

LICENSING AND REGISTRATION COMMITTEE

24 JULY 2024

REPORT OF THE ASSISTANT DIRECTOR - GOVERNANCE

A6. PAVEMENT LICENSING POLICY

(report prepared by Michael Cook & Keith Simmons)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report is to explain the changes to the temporary pavement licensing regime under the Business & Planning Act 2020 and the impact of the changes to this regime made by the Levelling-Up and Regeneration Act 2023. Seeking the Committee's approval for a draft Pavement Licensing Policy, to be circulated to key stakeholders for consultation purposes for the outcome of the consultation to be reported back to this Committee for consideration together with a proposed policy.

EXECUTIVE SUMMARY

Under the Business and Planning Act 2020, pavement licensing was given to the Licensing Authority as a temporary measure due to the Covid pandemic. The Levelling Up and Regeneration Act 2023 has now become legislation which supersedes the Business and Planning Act 2020.

The temporary legislation and was due to expire at the end of September 2024, however, the government has made the scheme permanent, with some amendments, through the Levelling Up & Regeneration Act which received royal assent last year and came into force on Sunday 31 March 2024.

RECOMMENDATION(S)

- a) **The Committee take note of the changes from the temporary pavement licensing to the levelling up and regeneration act 2023.**
- b) **That, subject to any matters the Committee may wish to raise, that the draft Pavement Licensing Policy as set out in Appendix A to this report be approved for the purposes of the consultation in c) below.**
- c) **That the draft Pavement Licensing Policy be circulated to the Licensing Authority's key stakeholders for consultation purposes and that any representations received be considered at a future meeting of the Committee.**

REASON(S) FOR THE RECOMMENDATION(S)

New legislation has come into force on 31 March 2024 to make changes to the temporary pavement licensing regime currently under the Business & Planning Act 2020 and has introduced changes including a new capped level fee structure for new and renewal applications.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft schedule set out at Appendix A is intended to support the following themes from the Council's Corporate Plan 2024-28:

- Pride in our area and services to residents
- Working with Partners to improve quality of life
- Promoting our Heritage offer, attracting visitors and encouraging them to stay longer

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Legislation for Pavement Licensing is set out within the background part of the report.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are resource implication in administering the pavement licensing regime which include advice, administration, compliance and enforcement. There are staff costs associated to this.

The Act stipulates that an application must be sent to the Licensing Authority using electronic communications in such a manner as the authority may specify, and be accompanied by such fee not exceeding £500 as the authority may require. An online portal has been developed for this purpose, to enable applicants to complete all of the application questions, upload the relevant documents and make payment in a streamlined manner. This will ensure that staff are managing applications in the most efficient way without the need for constant follow-up queries.

The new provisions allow for the Council to remove, store and ultimately dispose of furniture in prescribed circumstances. This will be a cost to the Council but the Act allows for full recovery of those costs from the licence holder.

USE OF RESOURCES AND VALUE FOR MONEY

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The policy does not, in itself, directly impact on financial sustainability.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The policy directly seeks to support consistency good decision making.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and	The implementation of the policy will be reviewed to ensure it can be delivered in a way that supports economic, efficient and effective

performance to improve the way it manages and delivers its services.	delivery of services.
MILESTONES AND DELIVERY	
ASSOCIATED RISKS AND MITIGATION	
<p>The risk of not charging a fee is that the Council do not recovery costs in association with this area of work.</p> <p>The risk of not issuing licences for the maximum term is that the regime may become burdensome and require additional resource to consider applications on a more frequent basis.</p>	
OUTCOME OF CONSULTATION AND ENGAGEMENT	
<p>As part of the proposed review, the Committee would be invited to considered all representations received during a consultation with stakeholders on a revised Pavement Licensing Policy and to recommend the proposed new Policy to Council.</p>	
EQUALITIES	
<p>In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.</p> <p>The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:</p> <ul style="list-style-type: none"> • eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act); • advance equality of opportunity between people who share a relevant characteristic and people who do not; • foster good relations between people who share a protected characteristic and people who do not. 	
SOCIAL VALUE CONSIDERATIONS	
<p>There are no direct social value considerations arising in respect of this policy.</p>	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
<p>There are no environmental implications arising directly from the content of this report.</p>	
OTHER RELEVANT IMPLICATIONS	
<p>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</p>	
Crime and Disorder	<p>The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area.</p>

Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Business and Planning Act 2020 (“BPA20”) received royal assent on 22nd July 2020 and made significant changes designed to help premises (including public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours) to survive and bounce-back from the pandemic lockdown.

It included a new “Pavement Licence” regime, to be administered by local authorities, designed to make it easier for premises serving food and drink (such as bars, restaurants and pubs) to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The pavement licence provisions were originally due to expire in September 2021 but due to the continuation of the pandemic and the success of the scheme it was extended multiple times.

As part of the Levelling Up and Regeneration Act 2023 (“LURA23”) the pavement licensing scheme has been made permanent, albeit with some amendments from the temporary provisions which are summarised in Table 1.

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

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.**BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

[Levelling-up and Regeneration Act 2023 \(legislation.gov.uk\)](https://legislation.gov.uk)

[Pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

APPENDICES

Appendix A – Draft Pavement Licensing Policy

Appendix B – Letter from Department for Levelling Up, Housing & Communities.

REPORT CONTACT OFFICER(S)

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

Name

**Michael Cook
Keith Simmons**

Job Title

**Licensing Manager
Head of Democratic Services and Elections**

Email/Telephone

licensingsection@tendringdc.gov.uk
01255 686565