

Conditions of Permission

1. The Holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission.
2. The Holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the Council.
3. The Holder(s) shall return this Permission to Harrogate Borough Council immediately on revocation of this Permission.
4. The Holder(s) shall not cause any obstruction to the highway (outside the licensed area) or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
5. Notwithstanding the specific requirements in condition 4 above the Holder(s) shall not do or suffer anything to be done in or on the highway which in the opinion of Harrogate Borough Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the said Council or to the owners or occupiers of any adjacent premises or to members of the public.
6. The Holder(s) shall not make any excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface, unless otherwise agreed with Harrogate Borough Council in writing.
7. The licensed area to be used must be used solely for the purpose of consuming refreshments and not for any other purpose whatsoever.
8. The Holder(s) shall make no claim or charge against Harrogate Borough Council in the event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause.
9. The Holder(s) shall not assign, sublet or part with any interest or possession given by this Permission or any part thereof but the Holder(s) may surrender it at any time.
10. The Holder(s) shall observe and comply with any directions in relation to the use of the licensed area given by duly authorised officers of the Council.
11. A duly authorised Officer of the Council shall have the right to inspect the licensed area and make any suitable changes to the layout of the area if deemed necessary in the interests of highway safety.
12. The Holder(s) shall maintain the licensed area and the immediate adjacent area, in a clean and tidy condition during the Permitted hours and shall leave the same in a clean and tidy condition and unobstructed, which shall include:

- (1) washing down the area, and
 - (2) removing any refuse and litter deposited on the highway in the vicinity of the licensed area. This will be carried out whenever necessary and in a way which does not create a nuisance to other parties and neighbouring premises.
13. The licensed area shall be defined with boundary railings with both a hand and tapping rail to assist people with impaired vision to recognise the perimeter. Such furniture to be an agreed standard and may be themed to match the rest of the cafe furniture. It must be maintained in a clean and tidy condition and not placed so as to obstruct any entrance or exit to buildings.
14. The Holder (s) shall not display any signs, adverts or banners anywhere on the Highway or around the perimeter of the licensed area without the permission of Harrogate Borough Council.
15. The Holder(s) shall within the licensed area provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items if required and ensure that the same are emptied daily and more often when required. Waste from the Holders' operations must not be disposed of in the permanent litter bins provided by the Harrogate Borough Council within the highway.
16. The Holder(s) shall remove all furniture or equipment, litter bins, perimeter railings or other articles placed on the licensed area in accordance with this Permission at the expiry, surrender or revocation of the Permission and at the end of the Permitted Hours each day.
17. The Holder(s) shall indemnify Harrogate Borough Council against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred in consequence of this permission and for this purpose must take out at the Holder(s) expense a policy of public liability insurance approved by Harrogate Borough Council in the sum of at least £5,000,000 in respect of any one event and must produce to the Council on request current receipts for premium payments and confirmation of annual renewals of the policy.
18. Nothing herein contained shall be construed as the granting or purported granting by Harrogate Borough Council of any tenancy under the Landlord and Tenant Act 1954 or any permission under the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof for the time being in force.
19. The Holder(s) shall be responsible for any rates, taxes and other outgoings charged in connection with the licensed area.
20. The Holder(s) may from time to time be notified of temporary suspension of the permission granted to allow for maintenance, installation works or any other lawful activity (including Street Works and Road Works) to take place. In other cases where the use of the highway alters, the permit may be revoked. Permission may also be revoked for non-compliance with the above conditions and Harrogate Borough Council shall not in any circumstances be liable to pay compensation to the Holder(s) in respect of such suspension or revocation.

21. In certain circumstances the Holder(s) may be required to take immediate action to remove all furniture and equipment from the highway at the specific request of a Police Officer or duly authorised Council Officer.
22. Prior to issuing this Permission Harrogate Borough Council will consult with North Yorkshire County Council Highways and North Yorkshire Police on issues of Public Nuisance and Safety.
23. If during the term of the Permission Harrogate Borough Council receives complaints relating to the area which in the opinion of the Council are serious, it will consider revoking the Permission.
24. This Permission may be terminated at any time by either the Holder(s) or Harrogate Borough Council. No refunds will be made by the Council.
25. Harrogate Borough Council reserves the right to issue a licence or terminate a licence. All applications will be judged on their individual merits, although it should be noted that a licence may not be issued where this would result in a remaining usable width of pavement of less than 2 metres.
26. The holder of this permission must have completed a COVID-19 risk assessment identifying suitable control measures to mitigate any risk to staff or customers.
27. The holder of this permission must make reasonable provision for seating where smoking is not permitted. Smoking has the same meaning as in Part 1 of the Health Act 2006.

NOTE In addition to the 'Conditions of Permission' your attention is drawn to the overriding requirements of Section 115 of the Highways Act, 1980 a copy of which is attached for your information.

Failure to comply with any Conditions of Permission will require Harrogate Borough Council to consider whether any subsequent permissions should be granted to the Holder(s) of this Permission.

All pavement licences will either have an express or (in default) deemed "no-obstruction condition". This is a condition that anything done by the licence-holder pursuant to the holder, or any activity of other persons which is enabled by the licence, must not have one of the specified statutory effects debarring grant of the licence, namely the effect of:

(a) preventing traffic, other than vehicular traffic, from—

(i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),

(ii) passing along the relevant highway, or

(iii) having normal access to premises adjoining the relevant highway,

(b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,

(c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

(d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

Further, the Secretary of State may publish conditions for pavement licences. Applications granted or deemed to be granted thereafter are deemed to be subject to those published conditions, save where inconsistent with any other condition attached.

The draft Guidance contains a condition relating to clear routes of access as follows:

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

In turn, section 3.1 of Inclusive Mobility provides:

A clear width of 2000mm allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. The absolute minimum, where there is an obstacle, should be 1000mm clear space.

The maximum length of restricted width should be 6 metres (see also Section 8.3). If there are local restrictions or obstacles causing this sort of reduction in width they should be grouped in a logical and regular pattern to assist visually impaired people. It is also recommended that there should be minimum widths of 3000mm at bus stops and 3500mm to 4500mm by shops though it is recognized that available space will not always be sufficient to achieve these dimensions.

The draft Guidance provides guidance on the effect of this condition. It is deemed to be attached to licences which do not contain conditions providing for clear routes of access. Where there is a local condition which does impose a clear route of access requirement inconsistent in terms to the condition published by the Secretary of State, the latter condition is not imposed.