

Meeting:	Licensing and Enforcement Committee	Date:	11 June 2024
Subject:	Pavement Licensing – Levelling Up and Regeneration Act 2023		
Report Of:	Corporate Director		
Wards Affected:	All		
Key Decision:	Yes	Budget/Policy Framework:	Yes
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Appendices:	Appendix 1 – Proposed amended standard licence conditions.		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To inform Members that the Pavement Licensing regime introduced during the Covid pandemic has now been made permanent.

2.0 Recommendations

- 2.1 Licensing and Enforcement Committee is asked to **RESOLVE** to:-
- 2.2 Approve the proposed fees for new and renewal applications with immediate effect;
- 2.3 Agree to the proposed standard licence period of two years with immediate effect;
- 2.4 Agree to the proposed amended standard conditions for all licences.

3.0 Background and Key Issues

- 3.1 On 25 June 2020, the Government announced relaxations to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown. The Business and Planning Act 2020 made it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.
- 3.2 Initially, the legislation was temporary, with the pavement licensing aspect expiring on 30 September 2021. This was then extended several times with the current expiry being 30 September 2024.
- 3.3 The Council has historically issued Tables & Chairs Permits under the Highways Act 1980 and ran this in parallel with the temporary Pavement Licence process.

- 3.4 The temporary legislation was due to expire at the end of September 2024, however, the government has made the scheme permanent, with some amendments, through the Levelling Up & Regeneration Act 2023 which received Royal Assent last year and came into force on Sunday 31 March 2024.
- 3.5 This has now meant that applicants who are seeking permission for tables and chairs (and other furniture) in connection with the consumption of food and drink, are required to apply under the Business and Planning Act 2020 for a pavement licence rather than applying under the Highways Act 1980.
- 3.6 Any premises that have had a permit under the Highways Act issued must apply for a Pavement Licence. If they apply before the expiry date of their permit, then the Act states that this should be treated as a renewal.
- 3.7 For members ease the table below summarises some of the amendments from the Levelling Up & Regeneration Act: -

<u>Changes</u>	<u>Business Planning Act 2020</u>	<u>Levelling Up and Regeneration Act 2023</u>
Licence length	Max 1 year	Max 2 years
Fees	£0-£100	£0-£500 (new applications) £0-£350 (renewals)
Renewals	No renewal process	Renewal requirements introduced
Consultation time frame	7 days	14 days
Determination time frame	7 days	14 days
Public Space Protection Order (PSPO)	Not included as an exemption	Included as an exemption
Enforcement	Permits for revocation and serving of notices	Permits for revocation and serving of notices and also permits the removal of furniture, storage of it, recovery of costs incurred and disposal of it. Furthermore, instead of revocation the licence can be amended in prescribed circumstances.

- 3.8 Officers have drafted a set of Standard Conditions in relation to pavement licences granted. A copy of the proposed conditions is attached as **Appendix 1**.
- 3.9 The Business and Planning Act 2020 provided that licences could only be granted for a maximum of 1 year, subject to the end date of the temporary provisions at the time. The Levelling Up and Regeneration Act 2023 provides that licences can be issued up to a maximum of 2 years.
- 3.10 Officers are proposing that all licences are issued for the full two-year period unless circumstances are such that it would be appropriate for a lesser time period.

- 3.11 The Business and Planning Act 2020 provided that local authorities could charge a maximum of £100 to consider applications and grant a licence. Members of this Committee agreed that the Council would not charge a fee to assist businesses, even though the administration of the process would incur costs for staff to consider, issue and inspect applications and premises.
- 3.12 The Levelling up and Regeneration Act 2023 recognises that even those authorities that charged £100 under the temporary provisions were still operating the scheme at a loss and now provides that the Council may charge up to a maximum of £500 for new applications and up to £350 for renewal applications.
- 3.13 Having carried out an analysis of costs to fully administer the regime, Officers are proposing that the fee for new applications will be **£205** and the fee for a renewal application will be **£100**.

4.0 Social Value Considerations

- 4.1 When determining applications, the licensing authority will give due regard to the public and highway safety of other highway users. The statutory conditions also take account of the needs of persons with mobility and visual impairments.

5.0 Environmental Implications

- 5.1 There are no 'Environmental' implications arising out of the recommendations in this report.

6.0 Alternative Options Considered

- 6.1 To continue to not charge a fee for applications. This has been discounted as the Council are currently operating at a loss and the original decision to not charge was taken during the pandemic when hospitality businesses were suffering.
- 6.2 To issue a licence for a lesser period than the maximum. This has been discounted as it will benefit businesses with security in the knowledge that they will hold the licence for the maximum period, subject to circumstances, and will benefit the Council in allowing officers to concentrate on the new applicants and active compliance rather than continually administering applications.

7.0 Reasons for Recommendations

- 7.1 The new provisions have already come into force and the Council are now statutorily obliged to consider and deal with pavement licences application made under the amended Business and Planning Act 2020.
- 7.2 The administration of the pavement licence regime requires staff time. The Council are currently operating at a loss when dealing with these applications and it is considered that the Council should recover its cost in administering the scheme.
- 7.3 There are a number of amendments to the previous temporary regime which require consideration and implementation.

8.0 Future Work and Conclusions

- 8.1 To look at drafting a Pavement Licence Policy and bring it before members of the Licensing and Enforcement later in the year.
- 8.2 If members approve the recommendations within paragraph 2 of the report, Officers can start to process applications received for new/renewals, charge the approved fee and grant the licence for a 2 year period.

9.0 Financial Implications

- 9.1 There are resource implication in administering the pavement licensing regime which include advice, administration, compliance and enforcement. There are staff costs associated to this.
- 9.2 The new provisions allow for the Council to remove, store and ultimately dispose of furniture in prescribed circumstances. This will be a cost to the Council but the Act allows for full recovery of those costs from the licence holder.

(Financial Services have been consulted in the preparation this report.)

10.0 Legal Implications

- 10.1 When determining pavement licence applications, the Council must have regard to the Guidance issued by the Secretary of State.
- 10.2 Paragraph 2.1 of the Guidance states that to help support local businesses and give them more certainty, the expectation is that local authorities are pragmatic and will grant licences for the maximum period of 2 years, unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.
- 10.3 The Council will need to consider a number of factors, when determining whether to approve a pavement application. These include whether local conditions might be needed to make it possible to approve an application which would otherwise be unacceptable.

(One Legal have been consulted in the preparation this report.)

11.0 Risk & Opportunity Management Implications

- 11.1 The risk of not charging a fee is that the Council do not recover costs in association with this area of work.
- 11.2 The risk of not issuing licences for the maximum term is that the regime may become burdensome and require additional resource to consider applications on a more frequent basis.

12.0 People Impact Assessment (PIA):

- 12.1 The screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion. therefore, a full PIA was not required.

13.0 Other Corporate Implications

Community Safety

13.1 The overall aim of the licensing regime is public protection.

Sustainability

13.2 None

Staffing & Trade Union

13.3 None

Background Documents:

Business and Planning Act 2020 (as amended)
Levelling Up and Regeneration Act 2023
DLUHC Pavement Licence Guidance