

Cheltenham Borough Council

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](#)

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