



**Ards and
North Down**
Borough Council

Licensing of Pavement Cafés Act (Northern Ireland) 2014

**Application for the
Grant, Renewal or Variation
of a Pavement Café Licence**

Guidance for Applicant

For further details, contact:

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Foreword

1. Under the provisions of the Licensing of Pavement Cafés Act (Northern Ireland) 2014, the Council may grant Pavement Café Licences on such terms and conditions and subject to such restrictions as may be reasonably specified in the licence.
2. In specifying any terms, conditions or restrictions in a licence, district councils shall have regard to the guidelines which have been prepared by the Department for Communities (the Department) to assist district councils with the implementation of the statutory licensing scheme. These guidelines highlight the key legislative responsibilities of the Council including the conditions under which pavement café areas should operate.
3. The Department's guidance document is available on their website, as follows:
<https://www.communities-ni.gov.uk/topics/dsd-law-and-legislation/social-law>.
4. Additionally, district councils, through the Licensing Forum Northern Ireland (LFNI), have produced this supplementary guidance to assist with the administrative procedures associated with the Act and to promote consistency of approach across Northern Ireland. However, it is not intended that this guidance should be treated as a complete and authoritative statement of the law which is contained only in the Act and Regulations made under it.
5. The Council may modify or dispense with such aspects of this guidance as it thinks appropriate.

Definitions

Furniture	includes tables, chairs, umbrellas, barriers, heaters, menu boards, etc.
Licensed area	a public area as defined on a plan approved by the Council as a pavement café.
Licensed period	the hours and days approved by the Council when the licensed area can be used as a pavement café.
Licensing Order	the Licensing (Northern Ireland) Order 1996.
Pavement café licence	the permission given by the Council to allow the licensee to place temporary furniture on a specified public area for customers to consume food or drink supplied from the licence holder's premises.
Public area	a place in the open air, to which the public has access, as of right and which is not a market area.
Public nuisance	noise disturbance or other nuisance caused to local residents or neighbouring businesses.
Temporary furniture	furniture that can be removed from the pavement within 20 minutes.

Introduction

Pavement cafés are becoming a familiar sight across the UK and Ireland. They can help develop a vibrant local café culture, which in turn can have a positive impact on urban environments, promoting a town, contributing to the general well-being of communities and appealing to tourists.

Tourism is a key driver for economic growth in Northern Ireland offering business opportunities to create jobs and generate wealth. Visitor attitude surveys undertaken by the Northern Ireland Tourist Board have highlighted the attractiveness of a vibrant café culture, especially for short breaks where shopping, good food and evening entertainment are high on the agenda. Well-regulated pavement cafés can contribute to an excellent visitor experience, enhance the attractiveness of a local area and encourage visitors to stay longer and spend more.

Legislation

Council's power to regulate pavement cafés in the Borough is contained in the Licensing of Pavement Cafés Act (NI) 2014 and associated Regulations.

Further advice or guidance in relation to the legislation can be found on the Department for Communities web site:

<https://www.communities-ni.gov.uk/topics/dsd-law-and-legislation/social-law>

or by contacting the Council.

How to use this guidance?

This guidance document has been prepared by Ards and North Down Borough Council ("the Council") to help businesses owners to prepare an application for a Pavement Café Licence.

Please note that this document is for guidance only and is not intended to be a legal interpretation of the legislation.

What is a Pavement Café Licence?

A Pavement Café Licence authorises a person who carries on a business involving the supply of food or drink (in or from premises) to place furniture (tables, chairs etc.) on a public area for use by their customers. This includes cafés, restaurants, pubs, retail outlets providing refreshments, takeaways, supermarkets with a deli counter, etc.

Note: *A licensed pavement café area will remain a public place for the purpose of public order, environmental or other legislation.*

Who may apply?

Any person or persons who carry on a business (in or from a premises) involving the supply of food or drink to the public, may apply for a Pavement Café Licence.

Is the area you want to use suitable for a pavement café?

Appendix 1 of this guidance document offers advice on what the Council will consider appropriate for a pavement café licence including:

- Pedestrian and vehicular access.
- Size and layout.
- Likely disturbance to other businesses or residents.
- Furniture design.
- Safety issues.

In general, the pavement café area will need to be set-up immediately adjacent to the premises. However, a licence for a remote café may be granted where:

- The proposed café does not interfere with vehicular or pedestrian traffic flow, and
- The licence holder is able to demonstrate that they will be able to exercise proper control and supervision of the remote pavement café area.

Hours of operation

The Council will confirm the hours and days of use for the pavement café area having regard to the location, likely disturbance to local residents, street cleaning or other businesses and representations from interested parties.

Council consider that licences will normally be granted for set hours between **8 am and 11 pm** which are reflective of the normal operating hours of the business.

What enforcement powers do the Council have?

Failure to obtain an appropriate licence or failure to comply with the conditions attached to a licence may result in enforcement action being taken against the licensee or owner of the business.

Unlicensed pavement cafés

It is an offence to place furniture to be used for the consumption of food and drink on a public area without a pavement café licence. This offence may be liable to a fine of up to £1,000 on summary conviction.

The Council may also seize and remove any furniture placed on the pavement without a licence and may recover the costs of reasonably incurred in removing and storing this furniture.

Suspension/Compulsory variation of a licence

The Council may suspend a licence when the maintenance of street utilities is required or road works are scheduled. The licence can also be suspended for a breach of licence conditions, making false statements or failure to pay any fee to the Council without good reason.

During any period of suspension, the pavement café licence is invalid and the Council may remove any furniture placed in the public area during the period of suspension.

The Council may also vary a licence where part of an area has become unsuitable or its continued use is likely to result in interference or inconvenience to persons or vehicles in the vicinity or public order concerns.

Council will consult with the PSNI before varying a licence on public order grounds.

Revocation of licence

A pavement café licence may be revoked following breaches of the licence conditions, where the licenced area is no longer suitable for temporary furniture, or where there is undue interference or inconvenience to persons or vehicles in the vicinity or public order concerns. Council will consult with the PSNI before revoking a licence on public order grounds.

Notice of revocation, suspension or compulsory variation

If the Council proposes to revoke, suspend or vary the licence condition you will be given 21 days' notice unless it is considered that such action needs to be taken in the public interest.

An applicant can make representation to the Council to persuade the Council not to revoke, vary or suspend the licence, within a specified period of 21 days of receipt of notification of the Council's intention to do this.

Making an Application

Before submitting an application please read this guide thoroughly to check whether your proposal will meet all the criteria. You are also advised to contact the Council to discuss your proposals **PRIOR** to submitting your application. This may help to minimise time wasted and expenditure on fees for applications which may later be refused.

All applications for a Pavement Café Licence must be accompanied by the following:

Site Location plan

A plan must be provided to a scale not less than 1:2500 (preferably ordinance survey) showing the proposed pavement café area marked in red and the adjoining streets and properties.

Licence Fee

All applications for a Pavement Café Licence must be accompanied by the relevant fee determined by the Council. A schedule of the current fees will be published on the Councils website.

	Administration fee (non-refundable)	Licence Granting fee (refundable)	Total Licence fee
Application for Grant of a Pavement Café Licence.	£147	£78	£225
Application for Renewal of a Pavement Café Licence.	£103	£47	£150
Application for the variation of a Pavement Café Licence.	£85	£0	£85

Applicants can send just the Administration fee (which is non-refundable) with their application. If the licence is granted, then the Granting fee will need to be paid before the licence is issued.

Proposed Café Plan

A plan must be provided to a scale of not less than 1:100 of the proposed pavement café area, the streetscape and all utilities and services including lampposts, bollards, fire hydrants, manholes, cycle stands, litter bins and any other items of street furniture located within the immediate vicinity. The dimensions of the proposed pavement café area must also be shown.

Please see Appendix 4 for examples of pavement café plans.

Details of the Furniture

Provide details of the number, materials and types of chairs, tables, umbrellas, etc., to be provided in the café (photographs/manufacturers, detailed brochures of proposed furniture or photographs of existing furniture would be helpful to the Council).

- Other information
- **Public liability insurance** cover with minimum indemnity of £5m.
- Evidence of **planning permission** where appropriate.
- If the café is to be located away from the main premises or patrons / staff will need to cross a public pavement to reach the café area, then you must provide a management control plan.

Public Notice

Applicants are required to fix a public notice to the premises on the day the application is made to the Council. The notice must be positioned so as to be visible and legible to the public for 28 days. Interested parties can make representations to the Council in respect of an application.

A draft Notice template is provided at Appendix 3.

In addition, the Council will make the application details available to be viewed by the public on the Council's web site until the end of the period allowed for representations.

You must complete the declaration on the application form stating that you have erected the required notice and that you will maintain it in place for 28 days from the date of application.

Consultation

It is recommended that businesses discuss their proposals with adjacent property occupiers to inform them of the application.

We will also consult with the following:

- Transport NI,
- The Police Service for Northern Ireland where the premises are licensed to sell alcohol,
- Any other Council Departments, organisations or individuals as appropriate.

Depending on the nature of the application the Council may consult with such others as it deems necessary.

Can my licence application be refused?

Yes. Due to factors such as visual impact, width restrictions, obstructions or heavy pedestrian flow it may not always be possible to accommodate pavement cafés in all locations. However, we will consider each application on its own merits taking account of the Council's agreed guidance, policies and any comments following consultation.

The Council is committed to developing a café culture where ever possible.

As an alternative to refusing an application the Council may agree changes to your proposal to meet the licensing criteria including amending the size and shape of the licensed area. If you accept and implement the proposed changes the Council will confirm / grant the licence.

If your proposal fails to meet the criteria and your application is refused by the Council, you will be informed of that decision and you will be refunded the administrative element of the fee.

Should an application be refused the applicant may appeal the decision to the Magistrates' Court within 21 days of being notified of the Councils decision. Licence holders may also appeal a decision to suspend or revoke a licence or vary the area and conditions of a licence (as an alternative to revocation), or to limit the duration of a licence.

How long will it take to process my application?

The Council aims to provide you with a determination within 8 weeks from date of receipt of a completed application which includes all the required plans, fee and the licence proposal.

If there are objections to the granting of the licence, then this period may be extended to consider those objections.

Appendix 1: Suitability Criteria for Licence

Design

The applicant will need to demonstrate that the café will make a positive contribution to the street scene and is in keeping with the surrounding street scene and other buildings and public realm. Simple robust designs will be preferred and excessive or elaborate detail or signage should be avoided unless clearly justified by the particular context. Applicants should also demonstrate commitment to the care and/or refurbishment of the external appearance of the building in which the business is housed, to ensure that the appearance of the street scene will be maintained and, where necessary, enhanced.

Street café proposals should not hinder reasonable use of the footpath, cause nuisance to adjacent frontages, or interfere with apparatus or access to apparatus within the footpath. To this end the applicant shall comply with all statutory requirements and obtain all necessary permissions before making a licence application.

Size and layout

The extent of the area to be licensed will depend on the site characteristics, safety considerations and the criteria set by the Council and Transport NI to maintain adequate space for both pedestrian and vehicle movement.

The licensed area should:

- Avoid conflict with the principal lines of pedestrian movement.
- Avoid conflict between customers going in and out of the café, passing pedestrians and neighbouring premises.
- Ideally be confined to the frontage of its own premises with close integration of internal and external activities however this does not preclude a remote location.

In order to safeguard the interests of pedestrians, particularly disabled people, older people and those with mobility needs including pram and wheelchair users, a minimum width of **1.5 metres clearance must be maintained on the pavement** between the edge of the licensed area and the kerbside. This distance may be increased or reduced depending on the overall pavement width, footfall, safety etc.

Where the seating area is adjacent to a road junction or vehicular access, **10 metres clearance** should be left to allow for junction visibility.

In **pedestrianised areas 6 metres** of unobstructed road width must be maintained in the street at all times. For examples of pavement cafés and the plans required to be provided please refer to Appendix 4.

The proposed licensed area used must take into account other activities in the immediate vicinity (e.g. kerbside parking, loading bays, bus stops, emergency vehicle access, emergency exits, street cleaning machines, and pedestrian crossings).

Where an application contains a proposal to establish a pavement café abutting neighbouring premises, the Council would advise that the applicant should discuss

their proposal with the owners or occupiers of the adjoining premises before an application is made.

The limits of the approved café area will be agreed as part of the application process and it is important that no obstructions such as tables, chairs, menu boards, planters or barriers are placed outside this licensed area or left on the pavement or any part of the licensed area outside the approved hours.

Boundaries

When in use, the licensed area should ideally be enclosed by way of adequate screening, to demarcate the area to make it distinguishable to other pavement users, and to assist blind and visually impaired pedestrians. Portable, sturdy barriers with a top rail should be provided along each side of the licensed area. Bases should not cause an obstruction or tripping hazard to pedestrians. In relation to smaller café areas with limited pavement width the Council may only require barriers only at each end of the licensed area.

All furniture must be removed outside the licensed period hence the materials used should be lightweight in construction and portable, but stable enough to prevent collapse if accidentally walked into or overturned by a gust of wind.

The design of the barrier should complement the character of the surrounding area and may be required to be of a specific design in order to maintain continuity along the street frontage. The colours and materials used for the enclosure should ensure that it is not visually dominant in longer views but will allow key elements to stand out against the background in close up.

Well maintained planters can be particularly attractive and could be used as part of the means of enclosure, but must be positioned within the licensed area. In certain circumstances, it may be possible to utilise existing street railings, planters and bins as a suitable means of enclosure.

Furniture

The furniture must be of a good quality design and material and be suitable for outdoor commercial use. Poor quality furniture will not be permitted.

The use of parasols, along with their locations, materials and colours must be specified as part of the design and must be positioned so that their extent is contained within the boundary to ensure they do not present a danger to any user of the pavement café or any other pedestrians.

Limited advertising may be permitted on both the barriers and parasols only (adverts must not prominently advertise alcoholic drinks). Proposed details should be provided with the application.

All furniture items, e.g. menu boards, signs and portable gas heaters need to be approved as part of the licensed area and details must be included in the application. Where heating is to be provided, this must be of a type suitable for outdoor use and shall be placed within the licensed area. If patio style liquid petroleum gas (LPG) heaters are to be used, they must be adequately secured upright, be fitted with a flame failure device and to be maintained on a regular basis.

All furniture must be of a temporary nature that can be removed within 20 minutes at the end of the licensed period or when access to the area is required by any statutory body or in the event of an emergency. The application must explain where the furniture will be stored after the licensed period.

If the main premises operate for longer than the licensed period the applicant should give consideration as to where the furniture is to be stored, this should be made clear within the application.

Environmental implications and other requirements

It will be the responsibility of the licensee to keep the licensed area clean and free of litter, during the licensed hours and at the conclusion of business each day. This will include the cleaning of liquid spillages onto the pavement

The conduct of customers using the licensed café area will also be the responsibility of the licensee.

All food premises should be registered with the Council.

The licence does not imply an exclusive right to use the licensed area; others may also have rights over it for events, maintenance, repairs, etc.

No amplified music or loudspeaker equipment shall be used in the pavement café area. If you intend to provide musical entertainment in the café, then an entertainment licence will be required. Application can be made to the Council.

Licensees must promote a safe, clean and generally welcoming environment in the pavement café area.

Customers must be seated using the permitted furniture when using the licensed area.

Licensees may wish to consider, for the convenience of their patrons, dividing their licensed café area into smoking and non-smoking sections, with each section clearly marked.

Safety and Control

It is the responsibility of the licensee to ensure that the pavement café area and the equipment used complies with all appropriate legislation in relation to food safety, health and safety and alcohol consumption requirements.

Applicants are reminded of their duties, to carry out a risk assessment, under the Health and Safety at Work (NI) Order 1978 as they relate to the area and activities covered by the pavement café.

Applicants proposing to licence a café which is separate from their main premises or where customers and staff need to cross a public pavement to reach the café area must provide a management plan for the café detailing how the café will be managed and supervised.

Other statutory bodies

You should also consider the requirement of Planning and Rates before making your application.

Planning Service

Depending on the circumstances of a proposed pavement café on a public area, a planning application may be required if development is to be undertaken. Anyone considering the establishment of a pavement café is advised to contact the planning office of the relevant council for advice and guidance on whether an application for planning permission is required or not. To this end, the Council's Planning Office may request from a potential applicant, full details of a proposed pavement café, including drawings identifying the site, proposed layout and means of enclosure, as well providing details of proposals such as alteration works, canopies, blinds, awnings and details of proposed advertisements/signage. Other consents, such as Consent to Display an Advertisement and Listed Building Consent may also be required and if so an application in each appropriate case should be submitted to the planning office of the Council.

Rates liability on grant of licence

The Department for Finance and Personnel has advised that for the vast majority of cases a marginal, seasonal increase in seating of a temporary nature under the terms of the licence would be regarded as de-minimus in rating terms and would not warrant a change in Net Annual Value (NAV). Where the type of arrangement goes beyond the marginal, seasonal or temporary arrangement and it is assessed or evidenced that it adds to the rental value of the premises, an adjustment to the NAV may be warranted. Each case will be judged on its merits and will be the decision of the District Valuer. Applicants, who have concerns in this respect, should contact the District Valuer, Land and Property Services before they make an application for licence.

Consumption of Alcohol

Alcohol **may** be consumed **but not sold** in a licensed pavement café area unless:

- The business is an 'off sales' as defined under Article 5(1) (b) of the Licensing (NI) Order 1996, or
- The Council is satisfied that by permitting persons to consume intoxicating liquor in a licensed pavement café it is likely that there would be disorder, or
- The premises are not licensed under the licensing Order (see note below) and are located within an area designated under Council bye laws prohibiting the consumption of intoxicating liquor.

Note: Only premises licensed under the Licensing Order as a public house, a hotel, a restaurant or a guest house with a restaurant will have the licensed indoor area for the consumption of alcohol extended to include the pavement café area.

Appendix 2: Standard Conditions of Licence

The following standard conditions will be applied to any licence granted by the Council. Council may also place additional terms and conditions on the licence as and when they consider it appropriate.

Definitions:

Furniture	includes tables, chairs, umbrellas, barriers, heaters, menu boards, etc.
Licensed area	a public area as defined on a plan approved by the Council as a pavement café.
Licensed period	the hours and days approved by the Council when the licensed area can be used as a pavement café.
Licensing Order	the Licensing (Northern Ireland) Order 1996.
Pavement café licence	the permission given by the Council to allow the licensee to place temporary furniture on a specified public area for customers to consume food or drink supplied from the licence holder's premises.
Public area	a place in the open air, to which the public has access, as of right and which is not a market area.
Public nuisance	noise disturbance or other nuisance caused to local residents or neighbouring businesses.
Temporary furniture	furniture that can be removed from the pavement within 20 minutes.
Pavement Café Licence	the permission given by Council to allow you to place temporary furniture on a specified public area for customers to consume food or drink supplied from the licence holder's premises.

1. The Licensee shall be responsible for compliance with the terms and conditions of the Pavement Café Licence.
2. The licensed area must only be used for the purpose of consuming food and/or drink supplied from the licence holders premise
3. The Licensee shall ensure that a copy of the licence is displayed in a prominent public position at the premises.
4. The Licensee shall ensure that adequate public liability insurance cover is in force to cover the licensed area.
5. If a public liability insurance policy covering the licensed area is not in force, the licence shall be cancelled until such policy is in force.
6. The licensee shall ensure that customers using the licensed area are seated on the approved furniture when consuming food and/or drink.
7. The licensee shall ensure good order and decent behaviour is maintained in the licensed area at all times when the Pavement Café is open.
8. The Licensee shall ensure that the licensed area is kept clean and free from litter.
9. The licensee shall be responsible for cleaning liquid spillages from the pavement within the licensed area as required during the licensed hours and at the close of business.
10. Waste from the operation of the pavement café must not be disposed of in the permanent litter bins provided by the Council.
11. Only furniture permitted or approved by the Council shall be used in the licensed area.
12. Any furniture provided in the licensed area shall not mark or damage the surface of the pavement.
13. The Licensee shall at all times ensure that the pavement café furniture is not placed outside the licensed area.
14. The Licensee shall remove the pavement café furniture from the pavement outside the licensed hours.
15. The licensee shall remove the pavement café furniture immediately if required following a reasonable request at any time from any statutory body, authorised officer of the Council or in the case of an emergency.
16. All barriers, table and chairs and layout shall be as agreed by the Council.
17. The issuing of this licence does not in any way permit the playing of live or recorded music for the entertainment of customers using the external area, in order to prevent public nuisance to nearby residents, and compliance with other legal requirements.

18. Furniture should be sufficiently portable that it can be removed within 20 minutes.
19. Adequate storage approved by the Council must be provided to ensure that furniture can be stored securely when the premises are closed.
20. Authorised Officers of the Council shall be permitted to inspect the licensed area, associated premises and any documentation in connection with the Pavement Café Licence at any reasonable time.

Special conditions (only if Council considers that there is likely to be a disturbance).

21. Alcohol may not be consumed in the licensed area.

Ards and North Down Borough Council
Licensing of Pavement Cafés Act (Northern Ireland) 2014

PUBLIC NOTICE

APPLICATION FOR A PAVEMENT CAFÉ LICENCE

NOTICE IS HEREBY GIVEN THAT

Name of Applicant _____

Address of Applicant _____

has applied to Ards and North Down Borough Council for a Pavement Café Licence
at (Name and address of premises)

Any objections relating to the application should be made within 28 days of the date of this Notice. The objection should be addressed to: **Ards and North Down Borough Council, Licensing Services, 40 West Street, Newtownards BT23 4EN.**

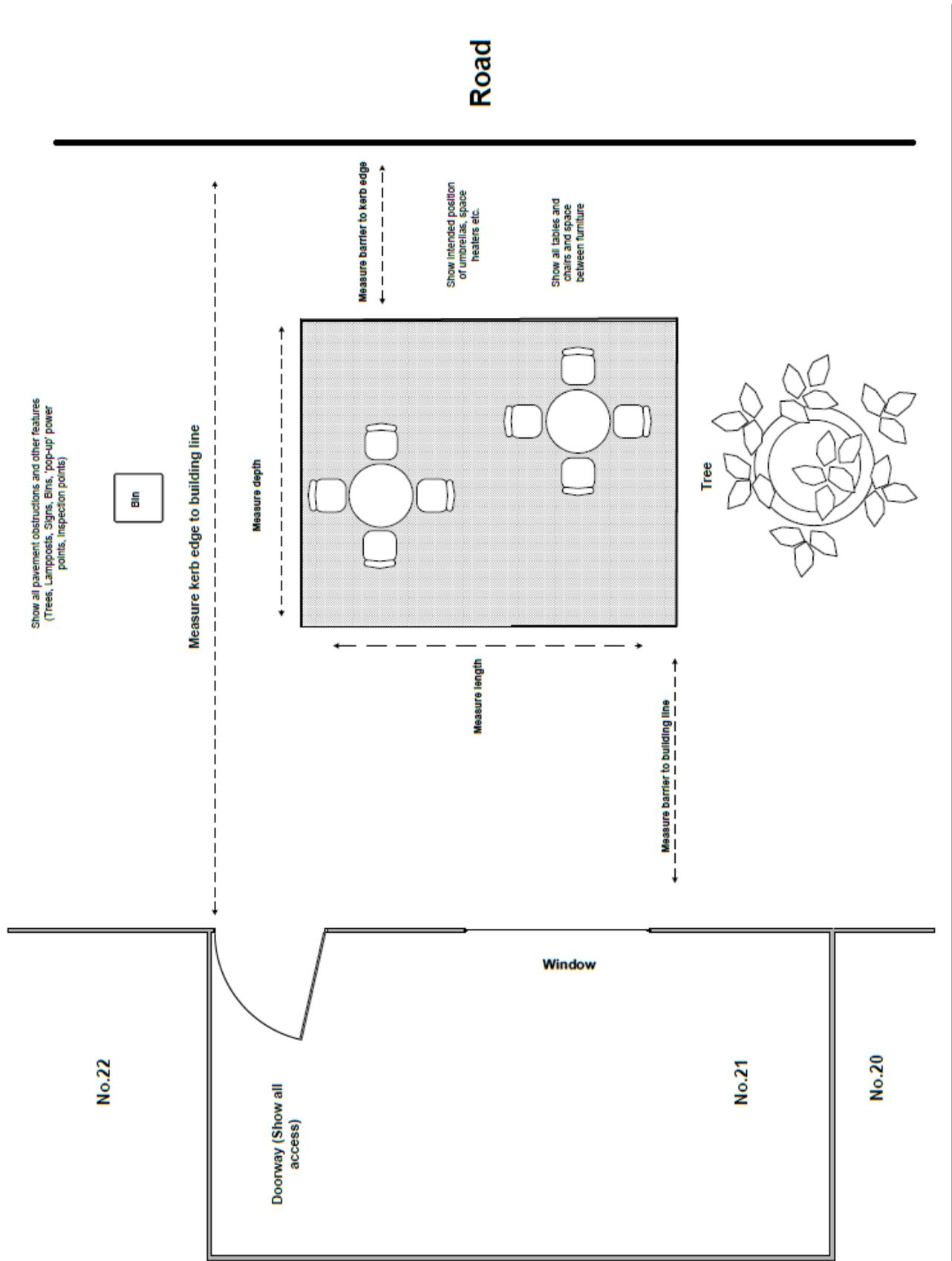
Any objection must be in writing and specify the grounds of the objection, the name and address of the person making it and must be signed by them or their agent.

Applicant's Signature _____

Date _____

Note: This site notice must be displayed for the whole of the period of 28 days in a prominent place at the premises to be licensed so that it can be conveniently read by members of the public.

Appendix 4a: Examples of pavement cafés layout plans



Appendix 4b: Examples of pavement cafés layout plans

