

Mandatory Conditions (National)

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

Condition relating to clear routes of access:

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

Guidance on the effect of this condition

To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility, the licence is granted subject to those requirements.

To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

2. Smoke free seating – Where placement of furniture is provided for the purpose of the consumption of food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted.

Guidance on the effect of this condition

The local authority will have regard to any current guidance issued by the Secretary of State in determining whether or not this condition has been met.

Standard Conditions

1. This permission is personal to the Licence holder and not be capable of being transferred.

2. Unless determined otherwise, all pavement licences will be restricted so as only to authorise the placement of street furniture between the hours of 09:00 – 23:00 and in accordance with the plan submitted with the application.

3. The Licensee shall make good, to the County Council's satisfaction, any damage caused to the highway caused by the exercise of this consent and indemnify and keep indemnified the County Council from and against any claims, demands or proceedings in any way arising in regard thereto.

4. The Licensee shall make no claim or charge against either Chelmsford City Council (The Council) or Essex County Council in the event of the furniture or other objects being lost, stolen or damaged in any way from whatever cause.

5. The Licensee shall indemnify both the Council and the Essex County Council as Highway Authority against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred arising out of the grant of this permission and for this purpose must take out at the Licensee's expense a policy of public liability insurance approved by the Council in the sum of at least five million pounds in respect of any one event and must produce to the Council on request the current receipts of premium payments and confirmation of the annual renewals of the policy.

6. The authorised area shall be used solely for the purpose of consuming food or drink and only by persons seated at the tables and chairs provided within the authorised area.

7. No charge shall be made by the Licensee for the use of the tables and chairs.

8. Waste from the Licensee's operations shall not be disposed of in the permanent litter bins situated on the highway for use by the general public provided by the Council.

9. Refuse and litter deposited on the highway in the vicinity of the chairs and tables must be collected and removed each day by the Licensee at the Licensee's expense at not less than hourly intervals, at close of business or at more frequent intervals as may be required by or under the Environmental Protection Act 1990 and the Licensee shall comply with all requirements of any public health legislation for the time being in force.

10. The Licensee shall remove from the highway the barriers, posts, tables and chairs to permit works in or the use of the highway by the Council, the County Council, the police, fire and ambulance services, any statutory undertaker or telecommunications code operator and shall make no claim against the Council or County Council for any loss of revenue or for refund or permission fee as a result thereof. When such temporary removal is required to enable authorised special events to take place, the Council will provide reasonable prior notice of such events.

11. No alcohol shall be consumed on the permitted area unless a licence authorising the sale of alcohol has been issued by the Council.

12. The Licensee shall be responsible for any rates, taxes and other outgoings which may be charged arising from the exercise of this licence.

13. The Licensee shall at its own expense obtain any necessary statutory consents and approvals required in connection with the exercise of a refreshment facility on the highway and comply with the provisions of all such consents and approvals and all statutes and other obligations imposed by law with regards to the provision, maintenance, and operation of the refreshment facility.

14. The Licensee shall at the written request of the Council's Director of Public Places remove from and shall not replace any furniture on the permitted area which is not maintained to a standard satisfactory to the said Director.

15. No regulated entertainment shall be permitted within the licensed area unless authorised.

16. The Licensee shall keep the furniture clean and tidy, and the tables cleared regularly, ensuring that they do not obstruct entrance or egress from the premises.

17. No furniture is to be placed or kept on the permitted area when the premise is not open or trading.

18. The furniture is to be used only by customers of the premise for the consumption of food and drink supplied from within those premises.

19. The Licensee shall not cause or permit any nuisance or annoyance to users of the highway, to which the public will remain at all times entitled to exercise their right of passage over.

20. The Licensee shall not place furniture on the highway outside the authorised area of use.

21. The Licensee shall not permit or suffer the removal of any glassware used for the supply of the refreshment provided by the public from the authorised area.

22. Glasses supplied for the consumption of drinks on the authorised area shall be made of toughened glass or plastic only.

23. All barriers erected to enclose the area will be of high visibility and with a low tapping rail for the visually impaired.

24. The authorised area shall be always supervised by competent staff of the Licensee during the exercise of this consent who shall take all reasonable steps to ensure compliance with these terms and conditions.

25. Any heaters used in the permitted area must conform to BS EN 60529:1992 (electric heaters) and BS EN 14543:2005 (gas heaters). The Licensee shall restrict access to the controls/ pipe cylinders on the heaters to authorized employees of the premises only.

26. This permission may be suspended or revoked:

(a) by either party giving to the other not less than one months' notice in writing to expire at any time or

(b) in the event of the Licensee failing to comply with any of the above conditions the Council may revoke the licence by giving 24 hours' notice in writing to the Licensee and in this event all consideration money previously paid shall be without prejudice to any right or action which the Council may have for breach of terms of this permission damages or otherwise.

27. Any notice to be served in connection with this permission will be sent by email to the email address of the licence holder provided within the application and shall be deemed to be served upon the Council if sent via email to licensing@chelmsford.gov.uk or addressed to Director of Public Places c/o The Licensing Team, Civic Centre, Duke Street, Chelmsford CM1 1JE.

28. The Licensee shall remove all furniture from the authorised area when the premises are closed for trading. For further clarification, no furniture is to be placed or kept on the authorised area when the premises are not open or trading, nor placed on the highway other than in the layout shown on the approved plan.

29. This consent is a consent issued under s.3 (3)(a) of Part 1 Business and Planning Act 2020

30. No form of decking/flooring will be permitted under any circumstances.

31. The Licensee is responsible for ensuring that no statutory undertakers' apparatus is affected by the exercise of this consent.

32. Customer toilet and associated hand-washing facilities is to be provided in accordance with the Council's Guidance on Toilet Provision.

33. A copy of page 1 of this licence shall be placed in a prominent position adjacent to the area in respect of which this permission has been granted so as it can be clearly seen by authorised officials without need to enter the premises.

34. Tables and chairs shall not be put on any cycle route, cycleway or any position which impedes cyclists.

The Licensee's attention is drawn to The Chelmsford City Council Public Spaces Protection Order (Chelmsford City Centre and Surrounding Area) 2019²² made in accordance with the Anti-social Behaviour, Crime and Policing Act 2014