

Cheltenham Borough Council

Licensing Sub-Committee - Miscellaneous

Meeting date: 6 August 2025

Meeting time: 6.00 pm

Meeting venue: Council Chamber - Municipal Offices

Membership:

Councillor Angie Boyes, Councillor Dr Helen Pemberton, Councillor Julie Sankey, Councillor Simon Wheeler and Councillor Dr David Willingham

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Please note: the deadline to register to speak is 5.00pm on the day before the meeting.

Contact: democraticservices@cheltenham.gov.uk
Phone: 01242 264 130

Agenda

1 Apologies

2 Declarations of Interest

3 Business and Planning Act 2020: Determination of a Review of a Pavement Licence (Pages 5 - 14)

4 BRIEFING NOTES

5 Any Other Items the Chairman Determines Urgent and Which Requires a Decision

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Licensing Sub Committee – 6 August 2025

Business and Planning Act 2020: Determination of a Review of a Pavement Licence

Japes, 23 – 25 The Promenade, Cheltenham GL50 1LE

Report of the Licensing and Public Protection Manager

1. Introduction

- 1.1 Pavement licences were introduced under the Business and Planning Act 2020 ('the 2020 Act') and allows someone who has a business premises for the sale of food and/or drink to apply for a licence to place removable furniture on the highway. The furniture can be used for the sale or service of food and by the business's customers. On receipt of an application, there is a 14- day period of public consultation followed by a 14-day period of determination. Before determining an application, the local authority must consider any representations received during the consultation period and must consult the Highways Authority. If a local authority does not make a determination within the 14-day determination period, the licence is deemed granted.
- 1.2 Licences can be issued for a maximum period of 2 years, and the licensing team has the power to impose conditions to the consent as part of the decision-making process. Alongside this, standard and national conditions are imposed.
- 1.3 Cheltenham Borough Council does not currently have a specific pavement licensing policy; however this will be implemented later this year once a consultation has been carried out and will include all information that is shown in the [national guidance](#), including having regard to pedestrians and inclusive mobility.
- 1.4 Prior to the commencement of the Business and Planning Act, table and chair licensing was administered under the Highways Act 1980 and consents were issued by Cheltenham Borough Council.

2. Background

- 2.1 Premises: Japes, 23 – 25 The Promenade, Cheltenham GL50 1LE
- 2.2 The pavement licence for Japes was issued on 11 March 2023. A copy of the licence is attached at **Appendix A**. This also shows the conditions attached to the licence.
- 2.3 Whilst there were no formal objections received as part of the consultation. There was a comment received from the marketing and events team at Cheltenham Borough Council with regards to the extent of the proposed area. The plan was aligned with the Bella Italia licence which operated on the site previously. A copy of the plan is attached at **Appendix B**.
- 2.4 No condition was added with regards to removing furniture when markets are in operation. This is attached on the neighbouring businesses licence and was an oversight on the part of the Licensing Team. It is also a condition that is proposed in the future policy.
- 2.5 Since the licence has been issued, the licence holder has been in dispute with the operating markets. over who has the right to use the land. Attempts have been made to find a common ground including, asking them to voluntarily reduce the area whilst markets are operating and be able to use the area closest to their business..

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- 2.6 The licensing authority must be seen to be supporting local businesses as well as the markets who host a wide selection of local traders and add to the vibrancy of the town centre.
- 2.7 The licence is being reviewed as a last resort to determine the scope of the pavement licence whilst markets are in operation so that the highway remains navigable by all.
- 2.8 The licence holder was offered the opportunity to submit a written representation, but at the time of writing the report one hasn't been received.

3. Compliance history

- 3.1 The licence holder did not adhere to the layout of the pavement licence and sited permanent planters outside of the premises. A remedial notice was served on 1 May 2025. The licence holder is now compliant with the furniture and layout of the plan.
- 3.2 Following the end of the off sales relaxation in May 2025, the premises were in breach of their premises licence and were conducting off sales. Following an email from CBC's licensing enforcement and compliance officer on 11 July 2025, a minor variation application has been submitted by the licence holder and is currently in consultation at the time of writing this report. It is important to note that alcohol sales cannot be taken away from the premises (including into the pavement area) unless this application is granted.

3.3 Implications

3.3.1 Legal	<p>The committee must have regards to the national guidance.</p> <p>The pavement licence must be compliant with inclusive mobility and ensure that pedestrians are able to navigate the area easily.</p> <p>The licensing authority has a duty under the Equalities Act 2010 to ensure that anyone with a protected characteristic is not prejudiced by the issuing of the licence.</p> <p>There is no right of appeal.</p> <p>One Legal E-mail: legalservices@onelegal.org.uk</p>
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4. National Guidance

- 4.1 Section 4.1 of the [guidance](#) sets out the needs of disabled people. The licensing authority must impose a no-obstruction condition.
- 4.2 A minimum width of 1.5m (suggested 2m) width should be in place to allow for wheelchair users, electric mobility scooters and double buggies.
- 4.3 **Reviews (section 7.1)**
- 4.4 The Act provides licensing authorities with the power to revoke or amend licences with the consent of the licence holder if:
- If it considers that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licenced area (or road adjacent) is no longer to be pedestrianised.

Or if there is evidence that:

- there are risks to public health or safety – for example where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
- this use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition – for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway; or
- this use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition – for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway; or

The local authority may revoke a licence in the following circumstances:

- For a breach of condition, (whether a remediation notice has been issued or not) or
- 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 of the application or secure that the notice remains in place until the end of the public consultation period.

4.5 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

It is good practice for local authorities to give reasons where these powers are used.

6. Licensing Comments

6.1 The committee must determine this application with the view of promoting inclusive mobility on the highway.

6.2 The committee should also ensure that there is a balance between businesses and markets that are sited on the Promenade.

6.3 There is a condition on the current licence that permits the licensing authority to amend or revoke the current consent. In terms of transparency and fairness it is felt that referring the matter to committee for determination is the fairest route.

6.4 With this in mind, and taking into account this report and the evidence it hears, the committee can resolve to:

- make no changes to the licence;

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- impose conditions on the licence;
- amend the licensed area; or
- revoke the licence.

Background Papers

Service Records

[National Guidance](#)

Report Author

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Tel no: 01242 264135



CHEL TENHAM

BOROUGH COUNCIL

BearPizzeria Ltd
23 Promenade
Cheltenham
Gloucestershire
GL50 1LE

ask for: Licensing
ddi number: 01242 264135
email: licensing@cheltenham.gov.uk
our ref: 25/00472/PAVE
your ref:
date: 11 March 2025

**Permission for Pavement Licence
Business & Planning Act 2020 as amended by the Levelling Up and Regeneration
Act 2023**

Dear BearPizzeria Ltd,

**Japes
23 - 25 Promenade
Cheltenham
Gloucestershire
GL50 1LE**

Further to your recent application please find enclosed your licence to place furniture on the highway outside the above premises.

May I take this opportunity to draw your attention to the standard and special conditions for placing tables and chairs on the highway, which are also enclosed.

If you have any further queries then please do not hesitate to contact me.

Yours sincerely,

Licensing Section



CHEL TENHAM

BOROUGH COUNCIL

PAVEMENT LICENCE

**Business & Planning Act 2020 as amended by the Levelling Up and
Regeneration Act 2023**

Permission holder **BearPizzeria Ltd**

For use at the premises situated at and known as:

**Japes
23 - 25 Promenade
Cheltenham
Gloucestershire
GL50 1LE**

Permission No: **25/00472/PAVE**

Details of Permission

Number of tables: **22**

Number of chairs: **64**

Other furniture: **Canvas and steep pole barriers**

This Permission shall be in force from **11th March 2025** to **10th March 2027**

Period of Permission:

Sunday: **12:00 - 22:30**

Thursday: **12:00 - 23:00**

Monday: **12:00 - 23:00**

Friday: **12:00 - 23:00**

Tuesday: **12:00 - 23:00**

Saturday: **12:00 - 23:00**

Wednesday: **12:00 - 23:00**

A fee of **£500.00** has been paid (Receipt No. **338927**)

Date of issue: **11th March 2025**

This Permission is granted subject to the Council's Standard Conditions for Permission to place tables and chairs on the highway and to any additional Special Condition(s) where applicable set out in the Schedule attached.

Louis Krog
Head of Public Protection

Second Schedule**Council's standard conditions in connection with furniture being placed upon the highway****National conditions****1. No-obstruction condition**

Nothing done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have the effect of;

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. Smoke-free seating condition

Where furniture to be put on the 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.

General matters

1. No furniture sited on a footway are to be placed within 2m of the edge of an adjacent carriageway. A minimum clear footway width of 2m must be obtained at all times.
2. The fee for the granting of the licence will need to be paid in advance
3. All furniture must at all times be well maintained and kept in a clean and tidy condition
4. The furniture must not be placed in any other area than that stated in the permission. They should be placed in an area delineated by a suitable temporary barrier
5. Furniture and temporary barriers must be in line with the Pavement tables and chairs design guide
6. The person to whom the licence is granted must ensure that the tables and chairs so far as reasonably practicable, and the persons using the tables and chairs, do not at any time obstruct the passage of or cause danger to persons lawfully using the highway on which they are situated
7. The licence may be suspended by the council at any time in the event of work being carried out in, under or over the highway on which the tables and chairs are situated or any adjacent highway
8. The person to whom the licence is granted must indemnify the council against any costs, claims, actions, or damages arising out of the furniture on the highway
9. The person to whom the licence is granted must bear absolute responsibility for ensuring that adequate public liability and products liability insurance is held in respect of the permitted area and the cover obtained must be not less than £5,000,000, any one claim, in respect of public liability and not less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability. Evidence of such public liability and products liability insurance must be provided to the satisfaction of the council before the licence can be exercised
10. The licence is not assignable
11. The council may at any time vary the licence or conditions of the licence
12. If the person to whom the licence is granted breaches any one or more of the conditions, the council may serve a 'default' notice requiring the breach of conditions to be remedied in a particular way within a stated time and should it be necessary in order to remedy the default, the council may require the tables and chairs, temporary barriers and other furniture to be removed from the highway either temporarily or permanently

13. The person to whom the licence is granted must ensure that the furniture and use by members of the public are at all times supervised so as to avoid nuisance to:
 - members of the public lawfully using the highway
 - local residents
 - other local businesses
14. The person to whom the licence is granted must ensure that glasses, crockery, napkins, cutlery and any other item placed upon the tables and chairs by the person to whom the permission is granted or by any other persons, when the tables and chairs are in use, are removed from the tables and chairs when they are not in use
15. The person to whom the licence is granted must not allow music to be broadcast on to the street
16. The person to whom the licence is granted must ensure that customers consuming food or drink outside the premises do not move beyond the demarcated area
17. It is the duty of the person to whom the licence is granted to clean the section of the highway in respect of which licence is granted

Design specification

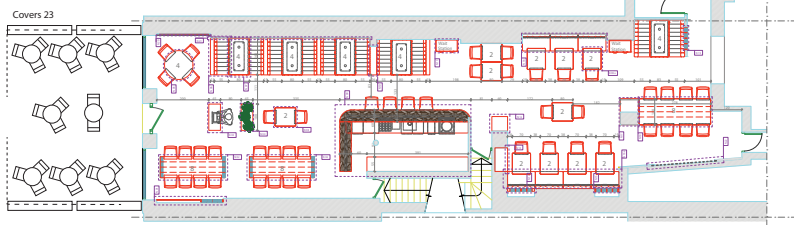
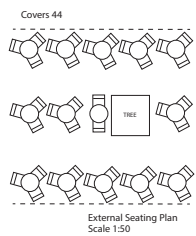
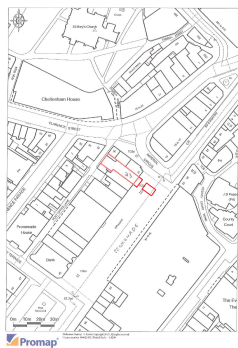
Means of enclosure

18. When in use the pavement area will need to be enclosed, to demarcate the licenced area and contain the furniture, making it distinguishable to other pavement users, and particularly to assist blind and visually impaired pedestrians
19. The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities
20. The enclosure must be removed outside the hours of operation or when it is not intended to operate on the pavement within that period. The materials should therefore be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into
21. The design of the barrier should complement the character of the surrounding area and in any event must have bars/elements at around 100mm and 1,000mm above ground level
22. Planters can be particularly attractive and can be used as part of the means of enclosure but must be removed from the highway outside of the hours of operation
23. The enclosure must comply, in all respects, with the council's design guide

Furniture

24. The furniture should be of a high quality and uniform style within the licenced area. White plastic and or picnic tables will not normally be approved
25. Where umbrellas are used these must be fabric type (that is to say non reflective) and display only limited advertising or logos up to 150 x 450 mm in size. Umbrellas are to be positioned so as to avoid overhanging, outside the enclosure or impairing vehicle sight lines
26. Non furniture items, such as advertising boards, or non-moveable furniture also need to be approved and any unacceptable clutter or intrusion into sight lines will need to be removed if it is seen to be causing a problem. Such items are likely to need a separate permission under the Highways Act 1980 to place an object(s) on the highway.
27. All items need to be portable enough to be brought in at the end of the licenced period of each working day or in the event of an emergency.

23 Promenade, Chalfonts, G8.50 11E



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