

## Appendix 1



**To: Chief Executive, Antoinette Jackson**

**Report by:**

Yvonne O'Donnell

Tel: 01223 - 457951 Email: [Yvonne.odonnell@cambridge.gov.uk](mailto:Yvonne.odonnell@cambridge.gov.uk)

**Wards affected:**

All

Out of Cycle Decision: Pavement Licence - 20/URGENCY/OFFICER URGENT/14

### 1. Executive Summary

- 1.1 The Business and Planning Bill was introduced to the House of Commons on Thursday 25 June 2020. The Bill went through its Report and Third Reading stage at The House of Lords on 20<sup>th</sup> July 2020, and the House of Lords proposed. The Commons accepted a suite of amendments put forward by the Lords.
- 1.2 The pavement licensing provisions come into force on day on which the Act received Royal Assent on 23 July 2020.
- 1.3 The Business and Planning Act 2020, includes measures that are intended to support businesses and the economy to recover from the disruption caused by the Covid-19 pandemic.
- 1.4 The Bill aims to:

*“Make provision relating to the promotion of economic recovery and growth”*

- 1.4 One element of the Act is a new process for the grant of Pavement Licences. The new process introduces a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. This will support business to operate safely while social distancing measures remain in place. This will provide much needed income over the summer months and protect as many hospitality jobs as possible.
- 1.5. Currently, tables and chairs permissions are granted as Table and Chair licences, by Cambridgeshire County Council, under Part 7A of the Highways Act 1980, as they are the Highways Authority. The fee for these licences varies between local authorities and each valid application must go through a 28-day consultation period.
- 1.6. With the new Pavement License process, the whole process will take 14 days. This includes a 7 day consultation period starting the day after the application is received, and 7 days after consultation period finishes to make a final decision.
- 1.7. It is key that a decision is made within the 7 days set aside for decision to be made. If there is a delay in a decision being made this would lead to a Deemed licence being granted, which would take the powers from the Council in their ability to add additional conditions, if required. Furthermore Deemed licences would be granted for a 12 month period, however not going beyond 30 September 2021.
- 1.8. The Pavement Licence measures under the new Business and Planning Act 2020 are to be in place until 31<sup>st</sup> September 2021.

## **2. Recommendations**

The Chief Executive is recommended to:

- i. Approve the delegation of Part 1 of the Business and Planning Act 2020 relating to Pavement Licences to the Head of Environmental Services.

The Head of Environmental Services is recommended to:

- ii. Delegate responsibility for determining pavement licence applications to the Environmental Health Manager until 31 March 2021
- iii. Approve that no fee shall be charged for a pavement licence until 31 March 2021
- iv. Approve the licence conditions to be applied to a pavement licence.

### **3. Background**

- 3.1 On the 23 July 2020 The Business and Planning Act 2020 received royal assent, with immediate effect. This new piece of legislation has been created in response to the on-going Covid 19 crisis. The aim of the Bill is to make provision relating to the promotion of economic recovery and growth.
- 3.2 The Act provides a new temporary type of Pavement Licence, which will be administered by the district councils (Cambridge City Council). At present the issuing of such licence, named Table and Chairs Licence, is administered by Cambridgeshire County Council under the Highways Act 1980.
- 3.3 The Council must determine any application within 14 working days of receipt, this includes the 7 day consultation and 7 day decision making period. The consultation period with consult with Highways Authority as a statutory consultee. Further consultees will be The Police, The Fire Service, Environmental Health and public, ward councillors and disability officers. Failure to determine the licence within the above timescale will deem the licence granted.
- 3.5 Due to limited time, and in order to prevent deemed licences, delegated authority is sought from the Chief Executive to the Head of Environmental Services for the power to determine pavements licences, including the setting of fees and conditions in accordance with Part 1 of the Business and Planning Act 2020. The Head of Environmental Services will then delegate responsibility for determining pavement licence applications to the Environmental

Health Manager to ensure applications are dealt with promptly with limited possibility of delay.

- 3.6 There is no statutory appeals process and as such there is no right of appeal against the refusal or revocation of a licence although the Council can introduce such a process.
- 3.7 Cambridge City Council propose to offer no appeal process, however applicants are able to raise complaints, going through the council complaints procedure.
- 3.8 Paragraph 2 of Part 1 of the Act permits an authority to charge a fee up to a statutory maximum of £100.
- 3.9 As the fee is variable in nature from zero to £100 it is necessary to determine what level this fee should be set at. This is the case with all fees where there is an element of discretion, as the fees set by the District Local Authority can be challenged.
- 3.10 The application fee for the Table and Chairs Licence, as granted by Cambridgeshire County Council is £250, however in response to the Covid-19 pandemic, the County Council amended their approach to support businesses and waived the fee, with the intention to review 1<sup>st</sup> September 2020.
- 3.11 Due to the above, it is not proposed to charge a fee for this licence, subject to review in March 2021.
- 3.12 The Act allows for any licence to be issued for a minimum of 3 months and a maximum of 12 months. All licenses will expire by law at the end of 30 September 2021.
- 3.13 It is proposed that the licence be issued until end of March 2021, at a rate of no fee for applications.
- 3.14 Applicants must renew their licence before the expiry of current licence, this renewal may be subject to fee, depending on review.

## **4. Implications**

### **a) Financial Implications**

The proposed financial implications are perceived as low at the present moment. This is because, many of the businesses within Cambridge City that would likely request a Pavement Licence have already received one under the current scheme with Cambridgeshire County Council.

### **b) Staffing Implications**

Licensing support team will be required to check applications and input data, in addition to coordinating the consultation process/responses. Enforcement officers will be required to respond as a consultee and also make final decisions for the grant of licence.

### **c) Equality and Poverty Implications**

Clear routes of access along the highway must be considered in every application, taking into consideration of the needs of disabled people as set out in Section 3.1 of Inclusive Mobility.

### **d) Procurement Implications**

N/A

### **e) Community Safety Implications**

Clear routes of access along the highway must be considered in every application.

## **5. Consultation and communication considerations**

N/A

## **6. Background papers**

Background papers used in the preparation of this report:

- a. <https://www.cambridgeshire.gov.uk/residents/travel-roads-and-parking/roads-and-pathways/highway-licences-and-permits#tables-and-chairs-licence-10-0>
- b. <https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

|

## **7. Appendices**

N/A

## **8. Inspection of papers**

To inspect the background papers or if you have a query on the report please contact Wangari Njiiri, Environmental Health and Licensing Support Team Leader. email: Wangari.njiiri@cambridge.gov.uk.