

DECISION ITEM

| REPORT OF | MEETING | DATE | ITEM NO |
|-----------------------|-----------------------------|------------------|---------|
| RESOURCES DIRECTORATE | PUBLIC PROTECTION COMMITTEE | 8 SEPTEMBER 2021 | 4 |

BUSINESS AND PLANNING ACT – PAVEMENT CAFÉ LICENCES

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Business and Planning Act 2021 introduced a temporary pavement café licence to assist the hospitality industry with regards to social distancing, covid secure and to support the trade in recovery from the pandemic. The pavement café licence provisions have recently been extended until September 2022 and the Committee will be asked to consider amending the [Pavement Café Licence policy](#) so that licences are valid for 12 months, as opposed to the current 6 months.

RECOMMENDATIONS

1. That the Committee notes the report and considers updating the Policy for licences to be granted for a duration of 12 months, as opposed to the current 6 months.
2. That the Policy is amended to included conditions relation to security.

SUMMARY OF PREVIOUS DECISIONS

[Full Council, 20th June 2020](#) it was resolved:

RESOLVED;

1. Adopt the draft Pavement Café Licensing policy appended to this report;
2. Set a fee of £100 to be charged for applications for pavement licences under the Planning and Business Act 2020;
3. Require applicants for pavement licences to include the information set out in section 3.1 of the draft policy as part of, or accompanying, their application;
4. Publish the conditions set out in appendix 2 of the draft policy as the conditions subject to which the council proposes to grant pavement licences;
5. Direct that licenses be granted to for a duration of six months unless specific considerations related to the site or application indicate a different duration to be appropriate.
6. Add “all matters in relation to pavement licences under the Planning and Business Act 2020” as item 39 in the functions of the Public Protection Committee in part 2 of the council’s constitution;
7. Delegate to the Director of Resources the power to make determinations in relation to applications for pavement licences under the Business and Planning Act 2020; and

8. Allow disappointed applicants to make representations to the Public Protection Committee as set out in paragraph 16 of the report.

[Public Protection Committee 8th July 2021,](#)

The committee received an update on the Business & Planning Act 2020, in relation to Pavement Café Licences. Mr Hambly undertook to bring a decision report to a future meeting of the committee, in order to discuss the extension of the Business & Planning Act 2020 and the renewal of current Pavement Café Licences.

CORPORATE PRIORITIES

| | |
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| Economy – To create a vibrant and healthy economy | ✓ |
| Environment – To deliver services customers expect | ✓ |
| Efficiency – By spending money in the most efficient way | ✓ |
| Tourism – To create a great place to live and visit | ✓ |

REPORT

- The Business and Planning Act 2020 came into force on 20 July 2020 and contained measures intended by the Government to assist businesses and communities to recover from economic dislocations caused by the coronavirus pandemic. Among the measures was a fast-track procedure for pavement licences.
- A Policy was approved by Full Council at its meeting on the 20th June 2021 and directed that licences be granted for a period of 6 months unless specific considerations related to the site or application indicated a different duration to be appropriate.
- Following the introduction of the procedure, 6 premises have applied for and been granted such a licence. A further 2 applications were refused following representation by the Highways Authority.
- A small number of complaints have been received regarding the issue of these Pavement Café licences, generally relating to the concept of them rather than specific premises causing challenges.
- The provisions relating to the licences were due to expire on the 30th September 2021 but have now been extended until 30th September 2022. The regulations do require that to obtain a licence for any period after September 2021, a new application will need to be submitted.
- The [guidance](#) issued by the Ministry of Housing, Communities and Local Government comments that, when considering the duration of a licence, the expectation is that *“local authorities are pragmatic and will grant licences for 12 months”*.
- Due to the small number of complaints received and the general compliance of the premises when the pavement café licences are in operation, the Committee is asked to consider extending the length of the licence to 12 months, rather than 6. All the existing licences will be required to renew in September 2021 which should therefore mean no further applications beyond this renewal will be required. Conditions will remain within the Policy to address any subsequent challenges that may arise with premises.
- Officers have also been contacted by Police Counter Terrorism Security Advisors regarding good security practice to Local Authorities who are using Pavement Café legislation. They comment that, “When considering public health and safety, local authorities should seek to ensure a balanced consideration for security implications, particularly the risk to groups of people from interaction with hostile vehicles, and the creation of large crowds in new public spaces.”
- As such, model security considerations have been set out as below and the Committee are requested to update the Policy to include the following conditions:
 - The pavement license holder will need to ensure that the management team of the business to which the pavement license is attached; register and successfully complete the nationally recognised counter terrorism training product referred to as ACT E Learning within 10 days of the notification of the grant of*

the Pavement Licence OR can demonstrate that the ACT E Learning product has successfully been completed within the preceding 12 months and that all staff employed by OR at the premises complete the ACT E Learning within a reasonable period not exceeding 3 months from the notification of the grant of the Pavement Licence. (Act E Learning certificates are provided on successful on-line completion).

2. *The Pavement Licence holder must ensure that any existing CCTV system covering the licensed area is kept in working order and complies with all relevant statutory requirements and any relevant guidance issued by the Information Commissioner, the Surveillance Camera Commissioner or any public body. Imagery must be retained for at least 28 days and images produced to a Police Officer or Local Authority Enforcement Officer upon reasonable request.*

10. These model Pavement Licence considerations are designed to achieve the following:

To educate people on current and emerging threat and risk.

To raise situational awareness and enable informed decision making to save lives.

To increase the suspicious activity reporting and overall intelligence flow.

To deter attack planners.

To ensure high quality imagery is available to support post incident investigation.

11. Members are therefore asked to consider the report and extend the period of licence to 12 months and update the conditions attached to a Pavement Café licence to reflect those listed at point 9.

12. It has been reported that the Government intends to make the pavement licensing provisions permanent, extending them beyond the current end date of September 2022. No detail is yet available on how this will be implemented in practice.

| IMPLICATIONS | |
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| Finance | None arising directly from the report. |
| Legal | None arising directly from the report. |
| Community Safety | None arising directly from the report. |
| Human Rights and Equalities | None arising directly from the report. |
| Sustainability and Environmental Impact | None arising directly from the report. |
| Health & Safety and Risk Management | None arising directly from the report. |

| LEAD AUTHOR | CONTACT DETAILS | DATE |
|--------------|---|------------------------------|
| Chris Hambly | chris.hambly@fylde.gov.uk 01253 658422 | 20 th August 2021 |

| BACKGROUND PAPERS | | |
|---|-----------|---|
| Name of document | Date | Where available for inspection |
| Pavement Café Licence Policy | June 2020 | https://new.fylde.gov.uk/business/licensing/pavement-cafe-licence/ |
| Guidance: pavement licences (outdoor seating) | June 2021 | Guidance: pavement licences (outdoor seating) |