

## PAVEMENT LICENSING - approve & adopt updated policy and setting of fees

Licensing Committee - 16<sup>th</sup> January 2024

**Report of:** Chief Officer, Planning & Regulatory Services

**Status:** For consideration and decision

**Key Decision:** Yes

**Portfolio Holder:** Cllr. Margot McArthur

**Contact Officer:** Sharon Bamborough, Head of Licensing Partnership Ext. 7325

### **Recommendation to Licensing Committee:**

1. That the committee consider the proposed draft revision of the Pavement Licensing Policy (which are made to be in line with recent changes to legislation) and adopt the policy - to take effect upon commencement of Schedule 22 of the Leveling Up and Regeneration Act 2023. The amended policy is attached as **Appendix A**
2. To approve the proposed fees for applications set out in **Appendix B**, to take effect upon commencement of Schedule 22 of the Leveling Up and Regeneration Act 2023

### **Reason for recommendation:**

#### **Policy Review**

The preferred option is that Members agree to review and amend the current policy. To have an updated policy ensures the Council continues to have a modern, effective document that ensures the trade, and the public has a document that fully explains the licensing process.

#### **Fee setting**

The preferred option is to set the fees as proposed as they have been calculated to recover costs.

## Introduction and Background

- 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 2020 made 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.
- 2 Initially, the legislation was temporary, with the pavement licensing aspect expiring 30 September 2021. This was then extended several times with the current expiry being 30 September 2024. As part of the application process, applicant must submit an application form, fee, site plan of the proposed area for use, photos or brochure of proposed furniture and evidence of public liability insurance.
- 3 With Schedule 22 of the Levelling Up and Regeneration Act 2023, the government has permanently moved pavement licensing to the district/ borough level, away from the highways authority and amended the Business and Planning Act 2020 to introduce some changes to processes and introduce enforcement powers.
- 4 The policy was initially drawn up without referral to committee due to the timing of it being during the pandemic lockdowns and the temporary nature of the legislation. It is now necessary to update and adopt the policy to be in line with these amendments.
- 5 In addition, new fees should be considered. Previously, the statutory cap for applications was £100. The legislation has amended this to introduce higher caps for new and renewal applications.

## **Review of Pavement Licensing Policy**

- 6 The revised policy, is attached as Appendix A.
- 7 The changes are fully in line with the new legislation and do not propose anything in addition other than an opportunity to tidy up some of the wording throughout.
- 8 The amendments include the following:
  - Removal of sections no longer relevant or needed
  - Updating of references to legislation /consultation periods (in line with legislative amendments)
  - Addition on new section on enforcement (directly lifted from the legislation)
  - Tidying up of terminology
- 9 As the major amendments are in line with the new legislation and minor changes to tidy up terminology, it is not considered necessary that a consultation exercise is needed.

## **Review of Fees**

- 10 The fee payable for a pavement licensing was previously capped at £100 in the legislation, and this was the fee set and charged when the legislation came at very short notice in July 2020.
- 11 The fees have new caps set in legislation - £500 for a new application and £350 for a renewal.
- 12 The duration of licences has changed from a minimum of three months and up to 30 September each year, to no minimum duration and a maximum of two years. This allows the possibility of introducing a fee for a temporary/event linked pavement licence should an event organiser be interested in having a pavement licence as part of their facilities for the duration of the event.
- 13 The proposed fees have been calculated based upon timings and estimated costs for processing of applications, site assessments, compliance checking after licence is issued, etc. and are set out at in Appendix B.

## **Other options Considered and/or rejected**

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the Borough's residents, visitors, and business community.

The proposed policy changes are needed to bring it in line with the legislative amendments under the Levelling Up and Regeneration Act 2023 and gives the opportunity to improve upon the existing terminology where needed.

With respect to the setting of fees, the current fee (£100) did not adequately provide income to cover ongoing compliance checking follow the issue of a licence and barely covered the assessment and processing of the application. It is hoped that the new proposed fees will redress the balance.

Members must decide whether firstly, the policy should be updated and adopted, and secondly, whether the proposed fees should be approved.

## **Key Implications**

### Financial

There are no financial implications resulting from this report. The Council does not currently have any sexual entertainment venues within the district and we are, therefore, not currently receiving any income from this particular regime.

### Legal Implications and Risk Assessment Statement

There is no statutory requirement to have a pavement licensing policy; however, it is good practice to do so. A policy assists with consistent and transparent decision making; however, each case must be considered on its own merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances.

### Equality Assessment

In formulating this draft Policy, the Council has had regard to the provisions of the Human Rights Act 1998 and the Public Sector Equality Duty.

Officers have considered the impact of the proposals contained in this report and consider that there would be no, or very limited adverse or disproportionate impact on those who share a protected characteristic. This will be kept under review as part of the Council's ongoing duty.

### Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.

## **Appendices**

- Appendix A: Pavement Licensing Policy
- Appendix B: Proposed fees

## **Background Papers**

- Business and Planning Act 2020
- Levelling Up and Regeneration Act 2023

**Richard Morris**  
**Chief Officer Planning and Regulatory Services**