

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CABINET ON 20 JULY 2020

SUBJECT: Pavement Licensing

REPORT AUTHOR: Nat Slade, Group Head of Technical Services

DATE: 20 July 2020

EXTN: 37683

PORTFOLIO AREA: Technical Services

EXECUTIVE SUMMARY:

The Business and Planning Bill proposes to make it easier for businesses serving food and drink such as restaurants, cafes and pubs to seat and serve customers outdoors, to assist them in managing social distancing to control the spread of covid-19.

The temporary pavement licences process introduces a streamlined consent route to allow businesses to obtain a licence to place temporary furniture, such as tables and chairs outside of cafes, bars and restaurants quickly.

Cabinet is asked to consider adopting a policy setting out how the Council is to administer this new licensing regime, and agree the associated delegations.

RECOMMENDATIONS:

That Cabinet:

- 1) Adopt the Pavement Licensing Policy.
- 2) Set the application fee at zero.
- 3) Delegate authority to the Group Head of Technical Services in consultation with the Chairman of the Licensing Committee to make any amendments to the policy.
- 4) Delegate authority to the Licensing Subcommittee to determine licence revocations proposed by officers.
- 5) Delegate authority to the Group Head of Technical Services in consultation with the Chairman of the Licensing Committee to revoke pavement licences where the matter is considered urgent.
- 6) Delegate authority to the Group Head of Technical Services to determine applications, place conditions on licences and to serve enforcement notices.

1. BACKGROUND:

- 1.2 Placing tables, chairs and other items on the public highway is currently regulated by West Sussex County Council as Highway Authority. The current regime includes a 28 day consultation period.
- 1.3 The coronavirus restrictions have until recently prevented most food/drink businesses from serving customers, except for takeaways. These businesses may now serve customers on-site, though they must manage social distancing. In many businesses this will significantly reduce their number of covers (capacity), which in turn affects their economic viability.
- 1.4 The Business and Planning Bill proposes to help food businesses re-open and with their economic viability by streamlining the process of obtaining consent to place tables and chairs on the pavement outside their premises for their customers, where this is appropriate. Where this is appropriate, it will allow a food and/or drinking establishments to serve more customers.
- 1.5 The temporary licensing regime is to be administered by District and Borough Councils in two-tier local government areas. The new licensing regime has a much shorter consultation period of 7 days with a further 7 days in which the Council must determine the application. If the Council has not determined the application within this period, the applied for licence is deemed granted. These timescales are not sufficient for a Licensing Subcommittee to determine these matters, and it is therefore proposed that determination of licence applications is delegated to officers.
- 1.6 The policy sets out how it is proposed the Council administer and enforce this licensing regime, including how consultation will take place, how conditions will be attached and how site suitability will be assessed.
- 1.7 The Business and Planning Bill is still working its way through the different Parliamentary stages. When it is enacted the Pavement Licensing provisions will take immediate effect. The delegation proposed to make changes to the policy, enables the Council to deal with any amendments which are made to the Bill prior to enactment.
- 1.8 This pavement licensing regime is temporary and will expire on 30 September 2021.

2. PROPOSAL(S):

That Cabinet:

- 1) Adopt the Pavement Licensing Policy.
- 2) Set the application fee at zero.
- 3) Delegate authority to the Group Head of Technical Services in consultation with the Chairman of the Licensing Committee to make any amendments to the policy.
- 4) Delegate authority to the Licensing Subcommittee to determine licence revocations proposed by officers.
- 5) Delegate authority to the Group Head of Technical Services in consultation with the Chairman of the Licensing Committee to revoke pavement licences where the matter is urgent.
- 6) Delegate authority to the Group Head of Technical Services to determine applications, place conditions on licences and to serve enforcement notices.

3. OPTIONS:

As an alternative to the recommendations above, Cabinet may:

3.1 Amend and adopt the policy.

3.2 Refuse to adopt the policy.

3.3 Set the fee (not to exceed £100) in order to recover the Council's administration and compliance monitoring costs.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		X
Relevant District Ward Councillors		X
Other groups/persons (please specify) The Cabinet Member for Technical Services and the Chair of the Licensing Committee have been consulted on the policy and are supportive of it. Other District and Borough Councils within West Sussex, the Highway Authority and Police have been consulted during the development of the Licensing Policy.	X	
5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	X	
Legal	X	
Human Rights/Equality Impact Assessment	X	
Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X
Asset Management/Property/Land		X
Technology		X
Other (please explain)		X

6. IMPLICATIONS:

Financial

The Bill allows Council's to charge a fee of up to £100 per application. In order to assist businesses with their recovery, and consistent with the intention of all other District and Borough Councils in West Sussex, it is proposed that the costs of administering this regime are not to be recovered from the applicants. I.e. the there would be no fee to make an application for a pavement licence. This is in order to support the recovery of these food and drink businesses. The time that will be spent on this regime will determine the costs. It is not known how many applications will be submitted, nor levels

of compliance and therefore it is not known what the cost implications will be.

Legal

Enforcement action relating to this licensing regime will be undertaken in accordance with the Council's Enforcement Policy for Environmental Health, Private Sector Housing, Licensing & Cleansing. Existing licences issued by the Highway Authority will remain in place.

Human Rights/Equality

In determining applications, the impact on those pedestrians with mobility and vision issues will be considered to ensure that they can continue to safely use the pavements. Conditions have been identified for inclusion on all licences to achieve this which are consistent with section 3.1 of the Government's Inclusive Mobility report.

7. REASON FOR THE DECISION:

To introduce a streamlined route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway, where it is suitable to do so. This will support businesses to operate safely while social distancing measures remain in place. This will provide those businesses with much needed income over the summer months and protect as many hospitality jobs as possible.

8. EFFECTIVE DATE OF THE DECISION: 29 July 2020

9. BACKGROUND PAPERS:

Pavement Licensing Policy

Equality Impact Analysis

Arun District Council Enforcement Policy Environmental Health, Private Sector Housing, Licensing & Cleansing

<https://www.arun.gov.uk/download.cfm?doc=docm93jjm4n15167.pdf&ver=15575>

Inclusive Mobility report

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/3695/inclusive-mobility.pdf.