

BUSINESS & PLANNING ACT 2020 EXTENSION

Date:	29 July 2021
Agenda Item:	
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Key Decision?	YES
Local Ward Members	All Wards

Lichfield
district council

REGULATORY & LICENSING COMMITTEE

1. Executive Summary

- 1.1 This report advises members of the amendments to the Business and Planning Act 2020 which came into effect 20 July 2021.
- 1.2 The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 extend temporary pavement licence provisions to 30 September 2022.
- 1.3 The Act initially relaxed licensing & planning laws until 30 September 2021. It created a fast-track pavement licence application process, making it easier for the hospitality sector to obtain permissions to seat customers outdoors.
- 1.4 The ability to reapply, for several premises, is dependent on the use of Blue Badge parking bays that have been suspended.

2. Recommendations

- 2.1 That members agree a new longstop date of 30 September 2022 in respect of new licences issued.
- 2.2 That members agree to continue to waive the maximum fee of £100.00, in order to support local businesses at this difficult time.
- 2.3 That members agree a streamlined reapplication process for businesses wishing to extend their current pavement licence.
- 2.4 That members agree to delegate responsibility to the Head of Regulatory Services Housing & Wellbeing and the Chair of Regulatory and Licensing Committee to implement any further minor changes introduced under the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021.

3. Background

- 3.1 The Business and Planning Act 2020 ("the Act") came into force on 22 July 2020. The purpose of the pavement licence provisions in the Act make it easier for premises in England which serve food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing. Under those provisions, there was a sunset expiry date of 30 September 2021, if the pavement licence did not otherwise specify an expiry date.
- 3.2 The Governments Build Back Better High Streets Strategy (published 15 July 2021) states that the temporary pavement licence measures, which were introduced as a valuable lifeline during the pandemic, will be extended for a further 12 months, subject to Parliamentary approval, and there is an

in principle commitment to making them permanent. The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 extend these temporary provisions until 30 September 2022 and came into effect 20 July 2021.

- 3.3 Regulation 4 of the amended Act only applies to a pavement licence applied for on or after the date these Regulations come into force. The previous date of 30th September 2021 will continue to apply in relation to any pavement licence applied for before the date these Regulations come into force, although the holder of such a licence may be able to apply for a further licence.
- 3.4 There are currently 18 Pavement Licences in existence, 17 with an expiry date 30 September 2021 and one expiring 24 August 2021. The majority of these are expected to reapply. Overall, these have been well managed and received and no licences have been revoked. A number of pavement licences have made use of blue badge parking bays which have been suspended in Tamworth Street, Conduit Street and Bore Street. It is Cabinet’s policy is to keep bays suspended on Tamworth St, Market Street, Conduit Street and Bore Street.
- 3.5 If, following the grant of a licence, the Council considers that the holder has breached any conditions of the licence the Council may revoke the licence, or serve a notice on the licence holder requiring steps to be taken to remedy the breach of condition. If a condition imposed on a licence (either by the local authority) or nationally is breached, the local authority will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs.
- 3.6 The Council may also revoke a pavement licence if:
- some or all of the part of the highway to which the licence relates has become unsuitable for any purpose for which the licence was granted (this would include the suspension of a disabled parking bay), or
 - as a result of the licence being granted there is a risk to public health or safety, or
 - anti-social behaviour or public nuisance is being caused or risks being caused, or
 - the highway is being obstructed (other than by anything done by the licence holder pursuant to the licence), or
 - anything material stated by the licence holder in their application was false or misleading, or
 - the licence holder did not post a notice about the application on the premises.
- 3.7 Streamlining the applications process, for business currently benefiting from Pavement Licences, will reduce the time spent processing applications. This will lessen the financial burden to the authority, as the cost of processing applications would not be covered even if the £100.00 maximum fee was charged. It is therefore suggested the reapplication process is facilitated by way of an invitation email to the current licence holder requesting confirmation of a ‘statement of fact’, with copies of public liability insurance for the extended period. It is also recommended that the extension is advertised on the premises and on the council’s website.

Alternative Options	1. There is a requirement to comply with the Business and Planning Act, although a fee could be introduced.
Consultation	1. There is a legal requirement to implement this legislation so direct consultation would serve no purpose. There have been ongoing discussions through Economic Development with businesses.
Financial Implications	1. The Council can charge a fee of up to £100 per pavement licence application. This does not cover the full cost of processing applications and ensuring compliance, which authorities estimate is nearer £700. However in order to support local businesses it is proposed to waive the fee, although this will

	<p>mean a budget pressure.</p> <p>2. Currently there is no budget for pavement licences but the financial impact would be £1,800 of lost income which equates to 18 licences at the £100 fee.</p>
Approved by Section 151 Officer	Yes/ No

Legal Implications	1. The report is in preparation for the proposed legislative changes.
	Yes/ No

Contribution to the Delivery of the Strategic Plan	1. The issuing of pavement licences supports the priority of shaping place and developing prosperity.
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Equality, Diversity and Human Rights Implications	<p>1. Authorities must have regard to the needs of disabled people when considering whether to grant a pavement licence. To date the Licensing Team have received one complaint from a user of a disabled parking bay.</p> <p>2. An Equality Impact assessment was originally carried out and there have been no material changes other than the extension of the licence period.</p>
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Crime & Safety Issues	1. Off sales are limited to 11pm at the latest in order to reduce the potential for anti-social behaviour. The conditions also make the licence holder responsible for the conduct of people within the area of the Pavement Licence, allowing rowdy or unruly behaviour may lead to the revocation of the licence.
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Environmental Impact	1. Pavement cafes have potential to enhance the local built environment. There are conditions attached to the licence to mitigate any negative impact from litter and food and drink spillages.
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GDPR/Privacy Impact Assessment	1. The privacy notice sets out what the applicant needs to know in respect of data protection.
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	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Premises not following pavement licence conditions	Checking compliance and taking appropriate action	Likelihood - Yellow Impact – Yellow Severity of risk - Yellow
B	Managing business and customer expectations	Clear guidance and conditions	Likelihood – Green Impact – Yellow Severity of risk - Green
C			
D			
E			

<p>Background documents</p> <p>https://www.local.gov.uk/parliament/briefings-and-responses/business-and-planning-act-2020-pavement-licences-coronavirus</p> <p>https://www.lichfielddc.gov.uk/downloads/file/1626/pavement-licences-final-conditions</p> <p>Build Back Better High Streets - GOV.UK (www.gov.uk)</p> <p>Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021</p>

Relevant web links

<https://www.legislation.gov.uk/ukdsi/2021/9780348224344/contents>

<https://www.legislation.gov.uk/ukpga/2020/16/enacted>

www.gov.uk/government/publications/inclusive-mobility/inclusive-mobility