

Business and Planning Act 2020

Update on Pavement Licence's

Councillor Angela Lax

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Key Decision? **NO**

Local Ward

Members



Regulatory & Licensing Committee

1. Executive Summary

- 1.1 This report updates members on the implementation of the provisions of the Business and Planning Act 2020 regarding pavement licences.

2. Recommendations

- 2.1 That members note the implementation of the Business and Planning Act 2020 regarding pavement licences.

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.
- 3.2 This was a streamlined process to allow businesses to secure these licences in time for the summer and, where they are deemed to have been granted, allow these licences to remain in place for a year but not beyond 30 September 2021. Alcohol licensing changes will allow operators to serve alcohol for consumption off the premises.
- 3.3 Any person who uses or proposes to use premises as a public house, wine bar or other drinking establishment or uses or proposes to use premises for the sale of food or drink for consumption on or off the premises can apply to the Council for a pavement licence. 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.
- 3.4 An application for a pavement licence must be published and is subject to public consultation for a period for 7 days. Before the Council determines the application, it must take into account any representations made and must consult with the Highway Authority and any other person it considers appropriate. The council identified appropriate additional consultees as the police, planning, environmental health and ward councillors.

- 3.5 After the end of the consultation period the Council may either grant the licence or reject the application. Importantly, if the Council does not grant the licence or reject the application within 7 days after the end of the public consultation period the licence is deemed to be granted.
- 3.6 A licence may be granted subject to conditions, either imposed by the Act, by the Secretary of State or by the Council. 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.
- 3.7 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, 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.
- 3.8 At the meeting on the 30th July 2020 the committee agreed the licensing conditions and resolved:
- That all functions, powers and duties contained in the Business and Planning Act 2020 in respect of pavement licences be delegated to the Head of Regulatory Services, Housing & Wellbeing.
 - to waive the maximum fee of £100 in order to support local businesses at this difficult time.
 - where action is required against premises not complying with conditions, action will be taken to cover costs]
 - that the Head of Regulatory Services, Housing & Wellbeing, in consultation with the Chairman of Licensing is authorised to make any further changes to the conditions as required.
- 3.9 Following the introduction of the Pavement Licence regime there are currently 12 licences in force that all expire 30th September 2021. All premises are in Lichfield City Centre. The premises are:-
- Boomers
 - Bore Street Bakery
 - Corner Café
 - Earl of Lichfield
 - George Hotel
 - Kings Head
 - Larder
 - Le Reve
 - Mama Thai
 - Spirit works
 - Sweeney Todd
 - Tudor Cafe

Unfortunately due to the current restrictions the premises are unable to make use of the permission at the time of writing this report.

3.10 The licensing team created an online application in accordance with the Act and ensured that the process was as streamlined as possible. As it was a new process for the team they visited each site to ensure the area applied for was appropriate and the tight timescales were met to ensure all licenses were issued within the statutory timescales. 11 premises were compliant with the national and standard conditions. 1 premises used an article that wasn't authorised by the pavement licence. An application was submitted to address this issue however objections to this application were received and the application was refused. This premise will be monitored once the permissions can be used to ensure compliance.

Alternative Options	1. Not Applicable
Consultation	1. Not Applicable
Financial Implications	1. The Council can charge a fee of up to £100 per pavement licence application. This is unlikely to cover the full cost of processing applications and ensuring compliance. However in order to support local businesses Members decided to waive the fee, this means £1200 of potential income was foregone.
Contribution to the Delivery of the Strategic Plan	1. The issuing of pavement licences supports the priority to develop prosperity by encouraging economic growth.
Equality, Diversity and Human Rights Implications	1. Authorities must have regard to the needs of disabled people when considering whether to grant a pavement licence and non-smoking areas need to be provided by businesses that are granted pavement licences.
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.
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 food and drink spillages.
GDPR/Privacy Impact Assessment	1. Not Applicable

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Premises proceed without applying for a licence	Giving advice & information to local businesses, promoting on the council's website & taking appropriate action if necessary	Likelihood : Green Impact : Yellow Severity of Risk : Green
B	Premises not following the conditions	Checking compliance & taking	Likelihood: Yellow

		appropriate action	Impact: Yellow
C	Managing business and customer expectations	Clear guidance and conditions	Severity of Risk: Yellow Likelihood: Green Impact: Green Severity of Risk: Green
D			
E			

Background documents

Business and Planning Act 2020
National and Standard Conditions

Relevant web links