

CABINET

21 NOVEMBER 2024

REFERENCE FROM THE LICENSING AND REGISTRATION COMMITTEE

A.6 ADOPTION OF A PAVEMENT LICENSING POLICY

(Report prepared by Ian Ford, Committee Services Manager)

PURPOSE OF THE REPORT

To enable the Cabinet to consider the recommendation made to it by the Licensing and Registration Committee in relation to the adoption of a Pavement Licensing Policy (the Policy recommended for adoption is set out as an Appendix to this report).

EXECUTIVE SUMMARY

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 Covid-19 pandemic lockdowns.

The BPA20 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 Covid-19 pandemic associated restrictions and the success of the pavement licensing 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 (in effect from 31 March 2024), albeit with some amendments from the temporary provisions which are summarised in the Table below.

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.
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A draft Policy had been considered by the Licensing and Registration Committee at its meeting held on 24 July 2024. The Committee at that time had authorised consultation on the draft for a period of five weeks from 30 July 2024 to 3 September 2024. A page was created for the consultation on the Council's website and a public notice was displayed outside of the front of the Town Hall and the Council's Offices at Pier Avenue, Clacton on Sea.

The below were written to inviting them to comment on the draft policy:-

- All Tendring District Councillors
- All Parish Councils
- Responsible Authorities under the Licensing Act 2003 (including Essex Police)
- Institute of Licensing
- A number of licensing solicitors
- A range of licence holders of local premises licence (including pubs, off-licences, night time economy, street traders, gambling premises and taxis)

In addition to the consultation letters, the licensing team also visited a number of licence holders within the District handing out consultation postcards to bring the consultation to the attention of the trader to voice their opinions. Five members of the public, two businesses, one Town Council and one Responsible Authority (ECC Highways) sent in responses to the consultation.

The draft Policy was seeking to set out how this Council (as the licensing authority) would carry out the new pavement licensing regime which would include advice, administration, compliance and enforcement.

This Council's Licensing and Registration Committee ("the Committee"), at its meeting held on 2 October 2024 (Minute 24 refers), considered the matter again (including the above mentioned responses received during the consultation). The Head of Democratic Services & Elections drew the Committee's attention to those responses and that several suggestions had been incorporated into the Policy, now presented.

Through the report, the Committee was invited to determine its recommendation to Cabinet. The Committee's decision was as follows:-

"RESOLVED that –

- (a) the Committee recommends the Pavement Licensing Policy, as attached as Appendix A to the report (A.4), to Cabinet for its formal adoption; and*
- (b) once the Policy is formally adopted, the Assistant Director (Governance) (or other authorised Officer) be authorised to make minor amendments to the Policy to ensure that it reflects the operational positions of the Council and legislative / case law relevant to the Policy."*

The Policy referred to in the above decision of the Licensing and Registration Committee is set out as an Appendix to this report.

Housing and Planning Portfolio Holder's Comments

"As with all of the Policies submitted for approval at Cabinet today, I wish to congratulate the Licensing and Registration Committee for ensuring the policies of the Council in this service area are kept under review and refreshed as a consequence. In this case, we have had temporary measures introduced as part of the post-Covid-19 build back response and those measures have now been made permanent. With the obvious need to allow clear access routes for the public to use, this pavement licensing regime allows cafes, restaurants, and bars to secure a licence to place furniture on the highway.

The policy now submitted sets out the Council's approach to the administration of the licensing function and I commend it to Cabinet."

RECOMMENDATION

That, subject to Cabinet's consideration of the recommendation of the Licensing and Registration Committee arising from its meeting held on 2 October 2024, Cabinet resolves that the Pavement Licensing Policy, as set out in the Appendix hereto, be adopted.

CURRENT POSITION

Cabinet is now requested to consider the recommendation submitted to it by the Licensing and Registration Committee.

The Assistant Director (Governance)'s Report and accompanying Appendix which was considered by the Licensing and Registration Committee at its meeting held on 2 October 2024 is available using this link:

[Agenda for Licensing and Registration Committee on Wednesday, 2nd October, 2024, 6.30 pm \(tendingdc.gov.uk\)](https://tendingdc.gov.uk)

Under the Leader of the Council's approved Scheme of Delegation, as set out in Schedule 3 (Responsibility for Executive Functions) of Part 3 of the Council's Constitution, the Portfolio Holder for Housing and Planning is the designated Executive Member for overseeing licensing policy matters.

BACKGROUND PAPERS

None. However, the published Minutes of the meeting of the Licensing and Registration Committee held on 2 October 2024 have been referred to in the preparation of this report.

APPENDICES

A.6 Appendix – Pavement Licensing Policy (as recommended for approval by the Licensing and Registration Committee)