

# RUSHMOOR BOROUGH COUNCIL RECORD OF EXECUTIVE DECISION



Decision taken by individual Cabinet member (delete as appropriate)

*(All sections must be completed (mark "N/A" as applicable))*

**DECISION MAKER** *(Name and designation)*

Cllr Maurice Sheehan – Environment & Neighbourhood Portfolio Holder

**DECISION AND THE REASON(S) FOR IT**

To update the Pavement Licensing Policy to the version attached. The changes made to the policy are relatively minor and are to take account of legislative changes, which the authority are required to comply with, therefore these changes are necessary. The changes also remove the section in respect of delegated authority, as this is covered in the Council's constitution and therefore it is not necessary to also include in the policy as this is duplication. It is not included in any other licensing policies, and where updates to this are required, they are dealt with as an update to the constitution through that process, not via a policy change, therefore it is not appropriate for it to be included.

**DATE DECISION TAKEN 18/12/23**

**ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

*(Those examined by officers and generated by consultation, etc)*

N/A

**ANY CONFLICTS OF INTERESTS DECLARED**

*(conflict of interests of any executive member who is consulted by the officer which relates to the decision. A note of dispensation should be attached).*

N/A

Signed \_\_\_\_\_

(Decision maker)

Signed \_\_\_\_\_

(Cabinet member consultee where applicable)

**Designation:** Environment & Neighbourhood Portfolio Holder

Please send completed form to Chris Todd, Democracy and Community

**POLICY & GUIDANCE  
IN RESPECT OF  
PAVEMENT LICENCES**

**Business & Planning Act 2020**

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# PART A

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## 1. INTRODUCTION & SCOPE

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### 1.1. INTRODUCTION

1.2. The Business and Planning Act 2020 (the Act) was introduced by HM Government as part of its business recovery and support arrangements to help stimulate the UK economy following the recent Coronavirus pandemic and lockdown.

1.1. Amongst other matters, the Act seeks to promote economic recovery and growth in the hospitality sector by relaxing planning and licensing laws to enable the consumption of food and drink outdoors by means of a temporary system of Pavement licences.

This document sets out the policies and principles Rushmoor Borough Council (RBC) will apply in carrying out its functions as the licensing authority in respect of applications for Pavement licences by eligible businesses etc.

### 1.3. SCOPE

#### 1.4. Applicability

1.5. This document applies only to the functions of RBC (the 'licensing authority') in respect of administration and enforcement of Pavement licences by café's, restaurants, bars and similar enterprises under the Act.

1.6. This document applies only to the Borough of Rushmoor as defined in **appendix A**.

#### 1.7. Status

1.8. This document will be used to inform and direct the decision making of the licensing authority, particularly when making decisions on relevant Pavement licence applications. It acts as a guide to the considerations and standards to be applied in exercise of its functions together with the roles and responsibilities of those to which it may apply. In this context, this document aims to provide guidance and advice to all parties with an interest in Pavement licences.

1.9. The document is not intended to be a full and / or authoritative statement of the law or associated guidance and does not in any way constitute professional or legal advice. Any statements contained in

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this document do not replace, extend, amend or alter in any way whatsoever, the statutory provisions of the Business & Planning Act 2020 or any subordinate legislation or guidance made / issued in relation to it.

### **1.11. Matters of interpretation**

1.12. The term 'licensing authority' is used throughout this document in recognition of, and in distinction between, the roles and responsibilities placed by the Act upon different services of its corporate authority, Rushmoor Borough Council and others. The collective terms 'its', 'us', 'our' etc are used interdependently and should be construed accordingly.

1.13. Any reference in this policy document to any other specified document, information or guidance must be taken to mean a reference to the extant version of that document, information or guidance and/or revision thereof.

1.14. The terms 'objects', 'tables and chairs etc', 'equipment' and 'furniture' are used throughout this document as collective terms to cover all objects to be or proposed to be placed on the highway (in so far as this document relates), and includes equipment, furniture (including tables and chairs), associated barriers, fittings, adornments or accessories.

### **1.15. Disclaimer**

1.16. RBC accepts no responsibility for any errors, omissions or misleading statements on these pages, or any site to which these pages refer. In particular, it must be noted that, although every effort has been made to ensure that the information in these pages is correct, changes in the law and the nature of implementation of the Act mean that the information in these pages cannot be guaranteed as accurate.

### **1.17. Review Procedures**

1.18. This policy shall be kept under review and revised as appropriate and, in any event, not less than five years from the date of its last adoption.

## PART B

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### 2. GENERAL PHILOSOPHY & APPROACH TO PAVEMENT LICENSING

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#### 2.1. GENERAL PHILOSOPHY

2.2. The licensing authority recognises that the Pavement licensing regime established by the Act has been introduced as part of the Governments business recovery and support arrangements to help stimulate the UK economy following the 2020 Coronavirus pandemic and lockdown. In this sense, the licensing authority recognises that Pavement licences enable eligible businesses to maximise their operating capacity.

2.3. The licensing authority also believes that the provision of furniture (e.g. tables and chairs) on the highway can, if undertaken well, add life and vitality to the local street scene and positively enhance the public enjoyment of local facilities, together with the appearance and prosperity of local businesses and / or the area generally. The licensing authority will therefore seek to enable good business.

2.4. However, the licensing authority also believes that inappropriately located or unsuitable furniture, together with its inconsiderate and/or inappropriate use, can positively detract from the public's safety, use and enjoyment of the street scene by causing congestion, obstruction, visual intrusion and / or amenity loss. The provision of such facilities may also cause problems with waste, litter, pests, noise, nuisance and other environmental issues that can impact on health and well-being.

2.5. We also believe that the provision and / or poor management of tables and chairs etc can give rise to problems associated with crime and disorder (e.g. opportunistic bag snatchers and pickpockets etc) and attract undesirable groups or gatherings that can lead to other forms of anti-social behaviour. In addition, tables and chairs and other such objects can also be used as weapons in violence-related situations.

2.6. It is also the view of the licensing authority that there are inherent public safety (e.g. emergency access, distraction of carriageway users etc) and access issues (e.g. wheelchair user access, mobility of the visually impaired etc) in all circumstances where such facilities are provided.

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### **2.7. GUIDING PRINCIPLES & OBJECTIVES**

2.8. In view of the above, the Licensing Authority will seek to administer and regulate Pavement licences in the public interest and will, where appropriate, seek to enable good business for all concerned. We will endeavour to do this by providing quality, timely and value for money licensing and regulatory services with a view to promoting the following licensing objectives -

- (a) To prevent public nuisance;
- (b) To ensure public and highway safety;
- (c) To prevent crime and disorder;
- (d) To ensure public and visual amenity; and
- (e) To ensure hygiene and public health.

**NB:** The Licensing authority shall give paramount consideration to the licensing objectives and give them their widest possible interpretation and meaning. Each objective will generally be considered to be of equal importance.

### **2.9. Balancing the use of the highway against the public interest**

2.10. In view of the above and in exercising its functions under the Act (in so far as this document relates), the licensing authority will consider any Pavement licence application objectively on its own individual merits. This extends to the consideration of associated representations and/or the prevailing conditions / circumstances at individual locations / sites to which any licence application relates.

### **2.11. Departure from policy**

2.12. In applying these principles and objectives, the licensing authority reserves the right to, and will, where it is entitled to do so, use its discretion and / or depart from this statement of policy and any other guidance, where appropriate. Such discretion and departure will only take place where it is considered right to do so in view of the individual circumstances of the case and where there are strong and defensible reasons for doing so. In any such case, the licensing authority will clearly express and explain its reasons.

### **2.13. GUIDANCE**

2.14. In exercise of its functions the licensing authority will also have regard to any Pavement licensing guidance issued by the Secretary of State under section 8 of the Act.

## PART C

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### 3. APPLYING FOR A PAVEMENT LICENCE

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#### 3.1. WHAT WE MEAN BY 'PAVEMENT LICENCE'

#### 3.2. Temporary placement of furniture on the highway

3.3. Subject to any conditions attached to it, a Pavement licence is a licence granted by the local authority, or deemed to have been granted, which authorises the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

#### 3.4. Temporary restriction of access to the highway

3.5. Subject to the provisions of the Act and any conditions attached to it, a Pavement licence authorises the restriction, by anything done by the licence holder pursuant to the licence, of public access to the part of the relevant highway to which the licence relates.

#### 3.6. Planning permission

3.7. A Pavement licence also constitutes deemed planning permission for anything done by the licence-holder pursuant to the licence –

(a) which is development requiring planning permission under Part 3 of the Town and Country Planning Act 1990, and

(b) for which there would otherwise not be planning permission or deemed planning permission.

#### 3.8. Temporary street trading consent

3.9. A Pavement licence also enables the sale of food and drink in the part of the relevant highway to which the licence relates. Whereas anything done by the licence-holder pursuant to the licence is not classed as street trading for the purposes of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982.

#### 3.10. WHAT WE MEAN BY 'REMOVABLE FURNITURE'

3.11. For the purposes of a Pavement licence, furniture shall be taken to mean and include, but is not limited to –



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- (a) counters or stalls for selling or serving food or drink,
- (b) tables, counters or shelves on which food or drink can be placed,
- (c) chairs, benches or other forms of seating, and
- (d) umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

3.12. The Council expects the nature, type and design of furniture to be of good quality, 'in keeping' with the local area and to meet its design specification(s).

3.13. This furniture is required to be removable, which means it is not comprised of any permanently fixed or situated structures; all of which are able to be moved easily, and be stowed away of an evening.

### **3.14. WHAT WE MEAN BY 'HIGHWAY'**

3.15. Subject to the definitions and exemptions under the Act, Pavement licences can only be granted in respect of highways listed in section 115A(1) of the Highways Act 1980.

3.16. Generally, these are taken to mean footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over Crown land are exempt (i.e. where a Pavement licence cannot be granted).

### **3.17. WHAT WE MEAN BY 'ADJACENT'**

3.18. The licensing authority considers the placement of furniture on the highway adjacent to the premises to which any Pavement licence (or any associated application) relates to mean that the furniture is [to be] placed contiguous to, conterminous or bordering the premises to which the application or Pavement licence relates (i.e. it shares a common border or boundary with the relevant business premises).

3.19. For the avoidance of doubt, the licensing authority will not normally grant a Pavement licence in respect of any [proposed] arrangement that is separate to or detached from the premises to which the application or Pavement licence relates.

### **3.20. PURPOSES FOR WHICH A PAVEMENT LICENCE MAY BE USED**

3.21. Under the terms of the Act, a Pavement licence authorises the licence holder to place and use furniture 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. A Pavement licence cannot be used for any other purpose.

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### **3.22. MAKING A PAVEMENT LICENCE APPLICATION**

#### **3.23. Eligibility to make a Pavement licence application**

3.24. Under the terms of the Act, only relevant businesses which use (or propose to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a Pavement licence. Eligible businesses include, but are not limited to public houses, cafes, bars, restaurants, snack bars, coffee shops, ice cream parlours and similar. Businesses that do not use (or propose to use) premises for these purposes are not eligible and will not be granted a Pavement licence.

#### **3.25. Requirements of a Pavement licence application**

3.26. To enable informed consideration and decision-making, the licensing authority will, subject to any regulations on the matter, only accept Pavement licence applications submitted with the following -

- (a) A completed application form.
- (b) A site / location plan (scale 1:1250) showing the location of the premises (outlined in red) to which the proposals relate; showing the application site together with its location relative to adjoining streets and other premises that may be affected by the proposal(s).
- (c) A detailed site plan (scale 1:100 or larger if appropriate) that shows -
  - (i) the full boundary of the premises to which the proposals relate, including:-
    - the frontage(s) and/or building line(s) of the premises;
    - all main points of access to and egress from the premises;
    - the location of all fire exits and escape hatches (where different);
    - the area(s) and dimensions of any private forecourt to the premises;
    - the area where furniture / objects are intended to be stored; and
    - the area intended for storing refuse and associated facilities.
  - (ii) outline details of adjacent and opposite premises, including:-

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- the frontage(s) and/or building line(s) of adjacent and opposite premises;
  - the area(s) and dimensions of any private forecourt of adjacent premises; and
  - all points of access to and egress from adjacent premises (including fire exits and escape hatches) along each frontage to which the proposals relate;
- (iii) the exact location(s) and dimensions of the area of highway proposed to be used (with reference to two separate fixed datum points), including:-
- the relevant footway width(s), kerb line(s) and centre line(s) of adjoining carriageways or pedestrianised areas (as applicable);
  - the exact location(s), area and dimension(s) of the furniture and objects proposed to be placed on the highway (and the space between them);
- (iv) the location of any other street furniture or objects already on the highway / footway in the vicinity of the premises and proposals to which the application relates (e.g. statutory undertaker plant or utilities, drainage gullies, trees, planters, benches, railings, post boxes, bollards, sign posts, lamp posts, traffic lights, cellar hatches, inspection covers, manholes, fire hydrants etc); and
- (v) the position of pedestrian and other road user access facilities in the vicinity of the premises and proposals to which the application relates (e.g. dropped / raised kerbs, pelican crossings, cycle lanes, parking bays, market stall pitches, taxi ranks, bus stops, tactile paving areas etc).
- (d) A valid certificate of third party and public liability insurance that indemnifies the licence holder, Rushmoor Borough Council and Hampshire County Council of not less than £5 Million against each and every claim in respect of injury, damage or loss arising out of any grant of permission to place objects (including tables and chairs) on the highway.
- (e) Full details of all objects / furniture proposed to be placed on the highway (including manufacturer name and specification and/or catalogue number for each type of object / furniture concerned). **NB:** Copies of the manufacturer's brochure(s) and other such documentation / literature may be submitted for these purposes.

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- (f) Colour photographs of each type of object proposed to be placed on the highway as it would appear in the street, together with precise measurements of the height, width and depth of each object. **NB:** Copies of the manufacturer's brochure(s) and other such documentation / literature which shows the proposed object(s) in colour may be submitted for these purposes.
  - (g) Evidence of the right to occupy the premises concerned (e.g. copy of the lease);
  - (h) Evidence that the applicant has met the requirement to give notice of the application (e.g. photographs of the notice outside the premises and a copy of the notice itself) (see pp 4.31 below);
  - (i) The fee (payable to Rushmoor Borough Council); and
  - (j) Any other evidence needed to demonstrate how the Council's Pavement licence conditions, and any national conditions will be satisfied (as appropriate).
- 3.27. It is the policy of the licensing authority to treat any application as invalid and void where the applicant fails to supply, provide or otherwise submit prescribed enclosures or any other such information on request. In all such cases, the licensing authority will reject the application and return it to the applicant with summary explanation.

## PART D

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### 4. CONSULTATION & REPRESENTATIONS

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#### 4.1. GENERAL

4.2. On receipt of a valid Pavement licence application, the licensing authority is obliged to, and will consult with and advise a number of individual(s) / bodies about the application. In this document, these are referred to as '**statutory consultees**', '**other consultees**' and '**interested parties**'. Applications are consulted upon for a period of 14 days, starting with the day after a valid application is made.

#### 4.3. STATUTORY CONSULTTEES

#### 4.4. What we mean by 'statutory consultees'

4.5. Before it can grant a Pavement licence to place furniture on the highway, section 3(2) of the Act requires the licensing authority to consult with the relevant Highways Authority for the highway concerned.

4.6. '**Statutory Consultees**' are therefore the public bodies that **must** be consulted and are entitled to make representations or objections to the licensing authority in respect of any Pavement licence application.

#### 4.7. OTHER CONSULTTEES

#### 4.8. What we mean by 'other consultees'

4.9. Section 3(2) of the Act provides that the licensing authority must also consult such other persons as it considers appropriate.

4.10. In seeking to ensure that there are no detrimental effects arising from proposals to place furniture and objects on the highway under any Pavement licence, the licensing authority considers the following bodies appropriate for these purposes; namely –

- (a) Hampshire Constabulary;
- (b) Hampshire Fire & Rescue Service;
- (c) The local Planning Authority;

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- (d) The Food & Safety enforcing authority (c/o RBC Operational Services);
- (e) RBC Pollution Control (c/o RBC Operational Services);
- (f) RBC Town Centre Management; and
- (g) RBC Capital Projects, Regeneration & Property Services.

4.11. '**Other Consultees**' are therefore public bodies that we **choose** to consult and are therefore entitled to make representations or objections to the licensing authority in respect of any Pavement licence application.

4.12. The licensing authority will actively consult with the above listed bodies (non-statutory consultees) on any Pavement licence application (to which this document relates) and to allow them to put forward suggested conditions and/or to make representations about any such application where they believe this is necessary. The licensing authority will have regard to and consider (though is not necessarily bound by) any comments made by such bodies.

### 4.13. NOTIFICATION OF CONSULTTEES

4.14. By way of helping to co-ordinate consultation(s) with statutory and other consultees in respect of Pavement licence applications the licensing authority will -

- (a) send a copy of any validated Pavement licence application (and associated documents) to those whom it chooses and / or is otherwise obliged to consult;
- (b) specify the 14 day consultation period, starting with the day after the application was made, during which representations /objections regarding the proposals may be made;
- (c) seek to advise all consultees of any representations made by one or more of the consultees; and
- (d) seek to resolve discrepancies or anomalies arising on account of two or more consultee representations in respect of the same issue (in consultation thereof); and
- (e) publish details of any Pavement licence application on its website at [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

### 4.15. Further information about consultees

4.16. A full list of statutory and other consultees, together with their contact details can be found at **appendix B**. The list will be maintained on our

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website ([www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)) and / or shall be made available on request by contacting our licensing team via telephone 01252 398855 or email at [licensing@rushmoor.gov.uk](mailto:licensing@rushmoor.gov.uk).

### **4.17. INTERESTED PARTIES**

#### **4.18. What we mean by ‘interested parties’**

4.19. **‘Interested parties’** comprise any member of the public and the owners and/or occupiers of any other business premises. Interested parties may also make representations or objections to the licensing authority within the consultation period.

4.20. As a matter of natural justice, the term ‘interested parties’ shall also be taken to include individuals who, in the opinion of the licensing authority, represent members of the public and the owners and/or occupiers of any premises likely to be affected by the application proposals.

#### **4.21. Representatives and democratically elected representatives**

4.22. Interested parties may include trade associations, trade unions, residents’ and tenants’ associations etc, providing they can demonstrate that they represent someone who would be classed as an interested party in their own right. For these purposes, the licensing authority will normally require written evidence that the representative(s) (e.g. advocate(s) / relative(s) etc) are authorised to represent the interested party concerned. A letter from the interested party will normally be sufficient for these purposes.

4.23. Democratically elected councillors and MPs may also represent interested parties, providing they do not also sit on the Council’s Corporate Governance, Audit and Standards Committee or Licensing Sub-Committee. Interested parties wanting to approach councillors and/or councillors wanting to represent their views should take care to avoid any such conflict of interest. If there are any doubts, please contact Legal or Democratic Services at Rushmoor Borough Council.

4.24. Democratically elected councillors and MPs may also be an interested party in their own right, whether or not they make representations for, and on behalf of, or otherwise represent, one or more of their constituents. However, councillors who want to represent their own views should take care to avoid any conflict of interest. If there are any doubts, please contact Legal or Democratic Services at Rushmoor Borough Council.

4.25. Democratically elected representatives such as councillors and MPs will not normally need to provide evidence of being asked to represent an interested party, so long as the councillor or MP concerned represents the ward for the interested party concerned.

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### **4.26. NOTIFICATION OF INTERESTED PARTIES**

4.27. By way of advising members of the public and others about Pavement licence applications, the licensing authority will, in accordance with section 2(3) of the Act -

- (a) require the applicant to publish a site notice giving details of any Pavement licence application proposals by affixing it in a conspicuous position at or near the place to which the proposals relate; and
- (b) notify the owner or occupier of any premises that share a boundary or frontage with the relevant premises concerned; and
- (c) publish any Pavement licence application, together with copies of associated documents on its website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

4.28. In accordance with section 2(4) of the Act, the licensing authority will specify the 14 day consultation period, starting with the day after the application was made, during which representations regarding the proposals may be made. Representations received after this time (or any date so specified) will not be accepted.

4.29. With reference to pp 4.27(a) and pp 4.28 above, the licensing authority may check that the site notice has not been removed within the consultation period provided for. Where any such notice is removed by the applicant and/or his associate(s) or fails to be displayed for the whole of the consultation period, the licensing authority will reject / invalidate the Pavement licence application.

4.30. With reference to pp 4.27(b) above, and for ease of administration, it is the policy of the licensing authority that any such notice (to both owner and occupier) will be sent to / left at the premises concerned regardless of whether or not the owner and occupier are the same.

### **4.31. OTHER NOTIFICATION REQUIREMENTS**

4.32. In accordance with section 2(5) of the Act, an applicant for a Pavement licence must on the day the application is made, fix a notice of the application to the premises to which it relates 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 and secured so that it remains in place until the end of the public consultation period.

4.33. The notice must state –



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- (a) that the application has been made and the date on which it was made;
  - (b) state the statutory provisions under which the application is made;
  - (c) state the business name and address of the premises to which it relates;
  - (d) describe the proposed use of the furniture;
  - (e) indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
  - (f) state the Council's website where the application and any accompanying documents can be viewed during the consultation period ([www.rushmoor.gov.uk](http://www.rushmoor.gov.uk));
  - (g) state the address to which representations should be sent during the consultation period; and
  - (h) the end date of the consultation (14 days starting the day after the application is submitted to the licensing authority).
- 4.34. Whilst a template site notice is given at **appendix C**, the licensing authority recognises the onus for displaying and securing the display of the notice is placed on the applicant for a Pavement licence. The licensing authority will therefore require each applicant to submit suitable evidence to demonstrate that the requirements to display the notice and prescribed contents, on the day the application is made, has been complied with at the point of application.
- 4.35. Failure to advertise relevant applications**
- 4.36. To ensure that notices are suitably displayed and maintained, the licensing authority may check all site notices to ensure that they have not been removed within the consultation period provided for. The licensing authority will reject / invalidate any Pavement licence application where a site notice required under this part is removed by the applicant and/or his associate(s) or is otherwise obscured or fails to be displayed within or for the full consultation period specified.
- 4.37. The Licensing Authority will similarly not accept any Pavement licence application where, on notice, insufficient time is specified for interested parties to consider and, where appropriate, make representations. In these circumstances, the Licensing Authority may, where it considers appropriate to do so, treat any relevant application afresh and carry over any fees paid, provided that the application is subsequently advertised correctly for the full consultation period required. In these circumstances, the Licensing Authority may establish dates by which

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the application must be (re)advertised and by which representations must be made and (re)set all relevant application timescales accordingly.

### 4.38. MAKING REPRESENTATIONS

4.39. The licensing authority will normally expect all representations / objections to be made in writing (preferably by email), setting out the name and address of the person / organisation making it and the application to which it refers. It should also set out the reasons for making it and the licensing objectives or point(s) of issue to which it relates. All representations must be submitted to –

Rushmoor Borough Council  
Licensing Service  
Council Offices, Farnborough Road  
Farnborough, Hampshire  
GU 14 7JU

**Email:**  
licensing@rushmoor.gov.uk

4.40. However, the licensing authority encourages any party considering making representations / objections to discuss and, where appropriate, negotiate suitable mitigating arrangements and/or possible conditions of licence with the applicant before submitting such representations / objections.

4.41. Similarly, applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying for a Pavement licence, and so take any issues around noise, nuisance, safety or other concerns into consideration as part of their proposals.

### 4.42. Relevant representations

4.43. In all cases, the licensing authority will only consider representations from consultees and interested parties that are relevant.

4.44. **‘Relevant representations’** are likely to be those that relate to our licensing objectives, or that otherwise raise issue(s) under this policy statement or some other point of law.

### 4.45. Non-relevant representations

4.46. Generally, the licensing authority will not usually consider that need (i.e. the commercial demand for such facilities), or competition between rival operators is relevant to its functions under the Act. The licensing authority considers this to be a matter for the market. Need, demand and competition will only be considered if it is relevant to one or more of its licensing objectives.

4.47. The licensing authority will not consider representations to be relevant where they are frivolous, vexatious or those that would not otherwise influence the authority’s determination of the application. This will

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generally be a matter of fact given the circumstances of each individual case. However, in deciding if representations fall within these terms, the licensing authority will consider -

- a) who is making the representation, and whether there is a history of making representations that are not relevant;
- b) if the representation(s) raise(s) a 'relevant' issue; or
- c) if the representation(s) raise(s) issues specifically to do with the applicant or site(s) that are the subject of the application.

4.48. For this purpose, a vexatious representation is generally taken to mean one that is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally taken to mean one that is lacking in seriousness, or is unrelated to either our licensing objectives, this statement of policy, the Pavement licence or point of law.

### **4.49. Determination of the relevance of representations**

4.50. The considerations outlined in this part are not exhaustive and therefore, the licensing authority will not apply rigid rules to its decision making in determining the relevance of representations. Each case will be decided objectively on its own merits on consideration of the facts and their degree and not on the basis of any political judgement.

4.51. In all cases, the licensing authority will take account of anything a consultee, an interested party, or people representing them, say about their representation(s).

4.52. In borderline cases, where it is arguable if a representation is a relevant representation, the benefit of the doubt will be given to the party making representation(s), until the contrary can be shown.

### **4.53. Weight of representations**

4.54. Where objections are made, it will be a matter for the licensing authority to determine what weight to attach to any such representation(s) as it thinks fit.

4.55. Without prejudice to the generality of the above, and in consideration of what weight should be attached to any representations, the licensing authority may consider -

- (a) The substance of the representation(s);
- (b) The credibility of those making the representation(s);
- (c) Any evidence supporting the representation(s); and

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(d) The [likely] impact of the concerns raised in the representation(s).

## PART E

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### 5. ASSESSMENT & CONSIDERATION CRITERIA

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#### 5.1. ASSESSMENT & CONSIDERATION CRITERIA

#### 5.2. General Considerations

5.3. In exercise of its functions, and without prejudice to the generality of its licensing objectives, the licensing authority will assess and consider whether any furniture or objects on, or proposed to be placed on the highway are suitable to be located there. For this purpose, the licensing authority may have regard to the following; namely -

- (a) the **type, nature, quality** and **quantity** of furniture / objects;
- (b) the **operation, management** and **use** of the furniture and any area(s) in which they are [to be] located;
- (c) the nature of the **environment, location** and/or **surroundings** in which the furniture etc is [proposed to be] located;
- (d) the available **space / room** to provide such furniture in the area(s) concerned relative to the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people;
- (e) the **accessibility, use** and **needs** of other highway users;
- (f) whether there are **other permanent street furniture** or **structures** in place on the highway that already restricts access;
- (g) whether suitable **public health** and **safety** arrangements can be maintained (for example, conforms with latest social distancing guidelines and crowd management measures);
- (h) the **impact** that the proposals may have on **public amenity** and other highway uses and users;
- (i) the **impact** on any neighbouring residential / business premises;
- (j) the **impact** that the proposals may have on one or more of the licensing objectives;

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(k) any other matter that may be relevant in the individual circumstances of the case (for example, the reallocation of road space).

5.4. The considerations outlined in this part should not be seen as an exhaustive list of considerations. The licensing authority will not apply rigid rules in exercise of its functions but decide any matter objectively on its own merits by considering the facts and their degree and the individual circumstances of the case. However, the following matters provide further guidance on our approach thereto.

### **5.5. TYPE, NATURE AND QUALITY OF OBJECTS / FURNITURE**

5.6. The licensing authority believes that the type, nature and quality of furniture placed on the highway can have a significant bearing on one or more of the licensing objectives and is concerned that all such furniture etc. is of suitable design and construction for the nature and intensity of use that it will receive.

5.7. In view of this, it is the policy of the licensing authority that all objects and furniture proposed to be, and / or otherwise permitted to be placed on the highway comply with the standards and requirements set out in **appendix D (*Reasons: as stated therein*)**.

### **5.8. MANAGEMENT & USE OF OBJECTS / PERMITTED AREAS**

5.9. The licensing authority believes that the operation and use of furniture and objects placed on the highway, together with the permitted area(s) in which they are located can have a significant bearing on one or more of the licensing objectives.

5.10. In view of this, it is the policy of the licensing authority that the operation and use of furniture and objects proposed to be, and / or otherwise permitted to be placed on the highway, together with use of the highway itself, complies with the standards and requirements set out in **appendix E (*Reasons: as stated therein*)**.

### **5.11. GENERAL SPACE REQUIREMENTS / CONSIDERATIONS**

5.12. By way of ensuring safe and convenient pedestrian movement and managing the general use of the highway, the licensing authority shall seek to ensure that the positioning of objects / furniture does not discourage or restrict pedestrians and others from using the highway (***Reason: Public and highway safety, public amenity***).

5.13. In such respects, the licensing authority considers it necessary, in all locations, that an absolute minimum clear zone of at least 1.5 metres of highway width is kept free of and around Pavement licence furniture or other obstructions (including street furniture such as lamp posts, parking meters, benches, plant containers, trees etc), and that this area

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is not otherwise used to service Pavement licence furniture etc (***Reason: Public and highway safety, public amenity***).

- 5.14. Where the arrangement and configuration of furniture cannot provide for a clear zone of 1.5 metres, the minimum footway widths and distances set out in Section 3.1 of Inclusive Mobility may be applied instead, so long as an alternative footway route that is 1.5 metres free of any obstruction is available to facilitate access along the same stretch of highway (***Reason: Public and highway safety, public amenity***).
- 5.15. The licensing authority will normally require a clear zone that allows emergency services, wheelchair users, other disabled people, the elderly and those with prams and buggies to pass safely and comfortably and otherwise provide a reliable, safe route for blind and other visually impaired pedestrians. As such, a clear zone must usually provide an available route past that is reasonably straight, obvious and unobstructed; and does not otherwise pass through the area(s) used by Pavement licence furniture etc (***Reason: Public and highway safety, public amenity***).
- 5.16. However, where footways are very crowded (i.e. where there is a high level of pedestrian activity and / or where there are permanent obstructions such as street furniture), the licensing authority may require additional width (i.e. the clear zone may need to be much wider) or other acceptable routes may need to be provided where the street / area allows (***Reason: Public and highway safety, public amenity***).
- 5.17. For streets / areas that cannot afford the minimum 1.5 metre clear zone (i.e. they are very busy or too narrow) or cannot provide a suitable route in accordance with the above, the licensing authority will generally consider such streets / areas to be unsuitable for the provision of Pavement licence furniture (***Reason: Public and highway safety, public amenity***).

### **5.18. Fully pedestrianised streets / areas**

- 5.19. A fully pedestrianised street / area is one where vehicles have no right of entry, except for the emergency services who may still need access at any time. As there is no carriageway, there may be more footway space available for the provision of Pavement licence furniture. In view of this, the licensing authority shall also consider the following in accordance with the indicative guide given as **Diagram 1**.
- 5.20. However, in all such cases and subject to the above principles and considerations, the depth of available footway for the provision of Pavement licence furniture shall be divided equally between opposite premises, relative to any required clearances and irrespective of

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whether tables and chairs are in fact provided at the premises concerned (*Reason: fairness*).

### **5.21. Pedestrianised streets more than 5.4 metres wide**

5.22. In accordance with the above principles and considerations, where the available footway width on any street / area is more than 5.4 metres wide, the total depth allowed for the provision of Pavement licence furniture shall not exceed  $\frac{1}{3}^{\text{rd}}$  of the total width of the street / area concerned (see **Diagram 1b**).

### **5.23. Access by emergency services on pedestrianised streets / areas**

5.24. Regardless of the above, where access is required by the emergency services on any fully pedestrianised area, a clear width of 5.1 metres between different sets of Pavement licence furniture will normally be required in order to allow pedestrians to stand clear of emergency vehicles (see **Diagram 1c**).

### **5.25. Pedestrianised streets / areas with vehicle access at certain times**

5.26. Where appropriate and subject to the above principles and considerations, the licensing authority will normally permit Pavement licence furniture outside the hours of vehicular access in these types of street / area.

5.27. Where appropriate and so as to allow for a clear separation of use, the licensing authority shall normally permit hours for use of Pavement licence furniture that commence and finish at least 30 minutes after the end of, or, as the case may be, before the permitted hours for vehicular access.

5.28. Vehicles and Pavement licence furniture will normally, only be allowed at the same time in such streets / areas where clearly defined and adequate pedestrian space remains in accordance with the above principles and considerations and the indicative guide given as **Diagram 2**.

### **5.29. Streets with footway and carriageway**

5.30. In accordance with the above principles and considerations and the indicative guide given as **Diagram 3**, the licensing authority will generally require a minimum, unobstructed pavement width of 1.5 metres measured from the face of the kerb line in this type of street / area (see **Diagram 3a**).

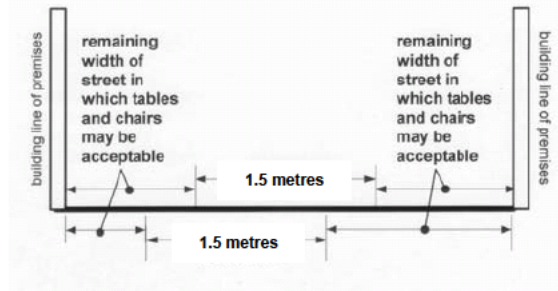
5.31. Subject to the above principles and considerations, Pavement licence furniture may occupy the residual part of the footway in any type of street / area that has a footway of more than 3.6 metres wide; provided there remains a minimum, unobstructed pavement width of 1.5 metres measured from the face of the kerb line (see **Diagram 3b**).



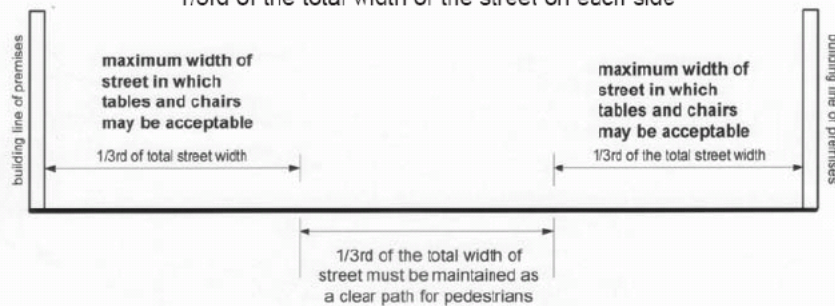
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- 5.32. Where there is any street furniture (such as lamp posts, bollards, parking meters, benches, flower beds, telephone boxes, trees etc), a 1.5 metre, unobstructed pavement width will normally be required from the line of the street furniture as a free zone for pedestrian movement, or as the case may be, to the line of the kerb (see **Diagram 3c**).

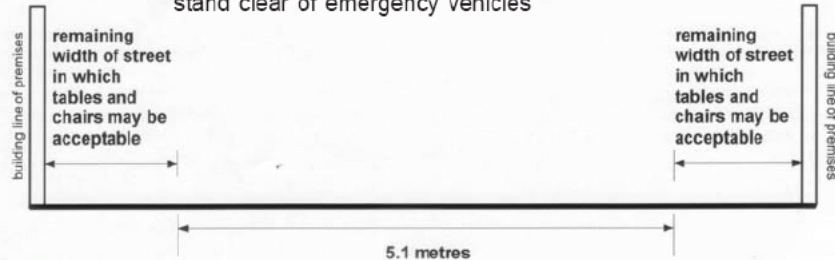
**Diagram 1a** Where the street is 5.4 m wide or less a minimum clear path 1.5 metres wide must be maintained for pedestrians.



**Diagram 1b** Where the street is more than 5.4 m wide the depth allowed for tables and chairs should not exceed 1/3rd of the total width of the street on each side

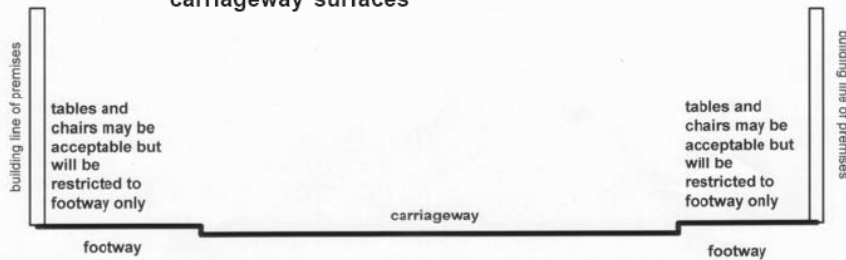


**Diagram 1c** If access is required for emergency vehicles the clear width between tables and chairs on each side should be increased to 5.1 metres to allow pedestrians to stand clear of emergency vehicles

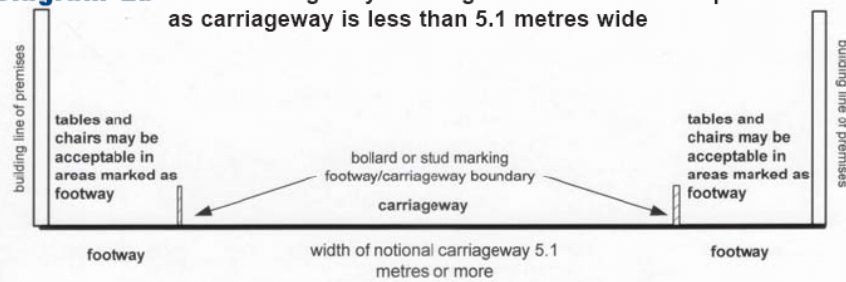


### 1. Fully Pedestrianised Streets

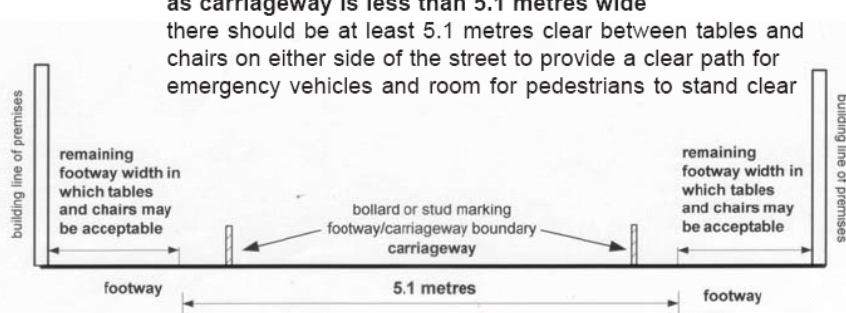
**Diagram 2a** Where the highway retains footway and separate carriageway surfaces



**Diagram 2b** Where the highway is a single surface and the strip marked as carriageway is less than 5.1 metres wide



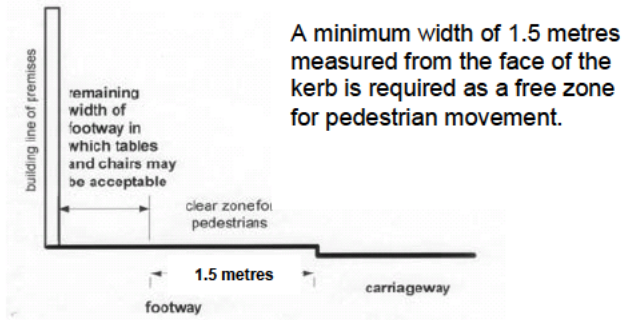
**Diagram 2c** Where the highway is a single surface and the strip marked as carriageway is less than 5.1 metres wide



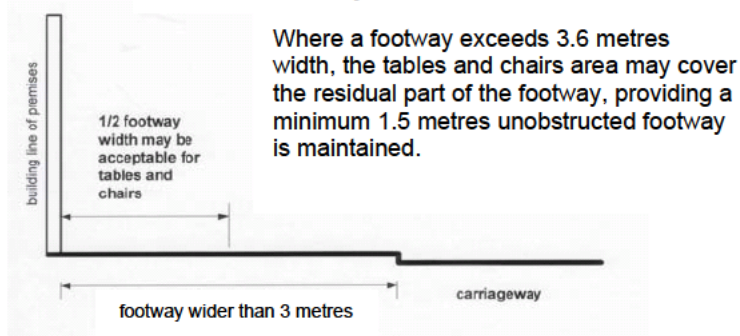
**2. Partially Pedestrianised Streets**

In all cases where the street is partially pedestrianised tables and chairs will normally only be permitted during the times when the street is closed to traffic

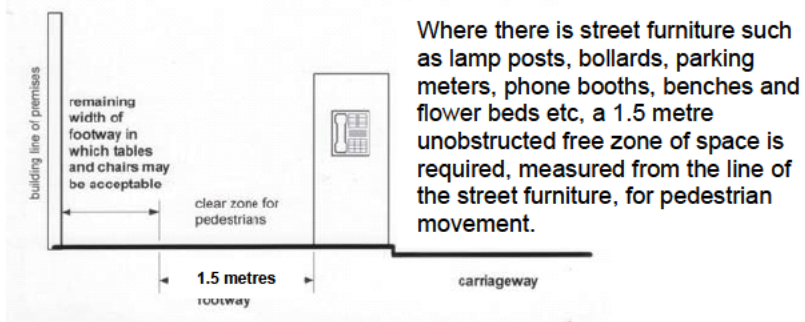
**Diagram 3a** Where the footway width is 3 metres or less



**Diagram 3b** Where the footway width is more than 3 metres



**Diagram 3c** Where street furniture is located on the highway



**3. Streets with Footway and Carriageway**

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### **5.33. OTHER CONSIDERATIONS**

- 5.34. In exercise of its functions, the licensing authority may have regard to any matter that may affect other highway uses, users and those working and / or living in the vicinity.
- 5.35. Without prejudice to the generality of the above or its licensing objectives, the licensing authority may, in particular, have regard to the following matters.

### **5.36. Highway issues**

- 5.37. The licensing authority may consider issues of highway congestion or obstruction; pedestrian / highway safety and access to and from premises, including fire escapes etc; the operation of services on and from the highway, such as deliveries, the collection of rubbish, street cleaning and access to public facilities and utilities, service hatches and boxes etc.
- 5.38. The licensing authority may also have regard to the accessibility and use of the highway, particularly in respect of its safe and convenient use by the disabled, visually impaired, and emergency service vehicles.
- 5.39. The licensing authority may also have regard to the availability of suitable parking, and compliance with parking restrictions (including vehicles of staff, customers and others, including delivery vehicles) or any other order(s) or designation(s) in the area(s) associated with the provision of proposed furniture.
- 5.40. The licensing authority may also consider the nature, type and location of highway-based amenities including street / traffic signage, street furniture, tactile paving / surfaces, together with known schemes for alteration or maintenance of the highway.
- 5.41. Further to the above, the licensing authority may have regard to the surface(s) on which furniture, objects and equipment may stand and may subsequently require particular specifications of equipment and furniture to be used in particular circumstances / environments e.g. uneven, sloping and/or cobbled surfaces.

### **5.42. Highway-environmental issues**

- 5.43. While, the licensing authority will consider traffic and pedestrian routes, volume(s) and flow(s), it may also have regard to traffic volumes and the location of bus stops, taxi ranks and other areas where air quality may be affected or otherwise not conducive to sitting / eating and / or drinking at nearby tables and chairs.

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### **5.44. Environmental and nuisance issues**

- 5.45. In exercise of its functions, the licensing authority may consider the impact upon, or otherwise the affect of, the environment in which furniture and objects are proposed to be, or are otherwise permitted to be located.
- 5.46. Without prejudice to the above, the licensing authority may consider the location and suitability of drainage and sewerage systems, soil pipes, vents, and other emission points, together with the suitability and location of other services.
- 5.47. Similarly, the licensing authority may also take account of arrangements in respect of extremes of climate / weather e.g. provision of shelter and/or shade, the provision of potable supplies of drinking water etc.
- 5.48. The licensing authority may also consider issues of noise, odour(s), smoke, fume(s), light and any other similar matter(s) that may cause or give rise to nuisance or otherwise affect other highway uses, users and those working and / or living in the vicinity. This may include, but is not limited to issues concerning the accumulation of refuse, the management of waste and / or litter, pests and vermin control (see below).
- 5.49. Where appropriate, the licensing authority may consider requirements to provide and maintain a suitable noise management plan detailing the predicted noise levels for the activities in question, including any attenuation measures to be taken and any additional relevant information that shows how the prevention of public nuisance shall be addressed.

### **5.50. Pest control issues**

- 5.51. With reference to the above, the licensing authority may have regard to the prevalence / incidence (i.e. local population(s)) of pests, vermin and / or complaints about the same in the area(s) in which Pavement licence furniture is proposed, or otherwise permitted to be located.
- 5.52. Where appropriate, the licensing authority may have regard to the steps taken / proposed by the applicant to control pests and vermin, and may consider -
- (a) the nature and extent of any arrangement(s) with a pest control contractor;
  - (b) The measures to be taken to control waste / litter and food debris;

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- (c) The measures to be taken to control the activities of customers and their control of waste / litter and food debris (e.g. self-clearing of tables, appropriate signage (e.g. 'do not feed the pigeons' etc).

### **5.53. Anti-social behavioural issues**

- 5.54. The licensing authority may consider issues that may attract undesirable individuals, groups or gatherings that could cause noise, disruption, disturbance and / or other forms of anti-social behaviour, or otherwise cause or contribute to crime and disorder (see below).

### **5.55. Crime and disorder issues**

- 5.56. The licensing authority may have regard to any matter associated with the provision of Pavement licence furniture that causes or gives rise to any matter of crime and disorder.
- 5.57. For the purposes of this part, the licensing authority considers crime to include any statutory or common law offence. The term 'disorder' shall be taken to mean an activity that is more serious and disruptive than mere nuisance. In this context, while subject to the facts and their degree, the licensing authority considers that activities / incidents could be serious enough to constitute disorder if police assistance is required to deal with it. The licensing authority may also consider other factors, such as how threatening any behaviour was in any particular incident to those who could see or hear it.

### **5.58. Security and counter-terrorism**

- 5.59. The licensing authority will seek to ensure a balanced consideration for any security implications arising from any [proposed] placement of Pavement licence furniture on the highway; particularly the risk to users from interaction with hostile vehicles, and the creation of large crowds in new public spaces. To this end, the licensing authority will support the police and/or other counter-terror agency requirements aimed at preventing terrorism, the threat and/or risk of terrorism. The licensing authority would also encourage applicants / licence holders to develop and maintain a suitable security risk assessment in consultation with Police Licensing Teams, Designing Out Crime Officers and, where appropriate, Counter Terrorism Security Advisors.

### **5.60. Visual amenity issues**

- 5.61. The licensing authority may also consider the effect of the proposed tables and chairs on the appearance of the applicant premises, adjacent buildings and the character of the area in general. These considerations are considered to be particularly important in areas with listed buildings and conservation area status. Where considerations of appearance are of particular importance, the design, materials and

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colour of furniture and other items placed on the highway may be governed by conditions to any licence granted.

- 5.62. The licensing authority may also consider the potential and/or degree of visual intrusion the proposed furniture may have on other highway users and / or those working or living in the vicinity.

### **5.63. Multiple licences and multi-purpose areas**

- 5.64. The licensing authority recognises that in some areas e.g. pedestrianised precincts etc, there may be a number of [proposed] Pavement licences in close proximity of one area of the highway.

- 5.65. In all such circumstances, the licensing authority will take particular care in considering applications or actions where multiple permits to place objects on a highway have already been granted and/or are proposed. In such cases, the licensing authority will take particular care to ensure that suitable and sufficient space is available to accommodate additional Pavement licence furniture, that they are separate, identifiable and such that the co-location of the [proposed] facilities with other such facilities does not create an arrangement that otherwise would, or should not be permitted.

## **PART F**

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## **6. DETERMINATION PROCESS(ES) & CRITERIA**

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### **6.1. DETERMINATION OF PAVEMENT LICENCE APPLICATIONS**

#### **6.2. Process and timescales**

- 6.3. Once a valid Pavement licence application is submitted, the licensing authority has 28 days from the day after the application is made to consult on and determine the application. This consists of 14 days for public consultation, and 14 days to consider and determine the application after the consultation period.
- 6.4. In accordance with the Council's scheme of delegation (see section 12 above), the licensing authority may then, having regard to any relevant representations / objections received during the consultation period, determine any Pavement licence application as it thinks fit.
- 6.5. If the licensing authority determines the application before the end of the determination period, the licensing authority may, where appropriate, –

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- (a) grant a Pavement licence to the applicant, or
  - (b) refuse / reject the application.
- 6.6. With reference to pp 6.5(a), a Pavement licence granted to the applicant may be granted –
- (a) in respect of any or all of the purposes in relation to which the application is made;
  - (b) in respect of some or all of the part of the relevant highway specified in the application;
  - (c) subject to the ‘no-obstruction conditions’ set out in section 5(5) of the Act; and
  - (d) subject to such other conditions as the licensing authority considers reasonable.
- 6.7. If the licensing authority does not determine the application within the 28 days period, the application will be deemed to have been granted (i.e. tacit authorisation).
- 6.8. With reference to pp 6.7, a Pavement licence that is deemed to have been granted (i.e. tacit authorisation) is granted subject to –
- (a) the ‘no-obstruction conditions’ set out in section 5(5) of the Act (see pp 7.17 below); and
  - (b) any conditions published by the licensing authority for Pavement licensing purposes in advance of the application being made.
- 6.9. With reference to pp 6.8(b), the conditions set out at **appendix D** and **E** are to be taken as the published conditions to be applied in these circumstances.
- 6.10. Determination criteria**
- 6.11. In all cases, in exercising its functions, the licensing authority will generally aim to permit the use of the highway for Pavement licensing purposes and the placement of furniture on the highway so long as it -
- (a) is reasonably consistent with the licensing objectives;
  - (b) complies with its specifications and conditions (see section 7 below); and
  - (c) accords with the considerations and requirements in this statement of licensing policy.



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- 6.12. However, where appropriate, and in accordance with section 3(5) of the Act, the licensing authority will grant a Pavement licence only if, taking into account any conditions subject to which it proposes to grant the licence, nothing pursuant to the licence –
- (a) Prevents 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) Prevents any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order;
  - (c) Prevents statutory undertakers having access to any apparatus of theirs under, in, on or over the highway; or
  - (d) Prevents 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.

### **6.13. Duplication and other legislation**

6.14. The Licensing authority expects those applying for and operating a Pavement licence to fully comply with all other relevant legislation applicable to the premises and the activities carried on there. This includes, but is not limited to fire safety, health & safety, food safety, licensing, planning and building law etc.

6.15. The Licensing authority will therefore normally seek to avoid duplication with other regulatory regimes in exercise of its functions. However, non-compliance with other legislation and/or associated agency requirements, may also be taken into account insofar as it provides an indicator of the confidence that can be placed in management of the premises to suitably promote the licensing objectives.

### **6.16. Circumstances when a Pavement licence may be refused / rejected**

6.17. The licensing authority may, where appropriate, refuse / reject an application for a Pavement licence in, but not limited to, the following circumstances; namely where –

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- (a) it would not be consistent with its licensing objectives;
- (b) any of the effects detailed in pp 6.12(a)-(d) above apply;
- (c) the site or location is deemed unsuitable;
- (d) relevant representations have been made which cannot be suitably mitigated by condition(s);
- (e) the applicant has not provided all information and submissions required as part of the application or any other information that may reasonably be requested in connection thereof;
- (f) the applicant has not complied with any duties or requirement(s) imposed by the Act or conditions of a previous licence (e.g. requirements to suitably display and secure the display of notice of application (see pp 4.31 above)).

6.18. The above is not an exhaustive list of circumstances where the licensing authority may seek to refuse / reject an application. An application for a Pavement licence may be refused / rejected for any justifiable reason. However, any refusal / rejection will only take place where it is considered right to do so in view of the individual circumstances of the case. As there is no statutory right of appeal against a decision to refuse / reject an application for a Pavement licence, the licensing authority will clearly express and explain its reasons.

## PART G

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### 7. CONDITIONS

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#### 7.1. CONDITIONS ON PAVEMENT LICENCES

7.2. Section 5(1) of the Act allows the licensing authority to grant a pavement licence subject to such conditions as it considers reasonable.

7.3. Failure to comply with any such conditions may result in revocation of the licence or, following notice, default action(s) by the enforcing authority and the recovery of their costs and expenses (see section 11). Failure to comply with conditions may also be taken into consideration in determination of future licence applications.

#### 7.4. CONDITIONS TO BE IMPOSED ON ALL PAVEMENT LICENCES

7.5. The licensing authority will normally determine applications for a Pavement licence with the standard conditions outlined below. The licence will also contain specific terms including, but not limited to –

- (a) The duration of the Pavement licence;
- (b) the days and hours when furniture and objects are permitted to be placed on the highway;
- (c) the time(s) when furniture must be removed from the highway to an agreed place of storage;
- (d) the purposes for which the Pavement licence and therefore, the furniture or objects to be placed on the highway, may be used;
- (e) the nature, type and quantity of furniture or objects which may be placed on the highway;
- (f) the permitted location(s) where the furniture or objects may be placed on the highway.

#### 7.6. Pavement licence duration

7.7. If the licensing authority determines an application before the end of the determination period (which is 14 days, beginning with the first day after the public consultation period), it may specify the duration of the Pavement licence, subject to a minimum duration of 3 months.

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7.8. The expectation from the Government is that Pavement licences will be granted for 12 months or more unless there are good reasons for granting a licence for a shorter period (for example, plans for future changes in use of road space). Accordingly, it is the policy of the licensing authority to issue Pavement licences –

- (a) for a maximum term of 24 months only; or,
- (b) where appropriate, for any lesser period (subject to a minimum 3 months duration) as the applicant may specify or the licensing authority may deem appropriate (e.g. due to street maintenance etc).

7.9. Notably, under the Act, 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 2 years.

### **7.10. Hours of operation**

7.11. Subject to the hours sought and any other permissions and / or restrictions, the licensing authority will, where appropriate, normally permit Pavement licence furniture to be placed on the highway between the hours 09:00am and 22:00pm. However, the licensing authority retains the right to specify restricted hours that are less than those quoted in appropriate circumstances (e.g. due to specific local highway or environmental considerations).

7.12. Applications outside these hours will be assessed in terms of the criteria detailed in this policy document. However, the licensing authority will only approve Pavement licence applications that go beyond 22:00pm in exceptional circumstances. Where appropriate, the licensing authority will expect these applications to be accompanied by a suitable noise management plan.

### **7.13. Permitted areas**

7.14. It is the general policy of the licensing authority not to mark the ground or otherwise permit the ground to be marked where furniture and objects are permitted to be placed on the highway under a Pavement licence.

7.15. However, the licensing authority recognises that marking out on the ground of the area(s) where furniture and objects are permitted may be necessary in some circumstances. In all such cases, marking of the

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highway shall be undertaken by, and only by the Highway authority (or its agents) with regard to the visual impact on the streetscape. The cost of marking shall be borne directly by the licence holder concerned and paid separately to any application fee.

7.16. Marking of the highway by anyone other than the Highway authority (or its agents) may result in revocation of any licence granted and / or notice to make good the highway in conjunction with the Highway authority.

### **7.17. Standard conditions - 'No obstruction' conditions**

7.18. In accordance with sections 3(5) and 3(6) of the Act, the licensing authority will grant all Pavement licences subject to the condition that the licence holder must not do anything pursuant to the licence, or permit any activity of other persons which is enabled by the licence which –

- (a) Prevents 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) Prevents any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order;
- (c) Prevents statutory undertakers having access to any apparatus of theirs under, in, on or over the highway; or
- (d) Prevents 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.

### **7.19. Standard conditions - 'smoke-free seating' conditions**

7.20. The licensing authority recognises that sections 5(1), 5(4) and 5(6) of the Act allow for smoke-free seating conditions on Pavement licences where furniture is [to be] used for the purpose of consuming food or drink; requiring licence-holders to make reasonable provision for seating where smoking is not permitted.

7.21. In view of this, to ensure customers have greater choice, and that both smokers and non-smokers are able to sit outside, and therefore help

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protect public health by reducing risks of COVID transmission, the licensing authority will normally impose the following conditions on all Pavement licences; namely -

- (a) The significant proportion (i.e. greater than 50%) of the permitted area(s), objects and furniture (e.g. tables and chairs etc) shall be classed as smoke free and reserved for non-smoking use.
- (b) The non-smoking proportion detailed above shall be located 'en-block' and be a minimum 2m distance from any smoking area;
- (c) Suitable and sufficient 'no smoking' signs shall be displayed in all smoke free areas or on all smoke free facilities provided.
- (d) Smoking shall not be permitted in any area classed / signed as smoke free or otherwise reserved for the non-smoking use.
- (e) No ash trays or similar receptacles shall be provided or permitted to be left on furniture designated for smoke-free use.

7.22. Despite the above, the licensing authority expects business to have continued regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

### **7.23. Standard conditions - Type, nature & quality of furniture / objects**

7.24. The licensing authority believes that the type, nature and quality of objects and furniture placed on the highway can have a significant bearing on one or more of the licensing objectives.

7.25. In view of this, it is the policy of the licensing authority that all furniture and objects proposed to be, and / or otherwise permitted to be placed on the highway comply with the specification(s) and conditions set out in **appendix D (Reason: as stated therein)**.

### **7.26. Standard conditions - Operation & use of furniture and objects and permitted areas**

7.27. The licensing authority believes that the operation and use of furniture and objects placed on the highway, together with the permitted area(s) in which they are located, can have a significant bearing on one or more of the licensing objectives.

7.28. In view of this, it is the policy of the licensing authority that the operation and use of furniture and objects proposed to be, and / or otherwise permitted to be placed on the highway, together with use of the highway itself, complies with the conditions set out in **appendix E (Reason: as stated therein)**.

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### 7.29. Standard conditions - Arrangements for markets, special occasions and events

7.30. By way of facilitating a prosperous and vibrant economy, maintaining the rights, freedoms and amenity of other users, particularly in respect of markets, events, special situations / circumstances and / or occasions, the licensing authority will normally condition any Pavement licence to require the removal of all objects, equipment and furniture while any such event(s) take place for the wider cultural benefit of its community. In all such circumstances, there will be no (pro-rata) refund on the fees paid and no compensation for loss of business.

7.31. For such circumstances, where any object(s), equipment or furniture is usually stored inside business premises to which the consent relates, business proprietors may also have to make alternative storage arrangements where they continue to trade.

### 7.32. Standard conditions – Third party risks and public liability insurance

7.33. It is the policy of the licensing authority that as a condition of granting a Pavement licence, the applicant / licence holder shall, at all times and at his own expense, hold of a valid certificate of third party and public liability insurance that indemnifies the licence holder, Rushmoor Borough Council and Hampshire County Council of not less than £5 Million against each and every claim in respect of injury, damage or loss arising from the consent to place tables and chairs on the highway (***Reason: The licence holder is responsible for the provision, operation, management and use of the furniture and objects permitted under any Pavement licence.***)

### 7.34. OTHER CONDITIONS

7.35. The licensing authority may also impose other conditions on a Pavement licence where appropriate. To this end, the licensing authority reserves the right to apply such conditions in relation to the premises or proposed permitted area(s) generally or in relation to a specified part of the premises / area(s) concerned or to the activities carried on or otherwise [to be] provided there.

7.36. In all cases, decisions on other individual conditions will be made on a case by case basis, although there are a number of measures the licensing authority will consider where there is a perceived need (such as the use of supervisors, the provision of CCTV etc). Accordingly, where appropriate, the licensing authority may also determine applications for a Pavement licence with one or more additional conditions. Examples of additional conditions are set out, but not limited to those given in **appendix F**.

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- 7.37. Where other conditions are imposed, the licensing authority will ensure they are proportionate to the circumstances they are intended to address and otherwise ensure that they are -
- (a) relevant to the licensing objectives;
  - (b) in the public interest;
  - (c) fairly and reasonably related to the nature, scale and type of the premises or area(s) concerned and/or the activities carried on there;
  - (d) clear and unambiguous; and
  - (e) reasonable in all other respects.

### **7.38. APPLICANT SUGGESTIONS**

- 7.39. By way of maintaining applicant flexibility, the licensing authority will provide the applicant the opportunity to offer his / her own suggested conditions as to the way in which the licensing objectives can be effectively met / maintained.
- 7.40. However, applicant suggested / volunteered conditions that effectively reduce the protections afforded in the standard / additional conditions above will not normally be accepted.
- 7.41. Where appropriate, it is the policy of the licensing authority that suggested / volunteered conditions be transposed on to, and, as a condition of a Pavement licence (if granted). Any volunteered conditions should therefore be precise, clear, unambiguous and enforceable; being realistic and within the control of the applicant / operator / management of the premises as may be appropriate. Volunteered conditions that are not precise, clear or unambiguous, may be transposed by the licensing authority to its satisfaction.
- 7.42. To this end, the licensing authority recommends that applicants carry out a thorough assessment of each of the licensing objectives and consider the general policy considerations / conditions given above before preparing their applications / volunteering conditions.
- 7.43. Applicants are advised to consult on their proposals with the licensing authority and all other consultees at the earliest possible opportunity. However, it must be noted that these authorities are not responsible for drawing up applications, which remain the sole responsibility of the applicant. In this context, it is for the applicant to consider if and how to address the issues outlined in this document.

### **7.44. GENERAL POLICY CONSIDERATIONS / CONDITIONS**



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7.45. Where there may be problems (caused, for example, by rough sleepers, aggressive beggars, street drinking, gatherings etc), the licensing authority may:-

- (a) authorise (or seek to extend) the provision of furniture / objects only where linked to the service of full table meals by way of controlling the nature of the clientele that use the facilities and / or by way of affording natural surveillance to the area affected; and/or
- (b) impose conditions concerning the provision of outdoor supervision, CCTV and special designs of equipment and enclosure(s); and/or
- (c) impose conditions to ensure that staff and employees are suitably trained in crime and disorder issues to a level commensurate with their duties and responsibilities; and/or
- (d) impose conditions concerning the use of toughened or non-glass drinking vessels for outside use; and/or
- (e) impose conditions prohibiting direct consumption from cans and bottles in external areas.

### **7.46. Door supervisors**

7.47. On consideration of the licensing objectives, and with reference to 7.41(b) above, the licensing authority may consider the need to provide door supervisors at particular sites / premises.

7.48. In all such cases, the licensing authority will expect and shall impose conditions that any individual(s) employed to carry out a security activity (within the meaning of the Private Security Industry Act 2001) must be licensed by the Security Industry Authority (SIA).

7.49. The licensing authority recognises that this does not prevent consideration of other supervisory activities falling outside of the Private Security Industry Act 2001 by non-SIA licensed individuals. However, the licensing authority will generally expect such individuals to be suitably trained to a level commensurate with their duties and responsibilities.

### **7.50. OTHER CONDITION ISSUES**

7.51. The licensing authority is aware that the Secretary of State may publish conditions for Pavement licences using powers contained in section 5(8) of the Act. Where applicable and appropriate -

- (a) these may make provision as to whether, and/or the extent to which, those conditions have effect in addition to, or instead of,

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any other conditions to which any Pavement licence is subject;  
and

- (b) a locally set condition takes precedence over the national condition where there is reasonable justification to do so. However, this is not the case for the statutory 'no-obstruction' condition which applies to all Pavement licences.

## PART H

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### 8. OTHER MATTERS

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#### 8.1. LIMITATIONS OF PAVEMENT LICENCES

##### **Other highway matters**

- 8.2. No provisions of the Act or a Pavement licence authorises or confers a right to damage or disturb the surface or sub-soil of the highway. This is an offence under the Highway Act 1980.
- 8.3. No provisions of the Act or a Pavement licence relating to restriction (e.g. obstruction of or other interference with) of a highway is to be taken to affect any right of the Highway authority or other statutory undertaking under any enactment, or under any rule of law, to remove an obstruction from a highway or otherwise abate a nuisance or other interference with the highway, or to affect the liability of any person under such an enactment or rule to proceedings (whether civil or criminal) in respect of any such obstruction or other interference.
- 8.4. Where anything is deposited on a highway as to constitute a nuisance, the Highway authority for the highway may by notice require the person who deposited it there to remove it immediately. Failure to comply with the notice may result in court order for removal, disposal and costs.
- 8.5. Further to the above, where the Highway authority have reasonable grounds for considering that anything deposited on the highway constitutes a danger (including a danger caused by obstructing the view) to users of the highway, and that it should be removed without delay, the Highway authority may remove the thing with immediate effect and recover the costs of doing so from the person by whom it was deposited on the highway.

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### **8.6. Alcohol, late night refreshment & other licences**

- 8.7. Authorisations for the sale / supply of alcohol, the provision of late night refreshment(s) and certain entertainments are determined on the basis of separate licensing laws and policies for which separate authorisations may be required. Applicants wishing to apply for, or to discuss requirements in respect of any of these matters should contact the licensing team, c/o Rushmoor Borough Council, Council Offices, Farnborough Road, Farnborough, Hampshire GU14 7JU, Telephone: 01252 398855, Email: [licensing@rushmoor.gov.uk](mailto:licensing@rushmoor.gov.uk).

## PART I

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### 9. OTHER ADMINISTRATIVE ISSUES

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#### 9.1. OTHER ADMINISTRATIVE ISSUES

#### 9.2. Expiry and renewal of licences

9.3. For the avoidance of doubt, all Pavement licences will expire at 24:00midnight on the date specified in any Pavement licence document(s).

9.4. To assist continuity of operations, the licensing authority may allow the continuing operation of a Pavement licence (licence A) that has expired, so long as a valid, non-varied, application for new Pavement licence (for licence B) was submitted before the date on which the original licence (licence A) expired. In such circumstances, the licensing authority will, where appropriate, grant any renewed licence (licence B) from the date on which the original licence (licence A) expired (i.e. not the date of issue).

#### 9.5. Modification and variation of licences and applications

9.6. The licensing authority notes that there is no lawful mechanism in the Act to allow Pavement licence applicants or licence holders to modify or vary any Pavement licence held or any application made.

9.7. A different / separate Pavement licence application will therefore be required to be made for any desired changes to be considered afresh as a new application. This will be subject to a separate application fee.

#### 9.8. Surrender of pavement licences

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9.9. A Pavement licence holder may surrender a Pavement licence at any time by giving the licensing authority notice in writing (**NB:** there will be no pro-rata refund of fees) (see also section 10).

### **9.10. Public information**

9.11. By way of promoting the accountability of those to whom a Pavement licence has been granted and, by way of providing open and transparent information to those who may have legitimate concern(s) or complaint, the licensing authority may publish and maintain details of the applications it receives and/or the licences it grants on its website.

9.12. Whilst the name and contact details of the applicant / licence holder will normally be redacted, this may include copies of any documents submitted in connection with a Pavement licence application, together with details / copies of any licence granted. As a minimum, details of licences granted will include, but may not be limited to the date(s) on which the licence was granted / will expire, together with the terms and conditions of the licence concerned (including details of the permitted hours of operation and the permitted area(s) where objects can be placed (this may be by virtue of the submitted plan(s)).

9.13. Where appropriate, all such details will be made available electronically on our website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk) and in hard copy format at Rushmoor Borough Council, Council Offices, Farnborough Road, Farnborough, Hampshire GU14 7JU.

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## PART J

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### 10. FEES & CHARGES

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#### 10.1. General Philosophy

10.2. By way of protecting the public funds it administers and ensuring that costs are not incurred on the public purse, the licensing authority shall seek to (re)cover all the costs incurred in administration and enforcement of the Pavement licence regime. As such, the licensing authority shall seek to ensure, so far as is reasonably practicable, that the permit regime is self-financing.

#### 10.3. Fees

10.4. By way of covering the costs associated with any Pavement licence application, the fee shall be payable on submission of an application. As the costs of processing a licence application are the same regardless of whether the licence sought is for a full-term licence (i.e. 24 months) or of limited duration, the same application fee shall apply in all circumstances. Failure to submit the correct fee shall render the application invalid / void.

10.5. The fees payable shall be the standard fee in accordance with the current list of fees and charges in force at the time the application was made. As fees and charges are subject to regular review and may be increased during the financial year, licence applications received after any specified date of increase will require payment of any new charge levied. A current list of fees and charges is available for perusal at the Council Offices or on our website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

10.6. By way of covering the costs associated with the determination of any licence application, fees will not be reimbursed should any licence be refused or rejected, subsequently unexploited or otherwise surrendered at any time. Fees (or a proportion thereof) will similarly not be reimbursed in circumstances where the licence cannot be effectively be used in consequence of a market, procession of other similar event being held on the highway to which the licence relates.

#### 10.7. Charges

10.8. In accordance with its general philosophy detailed above, licence holders shall be responsible for the payment of any rates, taxes and / or other charges that may be levied in connection with any permitted area(s) and / or its use. This shall include the cost of making good any damage caused to the highway or associated street furniture.

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### **10.9. Default Charges**

10.10. The licensing authority shall seek to recover (in full) any expenses incurred in exercise of the default powers afforded to it by virtue of S6(2) of the Act. For clarity, expenses shall be taken to mean the costs of any default work(s) undertaken, together with the interest (at such a rate as we may reasonably prescribe) from the date of service of the demand for the expenses.

10.11. It is our policy that default charges may be recovered through the courts or otherwise recovered by way of a charge against the business premises to which the licence or application relates.

### **10.12. Dishonoured payments**

10.13. Where any cheque or similar means of payment for any fee(s) or charge(s) is dishonoured, the licensing authority shall, in all cases, treat any application for, and any licence granted in consequence, as invalid and void.



## PART K

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### 11. MONITORING, COMPLIANCE & ENFORCEMENT

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#### 11.1. COMPLIANCE

11.2. The licensing authority expects all those to whom it grants a Pavement licence to comply with both the requirements of the Act, and the terms and conditions of any licence issued. Failure to comply with these may result in the enforcement action(s) outlined below.

#### 11.3. MONITORING

11.4. Given the potential problems that provision of furniture on the highway can cause, the licensing authority may seek to check, visit and/or inspect all Pavement licensed premises and/or their permitted areas to ensure compliance with the licence concerned.

11.5. Where appropriate, the licensing authority will also seek to investigate complaints and expressions of concern about permitted and/or non-permitted activities and may undertake investigations thereof.

#### 11.6. APPLICABLE MONITORING & COMPLIANCE PRINCIPLES

11.7. Where reasonably practicable, our monitoring and compliance activities will target high-risk (whether real or perceived) activities, issues and locations that require greater attention, while operating a lighter touch for perceived low risk activities and locations that are well managed and maintained.

11.8. The licensing authority will also have regard to the following principles; namely –

(a) Targeting - The licensing authority will focus on problems and seek to minimise side effects.

(b) Proportionality - The licensing authority will intervene when necessary, ensuring remedies are appropriate to the risk posed and that costs are identified and minimised.

(c) Accountability - The licensing authority will justify its decisions and be subject to public scrutiny.

(d) Consistency - The licensing authority will seek to ensure

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rules and standards are joined up, applied in similar circumstances and are implemented fairly.

(e) Transparency - The licensing authority will be open and seek to ensure that rules, standards and regulations are simple and user friendly.

### 11.9. ENFORCEMENT

#### 11.10. Notices

11.11. The Act provides that the licensing authority may, where any condition(s) of a Pavement licence are breached, or where a licence is not in place, serve notice requiring such steps to remedy the breach as are specified in the notice and within such time as may be so specified.

11.12. Where a licence holder on whom a notice is served fails to comply with such a notice, the licensing authority and/or its agents may take the steps specified in default. In all cases, the licensing authority will seek to recover any costs incurred by any work(s) undertaken in default.

#### 11.13. Revocation

11.14. Notwithstanding the above, section 6 of the Act also provides powers to the licensing authority to revoke any Pavement licence where –

- (a) the licence-holder has breached any condition of the licence (whether or not a remediation notice has been issued);
- (b) the licence holder fails to comply with any notice that may be served on them to take such steps to remedy any breach of condition and within such time as may be specified in the notice;
- (c) some or all of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted;
- (d) 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;
  - (iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence);

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- (e) anything material stated by the licence-holder in their application was false or misleading, or
- (f) the licence-holder did not comply with the duty in section 2(5) of the Act (requirements to display notice of application) (see pp 4.31).

11.15. The licensing authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised.

11.16. Whilst the licensing authority will clearly express and explain its reasons where any of these powers are used, it should be noted that there is no statutory right of appeal against the revocation of a Pavement licence.

### **11.17. Applicable principles of enforcement**

11.18. Where any formal enforcement action is considered or undertaken, the licensing authority will also have regard to -

- (a) the Regulators Code; and
- (b) the Council's Enforcement Policy.

### **11.19. Liaison with other bodies**

11.20. The licensing authority will work closely with the Police, Highways Authority, the Health & Safety enforcing authority, Environmental Health, the Planning authority and others, as may be appropriate, on any issue of enforcement. It will refer any matter that it finds or that appears to be a contravention of legislation enforced by another authority, to the relevant agency concerned.

11.21. The licensing authority may establish protocols with such other enforcing authorities to avoid duplication and enable the most efficient deployment of resources when inspecting premises and / or enforcing the law. If enforcement protocols are established with other bodies, then they will be made available on our website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

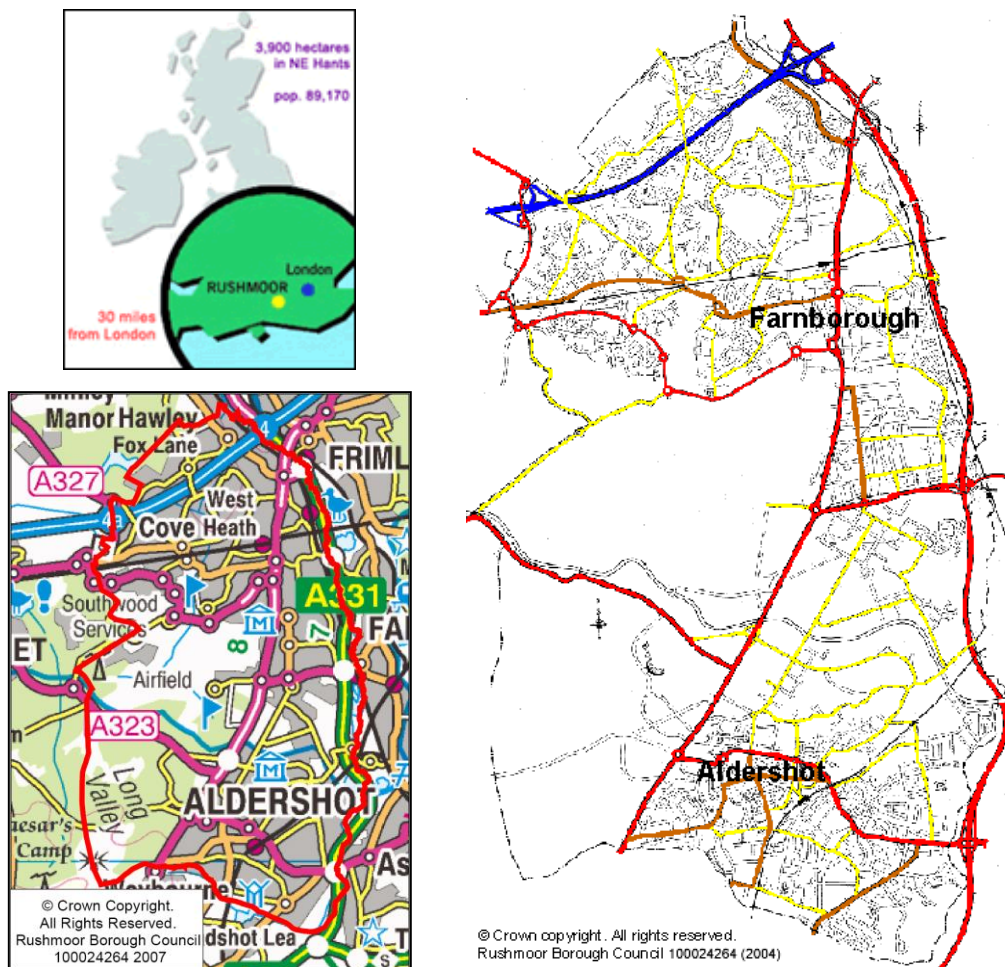
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## APPENDIX A

### 13. THE BOROUGH OF RUSHMOOR

#### 13.1. OVERVIEW

- 13.2. Situated in the north-east corner of Hampshire between the towns of Camberley, Guildford, Fleet and Farnham, Rushmoor is located in the Blackwater Valley and includes the towns of Farnborough and Aldershot.



- 13.3. Only 30 miles from London, the Borough covers an area of 40 square kilometres (3,900 hectares) of a mainly residential and varied light industrial mix. It is home to the British Army and has a domestic population of approximately 90,000 (2001 estimate).

#### 13.4. ADDITIONAL INFORMATION

- 13.5. Further information about RBC and the borough can be found on our website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

## APPENDIX B

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### 14. CONSULTEES

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14.1. Before making a determination in respect of any application for a Pavement Licence, the licensing authority must, by virtue of Section 3(2) of the Act consult with the following statutory consultees -

The Highways Authority  
[www.hants.gov.uk](http://www.hants.gov.uk)

Hampshire County Council  
**Email:** [roads@hants.gov.uk](mailto:roads@hants.gov.uk)

14.2. Before making a determination in respect of any application for a Pavement Licence, the licensing authority, by virtue of this policy, will also consult with –

The Planning Authority  
[www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)

C/o Rushmoor Borough Council  
**Email:** [plan@rushmoor.gov.uk](mailto:plan@rushmoor.gov.uk)  
**Tel:** 01252 398398, **Fax:** 01252 524017

Environmental Health Services  
Pollution Control  
[www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)

C/o Rushmoor Borough Council  
**Email:** [pollutionteam@rushmoor.gov.uk](mailto:pollutionteam@rushmoor.gov.uk)  
**Tel:** 01252 398398, **Fax:** 01252 524017

Environmental Health Services  
Food & Safety  
[www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)

C/o Rushmoor Borough Council  
**Email:** [food@rushmoor.gov.uk](mailto:food@rushmoor.gov.uk)  
**Tel:** 01252 398398, **Fax:** 01252 524017

Town Centre Management  
[www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)

C/o Rushmoor Borough Council  
**Email:** [towncentremanager@rushmoor.gov.uk](mailto:towncentremanager@rushmoor.gov.uk)  
**Tel:** 01252 398398, **Fax:** 01252 524017

Capital Projects, Regeneration  
& Property  
[www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)

C/o Rushmoor Borough Council  
**Email:** [traffic.management@rushmoor.gov.uk](mailto:traffic.management@rushmoor.gov.uk)  
**Tel:** 01252 398398, **Fax:** 01252 524017

Hampshire Constabulary  
[www.hampshire.police.uk](http://www.hampshire.police.uk)

Police Licensing Team  
**Email:** [force.licensing@hampshire.pnn.police.uk](mailto:force.licensing@hampshire.pnn.police.uk)

Hampshire Fire & Rescue

C/o Technical Fire Safety  
**Email:** [csprotection.admin@hantsfire.gov.uk](mailto:csprotection.admin@hantsfire.gov.uk)

## APPENDIX C

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### 15. SITE NOTICE TEMPLATE

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#### Section 2(6) of the Business and Planning Act 2020

I/We **[INSERT NAME OF APPLICANT]**,

do hereby give notice that on **[INSERT DATE OF APPLICATION]** [I/we] have applied to Rushmoor Borough Council for a 'Pavement Licence' at:

**[INSERT POSTAL ADDRESS OF PREMISES]**

known as

**[INSERT NAME THAT PREMISES KNOWN BY]**

The application is for:

**[INSERT BRIEF DESCRIPTION OF APPLICATION (e.g. outdoor seating to the front of the premises for serving of food and drink)]**

Any person wishing to make representations in respect of this application may do so by writing, preferably by email, to:

Licensing  
Rushmoor Borough Council  
Council Offices  
Farnborough Road  
Farnborough  
GU14 7JU

**Email:** [licensing@rushmoor.gov.uk](mailto:licensing@rushmoor.gov.uk)

All representations must be submitted by: **[INSERT LAST DATE FOR REPRESENTATIONS (being 14 days after the date the application is submitted to the licensing authority)]**

The application and information submitted with it can be viewed on the Council's website at: [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

Dated: **[INSERT DATE THE NOTICE WAS PLACED which must be the same date as the date of application]**

## APPENDIX D

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### 16. DESIGN SPECIFICATION

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#### 16.1. GENERAL FURNITURE DESIGN

16.2. It is expected that all objects, equipment, and furniture etc will comply with all relevant health and safety and fire safety regulations in force for the time being.

16.3. All objects, equipment, furniture (tables and chairs etc) and associated fittings, adornments or accessories must be of a high standard both in terms of quality and design and must be of uniform style and maintained in good order and clean condition at all times. It is therefore recommended that all equipment / furniture be capable of being easily and conveniently serviced (**Reason: public safety, hygiene and public health**).

16.4. (i) All equipment and furniture must be stable and robust, be of sufficient strength and durability and otherwise suitable for intense outdoor use (**Reason: public safety**).

**NB:** Upholstered chairs, cushions and similar effects will not normally be considered acceptable.

(ii) Without prejudice to the generality of the above, and so far as is reasonably practicable, all equipment and furniture must be stable and robust or otherwise be capable of being secured (in an acceptable way) to prevent accidental movement and / or resist movement by wind, the draught of passing traffic or mischief (**Reason: public and highway safety**).

**NB:** Mass-produced plastic furniture / equipment and similar effects will not usually be considered suitable; being too light to resist movement caused by strong draughts / winds, of insufficient strength and durability for the intensity of use and subject to weathering.

16.5. Equipment and furniture must be capable of being easily wiped down, dried and / or thoroughly cleaned. It is therefore recommended that ornate furniture be avoided (**Reason: hygiene and public health**).

16.6. All furniture must be fitted with suitable and durable rubberised feet / mouldings or other suitable mountings / fittings that will reduce noise, prevent slippage and movement and otherwise help protect the highway from damage caused by its use. Such feet / fittings to furniture must be capable of being maintained in good condition at all times



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*(Reason: to prevent public nuisance, ensure public safety and public / visual amenity).*

### 16.7. MATERIALS, PATTERNS, COLOUR & STYLE OF FURNITURE

16.8. (i) Materials, patterns, colours and style of furniture and equipment must be sympathetic to (in keeping with) and complement the local street scene *(Reason: public and visual amenity).*

(ii) Materials, patterns, colours and style of furniture and equipment must be subdued and natural so that they sit comfortably in the streetscape and must not be too bright, loud or garish *(Reason: public and visual amenity).*

**NB:** *If the permitted area(s) is / are within a conservation area and / or are located immediately adjacent to a listed building, the licensing authority may stipulate the colours that may be used.*

(iii) Furniture and equipment must not be overly reflective. This is inclusive of banners, umbrellas, canopies and similar objects which must be of canvass, cloth or similar non-reflective material *(Reason: public and visual amenity, public and highway safety).*

16.9. (i) All furniture and equipment in any one permitted area must, so far as is reasonably practicable, be of the same design range, pattern, style and colour scheme. Variation in design e.g. chairs with or without arms, will only be acceptable if from the same design range and of the same general style etc *(Reason: public and visual amenity).*

(ii) Other equipment that cannot be purchased as part of a given design range of furniture must be of a type, material, pattern and colour that compliments the chosen furniture style *(Reason: public and visual amenity).*

### 16.10. CRIME & SECURITY

16.11. Subject to the general design requirements of this specification, tables and chairs etc must be of such design and construction or otherwise be fitted with suitable features that help deter crime *(Reason: prevention of crime and disorder).*

16.12. In particular -

(i) Where appropriate, given the nature, location and layout of the permitted area, chairs shall have rounded backs (not square backs) so as to reduce the ability of users to hang bags and coats upon them where they may be vulnerable to bag snatching, pick-pocketing and opportunistic crimes etc *(Reason: prevention of crime and disorder).*

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- (ii) Where appropriate, given the nature, location and layout of the permitted area, tables shall be fitted with shelves or net bags below the tabletop so as to enable users to store personal belongings (e.g. bags and coats) so they are less vulnerable to bag snatching, pick-pocketing and opportunistic crimes etc (**Reason: prevention of crime and disorder**).
- (iii) Where appropriate, given the nature, location and layout of the permitted area, tables shall be fitted with suitable handbag hooks (e.g. 'Chelsea clips') to prevent bag snatching and similar opportunistic crimes etc (**Reason: prevention of crime and disorder**).

**NB:** *Security measures (e.g. chains and similar devices) that affix to the highway and / or associated street furniture and are used to secure equipment / furniture from theft or unauthorised removal from the permitted area will not usually be considered acceptable; as such measures may present a safety hazard and/or otherwise cause damage to the highway.*

- 16.13. Where alcohol is to be supplied, barrels, tall drink stands and / or other such objects / facilities that encourage vertical drinking or consumption while standing will not usually be considered acceptable (**Reason: prevention of crime and disorder, prevention of public nuisance**).

### 16.14. ACCESSIBILITY

- 16.15. All furniture and equipment (including tables) shall, so far as is reasonably practicable, be designed, constructed and / or otherwise located so that they can be conveniently used and, in the case of signs and menu boards etc, be conveniently read, by wheelchair users and other disabled people (**Reason: public amenity**).

**NB:** *For this reason, picnic benches and similar access restrictive facilities shall not usually be acceptable unless suitably modified / adapted.*

- 16.16. In respect of the above, it is recommended that furniture and equipment be easily adjustable in height and orientation where appropriate.

- 16.17. So far as is reasonably practicable and subject to the general design requirements of this specification, furniture, tables and chairs etc shall be moveable in order to permit access of wheelchair users, prams and pushchairs as required (**Reason: public amenity**).

### 16.18. PORTABILITY & STORAGE

- 16.19. (i) As it will need to be removed at the end of permitted hours, all furniture and equipment must be portable and capable of safe and

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secure storage in a place other than on the highway (**Reason: public amenity / safety**). For these reasons, it is recommended that furniture be of such nature and design that it can be easily folded or stacked and, as necessary, separable.

- (ii) As it may need to be removed in the event of emergency, all furniture and equipment must be capable of efficient and expedient removal from any permitted area of use (**Reason: public safety**).

**NB:** *Large benches, picnic tables and similar integral objects are unlikely to be easily moved and / or stored and shall not therefore usually be considered acceptable.*

### 16.20. BARRIERS & ENCLOSURES

16.21. Except for suitable points of access and egress, any permitted area(s) must be suitably enclosed in order to contain permitted furniture and equipment, clearly demarcate the permitted area(s) in question, create defensible space to deter crime (e.g. bag snatches), and otherwise guide pedestrians and passers-by; particularly those who are blind or visually impaired (**Reason: public and highway safety, prevention of crime and disorder, public and visual amenity**).

16.22. Subject to the general design requirements of this specification and the following matters, the means of enclosure is open to discretion (e.g. banners, mesh, trellis, panels, suitable planters etc). However -

- (i) the means of enclosure must not create a tripping hazard (so far as is reasonably practicable) and shall not otherwise be lower than 800mm from the ground (**Reason: public and highway safety**);
- (ii) the means of enclosure must not obscure traffic and street signs, landmarks and / or the street scene in general or otherwise be higher than 1200mm from the ground (**Reason: public and visual amenity, public and highway safety**);
- (iii) the means of enclosure must be of such construction as to comprise or include a suitable, solid, low-level tapping rail (located between 100mm and 150mm from the ground) designed to forewarn and / or guide the blind and those with visual impairments of its presence (**Reason: public and highway safety**);
- (iv) the means of enclosure must be of contrasting colour to other furniture so as to aid, guide and / or forewarn the partially sighted and those with visual impairments of its presence (**Reason: public and highway safety**);

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**NB:** *If the permitted area(s) is / are within a conservation area and / or are located immediately adjacent to a listed building, the licensing authority may stipulate the colours that may be used.*

- (v) any visibility panel(s) to the means of enclosure must be contrasting in colour to the pavement and other furniture so as to aid, guide and / or forewarn the partially sighted and those with visual impairments of its presence (**Reason: public and highway safety**);
- (vi) where furniture, tables and chairs etc are provided on steps, significant inclines or slopes, the means of enclosure must be of such construction as to comprise or include a suitable handrail between 1000 – 1200mm above ground level which is reasonably smooth and rigid enough to aid, guide and / or support customers and / or pedestrians (**Reason: public and highway safety, public amenity**);
- (vii) the means of enclosure must be reasonably rigid and capable of resisting pedestrian collision (**Reason: public and highway safety**).

16.23. In view of the above, the following barriers and enclosure types shall not usually be considered acceptable:-

- (i) **Post and Chain barriers** – are considered to be potentially hazardous to pedestrians, particularly the visually impaired (**Reason: public and highway safety**).
- (ii) **Hoop top garden style fencing** – is considered too flimsy, of insufficient height, strength and stability and usually poses a serious trip hazard (**Reason: public and highway safety**).
- (iii) **Use of a variety of small plant tubs** – generally untidy and considered inadequate as a means of enclosure, defensible space or as a guide for the visually impaired (**Reason: public and highway safety, crime and disorder, public and visual amenity**).

16.24. As the permitted area(s) must revert back to use as a public highway at the end of permitted hours each day, permanent barriers shall not be permitted.

### 16.25. SPACE HEATERS & HEAT SOURCES

16.26. Heat producing equipment must not be used as a means of enclosure or otherwise be located on the boundary of any permitted area(s). In all cases, such equipment must be located in a suitable and safe area within any permitted area(s) (**Reason: public and highway safety**).

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16.27. All gas cylinders used to fuel heat producing equipment must be fitted with a suitable non-return valve by a competent person (**Reason: public and highway safety**).

### 16.28. PLANTERS

16.29. Where provided, planters must be substantial, convincing and well stocked; the plants within them must be well maintained in good condition throughout all seasons (**Reason: public and visual amenity**).

16.30. By way of promoting the public enjoyment of the local street scene, it is recommended that planters contain fragrant sweet-smelling plant varieties.

16.31. Planters must not create a tripping hazard (so far as is reasonably practicable) and, regardless of the height of any plants within them, planter containers shall not otherwise be lower than 600mm from the ground (**Reason: public and highway safety**);

### 16.32. UMBRELLAS, CANOPIES, PARASOLS & SIMILAR

16.33. (i) Further to 19.4 above, umbrellas, canopies, parasols and similar facilities must be stable and robust enough and / or suitably secured to withstand strong draughts and winds without toppling over or otherwise being blown away (**Reason: public and highway safety**).

(ii) Without prejudice to the above, umbrellas, canopies, parasols and similar facilities must be capable of being folded down and/or removed (including during permitted hours where appropriate) during inclement weather (**Reason: public and highway safety**).

16.34. Umbrellas, canopies, parasols and similar facilities must not overhang footways or outside permitted area(s), interfere with the free passage of pedestrians or vehicle driver sight lines or otherwise obscure traffic or other street signs (**Reason: public and highway safety, public and visual amenity**). Account should therefore be taken of their size, height and width when opened.

16.35. Further to 19.8 above, umbrellas, canopies, parasols and similar facilities must be of canvass, cloth or similar non-reflective material (**Reason: public and visual amenity, public and highway safety**).

### 16.36. ADVERTISING, SIGNS & LOGOS

16.37. As advertising can be distracting and is, by its nature, competitive to its surroundings, advertising will not normally be permitted on any furniture or equipment otherwise than in accordance with 19.38 below (**Reason: highway safety, visual amenity**).

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- 16.38. Subject to the general design requirements of this specification and 19.39 below, only the name, sign or logo of the business to which a permit relates shall be permitted on the barrier / enclosure of any permitted area(s) so as to identify the business concerned (**Reason: public and visual amenity**).
- 16.39. Subject to planning permission and / or controlled advertisement consent where necessary, a name, sign or logo -
- (i) may be displayed at a maximum of two locations on any one side of a permitted area that is oblong or triangular in nature. The name, sign or logo may be displayed at a maximum of four locations on any one side of a permitted area that is circular or similar in nature. (**Reason: visual amenity**).
  - (ii) must be reasonably small and discrete and relate only to the business concerned; being no more than **150mm** high (**Reason: visual amenity**).
- 16.40. Tables and chairs, umbrellas, canopies, parasols & similar (other than those affixed to the business premises concerned) shall be kept free of advertising (**Reason: visual amenity**).
- 16.41. Brand names, brewery logos and similar advertising shall not be permitted (**Reason: visual amenity**).

### 16.42. POWER SUPPLY

- 16.43. Where furniture, tables and chairs etc are to be placed adjacent to the business premises to which they relate i.e. at the back of the footway along the relevant building line, mains electrical power may be supplied from the business premises to which the permit relates providing -
- (i) All equipment and wiring is of a suitable nature, type and construction for outdoor use (including wet environments);
  - (ii) All equipment and wiring is installed and maintained by a competent person;
  - (iii) All equipment and wiring is installed, maintained and operated in accordance the Health & safety at Work etc Act 1974 and associated Regulations;
  - (iv) There are no cables laid or running along the ground within any permitted area(s) or otherwise on the highway;
  - (v) all electrical equipment is served by a suitable 30 milliamp automatic circuit breaker situated within the premises between the

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point of supply and the said equipment (***Reason: public and highway safety***).

16.44. No electrical generators shall be permitted on the highway (***Reason: public and highway safety, prevention of public nuisance, public health and ensuring public amenity***).

### **16.45. LIGHTING**

16.46. In hours of darkness, the licensing authority will expect proposed / permitted area(s) to be suitably and sufficiently lit.

16.47. Lighting equipment must, so far as is reasonably practicable, be correctly sited and adjusted so that it only illuminates the surface(s) intended and does not unreasonably throw light onto neighbouring property or cause visual intrusion.

16.48. Accordingly, lighting must be provided with properly designed screens, baffles, hoods and / or louvers to control the beam and / or fitted with such other feature(s) designed to control the intensity and direction of light as may be appropriate.

### **16.49. Disclaimer**

16.50. Notwithstanding anything detailed in this specification, the licence holder is responsible for the safety and suitability of use of all items placed on the highway. Licence holders are therefore responsible for ensuring that all such items are sufficiently robust and well maintained for their purpose. Licence holders are also responsible for the health and safety aspects relating to the portability and handling procedures adopted in each case.

## APPENDIX E

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### 17. STANDARD CONDITIONS

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17.1. The following conditions shall be imposed on all Pavement Licences.

#### 17.2. RISK ASSESSMENTS & CONTROLS

17.3. The licence holder shall ensure that suitable and sufficient risk assessments have been carried out and appropriate risk controls or mitigation measures are put in place in respect of their placement and use of any objects and furniture (e.g. tables and chairs etc) on the highway.

17.4. In particular, risk assessments should consider the appropriate steps to be taken to minimise the risk of the spread of COVID-19, taking account of the relevant government guidance at any given time.

#### 17.5. INDEMNITY & INSURANCE

17.6. The licence holder shall, at all times and at his own expense, hold a valid certificate of liability insurance that indemnifies the licence holder, Rushmoor Borough Council and Hampshire County Council of not less than £5 Million against each and any claim, injurie, accident, damage or loss arising from this authorisation and/or the associated placing of objects or furniture (e.g. tables and chairs etc) on the highway.

17.7. The licence holder shall make no claim or charge against the Council in the event of any object(s), equipment or furniture being lost, stolen or damaged in any way howsoever caused.

#### 17.8. HOURS OF OPERATION

17.9. (i) Unless otherwise stated, all objects or furniture (e.g. tables and chairs etc) may only be placed on the highway on the days and during the permitted hours specified in **Table A** below.

(ii) Outside of permitted hours and dates and/or when it is not intended to operate, all objects and furniture (e.g. tables and chairs etc) shall be removed from the highway and shall be stored in a place reserved for that purpose which shall, in any event, not be on the highway.

(iii) In order that objects and furniture (e.g. tables and chairs etc) are fully removed by the end of permitted hours, all service(s) provided in connection with the objects and permitted area(s) shall cease at least 30 minutes before the end of permitted hours.



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- (i) Where appropriate, customers shall be informed and made aware that all objects and furniture must be removed from the highway by the end of permitted hours.

<b>TABLE A - The permitted hours objects may be placed on the highway</b>			
Day(s)	Hours		Non-Standard Timings
	From	To	
Monday			
Tuesday			[INSERT DETAILS]
Wednesday			
Thursday			
Friday			
Saturday			
Sunday			

17.10. If on any day a market or other event is held, there is not at least 1.5 metres clear and unobstructed distance between any part of the permitted area(s) and any area(s) used for / by the market or event (whether in whole or in part), no object(s) or furniture (e.g. tables and chairs) shall be placed on the highway on market / event day(s). In all such circumstances, there will be no (pro-rata) refund of any fees paid and no compensation for loss of business.

17.11. If one or more permitted areas includes an area (whether in whole or in part) upon, over or through which a rally, procession or other similar event will take place, no object(s) or furniture (e.g. tables and chairs etc) shall be placed or consequently stored on the highway while the event is taking place. In all such circumstances, there will be no (pro-rata) refund of any fees paid and no compensation for loss of business.

17.12. All objects and furniture (tables and chairs etc) shall be removed from the highway within any specified timeframe, or immediately if so required by Rushmoor Borough Council, Hampshire County Council, any emergency service(s), and any statutory undertaker(s) or telecommunications operator(s), so as to permit the use of, repairs to, or work(s) on, under or over the highway (whether in whole or in part) or any other reason.

### **17.13. LAYOUT, DESIGN, MAINTENANCE & CLEANLINESS**

17.14. All objects and furniture (e.g. tables and chairs etc) must conform to and be well maintained in accordance with the Council's design specifications in force for the time being.

17.15. All objects and furniture (e.g. tables and chairs etc) shall be maintained in good order and in a suitably clean and tidy condition at all times.

17.16. (i) Any objects and furniture (e.g. tables and chairs etc) that is damaged or may cause damage to the highway and / or

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associated street furniture, or does not otherwise conform to the Council's design specifications must be immediately withdrawn from use.

- (ii) Where the above condition prevents the use of objects or furniture that form part of the enclosure of the permitted area(s) concerned, no object(s) or furniture (e.g. tables and chairs etc) shall be permitted on the highway until the enclosure can be suitably reinstated in accordance with this licence and the attached plan(s) marked **[INSERT REFERENCE]**.

17.17. Only those objects specified in **Table B** below may be placed on the highway. The type and number of such objects shall not exceed those prescribed.

<b>Table B – The permitted objects that may be placed on the highway</b>			
Quantity	Description	Manufacturer	Specification or Catalogue Number
	<b>[INSERT DETAILS]</b>		

- 17.18. (i) In accordance with the following, objects may only be located in the area(s) permitted outside the premises detailed in **Table C** below.
- (ii) Objects and furniture (e.g. tables and chairs etc) shall not be located and/or arranged in any area, layout or other such configuration otherwise than in accordance with this licence and the attached plan(s) marked **[INSERT REFERENCE]**.
- (iii) In particular, the area(s) in which objects and furniture (e.g. tables and chairs etc) are permitted shall not be exceeded or otherwise exceed the dimensions / area(s) specified / shown on this permit and any pitch limits marked on the ground.
- (iv) In particular, heat producing equipment (e.g. space heaters), where authorised, shall only be located within the permitted area in accordance with the attached plan(s) (marked **[INSERT REFERENCE]**) and shall not, in any circumstances, be (re)positioned at any boundary or otherwise used as part of the means of enclosure at any time.

<b>TABLE C – General premises to which this licence relates</b>	
Name & address of premises	Unique property reference number and map locators
<b>[INSERT DETAILS]</b>	UPRN: <b>[INSERT DETAILS]</b>

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	<b>Eastings:</b>	[INSERT DETAILS]
	<b>Northings:</b>	[INSERT DETAILS]

17.19. So far as is reasonably practicable, the licence holder shall contain his, and his customer(s) activities to within the permitted area(s). In particular, and;

- (i) so far as is reasonably practicable, customers shall not be permitted to move any object(s) or furniture (e.g. tables and chairs etc) beyond the permitted area(s);
- (ii) so far as is reasonably practicable and, where appropriate, customers shall be asked to return and keep objects and furniture (e.g. tables and chairs etc) within the permitted area(s) in accordance with this permit and the attached plan(s) (marked [INSERT REFERENCE]); and
- (iii) regardless of the above and, where appropriate, objects and furniture (e.g. tables and chairs etc) moved by customers or any other individual(s) shall be rearranged in accordance with this licence and attached plan(s) (marked [INSERT REFERENCE]) as soon as is reasonably practicable.

17.20. The licence holder shall ensure that the permitted area(s) are suitably and regularly monitored to ensure compliance with this part.

### 17.21. USE OF HIGHWAY & PERMITTED AREA(S)

17.22. The licence holder shall ensure, so far as is reasonably practicable, that the permitted objects and furniture (e.g. tables and chairs etc), and persons using them, do not at any time obstruct the passage of, or cause danger to any person lawfully using the highway on which they are situated.

- 17.23. (i) The permitted area(s), objects and furniture (e.g. tables and chairs etc) shall be used solely for the purpose(s) detailed in Table D below.
- (ii) No charge shall be made or otherwise levied in connection with the use of any object(s) (tables and chairs etc) permitted on the highway save for payment of food and refreshments etc.

TABLE D – Purpose(s) for which the permitted area, objects and furniture may be used	
Ref.	Permitted purpose(s)
1	[INSERT PURPOSE(S)]
2	
3	
4	
5	

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- 17.24. Food and/or drink and associated crockery and utensils shall only be conveyed or transferred to and/or from the permitted area(s) by a suitable staff member (i.e. by a waiter / waitress service) at all times.
- 17.25. Subject to local byelaws or orders and unless specifically authorised by virtue of a premises licence or temporary event notice under the Licensing Act 2003, no alcoholic refreshments or late night refreshment(s) shall be provided in any permitted area(s).
- 17.26. (i) No objects, equipment or furniture shall be bolted, chained or otherwise secured or affixed – either temporarily or permanently - to the highway or anything else on the highway (i.e. street furniture).
- (ii) No excavation or interference of any kind shall be made in the surface of the highway, which shall be left entirely undisturbed.
- 17.27. (i) The licence holder shall be responsible for and shall, as soon as is reasonably practicable, formally notify the Council of any damage, within any permitted area(s), caused to the highway and/or street furniture through any act or omission arising from or in connection with the operation of the Pavement licence.
- (ii) The licence holder shall pay the Council the cost of making good any damage caused to the highway and / or street furniture in consequence of the licence holders operations thereon.
- (iii) In all cases, repairs to the highway or street furniture shall only be undertaken by the Highway Authority or its appointed representatives or agents.

### **17.28. VISUAL & PUBLIC AMENITY**

#### **17.29. Lighting**

- 17.30. In hours of darkness, suitable and sufficient lighting must be provided to and within the permitted area(s).

#### **17.31. Planters**

- 17.32. Where applicable, planters must be convincing and well stocked and the plants within them must be well maintained in good condition throughout all seasons. Planters shall be kept clear of litter.

#### **17.33. Smoking**

- 17.34. (i) The significant proportion (i.e. greater than 50%) of the permitted area(s), objects and furniture (e.g. tables and chairs etc) shall be classed as smoke free and reserved for non-smoking use.

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- (ii) The non-smoking proportion detailed above shall be located 'en-block' and be a minimum 2m distance from any smoking area.
- (iii) Suitable and sufficient 'no smoking' signs shall be displayed in all smoke free areas or on all smoke free facilities provided.
- (iv) Smoking shall not be permitted in any area classed / signed as smoke free or otherwise reserved for non-smoking use.
- (v) No ash trays or similar receptacles shall be provided or permitted to be left on furniture designated for smoke-free use.
- (vi) Subject to condition 17.49 below, suitable and sufficient ashtrays shall be provided on all tables where smoking is not restricted.

### **17.35. Advertising**

- 17.36. (i) Subject to the following, no goods, products, commodities or services shall be advertised or displayed for sale on or within any permitted object(s) or area, or any other section of the public highway, otherwise than in accordance with this licence and the Council's design specification.
- (ii) Further to the above, only those goods, products, commodities or services offered for sale or otherwise provided in connection with the licence to place objects on the highway may be advertised for sale by way of a menu, menu board or similar. However, all such items (e.g. A-boards, menu boards etc) must be kept within the permitted area(s) at all times.

### **17.37. PUBLIC SAFETY**

17.38. The licence holder shall not cause or allow any street obstruction nor cause or allow any danger to any individual(s) using the street pursuant to this licence.

17.39. No object(s), equipment or furniture shall be permitted to obstruct (whether in whole or in part) any fire escape, hatch or doorway leading to or from any premises at any time.

17.40. In the interests of safety, umbrellas, parasol, canopies and similar shall not be used in blustery or windy weather conditions and shall be folded / closed down or, where appropriate, removed where such weather conditions prevail.

### **17.41. PREVENTION OF PUBLIC NUISANCE**

#### **17.42. General**

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- 17.43. The licence holder shall not cause or permit any activity within the permitted area(s) that may give rise to nuisance or annoyance to any person using the street or to any person who lives or works in the vicinity.
- 17.44. The licence holder shall not cause or permit anyone to call out, importune or otherwise tout for any business arising from or in connection with the licence.
- 17.45. No entertainment(s) or any form of music shall be provided or broadcast in / from any permitted area(s). Similarly, no amplified public address shall be used or broadcast in or from any permitted area(s).
- 17.46. By way of minimising noise and disturbance, equipment and furniture must not, at any time, be dragged along the ground to or from its place of storage or any other place.

### 17.47. Litter & Refuse

- 17.48. The permitted area(s) and the highway in the immediate vicinity shall be maintained in a clean and tidy condition at all times.
- 17.49. (i) Trays, glasses, crockery, napkins, utensils, packaging and any other items that may reasonably be placed on any tables and chairs by the licence holder (or any other individual(s)) when in use, shall be removed from tables and chairs when any tables and chairs are not being used by customers (**Reason: To prevent public nuisance**).
- (ii) Only menus and/or such other information that will enable the licence holder to identify the location of any individual(s) that may subsequently use the furniture may be placed on any tables provided when they are not being used. However, all such items must be securely fastened to prevent them being blown away by wind or strong draughts (**Reason: To prevent public nuisance**).
- 17.50. (i) Refuse and other litter generated in consequence of the provision and use of furniture (e.g. tables and chairs etc) shall be cleared away at frequent intervals throughout the permitted period.
- (ii) The licence holder shall ensure that all waste / rubbish / refuse generated and/or arising from the licence is stored in and subsequently disposed of from suitable and sufficient receptacles, provided and maintained by him at his own expense for that purpose.
- (iii) The licence holder shall, at his own expense, ensure that all refuse and litter on the highway in the vicinity of the permitted area(s) is removed at frequent intervals throughout the permitted period, and always at the close of business on any day.

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- (iv) Refuse and other litter generated in consequence of the provision and use of permitted furniture (e.g. tables and chairs etc) shall not be disposed of in any litter bin(s) (i.e. street bins) provided by the Council / Highways authority.
- 17.51. (i) Prominent, clear and legible notices must be displayed within the permitted area(s) requesting patrons to dispose of litter responsibly.
- (ii) The licence holder shall, at his own expense, provide suitable and sufficient litterbins within the permitted area(s) or at the access / egress point(s) to any permitted area(s) to assist with this requirement.
- 17.52. (i) The licence holder shall, at his own expense, ensure that the permitted area(s) and the highway in the immediate vicinity shall be thoroughly washed / cleaned at the end of each day's usage.
- (iii) Regardless of the above, the licence holder shall, at his own expense, clean and, where appropriate, immediately wash down the highway where there is any spillage / food debris etc arising from the licence to place objects (tables and chairs etc) on the highway.
  - (iv) In any case, any such cleaning shall be undertaken to a level to the satisfaction of the Council and / or Highways authority.

### **17.53. ACCESSIBILITY**

#### **17.54. General access arrangements**

17.55. The licence holder must not do anything pursuant to the licence, or permit any activity of other persons which is enabled by the licence which –

- (a) Prevents 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) Prevents any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order;

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- (c) Prevents statutory undertakers having access to any apparatus of theirs under, in, on or over the highway; or
- (d) Prevents 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.

17.56. A walkway free of obstruction(s) of 1.5 metres must be maintained for pedestrians at all times adjacent to the highway in accordance with the attached plan(s) marked **[INSERT REFERENCE]**.

### **17.57. Other access**

17.58. Authorised officers of the Council and police officers shall be afforded access to any permitted area(s) and the associated premises to which the licence relates at all reasonable times.

17.59. Notwithstanding the attached plan(s), objects, equipment or furniture shall not be sited on, over or otherwise in such a position as to obstruct access to drainage outlets, utility covers and similar apparatus at any time.

### **17.60. OTHER MATTERS**

17.61. This licence is specific to the person(s) to whom it is issued. It is not transferable to any other person, agent, company or representative. The licence holder shall not therefore assign, sub-let or otherwise part with his interest in or possession of the licence, otherwise on formal surrender to or revocation by the Council.

17.62. The licence holder shall be responsible for any rates, taxes and/or other outgoings which may be charged or levied arising from or otherwise in connection with the licence to place objects and furniture (e.g. tables and chairs etc) on the highway. The licence is granted on condition that no cost(s) shall be incurred on or otherwise apportioned to Rushmoor Borough Council.

17.63. During any period in which any object(s) or furniture is placed on the highway, a copy of this licence and the conditions attached thereto shall be displayed in a prominent position in the front window of the business premises to which it relates (or otherwise nearby), so as to be clearly visible from the outside to anyone wishing to inspect it.

17.64. The licence holder shall, within 7 days, formally notify the licensing authority in writing of any change to their title, name, address and/or contact details.



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17.65. The licence holder shall, if required, notify the Council in writing the name and address of any person employed by and/or acting under their direction(s).

17.66. (i) The licensing authority reserves the right to revoke this licence at any time in the event of breach of any term or condition(s). In the event of such breach, the licensing authority may also carry out such works to remedy the breach in default and, where appropriate recover the cost(s) of doing so.

(ii) In particular, if allocated boundaries to any permitted area(s) is / are exceeded, the licensing authority reserves the right to request the removal of the object(s) / equipment / furniture and, where this is not undertaken to the satisfaction of the authority, to remove them itself and recover the cost(s) of doing so.

17.67. (i) The licence holder and / or his representative(s) (including staff or agents) shall comply with any directions or requirements issued / given by a police constable or an officer of the Council.

(ii) Objects and furniture (e.g. tables and chairs etc) must be removed at the request of the Council or Highways Authority at any time to enable work(s) to be carried out on, in, under or over the highway on which the objects or furniture are situated or any adjacent highway.

## APPENDIX F

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### 18. ADDITIONAL CONDITIONS

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18.1. In addition to the standard conditions detailed in **appendix E** above, the following conditions may be imposed on any Pavement licence where appropriate to the circumstances.

18.2. The licensing authority may add additional conditions to those presented here at any time by way of building a pool of model conditions on which to draw.

#### 18.3. SUPERVISION

18.4. The licence holder shall ensure that all objects or furniture (e.g. tables and chairs etc) and use thereof by customers are, at all times, supervised by [an SIA licensed door supervisor] [a suitable and responsible member of staff].

#### 18.5. CCTV

18.6. (i) Suitable and sufficient CCTV cameras linked to a suitable recording facility shall be in operation at the premises concerned.

(ii) All such CCTV cameras shall cover and monitor the permitted area(s) and footage shall be retained to the satisfaction of the [police] [licensing authority].

(iii) So far as is reasonably practicable, all cameras must be maintained in good working order.

(iv) Suitable signage warning of the presence of CCTV shall be displayed in any permitted area.

#### 18.7. FULL MEALS

18.8. Tables and chairs etc shall only be provided in connection with the service of full table meals.

#### 18.9. GLASSES & BOTTLES

18.10. [Except for wine and soft drinks], no drinks shall be served to, or otherwise allowed to be purchased by customers in cans or glass bottles. In every case they will be poured into appropriate vessels by staff.

18.11. Only drinking vessels made from toughened glass or plastic, bearing the stamp required by s16(2) of the Measuring Equipment (Intoxicating

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Liquor) Regulations 1983 and subsequent revisions thereof, may be used to serve drinks.

### **18.12. PEST / VERMIN CONTROL**

18.13. A suitable and sufficient pest control contract shall be implemented and maintained at the licence holders own expense in respect of [the premises], any permitted area(s) and activities carried on there.

18.14. Suitable and sufficient signage requesting that customers do not feed the [pigeons], [squirrels] etc shall be prominently displayed in the permitted area(s).

18.15. Suitable and sufficient signage requesting that customers dispose of litter and food debris responsibly shall be prominently displayed in the permitted area(s).

### **18.16. NOISE CONTROL**

18.17. The licence holder shall provide and maintain a noise management plan detailing the predicted noise levels for the activities in question, including any attenuation measures to be taken and any additional relevant information that shows how the prevention of public nuisance shall be addressed. This plan shall be submitted to the licensing authority prior to objects being placed on the highway and must be to the satisfaction of the Environmental Health Pollution Control Team of Rushmoor Borough Council.

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