



Urgent Officer Decision Report of the Chief Executive

Urgent Officer Decision	Date: 13 August 2020	Ward(s): All
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SUBJECT: Pavement Licensing

1. Synopsis

- 1.1 The Business and Planning Act 2020 ("the Act") is now in force.
- 1.2 This creates a new Pavement Licence with a fee of up to £100.
- 1.3 Islington has introduced a new tables and chairs procedure in order to accommodate the new legislation and a fee must be set.

2. Recommendations

- 2.1 To introduce the new Pavement Licensing scheme under the Act.
- 2.2 To set the licence fee at £100.
- 2.3 To delegate to the Corporate Director of Environment & Regeneration any further decisions in connection with implementation of Pavement Licensing under the Act.

3. Reason for urgency

- 3.1 There are a number of applications for pavement licences in the pipeline, which are due to be determined on 14 August 2018, including applications that the Council will be looking to refuse. However, the Act provides that if the Council does not decide the application within

the determination period, the licence as applied for is deemed to be granted. Therefore, urgent approval to introduce the Pavement Licensing scheme is sought.

- 3.2 The setting of the fee at the maximum level will allow the Council to off-set part of the cost of dealing with applications that would otherwise be met through other resources. It is therefore urgent that the Council is in a position to recover the maximum amount of fees.
- 3.3 To delay the implementation of the licensing scheme would seriously prejudice the interests of the Council and the public and it is not practicable to convene a quorate meeting of the Licensing Regulatory Committee in sufficient time to take the decision.

4. Background

- 4.1 With the easing of lockdown, the introduction of Pavement Licensing presents an opportunity to businesses to trade on the pavement to help ensure social distancing and to promote economic recovery.
- 4.2 Currently at Islington Council we regulate Tables and Chairs under the Licensing Act and the statutory process under the Highway Act 1990, which is more involved than the proposed Pavement Licensing process.
- 4.3 Typically, in relation to Tables & Chairs applications, fees are much higher than £100 and as such this will result in a loss of income to the Council. Currently, Tables and Chairs Licences are based on the number of Tables and Chairs/area and have a management fee of £788 plus a fee of up to £104 per m2.
- 4.4 Overall the aim of the Act is to make Pavement Licences easier and cheaper to obtain for local businesses. The Government Guidance introduces standard conditions including the requirement to avoid obstructions to the highway and meet Inclusive Mobility criteria, referencing Section 3.1 of, 'Making transport accessible for passengers and pedestrians - A guide to best practice on improving access to public transport and creating a barrier-free pedestrian environment.'
- 4.5 Licensees will be able to maintain their current Tables and Chairs Licences but will have the option to apply for the new Pavement Licence. It is currently proposed that the Pavement Licensing provisions will be in place until September 2021.
- 4.6 The new procedure under the Act requires a Notice on the Council's webpage, a 7-day consultation and a 7-day decision-making process. If the process is not followed a Licence is deemed to have been granted. Council guidance is being prepared and will be posted on the Council's website and members of the public will be notified of the application at the premises and on the Council's website on a dedicated webpage.

5. Implications

5.1 Financial implications:

The fees for licensing outdoor spaces have been set locally to cover the service costs. The budget for licenses for tables & chairs and 'A' Boards is £209,400 with actual income received in 2019/20 £246,951.

For the period April to June 2020 a total of £2,746 has been refunded during this lockdown period compared to £59,075 received for the same period in 2019.

Current charges range between £42 and £104 per m² with processing and renewal fees of £788 and £440 for table and chairs, and fees between £88 and £421 for 'A' Boards.

A flat rate fee of £100 for a Pavement License is likely to have a significant impact on this income stream for the 2020/21 and 2021/22 financial years if provision remain in place until September 2021. This pressure is likely to be in the region of £0.1m to £0.2m in each of these financial years. If there is no additional government financial support to compensate for this loss of revenue, this pressure will need to be considered as part of the annual budget setting process.

5.2 Legal Implications:

The Pavement Licence is a new form of licence created under Part 1 of the Business and Planning Act 2020.

The Council is required to decide on an appropriate fee to charge of no more than £100. The setting of the fee is a matter reserved for the Licensing Regulatory Committee, however this matter is to be determined via an urgent officer decision, for the reasons set out at Paragraph 3.

Pavement licences must be granted for a minimum of three months and will automatically lapse on 30 September 2021. The granting of a pavement licence removes the requirement for planning permission or a street trading licence.

5.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

No anticipated implications.

5.4 Resident Impact Assessment:

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

A RIA was completed on 08/07/2020 and is included as Appendix 1

As part of the Bill process, the Government has already made a Human's Rights impact assessment and the Council will monitor the impact of Pavement Licensing on residents.

These provisions are likely to make it easier for all local residents to access local shops and make local shops more financially viable going forward.

It will make adhering to the 1m+ guidance easier for vulnerable/shielding groups in the community and the Council will be using the standard conditions of the guidance regarding Inclusive Mobility to maintain and ensure there is no obstruction to the pavement for wheel chair or push chair users or those groups who are visually impaired.

6. Reason for recommendations

- 6.1 The Business and Planning Bill Act requires the Council to set a fee and issue licences for businesses to operate on the pavement outside their premises.

7. Record of the decision

- 7.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Signed by:



Chief Executive

13 August 2020

Date

Appendices: Appendix 1 – Resident Impact Assessment

Background papers: None

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