been the subject of numerous amendments to extend the temporary provisions enabling the consumption of food and drink outdoors.

2.9 The Levelling Up and Regeneration Act 2023 makes permanent the pavement

licensing regime under the Business and Planning Act 2020, with a number of changes. The Levelling Up and Regeneration Act introduces a standard fee cap for both new and renewals of licences as well as increased consultation and determination periods, lengthens the maximum duration of licences and provides Local Authorities with new powers to remove unlicensed furniture.

3. Scope of policy

3.1 Pavement licence

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 in areas which do not extend past the width of the front, side or rear of the premises in relation to which the application was made, for the serving or consumption of food and/or drink.

4. Eligible businesses

4.1 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 pavement licence.

Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food.

4.2 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.

5 Type of furniture permitted

- 5.1 Any area covered by a pavement licence when in use must be defined by barriers approved by the Council and customers must be kept within the approved areas at all times while consuming food or drink.
- 5.2 The barriers must be removeable Stanchion's with cross rails top and bottom and have a canvas filler at a minimum height of 700mm. The use of ropes fastened between stanchions are not permitted.
- 5.3 Furniture which may be used:
- Tables, counters or shelves on which food or drink can be placed
 - Chairs, benches or other forms of seating
 - Barriers and other articles used in connection with the outdoor consumption of food or drink.
- 5.4 A Pavement licence can only authorise the use of furniture that is removable, in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.
- 5.5 Advertising boards are not included in the definition of furniture within the pavement licensing regime.
- 5.6 Any furniture the subject of an application must be 'in keeping' with the local area.

6. Application

6.1 Application form and requirements for Pavement licences

An application for a pavement licence must be made to the council, and the following will be required to be submitted with the application:

- i) A completed application form including date the application is made
- ii) The required fee of £500 for a new licence or £350 for a renewal
- iii) A plan showing the location of the premises including the area of highway it is proposed will be licensed, 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 including barriers.
- iv) The proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway
- iv) Evidence of the right to occupy the premises (e.g. the lease)
- v) Photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied
- vi) 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)
- vii) 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 and
- viii) Any other evidence needed to demonstrate how the council's local conditions, and any national conditions will be satisfied.

7 Consultation

- 7.1 Applications are subject to a public consultation period of 14 days, beginning with the day after the day the complete application is submitted to the Licensing Service. The applicant is required to affix a notice to the premises as detailed in section 8 below.
- 7.2 Applicants must ensure the notice remains in place for the full duration of the public consultation. When counting 'days' public holidays are not included.
- 7.3 The council will publish details of the application on its website.

7.4 During the consultation period, the council will consult with the following stakeholders:

Barnsley MBC Highways and Engineering

South Yorkshire Police Licensing

South Yorkshire Fire Service

Strategic CONTEST Lead

Public Health

Health and Safety

Town Centre Management

7.5 Members of the public and those listed above can contact Licensing@barnsley.gov.uk to make representations.

7.6 The council must take into account representations received during the public consultation period and consider these when determining the application.

8. Advertising the application

8.1 An applicant applying 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 secured and legible so that it remains in place until the end of the 14-day public consultation period.
- Evidence of the site notice requirement must be supplied to the licensing service
- 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
- 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 (14 days starting the day after the application is submitted to the authority)
- A template site notice is available on the Barnsley Council Licensing website.

Failure to display the required notice as detailed above may constitute an incomplete application and consultation which could incur delays to the application process?

9. Site assessment

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

- 9.1 Health and safety of the public - for example, any reasonable crowd management measures needed as a condition of a licence.
- 9.2 Public amenity - will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter.
- 9.3 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. Having considered the Pavement Licence guidance and the Disability Discrimination Act 2005 a clear walkway of 2 metres must be maintained for the use of pedestrians using any pavement or pedestrianised areas.

- 9.4 Whether there are other permanent street furniture or structures in place on the footway that already reduce access.
- 9.5 The impact on any neighbouring premises considerations under the no-obstruction condition including the cumulative impact of multiple pavement licences in close proximity, in particular considering the needs of disabled people.
- 9.6 Other users of the space, for example if there are high levels of pedestrian or cycle movements.
- 9.7 Condensely populates areas with limited entrance and egress.
- 9.8 In keeping with the local areas and other local businesses.
- 9.9 Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and in doing so take any issues around noise, and nuisance into consideration as part of the proposal.
- 9.10 Applicants must consider terrorist preventative measures and refer to the Terrorism (Protection of Premises) Act 2025 (Martins Law)

10. Determination - Pavement licences

- 10.1 Once the application is submitted by the applicant the notice will be displayed for 14 days as set out in section 7.1. The council will then have a maximum of 14 days from the day after the consultation period ends (excluding public holidays) to determine the application.
- 10.2 In determining an application the council will:
 - (a) take into account any representations made to it during the public consultation period,
 - (b) consult such other persons as the local authority considers appropriate
 - (c) consider any previous breaches of conditions at the premises.

- 10.3 If the local authority determines the application before the end of the determination period the local authority can:
- i) Grant the licence in respect of any or all of the purposes specified in the application for the time period of one year.
 - ii) Grant the licence for some or all of the part of the highway specified in the application, and impose conditions
 - ii) Refuse the application
- 10.4 If the local authority does not determine the application in the 14-day period as indicated above, the application will be deemed to have been granted for a period of 1 year.
- 10.5 Any decision to refuse an application will be made in conjunction with the Chair of the General Licensing regulatory Board.

11 Approval of applications

- 11.1 The council may approve applications meeting the criteria contained within these guidelines.
- 11.2 On approving the application, the council will issue a pavement 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.
- 11.3 A copy of the council's standard conditions will be attached to all pavement licences.
- 11.4 Additional conditions may be attached if the council considers it appropriate.
- 11.5 The council will generally only permit pavement cafés to operate between the hours of 8.00am and 10.00pm.

- 11.6 Applications outside these hours will be assessed in terms of the criteria detailed above as well as taking account of any highway amenity restrictions.
- 11.7 The council retains the right to specify permitted hours of trading that are less than those specified above where deemed appropriate.

12. Duration of Pavement Licence

- 12.1 If the council determines an application before the end of the determination period (which is 14 calendar days, beginning with the first day after the end of the public consultation period, excluding public holidays), the authority can specify the duration of the licence.
Approved applications will be granted for a period of 1 year from the date of issue.
- 12.2 In limited circumstances the Council may grant the licence for a shorter period, for example where the area concerned forms part of an area that will be impacted by planned changes to the network.
- 12.3 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 1 year starting with the first day after the determination period ends.
- 12.4 Any licence granted that does not meet the conditions set out in the legislation or any local conditions, can be revoked at any time.

13 Refusal of applications

- 13.1 If the site is deemed unsuitable for a pavement licence, or if relevant representations are made which cannot be mitigated by conditions, the application will be determined in conjunction with the Chair of the Licensing Regulatory Board. A decision letter detailing the determination will be sent to the applicant.

13.2 There is no statutory appeal process against a decision.

13.3 A business may re-apply following refusal. Any new application should address the concerns raised in the original application.

14 Conditions

14.1 Any Pavement licence which is granted, or deemed to be granted under the Business and Planning Act 2020 will be subject to:

- The national conditions. – see Appendix 1
- The council's standard conditions – see Appendix 2
- Any additional conditions which the council imposes as a result of the individual circumstances of the application

14.2 Where the council sets a local condition this will take precedence over national conditions where there is reasonable justification to do so.

14.3 However, this is not the case for the statutory no-obstruction and smoke free conditions which apply to all licences. These conditions are shown in appendix 1.

15. Enforcement and revocation

15.1 Licences will be subject to regular review and any breaches detected will be dealt with appropriately.

15.2 If a condition imposed on a licence (either by the council or nationally) is breached, the licensing authority will issue a notice. If the licence holder receives three notices within a twelve-month period the local authority may revoke the licence or refuse renewal.

- 15.3 If a licence-holder on whom a notice is served for breaching conditions fails to comply with the notice, the local authority may revoke the licence or take steps itself and recover the costs of doing so from the licence-holder.
- 15.4 The local authority may also revoke the Pavement licence if it considers that—
- a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted or
 - b) as a result of the licence—
 - (i) there is a risk to public health or safety,
 - (ii) anti-social behaviour or public nuisance is being caused or risks being caused, or
 - (iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),
 - c) Anything material stated by the licence-holder in their application was false or misleading, or
 - d) the licence-holder did not on the day the application was made, fix a notice of the application to the premises so that the notice was readily visible to, and could be read easily by, members of the public who are not on the premises, and ensure that the notice remained in place until the end of the public consultation period.
- 15.5 The local authority may, with the consent of the licence-holder, **amend** the licence if it considers that—
- a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted or,
 - b) as a result of the licence—
 - (i) there is a risk to public health or safety,

(ii) anti-social behaviour or public nuisance is being caused or risks being caused, or

(iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),

c) a no-obstruction condition of the licence is not being complied with.

15.6 Any decision to revoke a pavement licence will be made in conjunction with the Chair of the General Licensing Regulatory Board. A letter detailing the reasons for the revocation will be sent to the applicant.

15.7 There is no right of appeal to the decision made.

15.8 Removable furniture placed on the highway otherwise than in accordance with a pavement licence, may be removed by the local authority. Where such a problem exists, the local authority will issue notice on the person responsible for the furniture requiring them to remove the furniture within a specified timeframe or until a licence has been obtained.

15.9 Should the furniture continue to be placed on the highway in contravention of such a notice, the local authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid.

15.10 If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

16 Appendix 1 - Statutory no obstruction and smoke-free conditions

16.1 No-obstruction condition

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) of the Business and Planning Act (BPA) 2020:

- Preventing traffic other than vehicular traffic entering the highway at a place where the traffic could otherwise enter it; Passing along the relevant highway
- Having normal access to premises adjoining the relevant highway.
- Preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order
- Must provide statutory undertakers having access to any apparatus of theirs under, in, on or over the highway.
- Preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purpose of that network under, in, on or over the highway.
- When considering whether the furniture has/would have the effect of preventing traffic or other vehicular traffic entering the highway as referred to above the authority must have regard to the needs of disabled people and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.

16.2 Smoke-free seating condition

- 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.
- The national smoke-free seating condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance
- with Smoke-free (Signs) Regulations 2012.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.
- Further, businesses must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smokefree (Premises and Enforcement) Regulations 2006.

17. Appendix 2 - Standard Local Authority conditions

17.1 The licence

- i) The licence will remain in force for 1 year from the date of issue unless surrendered or revoked.
- ii) The licence must be displayed on the premises in clear view.

17.2 The site

1. All furniture and customers to be kept within the approved areas at all times while consuming food or drink
2. The barrier must be removeable Stanchion's with cross rails top and bottom and have a canvas filler at a minimum height of 700mm.
3. The barrier must be erected on the boundary of the licensed area during the designated hours.
4. Such barriers must not be permanently fixed and must be removed from the site immediately after the end of the designated hours.

5. The use of ropes fastened between stanchions are not permitted.
6. The use of removeable stanchion's condition may be replaced with a condition of socketed stanchion posts where breaches occur or the licensing authority assess the need is required on application, in both cases at the cost to the applicant.
7. Only tables, chairs associated with tables or furniture designed or adapted to have drink or food placed upon them shall be placed within the licensed area. No other furniture other than receptacles shall be placed within this area.
8. Tables and chairs shall be durable and suitable for outside use. No damaged furniture should be used. The design of all chairs, tables, etc. shall be subject to the approval of the council.
9. When the licence is not in use all tables, chairs and other furniture must be stored securely away from the highway. Any items not so removed may be remove, stored or disposed of by the Council and any costs incurred will be re-charged to the licence holder. Barnsley Metropolitan Borough Council accepts no liability for loss or damaged to items removed.
10. The licence holder must cease to use the pavement licence area and remove all furniture and barriers if so requested, if access is required by the Council, the emergency services, statutory undertakers or the operator of electronic communication equipment in the case of an emergency, special event or for installation, maintenance, improvements, etc. or for any other reasonable cause. On such occasions no compensation will be paid for loss of business.
11. Emergency routes to the premises and adjacent buildings must not be obstructed by pavement furniture.

12. A boards or other signs must not be erected or permitted to be erected within the confines or adjoining the site.
13. No Parasol's BBQ, fire pits, patio heaters or naked flames shall be used within the Pavement Licence area.
14. The licence holder must arrange for the placement of sufficient litter receptacles for the purpose of smoking related and fast-food litter.
15. No electrical cables shall be run along the ground in such a way that they create a trip hazard or are susceptible to mechanical damage.
16. Staff must receive training in relation to prevention of Terrorism.
17. CCTV to be installed to cover the whole of the Pavement Licensed area. The CCTV should record for a minimum of 28 days and be provided to Licensing Officer and South Yorkshire Police on request.
18. Where alcohol is served extra door staff to be provided to supervise the pavement licence area on a risk assessed basis.
19. Capacity will be set for the licensed area in line with the purple guide. (0.5sqm per person)
20. Numbers to be monitored and a written log to be maintained at regular intervals during opening hours of the premises of the number of people within the licensed area. This must be produced to a member of South Yorkshire Police or a Barnsley MBC officer immediately upon request.

17.3 Operation of the licence

1. Where possible the licence holder must ensure that a minimum of 50% of the outside area is set aside as a non-smoking area except where the area is used for vertical drinking.
2. The licence holder must ensure that all persons consuming food and drink remain within the boundaries of the site and do not take refreshments out of the site unless in a sealed container and not to be consumed in the close vicinity.
3. Alcohol must not be consumed on the site unless the licence holder has an authorisation issued by the licensing service under the Licensing Act 2003.
4. No amplified music or loudspeaker equipment must be used on or in the vicinity of the site.
5. The licence holder must supervise the licensed area to ensure that it is operated in a safe and orderly manner and that customers do not cause a nuisance or cause annoyance to users of the highway or tenants of adjoining properties.
6. The licence holder must ensure that regular checks of the site are made at intervals of no more than 30 minutes to remove empty/abandoned drinks, crockery, cutlery and litter. A log must be kept of all checks completed.
7. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways within the vicinity of the licensed area caused by persons using the licensed area.

17.4 Alcohol licences only

1. Where intoxicating liquor is permitted to be served or consumed in the licensed area polycarbonate glasses must be used on a risk assessed basis.

17.5 Miscellaneous

1. The licence holder shall indemnify the council and shall produce to the council's licensing service manager for inspection a policy of insurance indemnifying themselves and the council against any injury or damage to any person or property and against any claim liability expense or damage arising by reason or in consequence of the permission granted. The policy shall provide cover of not less than £5 million in respect of any one accident or series of accidents arising from one incident unlimited during the period of the insurance.
2. 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. Upon expiry or revocation of the licence, the licence 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 the expense in so doing from the licence holder.
4. The conditions listed above are not an exhaustive list and any other condition that the local authority deem reasonable may be imposed on the licence to ensure the safety of members of the public.

Notes

Amendments may be made to relevant parts of this document and/or its appendices to correct any grammatical or spelling errors, provide clarity where required, meet government digital accessibility standards, or for other reasons to facilitate understanding.