

Agenda

Environment and Licensing Committee

Date: **Tuesday 3 September 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

Page

- 1 **Apologies for Absence and Substitutions.**
- 2 **To approve, as a correct record, the minutes of the meeting held on 06 August 2024.** 7 - 8
- 3 **Declaration of Interests.**
- 4 **Proposed General Licensing Fees for 2024/25** 9 - 27
Report of the Director of Place
- 5 **Pavement Licences - The Levelling Up and Regeneration Act 2023 making permanent the provisions set out in the Business and Planning Act 2020** 29 - 60
Report of the Director of Place
- 6 **Any other item which the Chair considers urgent.**
- 7 **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.
- 8 **Application for a one year Joint Hackney Carriage/Private Hire Drivers Licence - AK** 61 - 95
Report of the Director of Place.

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MINUTES ENVIRONMENT AND LICENSING COMMITTEE

Tuesday 6 August 2024

Councillor Alison Hunt (Chair)

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

Absent: Councillor Martin Smith

Officers in Attendance: L Chaplin, B Hopewell, A Hutchinson and R Towlson

15 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Martin Smith, Councillor Sam Smith attended as substitute.

16 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 16 JULY 2024

RESOLVED:

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

17 DECLARATION OF INTERESTS

None.

18 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT

None.

19 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.

20 CHANGE OF CIRCUMSTANCE OF JOINT HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE NO 3595 - WA

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.

WA was unable to attend the meeting and had requested that the decision be deferred to the next available committee to allow WA to attend the meeting.

RESOLVED:

To defer the decision to the next available committee.

21 CHANGE OF CIRCUMSTANCE OF JOINT HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE NO 4078. - HR

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.

HR attended the meeting along with a family member and they both addressed the Committee.

In making its decision, the Committee found that there were exceptional mitigating circumstances surrounding the offences which allowed for departure from the Council's approved Policy and Guidelines.

RESOLVED:

Issue a warning to HR to read and comply with his Joint Hackney Carriage/ Private Hire Driver's Licence conditions and policy, noting that further such incidents would result in another appearance before the Committee.

The meeting finished at 4.55 pm

Signed by Chair:
Date:



Report to Environment and Licensing Committee

Subject: Proposed General Licensing Fees for 2024/25

Date: 3rd September 2024

Author: Director of Place

Wards Affected

Borough-wide

Purpose

The report details a revised set of fees and charges for the licensing service and seeks approval for their introduction from 3rd September 2024.

Recommendation(s)

- a) To approve the revised general licensing fees and charges attached at Appendix 1 for massage and special treatment, ear piercing, acupuncture, tattooing, electrolysis, animal licensing and mobile homes.
- b) To approve the price revisions to be introduced from 3rd September 2024.

1 Background

- 1.1 The fixing of fees proposed in the attached fee schedule at Appendix 1 for 2024/25 is a function of the Environment and Licensing Committee as laid out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 1.2 The power to charge the fee for each type of licence is provided by statute as detailed in paragraph 5.1 below. All fees with the exception of the application for animal licensing activities are solely to cover the reasonable costs of administering the application, whether the application is approved or not. For animal licensing applications, the fee is broken down into part A, paid by all for an application and part B, paid additionally by successful applicants to cover the extra costs of maintaining and enforcing the licensing scheme. This approach is in line with the Provision of Services Regulations 2009 and the Services Directive 2006/123.

- 1.3 The Council cannot make a profit from licence fees and there must be a carry forward of any surplus/deficit. The deficit can be recovered through future year's fees. The reconciliation of any surplus and deficit to ensure the council is working towards full cost recovery must be undertaken in order to achieve a break-even position.
- 1.4 An internal review of the general licensing fees has been carried out on each licence/registration process from point of application through to issuing the licence and any associated steps, with the aim of working towards full cost recovery. The review took into account the costs incurred and the time taken for each step of the process of administering a licence application including inspection of any premise, the administration of recording the application and issuing the licence and advice given during the process to ensure that the legal requirements are met.
- 1.5 The proposed fees for 2024/25 are attached at Appendix 1. There are some increased costs included in the 2024/25 fees compared to 2023/24, for example, inflationary pressures and pay awards which have been consistently applied to all of the Council's services. Additionally the review of animal licensing fees following the experience of regulating these businesses since 2018 found that the council was under charging for the costs incurred administering these licences. The new animal licence fees have been split into 1 year, 2 year and 3 year licences. 1 year licences are generally 1 star businesses that require more resource to administer than 3 year (5 star) businesses who are fully compliant with their legal responsibilities – this is reflected in the new fee structure.
- 1.6 Benchmarking data is important when setting fees and charges. However, this service cannot make a profit and therefore benchmarking is not relevant in this circumstance.

2 Proposal

- 2.1 It is proposed that the general licensing fees attached at Appendix 1 for massage and special treatment, ear piercing, acupuncture, tattooing, electrolysis, animal licensing, and mobile homes be approved to come into force from 3rd September 2024.

3 Alternative Options

- 3.1 That the fee increase is not approved or the fees are not increased to the level requested. This is not recommended due to such options resulting in the Council not moving towards operating the service at full cost recovery requiring a higher subsidy from the council tax payer.

4 Financial Implications

- 4.1 The Council needs to aim for a break-even position using full cost recovery. The service is currently working towards full cost recovery and any surplus / deficit will be carried forward with the aim for a break-even position. The fees are normally uplifted each year by the anticipated pay award and if there was a significant

surplus/deficit in the budget at the year-end then this would be investigated, and the fees adjusted accordingly to ensure they are full cost recovery.

5 Legal Implications

- 5.1
- Section 11 (5) of the Nottinghamshire County Council Act 1985 allows the Council to charge a reasonable fee to cover the expense to the Council in dealing with an application for a licence to carry on an establishment for massage or special treatment.
 - Section 14(6) and 15(6) of the Local Government (Miscellaneous Provisions) Act 1982 allows the Council to charge such reasonable fees as they may determine for the registration of premises and persons carrying on the business of ear piercing, tattooing, electrolysis or acupuncture
 - The power to charge fees for the grant, transfer, alteration and annual licence fee for mobile home's applications comes from the Caravan Sites and Control of Development Act 1960 as amended. As in accordance with the Act, the Council has prepared and published a Mobile Homes Fees policy which covers the fee setting regime. The council also adopted a Fit and Proper Person policy which includes a fee set for assessing applications from site operators to determine if they are fit and proper.
 - Regulation 13 of the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 allows the Council to charge such fees as it considers necessary and reasonable for:
 - The consideration of an application for the grant, renewal or variation of a licence including any inspection required.
 - The reasonable anticipated costs of consideration of a licence holder's compliance with the regulations and any conditions to which the licence holder is subject.
 - The reasonable anticipated costs of enforcement in relation to unlicensed operators.
 - The reasonable anticipated costs of providing the Secretary of State with specified information.
 - Case law considering the Provision of Services Regulations 2009 and the Services Directive 2006/123 affect upon fees charged by licensing authorities has confirmed that the fee for the application must only cover the costs for granting the licence. If the application is successful, a further fee can be charged to cover the running and enforcement costs of the licensing scheme, subject to such fees being proportionate.

Officers are satisfied that the fees at Appendix 1 have been calculated in line with the legislative powers.

6 Equalities Implications

6.1 An Equality Impact Assessment can be found at Appendix 3.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 A climate impact assessment can be found in appendix 4, there are no carbon reduction/sustainability implications arising from this report.

8 Appendices

8.1 Appendix 1: Proposed general licensing fees for 2024/25.

8.2 Appendix 2: Nottinghamshire Councils benchmarking fees

8.3 Appendix 3: Equality Impact Assessment.

8.4 Appendix 4: Climate Impact Assessment

9 Background Papers

9.1 None.

Statutory Officer approval

Approved by the Chief Financial Officer

Date:

Approved by the Monitoring Officer

Date:

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Proposed Public Protection fees 2024/25

Type of Fee	2023/24 £	2024/25 £
Massage and Special Treatment		
Initial and renewal fee for Special treatment involving massage at salons/studios and initial application fee for sole traders	303.00	318.00
Special treatment involving massage sole trader renewal	303.00	265.00
Special treatment (no massage – eg. only sunbed)	324.00	340.00
Special treatment (no massage - e.g sauna, steam room, jacuzzi)	315.00	331.00
Laser treatment - first application plus MST/ST fee	337.00	354.00
Laser treatment-renewal plus	207.00	217.00
Laser treatment-variation	336.00	352.00
Registrations – Ear piercing/tattooing/electrolysis/acupuncture/cosmetic piercing/semi-permanent skin colouring		
New application including one person and premises combined	302.00	317.00
Additional person fee	97.00	102.00
Mobile Home		
New site licence	757.00	795.00
Transfer/amendment	254.00	267.00
Annual pitch	8.40	9.00
Mobile Home Fit and Proper Person		
Application for inclusion on register	242.00	267.00
Annual Fee	205.00	229.00
Transfer fee	142.00	155.00

Type of Fee	2023/24 £	2024/25 £
Animal Activity		
Dog Breeding, 1 year licence		
Application / renewal fee	280.00	303.00
Grant of licence fee	130.00	161.00
Total fee	410.00	464.00
Dog Breeding, 2 year licence		
Application / renewal fee	280.00	303.00
Grant of licence fee	97.00	129.00
Total fee	377.00	432.00
Dog Breeding, 3 year licence		
Application / renewal fee	280.00	303.00
Grant of licence fee	88.00	103.00
Total fee	368.00	406.00
Cattery-Boarding Kennels, 1 year licence		
Application / renewal fee	282.00	293.00
Grant of licence fee	134.00	166.00
Total fee	416.00	459.00
Cattery-Boarding Kennels, 2 year licence		
Application / renewal fee	282.00	293.00
Grant of licence fee	101.00	133.00
Total fee	383.00	426.00
Cattery-Boarding Kennels, 3 year licence		
Application / renewal fee	282.00	293.00
Grant of licence fee	90.00	106.00
Total fee	372.00	399.00
Horse Riding, 1 year licence		
Application / renewal fee	223.00	304.00
Grant of licence fee	184.00	131.00
Total fee	407.00	435.00
Horse Riding, 2 year licence		
Application / renewal fee	210.00	304.00
Grant of licence fee	184.00	131.00
Total fee	394.00	435.00
Horse Riding, 3 year licence		
Application / renewal fee	197.00	304.00
Grant of licence fee	184.00	105.00
Total fee	381.00	409.00

Type of Fee	2023/24 £	2024/25 £
Home Boarding & Daycare		
1 year licence		
Application / renewal fee	292.00	297.00
Grant of licence fee	133.00	141.00
Total fee	425.00	438.00
Home Boarding & Daycare		
2 year licence		
Application / renewal fee	292.00	297.00
Grant of licence fee	90.00	113.00
Total fee	382.00	410.00
Home Boarding & Daycare		
3 year licence		
Application / renewal fee	292.00	297.00
Grant of licence fee	76.00	90.00
Total fee	368.00	387.00
Pet Shop, Year 1		
Application / renewal fee	310.00	322.00
Grant of licence fee	106.00	133.00
Total fee	416.00	455.00
Pet Shop, Year 2		
Application / renewal fee	310.00	322.00
Grant of licence fee	74.00	85.00
Total fee	384.00	407.00
Pet Shop, Year 3		
Application / renewal fee	310.00	322.00
Grant of licence fee	63.00	85.00
Total fee	373.00	407.00
Exhibiting animals		
Application / renewal fee	311.00	348.00
Grant of licence fee	68.00	55.00
Total fee	379.00	403.00
For dog breeding and horse riding establishments there will be an additional fee to cover the costs of the vet's fees for the inspection.		
Rescore fee	233.00	245.00
Licence variation fee	51.00	54.00

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	Ashfield	Bassetlaw	Broxtowe	Gedling	Newark and Sherwood	Nottingham City	Rushcliffe	Mansfield
Animal Activities (1, 2, 3 Year licence)								
Boarding of Cats & Dogs in Kennels & Catteries: New / Renewal	£400.00	£444.00 to £777.00 depending on star rating	£335.00	£390.00 to £437.00 depending on star rating	£305.00	£350.00	£507.00	£262.00
Home Boarding of Dogs: New / Renewal	£330.00	£455.00 to £591.00 depending on star rating	£215.00	£387.00 to £447.00 depending on star rating	£230.00	£350.00	£571.00	£215.00
Doggy Day Care: New / Renewal	£330.00	£425.00 to £596.00 depending on star rating	£335.00	£387.00 to £447.00 depending on star rating	£220.00	£350.00	£571.00	£246.00
Boarding (Franchise – Main Business)	£280.00	N/A	£180.00		N/A	N/A		
Boarding (Franchise – per additional host premises)	£25.00	N/A	N/A		N/A	N/A		
Breeding of Dogs: New / Renewal	£400.00	£527.00 to £904.00 depending on star rating	£275.00 - £475.00	£386.00 to £430.00 depending on star rating	£330.00	£295.00	£588.00 to £683.00	£265.00
Selling Animals as Pets: New / Renewal (Multiple Species)		£459.00 to £600.00 depending on star rating	£340.00	£391 to £436.00 depending on star rating	£280.00	£350	£465.00	£243.00 to £691.00 depending on number of species
**Hiring of Horses: New / Renewal	£450.00	£443.00 to £561.00 depending on star rating	£300.00	£400.00 to £427.00 depending on star rating	£320.00	£295.00	£643.00	£412.00
Exhibition of Animals: New / Renewal	£400.00	£561.00	£300.00	£398.00	£120.00	£350.00	£282.00	£226.00
Exhibition of Animals: Amendment		N/A	£86.50	£245.00	N/A	£52.00	N/A	£56.00
Reassessment of Star Rating	£105.00	£69.00 to £108.00	£122.00	N/A	N/A	N/A	£176.00	
Variation to Licence	£175.00	Minor 10% of total fee Major 40% of total fee	N/A	£53.00	N/A	£52.00	£176.00	£56.00
Combined Activities	£145.00	N/A	N/A	N/A	N/A	N/A	N/A	
Duplicate Copy of Licence	£15.00	N/A	N/A	N/A	N/A	N/A	N/A	
Dangerous Wild Animals: New / Renewal	£945.00	£203.00	£800.00	£235.00	£250.00	N/A	£148	£433.00
Dangerous Wild Animals - amendment of species or new accommodation	N/A		£400.00	N/A	N/A	N/A	N/A	
Dangerous Wild Animals Variation on number of animals that can be contained in existing accommodation	N/A	N/A	£100.00	N/A	N/A	£1199.00 includes £251.00 vet fee	N/A	
Zoo Licence	N/A	£443.00	£2,000.00	N/A	£550.00	N/A	£669.50	
Zoo Licence renewal	N/A	N/A	£3,000.00	N/A	£400.00	N/A	N/A	
Body Modifications (One Off Registration)								

Acupuncture / Ear Piercing / Electrolysis / Tattooing/ Semi-permanent make-up/ Body Piercing: (Premises)	£147.00	£164.00	£175.00	£215.00	£135.00	£129.00	£159.00	£310.00
Acupuncture / Ear Piercing / Electrolysis / Tattooing/ Semi-permanent make-up/ Body Piercing: (Person)	£97.00	£66.00	£140.00	£102.00	£125.00	£67.00	£105.00	£118.00 to £192.00

MST/ Laser (Annual Licence)

Massage / Special Treatment (MST): New / Renewal	£200.00	£182.00	£187.50	£318.00	£200.00	£488.00 applications rec 1st Feb and 31st July, £244.00 for apps rec after Aug 1st (full body massage see part below)	£209.00	£188.00
Laser Treatment Licence (in conjunction with an MST Licence): New	£180	£221.00	£410.00	£354.00	£540.00	£429.00 without massage or ST, £668.00 with full massage	£280.00	£231.00
Laser Treatment Licence (in conjunction with an MST Licence): Renewal	£90.00	N/A	£299.00	£217.00 plus MST/ST fee	£200.00	£339.00 without massage or ST, £578.00 with full massage	N/A	£149.00
Copy of paper licence	£5.00	N/A	N/A	N/A	N/A	N/A	N/A	
Sunbed fees when not part of MST fees	N/A	N/A	N/A	N/A	£175.00	£249.00	N/A	

Sex Establishments (Annual Licence)

Licence: New / Renewal / Variation / Transfer	£3,606.00	£4,253.00	£1,037.00	£4534.00 initial then £4146.00 if granted	N/A	N/A	£4356.00 appl, £4456.00 renewal	
Variation	N/A	£4,253.00	N/A	N/A	N/A	N/A	£1,433.00	
Copy of paper licence	£5.00	N/A	N/A	N/A	N/A	N/A		

Caravan, Park Homes fees

Initial application fee		£646.00	£800.00	£795.00	£380.00		£462.00	
Application fee per pitch		£10.00	£15.00		£10.00		£9.20	
Annual fee per pitch		£16.00	£17.00	£8.85	£10.00		£12.70	
Transfer/Amendment (Basic)		£199.00	£200.00	£267.00	£175.00		£311.00	
Transfer/Amendment (Complex)		£288.00	£462.00					
Deposit of site rules		£147.00	£175.00		£145.00		£59.50	
Fit and Proper Person assessment		£365.00	£325.00		£300.00		£275.00	
Condition fee (per condition on FPPA)		£89.00						

Equality Impact Assessment

Name of project, policy, function, service or proposal being assessed:	Proposed General Licensing Fees for 2024/25				
The main objective of (please insert the name of accessed document stated above):	Proposed General Licensing Fees for 2024/25				
<p>What impact will this taxi fees report 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			Yes	
	Internal			Yes	
<u>Gender Reassignment</u>	External			Yes	
	Internal			Yes	
<u>Age</u>	External			Yes	
	Internal			Yes	

<u>Marriage and civil partnership</u>	External			Yes	
	Internal			Yes	
<u>Disability</u>	External			Yes	
	Internal			Yes	
<u>Race & Ethnicity</u>	External			Yes	
	Internal			Yes	
<u>Sexual Orientation</u>	External			Yes	
	Internal			Yes	
<u>Religion or Belief (or no Belief)</u>	External			Yes	
	Internal			Yes	
<u>Pregnancy & Maternity</u>	External			Yes	
	Internal			Yes	
<u>Other Groups</u> (e.g. any other vulnerable groups, rural isolation, deprived areas, low income staff etc.)	External			Yes	
	Internal			Yes	

Please state the group/s: _____					

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?		No	Comment
Are there any gaps in information available (e.g. evidence) so that a complete assessment of different impacts is not possible?		No	Comment

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	Sam Palmer
Authorising Head of Service/Director	Mike Avery
Date	25.07.24
Review date (if applicable)	2025

Climate Impact Assessment

Name of project, policy, function, service or proposal being assessed:	General Licensing fees for 2024/25			
The main objective of Public Protection Fees and Charges:	To recover the costs incurred by the council providing a range of licensable services to the community and businesses			
What impact will this (please insert the name) have on the following Please read guidance before completing.				
Category	Negative	Positive	No impact/ Negligible change	Mitigation/ Comments
Behaviour & Culture Change			X	The proposed fees do not have any climate change related impacts.
Built Environment			X	The proposed fees do not have any climate change related impacts.
Transport			X	The proposed fees do not have any climate change related impacts.

Energy, Natural Resources & Climate Change			X	The proposed fees do not have any climate change related impacts.
Waste Reduction & Recycling			X	The proposed fees do not have any climate change related impacts.
Blue-Green Infrastructure/Biodiversity			X	The proposed fees do not have any climate change related impacts.
Procurement & Purchasing			X	The proposed fees do not have any climate change related impacts.

In response to the information provided above please provide if there is any proposed action including any consultation that is going to be carried out

Planned Actions	Timeframe	Potential Outcome	Responsible Officer

Authorisation and Review

Completing Officer	Food, Health and Housing Manager
Authorising Head of Service/Director	Director of Place
Date	29th July 2024
Review date (if applicable)	N/A

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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: 3rd September 2024

Author: Director of Place

Purpose

To seek approval for the policy and fee structure for pavement licensing.

Recommendation

- THAT:**
1. Members approve the pavement licensing policy attached at Appendix 1.
 2. Members approve the pavement licensing fee structure contained in the report.

1 Background

- 1.1 At the meeting held on 11th June 2024 it was resolved to delegate the Functions under Part 1 of the Business and Planning Act 2020 (“the B&P 2020 Act”) as amended by the Levelling Up and Regeneration Act 2023 (“LUR 2023 Act”) to Director level.
- 1.2 The B&P 2020 Act received Royal Assent and came into effect on 22nd 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.
- 1.3 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 the 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.

- 1.4 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.
- 1.5 The LUR 2023 Act also introduces several changes to the pavement licensing regime including increasing the fee cap for new and renewal applications from £100 to £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 from one year and local authorities have been given new enforcement powers regarding unlicensed premises.
- 1.6 Attached at Appendix 1 is draft pavement licensing policy which includes details of how the Council intends to process applications. This is an online only application process and as well as completing an application form, detailing the times of the proposed licence and the type of furniture to be placed on the highway, the applicant is also required to submit a plan of the proposed licensing area, a certificate of public liability insurance and images of the proposed furniture. The Licensing Officer may conduct a visit to the premises to check the extent of the licensing area to ensure that all accessibility issues are complied with and that the proposed licensing area does not pose a health and safety risk.
- 1.7 The policy also includes some amendments to the standard conditions previously approved in 2020. These have been updated to reflect the amendment to the legislation, the current pavement licensing guidance and considers the last four years' experience the Licensing Team have had in granting this type of licence. Also included are the two mandatory conditions provided by the legislation regarding no smoking areas and accessibility.
- 1.8 The policy also includes details as to how the Council will enforce against unlicensed pavement furniture and breaches of the terms or conditions of a licence. It also includes a process for the applicant or licence holder to make representations regarding decisions to refuse or revoke a licence.
- 1.9 Under the B&P Act 2020 local authorities have been given new powers of enforcement and guidance as to how to implement these powers was published by the Government on 2nd April 2024. These powers include revoking a licence for breach of conditions or the terms of the licence, misleading statements in an application or if it comes to light that there was a failure to display a notice of application on the premises. They also include amending licence conditions where there have been changes to the highway around the licenced area or if any health and safety issues have been raised during the period of the licence. The

Council can also refuse a licence if the area is not considered a suitable area for a pavement licence for reasons such as accessibility and health and safety.

- 1.10 In addition, the B&P Act 2020 provides a process to take enforcement action against a premises which places unlicensed furniture on the highway with the intent of it being used for the consumption of food and drink. This includes giving a notice requiring the business to remove the furniture within a timeframe and if this is not complied with the Council can remove and store the furniture, the costs of which is charged to the business, and refuse to return the furniture until these costs are paid. If within 3 months the costs are not paid the Council can dispose of the furniture and retain the proceeds.
- 1.11 If issues of non-compliance are identified officers will investigate and review the terms of the licence and decide whether the licence should be amended, with the consent of the licence holder, or revoked. Any person who is aggrieved by the decision to revoke a licence can make representations to the Community Protection Manager whose decision will be final.
- 1.12 The fixing of fees for pavement licensing is a function of the Environment and Licensing Committee as laid out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The fees are solely to cover the reasonable costs of administering the application, whether the application is approved or not.
- 1.13 When calculating the proposed fees, the Finance and Licensing Teams considered the costs incurred and the estimated time taken for each step of the process of administering a licence. This included inspection of any premise, the administration of recording the application and issuing the licence and any advice given during the process to ensure that the legal requirements are met. The proposed fees are in the table below:

Pavement Licence	Fee
New 2 year licence	£290.00
New 1 year licence	£260.00
Renewal 2 year licence	£118.00

- 1.14 Although the guidance recommends that in most cases new licences should be granted for 2 years there may be cases where officers consider a one year licence is more appropriate where there may be concerns as to the impact of the licensable area on the local environment or for any other reasonable cause.

2. Proposal

- 2.1 It is proposed that the pavement licensing policy attached at Appendix 1 be approved.
- 2.2 It is proposed that the pavement licensing fees in the report at paragraph 1.13 be approved.

3 Alternative Options

- 3.1 To not approve the policy would result in a lack of framework for officers when dealing with pavement licensing applications and would result in a lack of information, consistency and transparency for applicants and the public when seeking information regarding pavement licensing.
- 3.2 To not approve the fees would result in the pavement licensing process not being operated on a cost recovery basis resulting in a deficit in the budget and a cost to the Council.

4. Financial Implications

- 4.1 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 were still administered between the Council under the B&P Act 2020 and the Nottinghamshire County Council under the Highway Act 1980. Officers have sort information from Nottinghamshire County Council 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 addition workload can be undertaken.
- 4.2 The fees have been set on a cost recovery basis considering the application and decision-making process outlined in the Act, Government guidance and the proposed pavement licensing policy. These fees will be reviewed on an annual basis and any changes will be brought for Committee approval. At this stage it is not intended to recruit any additional resources for this process and any costs associated with the processing of applications will be met from existing budgets. However, this will be subject to ongoing assessment when the impact of this permanent process becomes apparent.

5 Legal Implications

- 5.1 The statutory basis for the Council implementing the pavement licensing regime is laid out in the report. Committee has previously delegated authority for undertaking the functions under the B&P Act 2020 to Director.
- 5.2 Although not a statutory requirement it is advisable to have a policy dealing with pavement licences to enable consistency and transparency when dealing with applications and any enforcement/compliance action.

5.3 There is no statutory appeal process for refusal or revocation of a pavement licence, but Judicial Review of any decision will always be open to the aggrieved applicant. To protect the Council against such reviews it is advisable to have an option for representations to be made and considered by a manager and to ensure all decisions are fully reasoned and documented.

5.4 Section 2(1)(c) of the B&P Act 2020 gives the power for the Council to charge such a fee as the local authority may require for the administration of the application, subject to the limits highlighted at paragraph 1.5 of the report. The fee must be levied on a costs recovery basis.

6. **Equalities Implications**

The Equality Impact Assessment is attached at Appendix 2 and was previously presented to Members at the meeting on 11th June 2024.

7 **Carbon Reduction/Environmental Sustainability Implications**

A Carbon Impact Assessment is attached at Appendix 3.

8 **Appendices**

Appendix 1 – Pavement Licence Policy

Appendix 2 – Equality Impact Assessment

Appendix 3 – Carbon Impact Assessment

9 **Background Papers**

None.

Statutory Officer approval

Approved by the Chief Financial Officer Date:

Drafted by the Head of Environment

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Pavement Licensing Policy

Date (to be inserted on approval)

Draft

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1. Introduction

The Business and Planning Act 2020 (the Act) makes it simpler for premises serving food and drink such as bars, cafes, restaurants and pubs to seat and serve customers outdoors.

The Act introduced a process for these food and drink led businesses to obtain permission, in the form of a “pavement licence”, from the Council for the placement of furniture such as tables and chairs on the pavement outside their premises which enabled them to maximise their capacity for the sale or service of food and/or drink.

Previously, tables and chairs permissions were granted as pavement licences by Nottinghamshire County Council as the Highways Authority, under the Highways Act 1980.

The Business and Planning Act was amended by the Levelling Up Act 2023 and the amended measures place a cap on the application fees for businesses, and introduces a 14-day consultation period, followed by a 14-day determination period, ensuring that businesses can obtain licences in a timely and cost-effective manner.

The Council will consider all pavement licence applications made under the Business and Planning Act 2020 (BPA20) after taking into account the Government Guidance which can be found at: [Pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/pavement-licences)

2. Scope

2.1 Definition of pavement licence

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for prescribed purposes.

2.2 Eligible Businesses

A business which uses (or proposes to use) a premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A pavement licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

2.3 Eligible Locations

Pavement licences can only be granted in respect of highways listed in section 115 A (1) of the Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited.

2.4 Type of Furniture

Types of furniture that can be licensed include counters or stalls for selling food and drink; tables, counters or shelves on which food and drink can be placed; chairs, benches or other forms of seating; umbrellas, barriers, heaters, planters and other articles used in connection with the outdoor consumption of food and drink. Furniture placed on private land does not fall within this legislation and would be a matter for the landowner to grant permission.

Barriers must be provided where the boundary of the licensable area abuts the highway/pavement. The barriers must be a minimum 1000mm high and incorporating a tapping rail not more than 200mm above the ground must be provided to guide persons safely around the area of the pavement licence. Barriers must not be permanently fixed to the ground within the public highway. Barriers must be designed to resist collapse or movement (e.g. by being blown over). The specification of barriers must be approved by the Council.

2.5 Planning Permission

The applicant will not require separate planning permission while a licence is valid.

3. Application and Determination Process

3.1 Submission of an application for a new or renewal licence

Pavement licence applications will only be accepted through the Council's online system at: [Pavement Licensing - food and drink premises only - Gedling Borough Council](#)

3.2 Fees

The current fees can be found at: [Pavement Licensing - food and drink premises only - Gedling Borough Council](#)

Fees will not be refunded where an application is refused, withdrawn, revoked, surrendered or amended (with the licence holders consent) before the expiration date.

3.3 Plan

Applications need to be accompanied by a plan showing the proposed licensing area and must include measurements of the area in millimetres. This does not have to be to scale but the measurements must be clearly shown.

Applicants are expected to take into account the Government guidance on Inclusive Mobility found at: [Inclusive Mobility. A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) when drafting their plan for the proposed licensing area. The Council encourages a minimum 2000mm between the boundary of the licensable area and any other obstruction on the highway (eg statutory undertaker plant or utilities, drainage gullies, trees, planters, benches, railings, post boxes, bollards, signposts, lamp posts, traffic lights, cellar hatches, inspection covers, manholes, fire hydrants etc).

3.4 Insurance

All applications must include evidence of third-party public liability insurance for the operation of the Pavement Licence. This must indemnify Gedling Borough Council and Nottinghamshire County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.

3.5 Furniture images

Applications need to be accompanied by clear photographic images of the type of furniture that is being proposed in the application. If the furniture has not yet been purchased, then stock images will be accepted. For renewal applications, where no changes have occurred, an image of the existing licensed area and furniture will be accepted. Where seating is provided barriers must be used to enclose the licensing area in accordance with the standard conditions of a licence.

3.6 Site Notice

An applicant for a pavement licence must, on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The applicant must use the current template provided by the Council. The notice must be constructed and secured so that it remains in place until the end of the public consultation period.

The Council's template is at Appendix A to this policy and this can also be found on the Council's website at: [Pavement Licensing - food and drink premises only - Gedling Borough Council](#)

A copy of this notice must also be submitted with the application.

3.7 Consultation

Once the application is deemed complete the Council will also circulate the application to the Council's partners for comment such as:

- the Highways Department at the Nottinghamshire County Council (this is legally required by the Act).
- the Police.
- the Fire Service.

It will also be circulated to the:

- Town Centre Managers.
- Planning Department.
- Environmental Health.
- any other consultee the Council considers necessary in each case.

The application will also be published on the Council's website at:

www.gedling.gov.uk

Once the consultation period of 14 days has passed the Council will then have 14 days to consider the application in the light of any responses to the consultation and following any site visits by the Licensing Team and discussion with the applicant during the consultation period. The applicant will be notified within this second 14-day period of the decision of the Council.

3.8 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

- public health and safety including security – for example any reasonable crowd management measures needed because of a licence being granted.
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter.
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
 - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles.
 - whether there are other permanent street furniture or fixed structures in place on the footway that already reduce access.
 - the impact on any neighbouring premises.
 - considerations under the no-obstruction condition, and
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority and take any issues around noise and nuisance into consideration as part of the proposal.

3.9 Determination of applications

Once the application is submitted, the Council has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 days for public consultation, and then 14 days to consider and determine the application after the consultation.

If the local authority determines the application before the end of the determination period, the local authority can:

- grant the licence in respect of the terms specified in the application or,
- grant the licence in respect of some of the terms in the application or,
- grant the licence for some of the highway specified in the application
- grant the licence and impose additional conditions or,
- refuse the application.

If the local authority does not determine the application within the 14-day determination period, the application will be deemed to have been granted.

If an application is withdrawn during the 28-day consultation and determination period no refund or part refund of the fee will apply.

3.10 Renewal applications

If an application is submitted on the same basis as a previously held or existing licence and there have been no issues with the previous held or existing licence the fee charged will be a renewal fee. The pavement licence will be issued on the same terms as the existing licence.

If officers consider that there is a significant change to the times or days applied for, if the licensable area has been amended, additional furniture requested or for any other reasonable cause then the application will be considered as a new application and the appropriate fee will apply. This decision will be at officers' discretion and will be notified to the applicant as soon as possible after the application is received by the Council.

3.11 Approval

The Council will consider the guidelines within this policy together with the Government guidance for pavement licensing when considering the approval of an application for a pavement licence.

The licence will also contain specific terms such as the days, hours and the plan of the licensed area detailing when and where the tables and chairs are permitted to be used.

A copy of the Council's standard conditions, which will be attached to all pavement licences are shown at Appendix B. Additional conditions may be attached if the Council considers it appropriate and proportionate in the circumstances of any particular case.

3.12 Licence Duration

The statutory Guidance recommends that local authorities grant licences for the maximum period of 2 years. Therefore, unless there are good reasons for granting a licence for a shorter period, such as plans for future changes in use of road space, the Council will normally grant licences for a 2-year period.

A licence can be surrendered at any time by the licence holder during the licence period. The licence holder is required to notify the Council by email at: licensing@gedling.gov.uk of their intention to surrender the licence and the date that the surrender is to come into effect. The licence must be returned to the Council.

A licence can be amended by the Council, with the licence holders' consent, if there is a material change to licensing area or the area surrounding it.

If a licence is revoked, surrendered, or amended a refund or part refund of the fee will not apply.

Pavement licences are not transferrable.

Refusal of applications

If the site is deemed unsuitable for a pavement licence, if relevant representations are received during the consultation period, which cannot be mitigated by conditions, or the applicant does not provide information requested to assist in determining the application, then the application may be refused. A decision notice will be given to the applicant detailing the reasons for the refusal of the application.

If an applicant is aggrieved by the refusal of a pavement licence they can make representations against this decision, by email, to the Community Protection Manager at: licensing@gedling.gov.uk within 14 days of the date of the decision notice. These representations will be considered by the Community Protection Manager whose decision is final. A further notice will be given to the applicant detailing the reasons for the decision within 21 days of receiving any representations.

4. Conditions

The Council's standard conditions are set out at **Appendix B**. In some cases, additional conditions may be required. This will be determined when assessing an application on a case-by-case basis.

The Business and Planning Act 2020 sets out two National Conditions which apply to pavement licences: a no-obstruction condition and a smoke-free seating condition. The National Conditions are shown in **Appendix C**.

5. Enforcement

5.1 Breach of condition(s)

If a condition imposed on a licence (either by the local authority or nationally) is breached, the local authority will be able to issue a notice requiring the breach to be remedied. If the licence-holder fails to do so, the local authority may amend the licence, with the consent of the licence-holder, revoke the licence or itself take steps to remedy the breach and can take action to recover any costs of so doing.

5.2 Revocation or amendment of a licence

The authority may revoke a licence, or amend it with the consent of the licence holder, in the following circumstances:

- (a) If it considers that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licenced area (or road adjacent) is no longer to be pedestrianised.
- (b) Or if there is evidence that:
 - there are risks to public health or safety – for example where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this will be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
 - this use of the highway is causing an unacceptable obstruction, breaching the no- obstruction condition – for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway; or
 - the use is causing, or risks causing, anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up.

The local authority may revoke a licence in the following circumstances:

- For a breach of condition (whether a remediation notice has been issued or not); or
- It comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
- The applicant did not comply with the requirement to affix the notice to notify the public of the application or secure that the notice remains in place until the end of the public consultation period.

A notice will be given to the licence holder dealing the reasons for the revocation of the licence.

If a licence holder is aggrieved by the revocation of a pavement licence they can make representations against this decision, by email, to the Community Protection Manager at: licensing@gedling.gov.uk within 14 days of the date of the decision notice. These representations will be considered by the Community Protection Manager whose decision is final. A further notice will be given to the applicant detailing the reasons for the decision within 21 days of receiving any representations.

5.3 Unlicensed furniture place on the highway

In cases where furniture, which would normally be permitted by a pavement or other licence, has been placed on a relevant highway without the required licence, local authorities can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

Any enforcement action will be taken in accordance with the Council's Enforcement Policy.

6. Review Procedures

This Policy will be reviewed from time to time should changes occur in relevant legislation and/or guidance, or because of local considerations within the Borough.

Appendix A

BUSINESS AND PLANNING ACT 2020

PUBLIC NOTICE: APPLICATION FOR A PAVEMENT LICENCE

NAME OF APPLICANT:			
DOES HEREBY GIVE NOTICE THAT ON:	INSERT DATE APPLICATION SUBMITTED TO COUNCIL		
HAS APPLIED TO GEDLING BOROUGH COUNCIL FOR A PAVEMENT LICENCE AT:			
NAME OF PREMISES:			
ADDRESS OF PREMISES (INCLUDING POST CODE):			
<p>THE APPLICATION IS FOR THE PROVISION OF REMOVABLE FURNITURE PLACED ON THE HIGHWAY TO ENABLE THE SALE, SERVICE AND/OR CONSUMPTION OF FOOD AND DRINK SUPPLIED FROM, OR IN CONNECTION WITH THE RELEVANT USE OF THE PREMISES.</p>			
<p>ANY PERSON WISHING TO MAKE REPRESENTATIONS TO THIS APPLICATION MAY DO SO BY WRITING TO: Gedling Borough Council, Licensing Section, Arnot Hill Park, Arnold, Nottingham NG5 6LU or by email at: licensing@gedling.gov.uk</p>			
DEADLINE FOR REPRESENTATIONS:	14 DAYS FROM DAY AFTER APPLICATION SUBMITTED TO COUNCIL		
<p>THE APPLICATION AND INFORMATION SUBMITTED WITH IT CAN BE VIEWED ON THE COUNCIL WEBSITE: www.gedling.gov.uk</p>			
SIGNATURE OF APPLICANT:			
DATE NOTICE PLACED ON PREMISES:	INSERT DATE NOTICE PLACED ON FRONT WINDOW OF PREMISES		

A COPY OF THIS NOTICE MUST BE SUBMITTED WITH THE APPLICATION AND AFFIXED TO THE PREMISES SO THAT THE NOTICE IS READILY VISIBLE AND CAN BE READ BY MEMBERS OF THE PUBLIC WHO ARE NOT ON THE PREMISES

BUSINESS AND PLANNING ACT 2020 PAVEMENT LICENCE STANDARD CONDITIONS

The Standard Conditions below apply to all Pavement Licences granted by Gedling Borough Council (the Council) however, each application will be treated on its own merits and the Council reserves the right to remove, vary or add additional conditions if considered reasonable.

1. **Sole Purpose of the Licence:** A Pavement Licence permits the business to use removable furniture placed on the highway to:
 - a. sell or serve food or drink; and/or
 - b. allow it to be used by people for consumption of food and drink supplied from, or in connection with the relevant use of the premises.

The “relevant use” in relation to premises, means either or both of the following:

- (a) use as a public house, wine bar or other drinking establishment
- (b) other use for the sale of food or drink for consumption on or off the premises.

2. **Production of the Licence on Demand:** The Pavement Licence shall be displayed on the premises to which it relates so as to be visible to members of the public. Any failure to do so may result in an Authorised Officer requiring the removal of the items from the highway.
3. **Site Constraints:** Any furniture placed within the permitted area of the Pavement Licence shall not obscure sight lines for any highway user, interfere with drainage, or, conflict with dropped crossings, etc.
4. **Accessibility:** When a licence is granted the issue of accessibility for disabled people will have been taken into consideration by the applicant and the Council. Any use of the area outside the boundary of the pavement licence will be considered a breach of the licence and may result in the revocation of the licence.
5. **Furniture:** The Pavement Licence permits the following items of removable furniture to be placed on the permitted area of the highway:
 - Counters or stalls for selling or serving food or drink
 - Tables, counters, or shelves on which food and drink can be placed.
 - Chairs, benches or other forms of seating, and:
 - Umbrellas, barriers, heaters, planters and other articles used in connection with the outdoor consumption of food or drink
 - The furniture must be removable

The specification of all furniture must be approved by the Council and any changes in the furniture as approved by the licence must be notified to the Council during the course of the licence.

6. **Barriers:** Where seating is provided a barrier approximately 1000mm high and incorporating a tapping rail not more than 200mm above the ground must be provided to guide persons safely around the area of the pavement licence area. Barriers must not be permanently fixed to the ground within the public highway.

Barriers must be designed to resist collapse or movement (e.g. by being blown over). The specification of barriers must be approved by the Council. The barriers and seating should be arranged so as to prevent chairs or personal effects (e.g. shopping) escaping the area of the pavement licence and encroaching into the walked highway.

7. **Emergency Exits:** All emergency exits and routes from buildings must be kept clear.
8. **Removal of Furniture:** All furniture and all barriers must be removed from the highway daily at the end of the hours of operation as detailed above or on the Pavement Licence and shall not be stored within the highway.
9. **Obstruction/Danger/Nuisance on the Highway:** The licence-holder shall not cause any obstruction or danger to people using the highway. The licence holder is responsible for the conduct of people within the area of the pavement licence, as allowing rowdy or unruly behaviour may lead to the revocation of the licence.
10. **Noise/Nuisance Control:** Licence holders must not permit any excessive noise, disturbance, smells or litter which cause a nuisance to the owners or occupiers of any adjacent premises or to members of the public.
11. **Surface of the Highway:** The licence-holder shall not undertake any alterations to the highway surface.
12. **Cleansing of the Area:** The licence-holder will ensure that the area permitted by way of the pavement licence is maintained in a clean and tidy condition and they shall take all necessary precautions to prevent the highway from becoming littered as a result of their trading activities.
13. **Liability Insurance / Indemnity:** The licence-holder is required to indemnify the Council and its agents against all losses and claims for injuries (including death illness and disease) or damage to any person or property whatsoever, and, against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising directly or indirectly out of the granting of this Licence. To this end, the applicant must obtain and maintain third party public liability insurance which offers 'indemnity to principal'. The level of cover must be to a minimum value of £5,000,000 for any one incident. The insurance cover must be in place for the full duration of the licence and evidence of valid insurance covering the area of the pavement licence must be made available when requested by an authorised officer.
14. **Sale of Alcohol:** The Pavement Licence does not give or imply any permission to sell intoxicating liquor.
15. **Advertising:** Advertising alcoholic, gambling or smoking products, or their manufacturers, will not be permitted on barriers or furniture associated with the pavement licence. Logos / legends on barriers etc. may only relate to the premises or business. No advertising shall be displayed that may cause offence or alarm to any person.

- 16. Removal of Furniture if requested in an emergency:** If so requested in an emergency by Gedling Borough Council, a Police Officer, Fire Brigade Officer, Ambulance Attendant or Statutory Undertaker, or by the Highway Authority for the purpose of maintaining the highway, the licence holder shall remove the permitted furniture from the highway.
- 17. Unpublished Conditions:** The Council may impose any reasonable conditions whether or not they are published upfront on a case by case basis.

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BUSINESS AND PLANNING ACT 2020

PAVEMENT LICENCE NATIONAL CONDITIONS

The National conditions below apply to all Pavement Licences granted by Gedling Borough Council (the Council).

1. **No-obstruction Condition:** Anything done by the licence-holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not:
 - a) prevent 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) prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order;
 - c) prevent statutory undertakers having access to any apparatus of theirs under, in, on or over the highway; or
 - d) prevent 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.
2. **Smoke-free seating condition:** where the furniture to be put on the highway 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.

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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

Appendix 2

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
Authorising Service Manager	Mike Avery
Date	26th July 2024
Review date (if applicable)	

Name of project, policy, function, service or proposal being assessed:	Pavement licences – The Levelling Up and Regeneration Act 2023 making permanent the provisions as set out in the Business and Planning Act 2020.			
The main objective of (please insert the name of accessed document stated above):	The regulation of furniture placed on the highway by food and drink business for the consumption of food and drink.			
<p>What impact will this (please insert the name of project) have on the following: Please read guidance before completing. For each category, insert a tick/yes against the impact and include mitigation/comments for each category.</p>				
Category	Negative	Positive	No impact/ Negligible change	Mitigation/ Comments
Behaviour & Culture Change		X		This will support food and drink businesses and encourage regeneration and increases the area where businesses can operate and make them more attractive to customers.
Built Environment		X		This will improve town centres and retail areas and make access to outside seating areas more accessible.

Transport		X		It may result in customers staying local to where they live and not travelling extended period such as into the City Centre
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Climate Impact Assessment



Energy, Natural Resources & Climate Change			X	
Waste Reduction & Recycling			X	
Blue-Green Infrastructure/Biodiversity			X	
Procurement & Purchasing			X	

In response to the information provided above please provide if there is any proposed action including any consultation that is going to be carried out

Planned Actions	Timeframe	Potential Outcome	Responsible Officer

Authorisation and Review

Completing Officer	Kevin Nealon
Authorising Head of Service/Director	Mike Avery
Date	2 August 2024
Review date (if applicable)	

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