

Licensing Committee Report

Ward(s) affected: All Wards

Report of the Strategic Director – Place

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Report Status: Open

Extension to Pavement Licensing and Revision to Pavement Licensing Policy

1. Executive Summary

1.1 The Business and Planning Act 2020 enacted in July 2020 sought to assist the hospitality industry recover from the first Covid19 'lockdown' by making 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 legislation was introduced with an original end date of 30 September 2021. On 23 September 2020 Licensing Committee considered a report and agreed a Policy concerning the Pavement Licensing function. The Policy was agreed with an end date in line with the legislation.

1.2 Due to the success of the legislation, the temporary provisions have been continued annually with the Government committing to the creation of a permanent new Pavement Licensing regime under the Levelling Up and Regeneration Act 2023. The Council's Policy has been extended annually in line with the extension of temporary legislation.

- 1.3 The new permanent regime came into force on 31 March 2024 creating a permanent Pavement Licence administered by Guildford Borough Council. Now there is a permanent Pavement Licensing regime, the Council's Policy has been updated to reflect the new procedures in place and revised Guidance published by the Department for Levelling Up, Housing and Communities in April 2024 and is presented to Licensing Committee seeking Committee's approval.

2. Recommendation Committee

- 2.1 That the Committee notes the new permanent Pavement Licensing provisions and approves the updated Pavement Licensing Policy at Appendix 1.

3. Reason(s) for Recommendation:

- 3.1 Approval of the Policy will assist the Council with consistent decision making and provide guidance for applicants.

4. Exemption from Publication:

- 4.1 This report is not exempt from publication.

5. Purpose of Report

- 5.1 The purpose of this report is to brief the Licensing Committee on the creation of a new, permanent, Pavement Licensing regime following the creation and extension of provisions under the Business and Planning Act (the Act), which came into force on 22 July 2020; and asks the Committee to approve the updated Pavement Licensing Policy at Appendix 1.

6. Strategic Priorities

6.1 The Council's Licensing function contributes to our fundamental themes as follows:

- **Homes and jobs** – supporting the local economy by ensuring any business needing a licence has one and those licensed businesses are aware of and compliant with licensing legislation and promoting the relevant licensing objectives; so as to ensure the safety and wellbeing of employees and the public in licensed establishments and vehicles.
- **Environment** – setting standards for licence holders to meet via licensing policy considering the Council's climate emergency and aims to protect the environment so as to ensure the protection and promotion of the environment via the licensing process.
- **Community** – tackling inequality in communities by promoting a safe and inclusive licensed trade, ensuring customers with a disability are able to use licensed establishments and supporting the unemployed back into work through compliant and prosperous licensed businesses.

7. Background

7.1 On 25 June 2020, the Government announced relaxations to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown. The Business and Planning Act received Royal Assent on 22 July 2020 and came into force immediately. It introduced measures 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.

7.2 The legislation was set to expire on 30 September 2021 but has been extended annually in order to further support the sector. The measures have proven popular in Guildford with 36 Pavement Licences currently in effect.

- 7.3 Due to its success, the Government committed to making the Pavement Licence regime (issued by Districts and Boroughs) permanent and this was achieved on 31 March 2024 through the Levelling UP and Regeneration Act.
- 7.4 However, the Levelling Up and Regeneration Act introduces several changes to the Pavement Licensing provisions. Previously the Business and Planning Act allowed a maximum application fee of £100, a streamlined consultation determination period for applications and for licences to be valid for up to 12 months. Now, the fee for applying for a licence under the Business and Planning Act process is capped at £500 for first time applications and £350 for renewals and the public consultation period and licence duration has been extended. There are also new enforcement powers to removed unauthorised furniture.
- 7.5 The new Act also confirms that applications for Pavement Licences should where possible be made under these provisions as opposed to Pavement licences granted by Surrey County Council, the Highways Authority, under Part 7A of the Highways Act 1980.
- 7.6 On 23 September 2020 the Council approved a Pavement Licensing Policy covering the process and decision-making criteria for applications under the Business and Planning Act 2020. This Policy was developed with relevant stakeholders and extended annually until September 2024 with the associated extension of the original legislation.
- 7.7 Now there is a permanent Pavement Licensing regime, the Council's Policy has been updated to reflect the new procedures in place and revised Guidance published by the Department for Levelling Up, Housing and Communities in April 2024.
- 7.8 The updated Policy incorporates a small number of changes around the differences between the original and new legislation, includes reference to consulting with the Police for Counter Terrorism as well as Licensing and Local Crime purposes, as well as removing reference

to Coronavirus restrictions and social distancing measures. The tracked changes comparing the current version to the draft can be found at Appendix 2.

8. Consultations

- 8.1 This report seeks the Committee's approval on the updated Pavement Licensing Policy. Consultation will be critical to ensure any changes to the Policy are clear and transparent for licence holders and the public.
- 8.2 The Policy was originally drafted in consultation with the consultees listed in the Policy and consulted upon with the appropriate lead councillors and the Leader of the Council at the time of adoption.
- 8.3 Following its use in determining applications received since its adoption and due to the established nature and success of Pavement Licensing now within Guildford, very minor changes to the Policy reflecting the updated legislation and guidance are proposed. Officers do not envisage there are likely to be concerns raised from stakeholders regarding these updates.

9. Key Risks

- 9.1 Not having an up to date Policy concerning Pavement Licensing will not assist applicants/licence holders with understanding the Council's expectations and may lead to inconsistent decision making and potential legal challenge to the Council.

10. Financial Implications

- 10.1 The Business and Planning Act was introduced to support the hospitality industry to recover from the coronavirus pandemic. Many of these businesses are licence fee payers under the Licensing Act 2003.
- 10.2 The application fee for Pavement Licensing was originally capped by legislation at £100 and the full costs of setting up the function,

processing of applications and enforcement of licences were not recovered through the fee.

- 10.3 However the Levelling Up and Regeneration Act has increased the fee cap for Pavement Licences at £500 for first time applications and £350 for renewals. The Council will use an established methodology to review these fees annually, however fees have been set at £500 for new applications and £350 for renewals for 2024/25.

11. Legal Implications

- 11.1 There is no statutory requirement to have a Pavement Licensing Policy, although having a transparent Policy guides applicants and enables consistent decision making.

12. Human Resource Implications

- 12.1 The updates to the Pavement Licensing Policy can be managed from the current Licensing resource.

13. Equality and Diversity Implications

- 13.1 Under the public sector equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 13.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.

- 13.3 The law requires that this “duty to have due regard” be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of equality duty.
- 13.4 The Act requires authorities to have regard to the needs of disabled people when considering whether to grant a pavement licence. Adopting a Policy will assist in this decision making.

14. Climate Change/Sustainability Implications

- 14.1 Potential effects of litter arising from an increase in outside food and beverage consumption can be managed via conditions attached to Pavement Licences. The Act requires Licence holders to make reasonable provision for outside seating where smoking is not permitted.

15. Summary of Options

- 15.1 This report seeks to update the Committee on the Pavement Licensing function and asks the Committee to approve minor revisions to the Council’s Pavement Licensing Policy.
- 15.2 After considering the report, the Committee may either:
- Approve the updated Policy at Appendix 1, or
 - Approve an updated Policy with amendments.

16. Conclusion

- 16.1 For the hospitality industry the measures in the Business and Planning Act have provided some much-needed flexibility as they seek to recover fully following Covid and social distancing requirements.

16.2 The Pavement Licence has proven successful to the extent that the government has made legislation permanent and consequently a request is made of the Committee to approve an updated Policy.

17. Background Papers

17.1 [The Business and Planning Act](#)

17.2 [Pavement Licences: Guidance \(Department for Levelling Up, Housing and Communities\)](#)

18. Appendices

Appendix 1 – Guildford Borough Pavement Licensing Policy 2024 – 2029 (draft)

Appendix 2 – Tracked Changes between Current Policy and Update

<i>Service</i>	<i>Sign off by and/or date</i>
<i>Finance / S.151 Officer – Mark Riley</i>	<i>03/06/2024</i>
<i>Legal – Barnaby Yates</i>	<i>06/06/2024</i>
<i>HR - Name</i>	
<i>Equalities - Name</i>	
<i>Lead Councillor</i>	<i>02/07/2024</i>
<i>CMB - Date</i>	<i>05/06/2024</i>

Please ensure the following service areas have signed off your report. Please complete this box and do not delete