

Agenda

Environment and Licensing Committee

Date: **Tuesday 11 June 2024**

Time: **4.15 pm**

Place: **Council Chamber**

For any further information please contact:

Democratic Services

committees@gedling.gov.uk

0115 901 3844

Environment and Licensing Committee

Membership

Chair Councillor Alison Hunt

Vice-Chair Councillor Marje Paling

Councillor Boyd Elliott
Councillor Rachael Ellis
Councillor Roxanne Ellis
Councillor Julie Najuk
Councillor Sue Pickering
Councillor Alex Scroggie
Councillor Martin Smith
Councillor Clive Towsey-Hinton
Councillor Paul Wilkinson

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Responsibility of Committee:

- 1) All non-executive functions of the Council with regard to:
 - a) Environmental health
 - b) Health and safety at work (other than the exercise of the functions of the Council in the capacity of employer)
 - c) Food hygiene and safety
 - d) Animal health and hygiene
- 2) The determination of applications for licences, approvals, consents, permission or registration or direct regulation of any person or the enforcement of any such licence, approval, consent, permission or regulation with regard to the functions in relation to contaminated land, control of pollution, air quality and noise and statutory nuisance listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

- a) All non-executive functions of the Council with regard to licensing and registration of:
 - 1) Caravan sites
 - 2) Hackney Carriages and Private Hire Vehicles, drivers and operators
 - 3) Entertainments
 - 4) Betting, gaming and lotteries
 - 5) Theatres and cinemas
 - 6) Street trading and markets
 - 7) All other licensing functions listed in Part B of Schedule 1 to the Regulations other than those relating to streets and highways.
- b) Any function relating to contaminated land
- c) The discharge of any function relating to the control of pollution or the management of air quality.
- d) The service of an abatement notice in respect of a statutory nuisance
- e) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
- f) The inspection of the authority's area to detect any statutory nuisance
- g) The investigation of any complaint as to the existence of a statutory nuisance.

1. Power to issue licences authorising the use of land as a caravan site.
2. Power to license the use of movable dwellings and camping sites.
3. Power to license Hackney Carriages and Private Hire Vehicles.
4. Power to license drivers of Hackney Carriages and Private Hire Vehicles.
5. Power to grant permits in respect of premises with amusement machines.
6. Power to register societies wishing to promote lotteries.
7. To consider applications for hazardous substances consent.
8. Power to grant permits in respect of premises where amusements with prizes are provided.
9. Power to consider and determine applications for public entertainment licences.
10. Power to license sex shops and sex cinemas.
11. Power to license performances of hypnotism.
12. Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.
13. Power to license markets and street trading.
14. Power to license night cafes and take away food shops.
15. Power to license dealers in game and the killing and seeking of game.
16. Power to register and license premises for the preparation of food.
17. Power to license scraps yards.
18. Power to license premises for the breeding of dogs.
19. Power to license pet shops and other establishments where animals are kept or bred for the purposes of carrying on a business.
20. Power to license dangerous wild animals.
21. Power to license knackers' yards.
22. Power to license persons to collect for charitable and other causes.
23. Power to approve meat product premises and to approve premises for the production of minced meat or meat preparations.
24. Power to approve dairy establishments and egg product establishments.
25. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling both raw meat and ready to eat foods.
26. To keep a register of food business premises.
27. Power to register food business premises.
28. Power to issue arena and theatre licences.
29. Power to license zoos.
30. To consider and determine applications for public entertainment licences.

31. The functions of the Council under the following legislation:

- I. House to House Collections Act 1939 as amended by the Local Government Act 1972;
- II. Betting, Gaming and Lotteries Act 1963 - 1971 as amended by the Gaming and Lotteries (Amendment) Act 1980.
- III. Gaming Act, 1968 as amended by the Lotteries and Amusement Act 1976.

32. Power to fix those fees and charges falling within the remit of the Committee.

AGENDA

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- 1 **Apologies for Absence and Substitutions.**
- 2 **To approve, as a correct record, the minutes of the meetings held on 16 and 23 April 2024** 7 - 12
- 3 **Declaration of Interests.**
- 4 **Pavement Licences - The Levelling Up and Regeneration Act 2023 making permanent the provisions set out in the Business and Planning Act 2020** 13 - 21
Report of Head of Service
- 5 **Any other item which the Chair considers urgent.**
- 6 **Exclusion of the Press and Public.**
To move that under Section 100(A)(4) of the Local Government Act 1972 the public and press be excluded from the meeting during consideration of the ensuing report on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.
- 7 **Application for a one year Joint Hackney Carriage/Private Hire Drivers Licence- KC** 23 - 25
Report of Head of Environment
- 8 **Change of circumstances of a three Hackney Carriage/ Private Hire Vehicle Drivers Licence number 2380. MA** 27 - 49
Report of Head of Environment

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MINUTES ENVIRONMENT AND LICENSING COMMITTEE

Tuesday 16 April 2024

Councillor Alison Hunt (Chair)

Present: Councillor Marje Paling
Councillor Boyd Elliott
Councillor Rachael Ellis
Councillor Julie Najuk
Councillor Sue Pickering
Councillor Alex Scroggie
Councillor Martin Smith
Councillor Clive Towsey-Hinton
Councillor Paul Wilkinson

Absent: Councillor Des Gibbons

Officers in Attendance: C Allcock, J Brough, B Hopewell, A Hutchinson, K Nealon and R Towlson

24 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

Apologies for absence were received from Councillor Gibbons.

25 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 12 MARCH 2024.

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

26 DECLARATION OF INTERESTS.

None.

27 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

28 AMENDMENTS TO EQUALITY ACT 2010 FOLLOWING THE INTRODUCTION OF THE TAXI & PRIVATE HIRE VEHICLES (DISABLED PERSONS) ACT 2022

Consideration was given to a report of the Head of Environment, which had been circulated in advance of the meeting, informing Members of the introduction of the Taxi and Private Hire Vehicles (Disabled Persons) Act 2022 (the '2022 Act'), which amends the Equality Act 2010 (the '2010 Act'), by amending existing duties, and placing new duties on local licensing authorities ('LLA'), drivers of both taxis and private hire vehicles and private hire operators.

The report also sought to:

- 1) Update Members on the requirement for LLAs to maintain and publish a list of designated wheelchair accessible vehicles ('WAV') under s.167 of the 2010 Act;
- 2) Seek approval to amend the Gedling Borough Council Statement of Policy and Guidelines for the Licensing of Hackney Carriage Drivers, Private Hire Drivers and Private Hire Operators to incorporate information regarding these duties; and
- 3) Seek approval to delegate all functions and responsibilities under the 2022 Act and any regulations made there under, to the Chief Executive.

RESOLVED to:

- 1) Approve the amendments to the Gedling Borough Council Statement of Policy and Guidelines for the Licensing of Hackney Carriage Drivers, Private Hire Drivers and Private Hire Operators to incorporate information regarding these duties, found at Appendix 1 of the report;
- 2) Note the amendment to s.166 of the 2010 Act and the legal obligation on the Council to maintain and publish a list of designated wheelchair accessible vehicles; and
- 3) Delegate all functions and responsibilities under the 2022 Act and any regulations made there under, to the Chief Executive.

29

REQUEST FOR APPROVAL OF LICENSED VEHICLE LIVERY

Consideration was given to a report of the Head of Environment, which had been circulated in advance of the meeting, asking Members to consider a request from Nottingham Green Cars Ltd to allow a vinyl wrap vehicle livery design to be applied to Gedling Borough Council (GBC) licenced Hackney Carriages working on their fleet.

RESOLVED:

That, the request to apply a vinyl wrap vehicle livery design, as seen in vehicle images in Appendix A to the report, to GBC licensed Hackney Carriages, be approved, subject to spell checks from the GBC licencing department.

30

EXCLUSION OF THE PRESS AND PUBLIC.

RESOLVED:

That, the Members being satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information that under Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during the consideration

of the ensuing reports on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

31 APPLICATION FOR A ONE YEAR JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - AL

Consideration was given to a report of the Head of Environment, which had been circulated prior to the meeting, regarding an application for a one year joint Hackney Carriage/Private Hire Driver's Licence for AL.

AL attended the meeting and addressed the Committee.

In making the decision the Committee applied the Council's approved Policy and Guidelines.

RESOLVED to:

Approve AL's application for a one year Joint Hackney Carriage/Private Hire Driver's Licence.

32 APPLICATION FOR A THREE YEAR JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - MR

Consideration was given to a report of the Head of Environment, which had been circulated prior to the meeting, regarding an application for a three year joint Hackney Carriage/Private Hire Driver's Licence for MR.

MR attended the meeting along with a friend and they both addressed the Committee.

RESOLVED:

To adjourn the meeting and defer the decision of the application for a three year Joint Hackney Carriage/Private Hire Driver's Licence to a future meeting to allow officers to seek further information.

33 CHANGE OF CIRCUMSTANCES HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - AD

Councillor Smith left the meeting.

Consideration was given to a report of the Head of Environment, which had been circulated in advance of the meeting, regarding a change of circumstances following information received about the holder of a Joint Hackney Carriage/ Private Hire Driver's Licence.

AD attended the meeting and addressed the Committee.

In making the decision the Committee applied the Council's approved Policy and Guidelines.

RESOLVED:

Issue a warning to AD to ensure his vehicle is kept to a road worthy standard and conducts regular inspections.

The meeting finished at 6.40 pm

Signed by Chair:
Date:

37 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

The meeting finished at 4.33 pm

Signed by Chair:
Date:

Report to Environment and Licensing Committee

Subject: Pavement Licences - The Levelling Up and Regeneration Act 2023 making permanent the provisions set out in the Business and Planning Act 2020

Date: 11 June 2024

Author: Head of Environment

Purpose

To update Members that the functions under Part 1 of the Business and Planning Act 2020 (“the B&P 2020 Act”) have been made permanent under The Levelling Up and Regeneration Act 2023 (“the LUR 2023 Act”) and the work officers are doing with regards to this.

To seek approval that the functions under Part 1 of the Business and Planning Act 2020 be delegated to Director.

Recommendation

- THAT:**
1. Members note that the functions under Part 1 of the Business and Planning Act 2020 have been made permanent by The Levelling Up and Regeneration Act 2023.
 2. Members delegate the functions under Part 1 of the Business and Planning Act 2020 to Director.
 3. Members note that officers are drafting a policy for pavement licensing and this will be submitted to the Committee for approval in due course.
 4. Members note that officers are working on the fee setting for pavement licensing and this will be submitted to the Committee for approval in due course.

1 Background

- 1.1 The B&P 2020 Act received Royal Assent and came into effect on 22 July 2020. The Act allowed operators of businesses selling food and drink to apply to their local authority for a pavement licence, which gave authorisation to put certain removable furniture such as tables and chairs on the highway adjacent to their premises to sell food and drink from and/or for their customers to use for the consumption of food and drink.

- 1.2 Under the B&P 2020 Act, the pavement licensing regime was operated by the appropriate local authority, which is the district council in whose area relevant premises are situated. This was a temporary provision aimed to support and enable businesses selling food and drink to be able to remain open and serve customers during the Covid-19 pandemic whilst ensuring the business adhered to the then social distancing restrictions and guidance. The provisions were initially until then end of September 2020 and have been extended annually until the end of September 2024 to continue to support food and drink businesses that had been affected by the pandemic and during the current cost of living crisis.
- 1.3 The LUR 2023 Act makes permanent the provisions set out in the B&P Act from 31st March 2024. This will continue to provide much needed income for businesses and continue to protect as many hospitality jobs as possible.
- 1.4 The LUR 2023 Act introduces a number of changes including a fee cap of £500 for new applications and £350 for renewal applications. The consultation period for applications has been increased from 7 days to 14 days (excluding public holidays) and the determination period has been increased from 7 days to 14 days. The length of a licence has increased to up to two years and local authorities and been given new enforcement powers regarding unlicensed premises. Officers are currently working on the fee setting for the pavement licence applications. The current fee of £100 will remain until any new proposals are approved.
- 1.5 Under the temporary legislation Local Authorities had limited powers of enforcement and these only related to licences that had been granted by Gedling Borough Council. The amendments to the legislation introduce additional enforcement powers and officers are currently reviewing the new provisions and guidance in relation to drafting a policy for pavement licensing.
- 1.6 The Authority already has an electronic application process for pavement licence which will continue to be used subject to any amendments required by the new provisions.

2. Proposal

- 2.1 It is proposed that the changes made by the LUR Act 2023 to the B&P Act 2020 are noted.
- 2.2 The functions under the B&P 2020 Act include the power to grant, refuse, revoke and vary pavement licences. Due to the previous regime being dealt with at Director and officer level it is proposed to continue this under the new permanent regime with a delegation to Director of the functions under Part 1 of the B&P 2020 Act.
- 2.3 It is proposed that a policy is drafted to deal with pavement licensing now the function will be dealt with by the Council on a permanent basis. Along

with establishing a fee setting procedure. Both of these will be brought back to Committee for approval at a future date.

3 Alternative Options

- 3.1 To not delegate the functions under Part 1 of the Business and Planning Act as amended to Director level. This would result in every application for a pavement licence being referred to Committee resulting in an unnecessary burden on officers and Members.

4. Financial Implications

- 4.1 Officers are currently working on fee setting within the provisions of the Act and these will be reported to a future meeting of the Committee for approval.
- 4.2 It is unclear how this new process will affect the Council in terms of workload as up to the date this was made permanent the issuing of pavement licences for food and drink premises was still administered between the Council under the B&P Act 2020 and the Nottinghamshire County Council under the Highway Act 1980. The Council will be seeking information from Nottinghamshire County Council in due course as to the numbers of licences involved but initially the process will sit with the Licensing Team in Public Protection until a full assessment of the additional workload can be undertaken.
- 4.3 There are therefore no proposals at this time to take on additional resource and any costs associated with the processing of applications will be met from existing budgets.

5 Legal Implications

- 5.1 In order to continue fulfil our statutory functions under the B&P 2020 Act and to not overburden Members such a delegation would be appropriate in the circumstances.
- 5.2 Any fee levied for a pavement licence application must be set on a cost recovery basis.
- 5.3 Although not a statutory requirement it would be advisable to have a policy dealing with pavement licences to enable consistency and transparency when dealing with applications and any enforcement action.

6. Equalities Implications

- 6.1 EIA – attached at Appendix 1

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 There are no carbon reduction/environmental sustainability implications directly arising from this report.

8 Appendices

8.1 None.

9 Background Papers

9.1 None.

Statutory Officer approval

Approved by the Chief Financial Officer Date:

Drafted by the Head of Environment

Name of project, policy, function, service or proposal being assessed:		Business and Planning Act 2020 – Pavement Licensing			
The main objective of (please insert the name of accessed document stated above):		Pavement Licences - The Levelling Up and Regeneration Act 2023 making permanent the provisions set out in the Business and Planning Act 2020			
<p>What impact will this (please insert the name) have on the following groups? Please note that you should consider both external and internal impact:</p> <ul style="list-style-type: none"> • External (e.g. stakeholders, residents, local businesses etc.) • Internal (staff) 					
Please use only 'Yes' where applicable		Negative	Positive	Neutral	Comments
<u>Gender</u>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand
<u>Gender Reassignment</u>	External			X	There are no negative impact for this equality strand

Age	Internal			X	There are no negative impact for this equality strand
	External		X		There is the potential for some elderly people with restricted mobility to be impacted both by the loss of some pavement area or when negotiating changes in pedestrian flow.
	Internal			X	There are no negative impact for this equality strand

Equality Impact Assessment



<u>Marriage and civil partnership</u>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand
<u>Disability</u>	External		X		There is the potential for some elderly people with restricted mobility to be impacted both by the loss of some pavement area or when negotiating changes in pedestrian flow.
	Internal			X	
<u>Race & Ethnicity</u>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand
<u>Sexual Orientation</u>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand
<u>Religion or Belief (or no Belief)</u>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand
	External			X	There are no negative impact for this equality strand

<u>Pregnancy & Maternity</u>	Internal			X	There are no negative impact for this equality strand
Other Groups (e.g. any other vulnerable groups, rural isolation, deprived areas, low income staff etc.) Please state the group/s: No other groups Identified. _____	External				No other groups identified
	Internal				No other groups identified.

Is there is any evidence of a high disproportionate adverse or positive impact on any groups?		No	Comment
Is there an opportunity to mitigate or alleviate any such impacts?	Yes		Guidance issued by the government makes it clear about distances and spacing which officers considering applications should bear in mind. The Council officers are working on a policy for issuing licences and this will include a site visit where measurements and calculations will be made and where officers are not satisfied that government guidance can be followed for new applications they will not be issued. Existing licences will be subject to compliance checks.
Are there any gaps in information available (e.g. evidence) so that a	Yes		Currently officers are no aware of the extent and nature of licences previously issued by the upper tier authority.

complete assessment of different impacts is not possible?			
In response to the information provided above please provide a set of proposed action including any consultation that is going to be carried out:			
Planned Actions	Timeframe	Success Measure	Responsible Officer

Authorisation and Review

Completing Officer	Kevin Nealon/Rachel Towlson
Authorising Service Manager	Mel Cryer
Date	28th May 2024
Review date (if applicable)	

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