

Meeting date: 27 November 2020
Report to: Licensing Committee



Subject/report title: Update on Pavement Licensing – Business & Planning Act 2020
Report from: Assistant Director Communities & Partnerships
Report author/lead contact officer: Anne Bettison – Licensing Team Leader

Wards affected:

- All Wards | Bickenhill | Blythe | Castle Bromwich | Chelmsley Wood |
 Dorridge/Hockley Heath | Elmdon | Kingshurst/Fordbridge | Knowle |
 Lyndon | Meriden | Olton | Shirley East | Shirley South |
 Shirley West | Silhill | Smith's Wood | St Alphege

Public/private report: Public

Exempt by virtue of paragraph: N/A

1. Purpose of Report

- 1.1 To update the Licensing Committee on the impact to date of a temporary Pavement Licensing regime under the Business & Planning Act 2020.

2. Decision(s) recommended

- 2.1 None – this is for information only.

3. Matters for Consideration

- 3.1 The Business & Planning Act came into effect on 22 July 2020 and has introduced a temporary pavement licensing regime, designed to support businesses to operate safely while social distancing measures remain in place as they start to reopen following the COVID-19 pandemic. A Pavement Licence is granted by the Licensing Authority and allows the licence-holder to place removable furniture over the public highway adjacent to the premises in relation to which the application was made, for certain purposes. Any licence granted also benefits from deemed planning permission and, if the premises is licensed under the Licensing Act 2003 for on-sales of alcohol, it also benefits from deemed off-sales under the same terms conferred by the premises licence.
- 3.2 This streamlined process was intended to be cheaper, quicker and less onerous than

the existing Pavement café licensing scheme under Part 7A of the Highways Act 1980 and allows businesses to secure a licence up to 30 September 2021, when they will expire along with the emergency provisions under the Act.

- 3.3 A policy was developed and approved following the introduction of the legislation, available here: <https://www.solihull.gov.uk/Business/Licences/Pavement-licence>
- 3.4 The fee for an application was set at £100, which is the maximum that can be levied under this regime.
- 3.5 A total of seven applications have been received. Of these, five licences have been granted and two were not pursued (and are non-refundable). The standard local and national conditions have been attached to the granted licences.
- 3.6 If social distancing restrictions are still in place next year it is anticipated that more applications will be received to enable businesses to utilise outside areas during the warmer months.

4. What options have been considered and what is the evidence telling us about them?

- 4.1 No options needed – the Licensing Committee is asked to note the update.

5. Reasons for recommending preferred option

- 5.1 It was agreed following the introduction of the regime that the Licensing Committee would be updated on progress after the first few months.

6. Implications and Considerations

- 6.1 State how the proposals in this report contribute to the priorities in the [Council Plan](#):

Priority:	Contribution:
<p>Economy:</p> <ul style="list-style-type: none"> 1. Revitalising our towns and local centres. 2. UK Central (UKC) and maximising the opportunities of HS2. 3. Increase the supply of housing, especially affordable and social housing. 	<p>The temporary regime was intended to help businesses to operate safely and provide much needed income over the summer months and protect as many hospitality jobs as possible during the current challenging economic period. The new legislation helps enable local eligible businesses to increase capacity by utilising additional space. The application is simple, expedient and value for money, and is intended to remove short-term obstacles during the current challenging times.</p>
<p>Environment:</p> <ul style="list-style-type: none"> 4. Enhance Solihull’s natural environment. 5. Improve Solihull’s air quality. 	<p>Greater consideration will be given to furniture that is in keeping with the local environment.</p>

6. Reduce Solihull's net carbon emissions.	
<p>People and Communities:</p> <p>7. Take action to improve life chances in our most disadvantaged communities.</p> <p>8. Enable communities to thrive.</p> <p>9. Sustainable, quality, affordable provision for adults & children with complex needs.</p>	<p>By working collaboratively with partners, residents and local businesses, the Licensing Authority can support the hospitality industry by permitting businesses to trade safely while at the same time taking into account the needs of local residents, neighbouring businesses and the local environment.</p>

6.2 Consultation and Scrutiny:

- 6.2.1 Officers from the Highways Authority, Planning, Economic Development and Environmental Health, as well as West Midlands Police and West Midlands Fire Service, are consulted on each application. Ward Members and Parish or Town Councils are also consulted on applications in their respective areas. It is also the responsibility of the applicant to display a notice advertising the application for the duration of the public consultation period (7 days), to afford local residents and businesses in the area the opportunity to comment. The Licensing Authority must take views received during the consultation period into account when determining the application and, as a result of these comments, may feel it appropriate and proportionate to attach additional conditions to mitigate any concerns.
- 6.2.2 To date, no comments or representations have been received about any of the applications processed.

6.3 Financial implications:

- 6.3.1 The Act stipulates that an application must be sent to the Licensing Authority using electronic communications in such a manner as the authority may specify, and be accompanied by such fee not exceeding £100 as the authority may require. An online portal has been developed for this purpose, to enable applicants to complete all of the application questions, upload the relevant documents and make payment in a streamlined manner. This will ensure that staff are managing applications in the most efficient way without the need for constant follow-up queries. ICT services have advised that to set up a new fund code to enable payments to be made, there may be an additional cost of up to £2000. Although this is not chargeable until the threshold has been met, if enough applications are not received, this may need funding from the central ICT budget.
- 6.3.2 It should be noted and endorsed that full cost-recovery for this regime may not be possible due to the maximum fee chargeable for applications.

6.4 Legal Implications:

- 6.4.1. As covered in the Act and summarised in the accompanying guidance.

6.5 Risk Implications:

6.5.1 As stated above at 6.3.2., there are risks full cost-recovery is not achievable and the regime may need to be subsidised from elsewhere.

6.3 Equality implications:

6.3.1 The Licensing Authority treat all applications received openly, fairly and consistently in line with the approved policy and in consideration of its Equality duties.

7. List of appendices referred to

7.1 None

8. Background papers used to compile this report

8.1 The Business & Planning Act 2020 and Explanatory Notes

8.2 Guidance: Pavement Licences (outdoor seating proposal)

8.3 LGA brief guidance note: Licensing of outdoor drinking and dining

9. List of other relevant documents

9.1 None