

Licensing Committee Report

Ward(s) affected: All Wards

Report of the Joint Strategic Director for Place

Author: Mike Smith, Senior Specialist for Licensing and Community Safety

Tel: 01483 444387

Email: mike.smith@guildford.gov.uk

Lead Councillor responsible: Merel Rehorst-Smith

Tel: 01483 610581

Email: merel.rehorst-smith@guildford.gov.uk

Date: 27 September 2023

Extension to Pavement Licensing

Executive Summary

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.

This temporary legislation was continued in both 2021 and 2022 with further statutory instruments extending the provisions for a further year, pending the creation of a permanent new Pavement Licensing regime under the Levelling Up and Regeneration Bill. It was anticipated that a permanent regime would be created in 2023 however this has not been possible and on 17 July 2023 the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2023 were signed in to law. This effectively extends the temporary Pavement Licence legislation for a further year on the same basis as currently.

As the current Pavement Licensing Policy is due to expire on 30 September 2023, this report asks Licensing Committee to agree to its extension for a further year.

Recommendation Committee

That the Committee notes the extension of the Business and Planning Act for the Licensed trade, and subject to the passing of the necessary Statutory Instrument, Approves the extension of the current Pavement Licensing Policy at Appendix 1 for a further 12 months.

Reason(s) for Recommendation:

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

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 The purpose of this report is to brief the Licensing Committee on the extension of the Business and Planning Act (the Act), which came into force on 22 July 2020, and to approve an extension to the current Policy for determining Pavement Licence applications issued under the Act.

2. Strategic Priorities

- 2.1 The Pavement Licensing Policy will contribute to our fundamental themes as follows:
 - **Homes and Jobs** – regenerating and improving Guildford town centre and other areas across the Borough through well-regulated licensed establishments.
 - **Environment** – enhancing recreational facilities through well-regulated licensed establishments.

- **Key Programmes** – Regenerating Guildford Town Centre creating employment opportunities and high quality public spaces.

3. Background

- 3.1 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.
- 3.2 The legislation was set to expire on 30 September 2021 but has been extended until 30 September 2023 in order to further support the sector.
- 3.3 Furthermore, under the Levelling Up Bill the Government has also committed to making the Pavement Licence regime (issued by Districts and Boroughs) permanent.
- 3.4 However, whilst the Levelling Up Bill makes its way through Parliament, on 17 July 2023 a Statutory Instrument was laid to extend the current regime for a further 12 months.
- 3.5 In order to provide guidance for applicants and a framework for consistent decision making, a Policy concerning the Pavement Licensing function was approved by Licensing Committee on 23 September 2020 and subsequently extended to September 2023.
- 3.6 The Pavement Licence process has proven popular in Guildford, with currently 34 Licences in effect.

4. Consultations

- 4.1 The Policy covers the temporary permissions for Pavement Licences under the Business and Planning Act 2020, which were originally scheduled to expire on 30 September 2021 but have now been extended.
- 4.2 The Policy was drafted in consultation with the consultees listed in section 3.3 of the Policy and consulted upon with the appropriate lead councillors and the Leader of the Council at the time of adoption. Following its use in determining applications received since its adoption officers do not believe that the Policy requires further review at this time.
- 4.3 Feedback received during the current operation of the Policy have not given Officers any cause to make any changes, which provides a framework for consistent decision making.

5. Key Risks

- 5.1 Not having a Policy concerning Pavement Licensing may lead to inconsistent decision making and potential legal challenge to the Council.

6. Financial Implications

- 6.1 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.
- 6.2 The application fee for Pavement Licensing is capped by legislation at £100 and it is unlikely that the full costs of setting up the function, processing of applications and enforcement of licences will be recovered through the fee.

6.3 The Council has however received a new burdens payment contribution to assist with the costs of implementing the legislation.

7. Legal Implications

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

8. Human Resource Implications

8.1 The introduction of Pavement licensing administered by Guildford Borough Council has required Licensing officers to divert and prioritise resources into setting up and administering this regime.

9. Equality and Diversity Implications

9.1 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.

9.2 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.

9.3 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.

- 9.4 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.

10. Climate Change/Sustainability Implications

- 10.1 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.

11. Summary of Options

- 11.1 After considering the report, the Committee may either:
- Approve an extension of the current Policy at Appendix 1, or
 - Approve an extension of the current Policy at Appendix 1 with amendments.

12. Conclusion

- 12.1 The Covid-19 pandemic affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations. Unfortunately some businesses have not reopened. For the hospitality industry the measures in the Business and Planning Act have provided some much-needed flexibility as they seek to reopen fully following Covid and social distancing requirements.
- 12.2 The Pavement Licence has proven successful to the extent that the government has further extended the legislation and consequently a request is made of the Committee to approve an extension of the current policy.

13. Background Papers

13.1 [The Business and Planning Act](#)

13.2 [Ministry of Housing, Communities and Local Government - Guidance: Pavement Licences](#)

13.3 [The Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2021](#)

13.4 [Ministry of Housing, Communities and Local Government – Build Back Better High Streets](#)

14. Appendices

Appendix 1 – Guildford Borough Pavement Licensing Policy 2020-24

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

Service	Sign off date
<i>Executive Head of Regulatory Services</i>	<i>8 August 2023</i>
<i>Finance / S.151 Officer</i>	
<i>Legal / Governance</i>	
<i>HR</i>	
<i>Equalities</i>	
<i>Lead Councillor</i>	
<i>CMT</i>	
<i>Committee Services</i>	