



# Supporting al fresco hospitality in Kensington and Chelsea

British Summer  
Time Licensing



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA



(This policy document would supersede guidance on licensing pavement furniture under the Business and Planning Act 2020. This policy document would also supersede Chapter 9 of the Transport and Streets SPD 2016. This policy document has been written to be consistent with our long-standing regulatory powers under the Highways Act 1980 and the Town and Country Planning Act 1990 and would be updated to reflect any future post September 2022 regulatory regime, before coming into effect. It has also been written to be consistent with the recommendation in KD05967 to issue parklet terraces during British Summer Time).

# Why the Council supports al fresco dining

The Council has long recognised the positive contribution that outdoor hospitality makes to enlivening our streets and creating attractive and successful places for residents and visitors to enjoy. For example, outdoor seating is key to the success of Pavilion Road as a destination. During the pandemic, when indoor dining was restricted, the opportunity to eat outdoors was valued and enjoyed by many who live, work or visit the borough. Many new outdoor venues opened up and they have generally been very well received, safe and inviting. They have served to support our hospitality businesses and in turn the borough's local economy.

In the Business and Planning Act of 2020, the Government introduced a new type of licence, called a **Pavement Licence**, to make it easier for hospitality businesses to operate on the street. In Summer 2020 we modified our criteria for assessing proposals for tables and chairs on our footways to make it easier for businesses to provide seating outdoors. Using pavement licences, we also licensed 'parklet terraces' on 'footway extensions' created with traffic cones on suspended car parking bays. These temporary parklet terraces have been very popular and have served to enhance our streets and spaces adding to their attractiveness and vitality.

Encouraged by Government, the Council moved to close streets and widen footways in response to the pandemic to facilitate social distancing, active travel, and outdoor activity, including socially distanced al fresco hospitality. Temporary footway widening in

places like Hollywood Road and street closures on Portobello Road and Pavilion Road were popular early interventions. Further closures on Elystan Street and Bute Street, as well as Kensington Park Road (partially, later) have also been well-received. In fact, the vast majority of new licensed areas have attracted no complaints. New outdoor hospitality terraces on Duke of York's Square and Sloane Square have helped businesses and residents reimagine our public realm.

The Council wishes to encourage hospitality businesses to trade outdoors after September 2022. The purpose of this policy document is therefore to establish British Summer Time licences, which are not reliant on provisions in the Business and Planning Act 2020, to equip decision makers, including members on Council committees, with a positive policy framework, against which planning applications and licence applications for outdoor seating areas, including parklet terraces, can be assessed.

British Summer Time Licences for parklet terraces will run during the 'BST' period in the calendar, in particular in places where outdoor trading worked well during the coronavirus pandemic and the subsequent recovery period. The licensing of tables and chairs on traditional footways and on other pedestrianised spaces is appropriate throughout the year.

# Clear width standards on footways and within other pedestrianised areas.

Pavement furniture or outdoor hospitality activity must not obstruct pedestrians, especially those with pushchairs or particular mobility needs. In most circumstances 2.5m of clear footway width is recommended to allow pedestrians to prevent footways becoming congested. On our busiest high streets, 3.5m clear footway width is recommended. We will resist excessive encroachment onto the pavement, where walking on our streets becomes difficult, and the streets themselves become unattractive to use. Many of our older streets have narrow footways where it is not possible to provide 2.5 metres of clear

footway width. On quieter footways, where passing occurs infrequently, the minimum the Council can accept is 1.5 metres in line with Government guidance, “Inclusive Mobility” (2005) and to satisfy Section 149 of the Equalities Act 2010. The most appropriate width at a given location would be assessed against these standards subject to the overarching principle that consent is granted solely at the Council’s discretion, in accordance with its policies and that we have discretion to depart from our standards, either above or below, when the Council considers it would be in the public interest to do so.

## What amenities can be approved on borough streets?

In appropriate locations, the Council will approve any pavement furniture items reasonably associated with external dining or the serving of food or drink. Speakers and music will not be permitted.

The following items could potentially be approved under a highway licence or a planning permission, if required.

1. counters or stalls for serving food or drink;
2. tables, counters or shelves on which food or drink can be placed;
3. chairs, benches or other forms of seating;
4. safety barriers, traffic cones etc.
5. removable platforms to achieve a level surface (roads slope down to the kerb; these facilities should be designed to be accessible to those with wheelchairs and mobility needs);
6. heaters (energy efficient electric heaters should be used and only when absolutely necessary);
7. planters;
8. lights and;
9. umbrellas, gazebos, and canopies (canopies must be capable of being removed when the weather permits and should not be fixed structures. At least two sides need to open at all times, including that adjoining the footway).

## CASE STUDY – PAVILION ROAD



On Pavilion Road, close to Sloane Square, the licensing of pavement furniture in conjunction with a street closure has transformed the locale, creating a green and inviting traffic-free dining destination.

## CASE STUDY – KENSINGTON PARK ROAD



At Kensington Park Road the Council removed through traffic and has suspended car parking to widen the footways in front of the parades within this local neighbourhood, allowing customers to dine outside in a more amenable atmosphere. This has served to provide a focal point for the local community, whilst supporting valued businesses.

# Summertime Parklet Terraces

To help hospitality businesses the Council will take appropriate steps temporarily to extend footways at suitable locations during the warmer, brighter months of British Summer Time (i.e. from late March to late October) every year, by suspending parking bays and by providing traffic cones to demarcate the extent of additional footway areas. There is also potential to temporarily widen footways in some locations with yellow lines using traffic cones. This Council initiative seeks to broaden the opportunity for businesses to apply for consent to create summertime “parklet terraces”, additional al fresco seating areas and to animate our streets during the warmer months.

Parklet terraces can occupy up to two on-street parking bays (or an equivalent surface area where there are other kerbside markings). The Council will expect parklet terraces to be proportional to the size and offering of the premises. Locations directly in front of ground floor residential dwellings are not suitable for parklet terraces. The Council will only issue a British Summer Time licence on footway

extensions in respect of proposals that are open to the footway and separated from the roadway.

Where platforms are provided, they must be easily removable in the event of resurfacing or utility works. Alternatively, streets may need to be cleared of pavement furniture to host public events and large crowds, during the Notting Hill Carnival for example. Modular designs are a favoured way to ensure that platforms can be removed quickly. In an emergency there may not be sufficient time for a joiner to come to disassemble timber constructions.

Parklet terraces should extend the footway in an attractive way that contributes positively to the street scene. Any canopies or enclosures should respond in so far as is possible to the character of existing building façades. The parklet terraces should be inviting and aesthetically engaging, with planting and attractive lighting. Clutter and unnecessary objects should be avoided. It is important that parklets are accessible to everyone, including those with disabilities.

## Essential Design Principles

The Council will only license installations that satisfy the following design principles. Each proposal will be assessed against each principle and a failure to address one within the proposed design will result in consent being withheld.

1. All summertime parklet terraces should be **easily removable** to facilitate utility works, highway maintenance or public events, such as the Carnival. The Council will not license installations which do not have an obvious way of being dismantled, stored, and reassembled at short notice. We will require applicants to submit details on how demounting and reassembly would be carried out as required, with any planning application submission. The Council is open to suspending nearby parking bays for short periods to allow larger items of pavement furniture to be secured out of the way while vital street works are underway. The details must satisfy the Council that the constituent elements of any installation are capable of being reused and would not need to be discarded when removed. Such redundancy is not environmentally sustainable or likely economic for licensees.



2. All summertime parklet terraces should **enhance the streetscape**

by improving the visual and functional qualities of our streets. Although matters of aesthetics are subjective, the provision of well-designed installations in lieu of car parking offers bona fide opportunities to improve the appearance and the vitality of our streets. Proposals for summertime parklet terraces



shall be subject to the rigour of the Council's Local Plan policies on design. It is therefore vital that any interventions have due regard for the local context and the built heritage of the street. Whilst we do not expect summertime parklet terraces to mimic the borough's enviable built patrimony we do expect them to fit comfortably within their surroundings. This is best achieved by being modest in scale and obviously subservient to the host premises. The materials and furniture employed should be tasteful and chosen to withstand the vagaries of the weather.

3. All summertime parklet terraces should add **greenery** to the host street. Summertime parklet terraces offer great opportunities to introduce attractive colourful flower displays to the borough's street scene. Whilst we do not expect the terraces to compensate for the lack of feasible planting sites in our neighbourhood centres they do provide an opportunity for the introduction of curated and well maintained planting beds for the enjoyment of all the community.



4. All summertime parklet terraces must be **safe**. Public safety is vital and that is why we can only offer footway extensions in locations with limited traffic. Busier roads, usually those with bus routes, would not be suitable for footway extensions. Even in quieter locations, careful consideration will be given to the risks to public safety of any proposal. Examples of suitable locations are mixed use frontages, neighbourhood centres and areas adjoining these locations.



5. All summertime parklet terraces should be **accessible** to those with pushchairs or wheelchairs. Accessibility and inclusivity must be integrated into the design at the outset in order for summertime parklets to be fit for purpose. While raised platforms are acceptable to match the kerb level, platforms should be modular.

# Essential Management Principles

1. All summertime parklet terraces should form part of the street. As such we expect licensees to be **welcoming** to allcomers and to avoid fostering any sense of exclusivity. These opportunities to use the public highway are provided for the public benefit. Licensees should be cognisant of that at all times.
2. All summertime parklet terraces should be **clean** and in good order at all times. Inadequate cleansing could fatally undermine the positive contribution that a parklet terrace makes to the street scene and could in the most serious cases warrant the revocation of a licence. The Council expects the licensed area and the environs of the parent premises to be kept clean. Refuse should be managed in line with agreed protocols in a given location. Waste should not be left in front of neighbouring premises.
3. Operators are expected to be **considerate** towards their neighbours at all times and to adopt procedures to limit noise disturbance, especially early in the morning and in the evening. As a general rule the Council will license parklet terraces to operate no later than 10pm. Last orders should be made before 9.30pm. In primarily residential contexts an earlier terminal hour of 8pm on Sundays will often be appropriate. The moving of furniture at the beginning and end of the trading day can lead to noise nuisance. Where premises have long operating hours and it is not possible to bring furniture inside, furniture should be safely secured within the licensed area. This advice is particularly relevant to cafes that serve customers in the early morning.

## Achieving consent for a Summertime Parklet Terrace – a three-stage approach.

Consent for a parklet terrace is achieved by securing planning permission, a highways licence and (where applicable) a premises licence. Whilst these consents are issued under distinct independent regimes, in practice a planning approval will significantly inform highways licensing and premises licensing decisions. Any proposal that is consistent with the Council's policies shall be considered positively, subject to applicable statutory processes. Any planning permission for a parklet terrace could be subject to a Grampian planning condition requiring that the temporary widening of the footway be arranged with the Council's Transport and Regulatory Services department and effected

before implementation of the planning permission.

The Council will expect hospitality businesses to have secured planning permission for their parklet terrace before it would arrange a temporary widening of the footway to permit an application for a highways licence to be made. Thus, the making of a planning application for a parklet terrace, the arrangement of a temporary footway extension and the licensing of the parklet terrace constitute three distinct approval stages. Any premises licensing requirements can be fulfilled once planning permission has been secured.

# Securing Planning Permission (Stage 1)

Those wishing to place amenities on the publicly maintained highway including any pavement furniture and parklet terraces must apply for Planning Permission.

The Council's Local Plan 2019 includes Policy CR3 on Street and Outdoor Life. This affirms that "the Council will require opportunities to be taken within the street environment to create 'places' that support outdoor life, inclusive to all, adding to their attractiveness and vitality". This adopted policy provides support for well-considered proposals for parklet terraces and other outdoor seating areas be granted planning permission. The Council's enthusiastic support for outdoor dining and its wish to build on this in the future is a central element of its approach to place-making. The Council has commenced preparing a new Local Plan and, subject to due process, this exercise presents an opportunity to further strengthen the policy support for al fresco dining. Pending the adoption of the new Local Plan, likely in 2023, this policy document will serve as a material consideration supporting proposals for al fresco hospitality uses on our streets and public spaces including on suspended car parking bays and pedestrianised streets.

The Council will support proposals for outdoor seating areas that are consistent with the Local Plan and that:

1. add to the attractiveness and vitality of our streets and spaces.
2. enhance the quality of life of neighbours and the wider community.
3. do not impede pedestrian movement.
4. do not impact significantly on residential amenity.
5. do not impact significantly on visual amenity.
6. are safe.

Policy compliance is likely to be achieved if adherence to the design and management principles, set out above, can be demonstrated.

For parklet terraces that operate under the pavement licence regime without significant issues, future applications for planning permission would be granted for up to five years, but only during the months of British Summer Time. The granting of permanent planning permission for 'parklet terraces' would not be appropriate as such consents could frustrate the Council as highway authority in adapting the layout of our streets in the medium term.

For new external seating areas on footways, planning permission is granted initially for a period of one year only. This allows the Council to assess the impact the tables and chairs have had on the vitality of the local economy, the quality of life of neighbours and the wider community and pedestrian safety. If over the course of a year there have been no undue problems, the Council would consider granting planning permission permanently for the external seating area should a further planning application be received.

Planning applications for British Summer Time parklet terraces should be submitted no later than **30 November** of the preceding year to establish the acceptability in principle of the proposed use and to provide sufficient time to fulfil the remaining approval stages. Any planning approval does not guarantee that other necessary approvals will be granted. All three approval stages are independent of one another.



**Details of how to apply for planning permission are available here.**

How to make a planning application | Royal Borough of Kensington and Chelsea ([rbkc.gov.uk](https://www.rbkc.gov.uk))

The planning application fee is set by Government. The fee for a typical planning application to place tables and chairs or a parklet terrace on the highway is currently (in 2021/22) £462.

# Requesting a temporary footway extension (Stage 2)

**(Stage 2 is only relevant to proposals for parklet terraces)**

Planning approvals for parklet terraces will be subject to a planning condition requiring that the temporary widening of the footway be arranged with the Council's Tables and Chairs team before implementation of the planning permission.

A temporary footway extension must be in place before an application for a British Summer Time licence can be submitted.

Proposals for temporary footway extensions will be considered by the Council's Tables and Chairs team with reference to the contents of this document.

If the proposal is acceptable in principle, Council officers will arrange for the footway to be temporarily extended by suspending car parking bays and providing traffic cones. The Council will email to confirm a date when the temporary footway extension will be in place.

Requests for temporary footway extensions must be made eight weeks before you wish to have a licensed Parklet Terrace. To avail of British Summer Time in full, the Council expects requests for temporary footway extensions to be made before 31 January in any given year.

Please contact [tablesandchairs@rbkc.gov.uk](mailto:tablesandchairs@rbkc.gov.uk) to request for the footway to be temporarily extended to permit a subsequent application for a British Summer Time highways licence for a parklet terrace to be made.

Please note that a positive agreement to extend the footway does not guarantee that a highways licence will be granted for that section of footway. These are two separate decisions.

# Applying for a British Summer Time licence for a 'parklet terrace' (Stage 3)

Once an area of highway has been designated as a temporary footway extension, as confirmed in writing by the Council by email, a

business can apply for a British Summer Time Licence, issued under Part VIIA of the Highways Act 1980 in the form of a parklet terrace.

**Details of how to apply for a Tables and Chairs licence or a British Summer Time 'parklet terrace' licence are available here.**

Tables and chairs licensing | Royal Borough of Kensington and Chelsea ([rbkc.gov.uk](http://rbkc.gov.uk))

A licence application fee will apply as well as a variable monitoring fee should your licence application be successful. The monitoring fee will depend on the number of chairs licensed, the terminal hour and the surface area of any parklet terrace licensed.

# What Conditions Will Apply?

The application site must be directly in front of the premises or alternatively to the side where the premises is on a street corner. It is important that any licensed pavement furniture can be seen from the application premises. We will only license pavement furniture in front of contiguous frontages if we are satisfied that those neighbouring businesses support the licence application. Applicants should provide evidence within their application submission to that end.

In order to limit the impact of external seating areas on residential amenity, licensed hours will normally be limited to between 8am and 10pm, Monday to Sunday. Any departure from these normal hours would need to be fully justified.

We require all licensed pavement furniture on footways to be easily removable. At the end time for the use of tables and chairs, they must be brought inside the premises or rendered unusable. In respect of parklet terraces it may be sufficient for tables and chairs to be put out of use and locked, in a safe manner. Planters, platforms and other means of enclosure can be left on street so long as they are secure, safe, include reflective strips and are protected by traffic cones.

The key to successfully managing parklet terraces beyond the kerb is the provision of a suitable enclosure to separate patrons from the roadway and to prevent activity spreading onto adjacent highway. Consequently, we require all proposals for parklet terraces to be enclosed with barriers on three sides to separate tables

and chairs from vehicular areas, so as to maintain customer safety.

It is vital that any external facilities proposed on the highway (including on public footways) are covered by the applicant's insurance policy. We require public liability insurance to the value of £5 million. Any licence application for pavement furniture will be unsuccessful without proof of insurance. The safety of patrons and other highways users within the licensed area is the responsibility of the licensee.

Applicants must make reasonable provision for seating where smoking is not permitted. The application drawing should indicate which tables are to be smoke-free. Smoke-free seating areas must be a minimum of 2 metres from any tables where smoking is permitted.

Lighting associated with tables and chairs in pedestrianised streets and zones will be expected to be battery-powered LED lighting, consistent with the work the Council is doing to improve the environmental efficiency of lamp columns across the borough.

The Council will consider the use of artificial heating in exceptional circumstances, where the street-scene may leave residents and visitors to the seating area exposed in unseasonal conditions. We will expect to see a plan alongside applications that include artificial heaters to show how businesses plan to reach carbon neutrality by 2040, in line with the Council's ambition.

**The standard conditions listed below will be applied to all licences issued under the Highways Act 1980, whether they be for seating on footways or public spaces or for parklet terraces.**

1. The Licensee must ensure that clear routes of access along the highway are 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 persons are provided at all times the licence is in operation.
2. Where the furniture on the relevant highways consists of seating for use by persons, for the purpose of consuming food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted.
3. This licence permits the use of table and chairs or other authorised furniture on the highway only in the area designated on the plan attached to the licence.
4. This licence permits the use of table and chairs or other authorised furniture on the highway only in connection with the use of the adjacent premises/ business at the application address.
5. No alcohol is to be sold or consumed from the designated area identified unless that sale and/or consumption is approved under the Licensing Act 2003.
6. No furniture may be placed within the designated area identified on the plan other than that expressly permitted by the licence.
7. This licence does not allow the use of loudspeakers, amplification or other similar equipment.
8. All furniture approved for use, including tables, chairs, barriers, and umbrellas must be safe for public use and must be kept in good repair and condition.
9. The licensee is required to manage its premises and outdoor seating areas in accordance with current social distancing measures and government guidance.
10. The Licensee must ensure that good order and behaviour is maintained at all times by people using any tables and chairs or other authorised furniture pursuant to this licence and that no nuisance is caused to residential or business neighbours.
11. All tables and chairs and other licensed objects shall be removed immediately from the highway when required by the Council, Metropolitan Police or other emergency services in the interest of public safety, public order, safe and efficient highway operation or to facilitate necessary statutory undertaker or utility works.
12. All tables and chairs and other authorised furniture that is used in connection with this licence must be removable which means that it is not a permanent fixed structure and is able to be moved easily, and stored off the highway if required.
13. The tables and chairs and other authorised furniture shall not be placed on the highway before the time specified and are to be put out of use no later than 22:00 hours. Service at the tables should cease at 21:30 hours in order for this to be achieved. Trading may only take place on the days and during the times specified on the licence.
14. A copy of the licence shall be displayed during the hours of trading in a prominent position agreed by the Council, either in the front window of the premises or nearby so as to be clearly visible from the outside to anyone wishing to inspect it.

15. No fixtures to or excavation of any kind shall be made in the surface of the highway, which shall be left entirely undisturbed.
16. The Licensee shall not use this licence unless it has public liability insurance cover in the sum of not less than £5 million and has provided a copy of that policy to the Council.
17. Tables and chairs and other authorised furniture must be stored in such a way that they cannot be moved or used outside of licensed hours.
18. Staff must regularly monitor the licensed area to ensure it is kept clean and tidy. Any litter or waste arising from use of the licensed area must be cleared away as soon as is practicable. The licence holder shall ensure that any spillages are promptly removed from the highway and restore the affected area of highway to a clean and safe condition. It is the responsibility of the licence holder to ensure that the licensed area is washed down on a daily basis. The Council will recharge the licence-holder the full cost of any remedial work to remove any residual staining of the highway outside his or her premises, including the replacement of the paving stones if necessary, by paving stones of an equivalent quality and to an equivalent standard.
19. If the Council serves a Notice on the licence holder requiring him/her to take such steps as are necessary to remedy any breach of the terms of this licence, and the licence holder fails to comply with the notice the Council may itself take the steps required by the Notice and recover from the licence holder any expenses incurred.
20. All pavement furniture placed on "footway extensions" shall be enclosed with barriers on three sides to separate tables and chairs from trafficked areas, so as to maintain customer safety
21. On footway extensions, planters, barriers, traffic cones and other prominent objects must be positioned on the roadway side of the licensed area to make it clearly visible and to physically separate the licensed area from trafficked areas. The maintenance of these items in position is the responsibility of the licence holder. Objects on the boundary of the licensed area must be painted brightly with appropriate reflective markings so that they can be easily seen after dark.
22. The licence holder shall ensure that the management team of the business to which the licence is attached register and successfully complete the nationally recognised counter terrorism training product referred to as ACT eLearning package within 10 days of the grant of the licence OR can demonstrate that the ACT eLearning product has been successfully completed within the preceding 12 months and that all staff employed by or at the premises complete the ACT eLearning within a reasonable period not exceeding 3 months from date of the licence (ACT eLearning Certificates are provided on successful on-line completion).
23. The licence holder shall ensure that the existing CCTV systems are working correctly, are compliant with the Data Protection Act 1998, Information Commissioner requirements, and any other CCTV Code of Conduct produced by the Police or Local Authority. Imagery shall be retained for at least 28 days and images produced given to a Police Officer or Local Authority Enforcement Officer upon reasonable request. Faults which render the CCTV system or parts of it inoperable should normally be rectified within 24 hours.
24. For premises situated to the north of the A402 road (i.e. the streets named Notting Hill Gate or Holland Park Avenue), no items of pavement furniture, including platforms, barriers or decks, shall be placed on the highway at any time during the period of the Notting Hill Carnival; that is on the four days up to and including the August Bank Holiday.

# Adhering to Licences issued under Part VIIA of the Highways Act 1980

The Council is giving businesses the opportunity to trade from the public realm in expectation that they will act considerately and adhere to all licence conditions at all times. The Council has discretion in the granting of licences and the Council has powers to review licences issued under the Highway Act 1980.

The Council's street scene enforcement officers are responsible for monitoring premises to ensure that premises adhere to licences issued under the Highways Act 1980. The Enforcement Officer will initially give a verbal warning for

any breaches to licence conditions. A written warning will follow if there is a further breach of a licence condition. The Enforcement Officer will then request that the Director for Streets and Regulatory Services report the premises to the Licensing Sub-Committee (B) following any further breaches within one year of the initial warning.

Written warnings expire after one year. Applicants must wait for a minimum of six months following the revocation of a licence at a given address before applying for a new one.

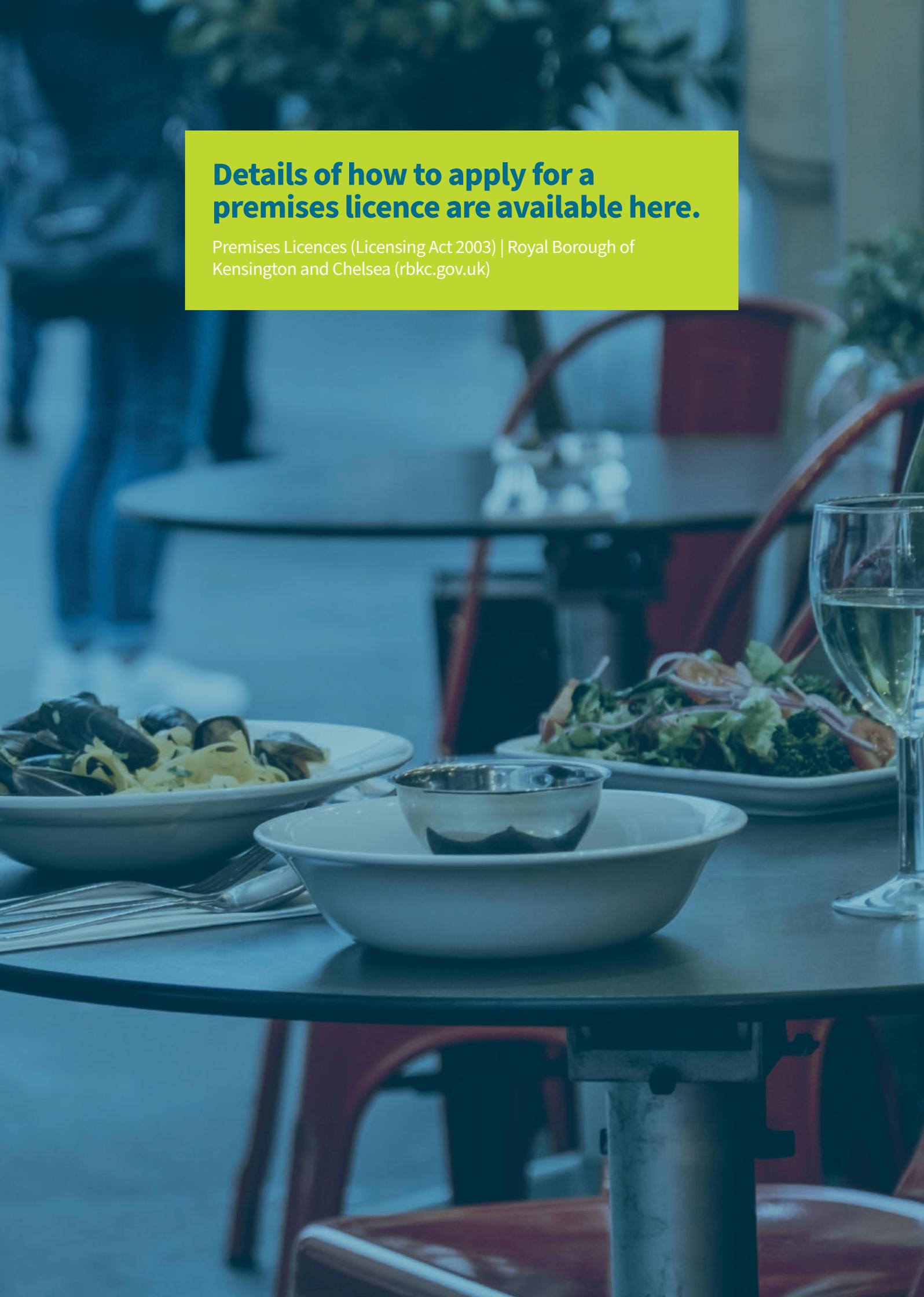
## Premises Licensing

Any business wishing to apply for a British Summer Time Licence should notify the Licensing Team of their intention to do so at the earliest opportunity as changes to the premises licence for the business may be required. As the application process for full variations and/or new licences can take a minimum of 6 – 8 weeks, we would strongly recommend that any changes to the premises licence or new licence applications are submitted at least 12 weeks in advance. This will ensure that full discussion can occur between the premises licence holder and any other interested parties so that the desired proposals are provided with the minimum risk of crime and disorder, public nuisance and to the health and safety of residents, customers, and staff.

There is no difference in the application cost for a full variation or a new premises licence application and it is dependent on the rateable value of the premises. Applicants can expect the licence application fee to be between £100 and £635).

We would also recommend that applicants give due consideration to implementing a dispersal and external management policy to ensure disturbances to neighbouring residents are kept to a minimum.

Should it be intended for a bar to be sited externally, a new licence or a variation application to incorporate this additional area will be required. The provision of points of sale within the street would require a street trading licence and could not be covered by a British Summer Time licence.



**Details of how to apply for a premises licence are available here.**

Premises Licences (Licensing Act 2003) | Royal Borough of Kensington and Chelsea ([rbkc.gov.uk](http://rbkc.gov.uk))

