

## **Report to the Environment and Licensing Committee**

**Subject:** Update on Pavement Licenses under the Business and Planning Act 2020

**Date:** 7 September 2021

**Author:** Head of Environment

### **Purpose**

The purpose of this report is to:

1. To update Members on the extension of the pavement licensing regime under the Business and Planning Act 2020.

### **Recommendation(s)**

#### **THAT members:**

- 1) **Notes the contents of this report and the statutory obligations of Local Authorities under the Business and Planning Act 2020.**
- 2) **Agree to introduce an application fee of £100 for pavement café licence applications with immediate effect.**

## **1 Background**

- 1.1 The Business and Planning Act 2020 came in to effect on 22 July 2020. The Act allows operators of businesses selling food and drink to apply to their local authority for a pavement licence, which gives 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.
- 1.2 The pavement licensing regime is operated by the appropriate local authority, which is the district council in whose area relevant premises are

situated. Applications for a pavement licence are to be made electronically directly to the Council.

- 1.3 A pavement licence may be granted subject to conditions that the local authority considers reasonable, together with any mandatory conditions contained within the Act, a standard set of local conditions are published on the Council's website. The mandatory conditions include a condition that any street furniture must not obstruct the highway and that there must be a smoke free area as part of the outdoor area.
- 1.4 The grant of a pavement licence permits the placing of furniture on the highway only. Other regulatory frameworks still apply such as the need for alcohol licenses and the need to comply with registration requirements for food businesses. The grant of a pavement licence amounts to deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.
- 1.5 The pavement licensing regime was due to expire on 30 September 2021 however on 8<sup>th</sup> March 2021 Communities Secretary Rt Hon Robert Jenrick MP announced that the Government intend to extend pavement licences for a further 12 months to help the hospitality industry recover once lockdown restrictions are lifted. The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 came into force on 20 July 2021. These Regulations amend the Business and Planning Act to extend the expiry date of the pavement licence regime to 30 September 2022.
- 1.6 As part of the Governments 'Road Map out of Lockdown' hospitality venues have been able to serve people outdoors from 12 April 2021. It is envisaged that extending the pavement license regime will make it easier and cheaper for pubs, restaurants and cafes to serve people outside.
- 1.7 In order to assist with the reopening of the hospitality sector the Council made the decision in 2020 not to charge a fee for applications for pavement licences. Since the implementation of pavement licences the Council have had five applications, four of which were granted and one refused.
- 1.8 Following the Government's decision to extend the pavement licence regime until September 2022 all existing licence holders will be required to apply for a further licence if they want to operate a pavement café licence until this time. In addition, it is anticipated that other premises may want to apply for a pavement café licences under the Act. It can take a considerable amount of officer time to assess each application and can sometimes involve site visits and liaison with other partners (eg the

Highway Authority and the Police). The Act provides that a Council can charge a fee of up to £100 to process these applications.

## **2 Proposal**

- 2.1 It is proposed that Members note the contents of the report and the extension to the pavement licensing regime.
- 2.2 It is proposed that Members introduce an application fee of £100 for pavement café licence applications with immediate effect.

## **Alternative Options**

- 3.1 None

## **4 Financial Implications**

- 4.1 Due to the Government's decision to extend the pavement café licence regime until September 2022 it is expected that more applications may be submitted. Due to the amount of officer time involved in processing each application it is therefore proposed to charge an application fee of £100.

## **5 Legal Implications**

- 5.1 Current license issued by the Council under the pavement licensing regime included an expiry date of 30 September 2021. There are no provisions within the Business and Planning Act 2020 to allow the Council to vary or extend existing licences. As such all existing licence holders will be required to reapply for a licence if they wish to continue to use the pavement areas up to 30 September 2022.

## **6 Equalities Implications**

- 6.1 As part of the pavement licence regime local authorities are required to consider the needs of those within the protected characteristic of disability, and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State when determining whether furniture put on the highway constitutes an obstruction. Current guidance found in section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users, but makes it clear that in most circumstances 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway. The licence conditions impose a requirement on the licence holder to take this into consideration.

## **7 Carbon Reduction/Environmental Sustainability Implications**

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

## **8 Appendices**

8.1 None

## **9 Background Papers**

9.1 None

### **Statutory Officer approval**

**Approved by:**

**Date:**

**On behalf of the Chief Financial Officer**

**Approved by:**

**Date:**

**On behalf of the Monitoring Officer**