



Licensing Committee

18th July 2022

Title	Licensing Committee – Pavement Licence update
Report of	Executive Director of Assurance
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	None
Officer Contact Details	James Armitage Director of Regulatory Services James.Armitage@barnet.gov.uk 020 8359 3397

Summary

This report provides Members with an overview of the introduction, implementation, and future for Pavement Licensing in the borough

Officers Recommendations

1. That the Licensing Committee consider and note the following report.

1. Why this report is needed

- 1.1 In response to the struggles being faced by businesses throughout the country in 2020, the Government introduced a 'Pavement Licence' through the Business and Planning Act 2020.
- 1.2 This new process provided a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. It was hoped that this would provide much needed income for businesses and protect as many hospitality jobs as possible.
- 1.3 These new Pavement Licences allow the licence-holder to place removable furniture over certain highways adjacent to their premises, for certain purposes. The simpler application process (compared with the existing processes for Street Trading Licences issued under either the London Local Authorities Act 1990 or the Highways Act 1980) allows businesses to secure these licences quickly and, where they are deemed to have been granted, allow these licences to remain in place for a year but not beyond 30 September 2022.
- 1.4 Where a pavement licence is granted, clear access routes on the highway need to be maintained, taking into account the needs of all users, including disabled people. It is for this reason that a licence can only be granted to premises that can accommodate a minimum of 2 clear metres between the trading area and the curb/street furniture.
- 1.5 The Business and Planning Act process provides a cheaper, easier and quicker way for businesses to obtain a licence. The fee for applying for a licence under the Business and Planning Act process is capped at £100 and the public consultation period is 7 working days (excluding public holidays), starting the day after the application is sent electronically to the authority.
- 1.6 Pavement Licences are available to businesses that use (or propose to use) the premises for the sale of food or drink for consumption (on or off the premises). Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.
- 1.7 A 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.
- 1.8 In the first year of this regime the Licensing Team issued 74 Pavement Licences. We are currently in the second year of issuing this type of licence and the number of Pavement Licences being issued by the licensing team has grown to 108.
- 1.9 Some of these premises have also applied for and been granted a Parklet (which are the areas adjacent to premises which have suspended parking bays/planters/gazebos etc) which has been offered to traders by the council's Growth & Corporate Services – Growth & Development team.
- 1.10 Following the Queen's speech earlier this year, the Government have tabled the Levelling-up and Regeneration Bill (The 'Bill') in the House of Commons.

- 1.11 The Bill, which is currently in draft and will be debated and scrutinised by Parliament before becoming law, proposes to make the regime for Pavement Licences issued under the Business and Planning Act permanent.
- 1.12 The Business and Planning Act was initially brought in as an emergency piece of legislation in July 2020 in response to the COVID pandemic, and permitted a quicker, cheaper, and streamlined service for licensed premises to apply to place tables and chairs outside their premises.
- 1.13 The provisions of the Business and Planning Act currently expire on the 30th September 2022.
- 1.14 The Bill proposes to make some slight amendments to the current provisions, which are summarised as follows:
 - 1.14.1. Amend the fee councils can charge applicants, increasing it from £100 to £350 for premises which already hold a Pavement Licence, and £500 for new applicants.
 - 1.14.2. Extend the public consultation period and council determination period from 7 days to 14 days.
 - 1.14.3. Extend the maximum duration of Pavement Licences from 1 year to 2 years. The length of a licence is however at the discretion of the local authority.
 - 1.14.4. Provide that Pavement Licences can also be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met.
 - 1.14.5. Prohibit a local authority from granting a tables and chairs licence under the old regime (Highways Act 1980) if a Pavement Licence is capable of being granted under this Bill.
 - 1.14.6. Insert a new Enforcement schedule providing powers to the local authority to remove furniture where licence holders are not abiding by the relevant Pavement Licence conditions and hours.
- 1.15. One of the current benefits of the pavement licence procedure is that once a pavement licence is granted by the local authority, the premises will benefit from deemed planning permission for the furniture for the duration of the pavement licence. There is no proposal to change this.
- 1.16. Any pavement licence that has been granted under the Business and Planning Act and has no limit on its duration, will expire 2 years after the date that the Bill becomes law.
- 1.17. Any pavement licences which have a current expiry date of 30 September 2022, or earlier, will still expire on that date and a renewal will be needed before its expiration to continue providing tables and chairs outside.

- 1.18. In addition to the relaxation to the pavement licence provisions provided by the Business and Planning Act, a relaxation was also given back in 2020 to licensed premises with regards to off-sales. There is nothing in the Bill which extends this benefit, and currently this will expire on the 30 September 2022.
- 1.19. The Bill is currently a draft piece of legislation and subject to change. It is currently with the Committee stage in the House of Commons.
- 1.20. In the meantime, and in anticipation of the bill becoming law, the licensing team will be writing to holders of Pavement Licences in July 2022 to explain the expected changes in law and invite applications for renewals. As it is not yet known at what level the fees will be set, it is proposed that fees are not collected until such time as the Bill becomes law. In addition, there remains uncertainty over the licence term(s) that will be available under the new Act and as such, this will need to be clarified with each applicant once this information becomes clear. It may also be necessary to alter the relevant sections of the Barnet Street Trading Policy. Should this new Act not be passed, the renewal applications received will be applied to/converted into the appropriate existing street trading licences (temporary or permanent).

2. Reasons for recommendations

- 2.1 The Chair of the Licensing Committee has requested that an update on Pavement Licensing in the borough be given to the Licensing Committee.

3. Alternative options considered and not recommended

- 3.1 None

4. Post decision implementation

- 4.1 This report is for information and noting only.

5. Implications of decision

5.1 Corporate Priorities and Performance

- 5.1.1 The approach being taken in relation to the issue Pavement Licences fully supports objectives contained within the corporate plan.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 It is expected that the cost of the additional work to licence and enforce this scheme will be covered by the statutory fees.

5.3 Legal and Constitutional References

5.3.1. The Business and Planning Act 2020 places the responsibility for considering applications for pavement licenses on local authorities acting as licensing authorities.

5.4 Insight

5.4.1 Not relevant to this report

5.5 Social Value

5.5.1 Not relevant to this report

5.6 Risk Management

5.6.1 None

5.7 Equalities and Diversity

5.7.1 The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

5.8 Corporate Parenting

5.8.1 Not applicable in the context of this report

5.9 Consultation and Engagement

5.9.1 The information contained within this report will be published on the Local Authority website so that residents and businesses can monitor the work that is processed by the service.

5.10 Environmental Impact

5.10.1. There are no direct environmental implications from noting the recommendations. Implementing the recommendations in the report will lead to a positive impact on the Council's carbon and ecology impact, or at least it is neutral.

5.10.2. There are no equality act issues arising from the content of this report but when an application for a licence is considered, such factors may be relevant to its determination.

6. Background papers

6.1 None