

# Minutes

## Licensing Committee

14th August 2020



Present:

Councillors	Present	Councillors	Present
J Baugh (Chairman)	Yes	S Rehman	Yes
Mrs J Beavis	Yes	B Rose (Vice-Chairman)	Yes
P Euesden	Yes	Mrs J Sandum	Apologies
A Hensman	Yes	P Schwier	Yes
H Johnson	Yes	Mrs L Walters	Yes
Mrs J Pell	Yes	Mrs S Wilson	Yes
R Ramage	Yes	B Wright	Yes

### 23 **DECLARATIONS OF INTEREST**

**INFORMATION:** There were no interests declared.

### 24 **MINUTES**

**DECISION:** That the Minutes of the meeting of the Licensing Committee held on 26th February 2020 be approved as a correct record and signed by the Chairman.

### 25 **QUESTION TIME**

**INFORMATION:** There were no questions asked or statements made.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

### 26 **PAVEMENT LICENCES - BUSINESS AND PLANNING ACT 2020**

**INFORMATION:** Consideration was given to a report on the proposed review of the Council's Business and Planning Act 2020 – Pavement Licences.

Members were advised that legislation had been introduced to help businesses adjust to new ways of working as the Country recovers from disruption caused by Covid-19. The provisions within the Business and Planning Act 2020 supported the transition from immediate crisis response and lockdown into recovery and getting the economy moving again.

One such measure was the arrangements with respect to pavement licences. A pavement licence was a licence which could be granted by the Council and allowed the licence-holder to place removable furniture over certain highways adjacent to a premises in relation to which the application was made, for certain purposes.

The report set out the Council's powers to issue licence under the Business and Planning Act 2020 (the Act), explained the processes necessary to issue licences, including a scheme of delegation to officers.

The Council was also required to set a fee for applications under the Act and to determine the duration of a licence.

It was reported that the Act came into force on 22<sup>nd</sup> July 2020. A key part of the Act included the temporary measure to allow businesses to apply for a licence to be able to place tables and chairs and other furniture on the highway through the implementation of a new fast track procedure. This measure would enable businesses to maximise their seated capacity whilst adhering to social distancing guidelines.

Members were reminded that Businesses selling food and drink such as cafes, pubs, and restaurants could already apply to the Council for a pavement permit under Part 7A of the Highways Act 1980. This process had not been amended in any way and businesses that wished to submit an application in accordance with the process could continue to do so.

The current fee for a pavement permit was £327 and in normal circumstances would last for a period of 12 months. Following receipt of an application that had been deemed valid the Council would open a 28 day consultation period with a number of key bodies/parties, including the district ward Councillors for the area where the application relates, Essex Police, Essex County Fire and Rescue Service, Braintree District Council Environmental Health and Planning departments. The Council would seek consent from the Highways authority which has to be obtained before a licence can be granted.

Members were informed that should any objections be received during the consultation period or should the application fall outside the scope of the Council's current pavement permit policy, the application would be required to be determined by the Council's Licensing Committee.

It was reported that on the assumption that the process ran smoothly the time taken between the submission of an application for planning permission and obtaining a pavement permit could be in excess of five to six months. The new procedure aims to reduce the amount of time taken to issue a pavement licence.

The new procedure would allow businesses which include public houses, wine bars or other drinking establishments and businesses that sell food or drink for consumption on or off the premises to apply for a pavement licence to place

removable furniture on part of a relevant highway adjacent to their premises in accordance with Part 1 of the Act. This process does not relate to private land which would include land connected or owned by the business such as gardens, car parks, and even land that appeared to be highways land but is not designated as such.

It was reported that the Council would require the premises to have public liability insurance set at a level in excess of £5 million and that this covered the pavement licence area and not just the premises itself.

It was also reported that a fee may be charged for the application. The Act stated that the fee may not exceed £100, and was therefore subject to a statutory cap. The Council may determine the level of fee payable up to this statutory cap.

The Act would give the Council the discretion to decide how applications are published and how to give notice during the statutory consultation period. Accordingly, the Council would publish details of an application on its website and invite representations and state when the consultation period will end. The statutory consultation period of seven days would commence from the calendar day after the application was submitted, which included weekends. In addition to the public consultation via the Applicant's public notice, the Act required the Council to consult with the Highway Authority and such persons the Council considers appropriate.

Members were advised that the Council had seven days from the closure of the consultation period in which to determine the application and there was no discretion for the Council to extend this period. Should the Council fail to determine an application within the seven day period that application would be deemed granted.

**DECISION:** That the Committee agreed:

1. To set the fee for Pavement Licences at £100.
2. Determine that all Pavement Licences where approved will expire on 30th September 2021.
3. Agree the Standard Conditions to be attached to all approved pavement licences as set out in Appendix 1 to the report.
4. Agree the Officer Scheme of Delegation with respect to pavement licences as set out in this report.

**REASON FOR DECISION:**

1. Setting the licence fee at £100 is the maximum fee that can be applied with respect to a pavement licence under the Act. An exercise to assess the costs

of processing and management of an issued pavement licence determined that the cost is in excess of this capped fee. As a result the fee should be set at the maximum possible, however the Committee can choose to set the fee below the maximum should it chose to do so.

2. To provide a clear time frame as to how long licences will last.
3. The Council is required to set out the procedures for how a licensing framework is to be governed and agree clear roles through a scheme of delegation.
4. A set of standard conditions will be attached to a licence which will be published by the Council in advance. Site specific conditions can also be attached to a licence should the need arise. The Act requires the Council to include two conditions which relate to the provision of unrestricted access by the disabled and the creation of a smoke free zone within the pavement licence area.

The meeting closed at 1.52pm.

Councillor J Baugh  
(Chairman)