

Item

PAVEMENT LICENCE FEES

To:

Licensing Committee [22/03/2021]

Report by:

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Wards affected:

All

1. Introduction / Executive Summary

- 1.1. The Business and Planning Act 2020 was introduced in July 2020, and includes different measures that are intended to support businesses and the economy to recover from the disruption caused by the Covid-19 pandemic.
- 1.2. Part 1 of the Act introduces the process of Pavement licences. This process is a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway, in addition the Guidance allows licences to be granted where the consumption of food and drink would be an ancillary activity eg (supermarkets and places of entertainment). The aim of this is to support business to operate safely while social distancing measures remain in place, without having such a large impact on their serving capacity.
- 1.3. When introduced it was hoped that the new process would provide much needed income over the summer months up until September 2021 and protect as many hospitality jobs as possible.

- 1.4. Prior to July 2020, Highway furniture permissions were granted as Table and Chair licences, issued by Cambridgeshire County Council, as the Highways Authority, under Part 7A of the Highways Act 1980.
- 1.5. Under the Part 7A of the Highways Act 1980, each valid application would go through a 28-day consultation period.
- 1.6. However, with the Pavement License process, from receipt of application to decision to grant or refuse licence, takes no more than 14 days. This includes a 7 day consultation period starting the day after application is received, and 7 day decision period after the consultation period finishes.
- 1.7. It is key that a decision is made within the 7 day decision making period. If a delay occurs in which an applicant is not informed of the decision by the end of the 7th day, a Deemed licence would be granted. A disadvantage of this is Cambridge as a Licensing Authority would have no powers to add additional conditions, if required.

Application Fee

- 1.8. Under the Business and Planning Act 2020, Paragraph 2 of Part 1 of the Act permits an authority to charge a fee up to a statutory maximum of £100, as we may require.
- 1.9. Due to the fee being variable in nature and at the discretion of each Local Authority, it is necessary to determine what level fee should be set. As with any fee charged by the Local Authority, fees can be challenged and due to this it is key to be transparent with all involved when setting the Pavement Licence fee.

Recent Pavement Licence update

- 1.10. On the 5 March 2021, The Minister for Housing Communities and Local Government released an announcement explaining he intends to extend pavement licences for a further 12 months to help the hospitality industry recover once lockdown restrictions are lifted. This is however subject to parliamentary approval.

"I am pleased to announce that we will be extending pavement licences for a further 12 months, making it easier and cheaper for pubs,

restaurants and cafes to continue to make al fresco dining a reality with outside seating, tables and street stalls to serve food and drinks”

- 1.11. At the present time it is unclear when this will go in front of parliament for approval, however as a licensing Authority, Cambridge City Council will be required to make necessary provisions if and when agreed.

2. Recommendations

2.2. Councillor Members are recommended to approve;

- a) Zero fee (£) for all new, renewal and variation Pavement License applications.
- b) All new licences granted will be expire on 30 September 2021, However, if parliament agree a 12 month extension, licences will automatically be extended to 30 September 2022.
- c) Current licences due to expire 31 March 2021, will automatically be extended up until 30 September 2021 (current licence holders, do not need to reapply). However, if parliament agree a 12 month extension, licences will automatically be extended to 30 September 2022.
- d) Although all licences will be granted under the recommendations detailed in points B and C, it may be required that during the decision making period, a shorter period licence may be is justified by the decision making officer.

3. Background

- 3.1. On the 22 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 Act, is to make provisions relating to the promotion of economic recovery and growth.
- 3.2. The Act provides a temporary type of Pavement Licence, which is administered by the district councils (Cambridge City Council).

- 3.3. The Council must determine any application within 14 days of receipt, this includes the 7 day consultation and 7 day decision making period. The consultation period consults with Highways Authority, who are considered a statutory consultee. Further consultees also include, The Police, The Fire Service, Environmental Health, members of the public, ward councillors and disability officers. Failure to determine the licence within the above timescale will deem the licence granted.
- 3.4. Due to limited time, and in order to prevent deemed licences, the following recommendations were approved via Urgent Decision (Reference: 2020/OfficerUrgency/Lic/14) on 23 July 2020.

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.
- 3.5. 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.
 - 3.6. Cambridge City Council will continue offering no appeal process, however applicants are able to raise complaints, going through the council complaints procedure.
 - 3.7. Paragraph 2 of Part 1 of the Act permits an authority to charge a fee up to a statutory maximum of £100.
 - 3.8. As the fee is variable in nature 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.

- 3.9. Under the Table and Chairs licences administrated by Cambridgeshire County Council the fee was previously £250, however in response to the Covid-19 pandemic, the County Council amended their approach to support businesses and waived the fee, over the summer months of 2020.
- 3.10. Due to the impact of the Covid – 19 pandemic on businesses most likely to benefit from the new Pavement Licence process, it was agreed by Chief Executive and Head of Environmental Services, not to charge a fee for this licence, however fee would be subject to review in March 2021.
- 3.11. Now nearly 8 months after Part 1 of the act was introduced, Cambridge has experienced 2 further lockdown periods, which have again had a negative impact on the local businesses within the city.
- 3.12. Those who had previously been granted a licence under the Business and Planning Act 2020, Part 1, will require a renewal to allow them to perform licensable activities on the Highway over the spring and summer period 2021. In addition, other businesses may wish to apply for the first time.
- 3.13. The department are looking to see an increase in applications over the next few months, following on from the Prime Ministers Road Map announcement in February 2021. At the time of writing this report, the current road map details Step 2 – which will occur no earlier than 12th April 2021. This step hopes to see the opening of hospitality venues, who will be able to serve people outdoors. Due to the impact of local and national restrictions on businesses as a result of the Covid-19 it is likely that businesses will want to open their doors at their earliest possibility, and are likely to take advantage of the scheme in order to facilitate out door service in the hope of brining in some income.
- 3.14. Following the Communities Secretary Rt Hon Robert Jenrick MP announcement, on 5th March 2021 and Press release on 8th March 2021, it is agreed that all local authorities need to support local businesses resume their businesses, in areas within their power.
- 3.15. Secretary Rt Hon Robert Jenrick MP said “It’s vital we work together to do everything we can to help these businesses prosper again. That is why I’ve written to councils calling on their support to use these

measures in a pragmatic way to help support the high street, businesses and jobs, once restrictions allow them to do so.”

- 3.16. By looking at more streamlined methods of administering licences, such as the proposed recommendation to automatically extend current licences, reduces the amount of paperwork for local business, but also increases the ability for officers to complete work such as visit premises to support reopening of businesses and ensuring they are complying with the most recent guidance.

4. Implications

a) Financial Implications

Based on previous applications, time spent processing each application is approximately 6 hours, which is approximately £280 minimum cost per application.

By charging no fee, officer time will need to be recouped by other means.

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
- Environmental Health officers are required to coordinate responses and make final decisions on grant or refusal of grant.

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) Environmental Implications

N/A

e) Procurement Implications

N/A

f) Community Safety Implications

Clear routes of access along the highway must be considered in every application. Considerations are made for factors such as pushchair/ buggy widths.

5. Consultation and communication considerations

Website to be updated.

6. Background papers

Background papers used in the preparation of this report:

1. Business and Planning Act 2020 (legislation.gov.uk)
2. [Pavement licences - Cambridge City Council](#)
3. [Jenrick confirms extension of pavement licences to help high streets recover - GOV.UK \(www.gov.uk\)](#)

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, tel: 01223 - 458533, email: wangari.njiiri@cambridge.gov.uk.