

TITLE: BUSINESS AND PLANNING ACT 2020 – PAVEMENT LICENSING POLICY UPDATE

Committee: Licensing Committee

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1.0 Issue

- 1.1 To note the amendments made under delegated authority to the Pavement Licensing Policy in order to reflect the new permanent pavement licensing scheme introduced by the Levelling-Up and Regeneration Act 2023, and to note the level of fees set under delegated powers.

2.0 Recommendations

- 2.1 That Members note the amendments made under delegated powers to the Pavement Licensing Policy.
- 2.2 That Members note the amendments made under delegated powers to the level of fee to be charged for a new and a renewal pavement licence application.

3.0 Background/Options

- 3.1 During the Covid-19 pandemic the Government introduced a temporary pavement licensing scheme via the Business and Planning Act 2020, to be administered and enforced by District and Borough Councils. In 2023, the Government made this scheme permanent via the Levelling-Up and Regeneration Act 2023, however, this new permanent scheme required secondary legislation in order to come into force.
- 3.2 The secondary legislation required to commence the new provisions was delayed, and when it was finally laid before Parliament it left a very short time between the announcement of the new laws coming into force and the actual commencement date of the new laws, which was the 1 April 2024. Due to this it was necessary to use delegated authority to ensure that officers could continue to accept and process applications, maintain licences and enforce when necessary.

4.0 Arguments/Conclusions

- 4.1 The new permanent scheme largely reflected the temporary scheme with the following amendments:
 - The consultation period increased from seven to fourteen days

- The application determination period increased from seven to fourteen days
- Fees were increased to the statutory caps of £500 for new applications and £350 for renewal applications
- Licence durations were increased to a term of up to two years, with two years being the default, unless there are good reasons to issue for a shorter period.
- The key end date of all permissions (30 September) has been abolished
- New enforcement powers to remove unauthorised furniture and charge for the storage of such furniture
- Better powers to vary and revoke permissions for breaching conditions

4.2 Officers set the fee level at the statutory maximums of £500 and £350, as previous work on fee setting had shown the £100 capped fee set by Government in 2020 was not sufficient to cover the costs of administering and enforcing the regulations.

4.3 The new licences last for two years, as opposed to one year under the temporary scheme, and so it is necessary to consider the initial processing and vetting costs, plus the maintenance costs of administering the regime throughout the extended two-year period that the licence remains valid. This maintenance element takes into account time spent on enquiries, complaints, visits etc, as well as helping to cover other departmental overheads that all licence holder fees contribute towards. It is estimated at this time that the true two-year cost recovery figure will be in the region of other two-year fees charged by the Licensing Authority at £642 for a new application and £598 for renewal applications.

4.4 A full evaluation of all licensing fees occurs every year in September or October, and officers will further review the pavement fees at this time to ensure that they remain at cost recovery levels.

4.5 On top of the sixteen existing current pavement licences we maintain that were issued under the temporary scheme and will be moved onto the permanent scheme in September 2024, we have received a further two applications since the 1 April 2024.

5.0 Additional Implications Assessment

5.1 In the table below, please put Yes or No in each box:

Financial Implications	Legal Implications	Human Resources (HR) Implications
Yes	Yes	No
Equality Impact Assessment (EIA)	Carbon Impact Assessment (CIA)	Data Protection Impact Assessment (DPIA)
Yes	No	No

Financial and legal implications

5.2 The new regulations enable the Council to charge higher fees for the pavement licences it issues, and the decision has been made to increase the fees to the maximum level permitted. This will mean that a new application is £400 higher,

and a renewal is £250 higher, however, this is offset marginally by the fact the new permissions will last for two years and not the one year previously available.

5.3 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149(7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5.4 Further to paragraph 5.3, an Equality Impact Assessment has been completed, and there are no identified impacts created by the recommendations in this report.

6.0 Appendices

6.1 Appendix 1 – Current policy approved under delegated powers (with tracked changes for Members information)

7.0 Background documents

Business and Planning Act 2020