

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO**

Licensing and Public Protection Committee
05 September 2023

Report Title: Business and Planning Act 2020 Update

Submitted by: Service Director – Regulatory Services

Portfolios: Finance, Town Centres and Growth

Ward(s) affected: All

Purpose of the Report

To inform members of updates relating to the Business and Planning Act 2020, and relevant Regulations, which relates to the relaxations in respect of pavement licences and off-sales of alcohol.

Recommendation

That Members:

- 1. Note the proposed amendments to the Business and Planning Act 2020 and contents of the Regulations.**
- 2. Note that all Pavement Licences will be granted to expire on 30th September 2024.**
- 3. Note that the relaxation to allow premises to have 'off-sales' has been extended to 31st March 2025**

Reasons

The Business and Planning Act 2020 received Royal Assent on 22nd July 2020. Various subsequent Regulations have been laid down extending the provisions that relate to Pavement Licensing.

1. Background

1.1 The Business and Planning Act 2020 received royal assent on 22nd July 2020 and made significant changes designed to help premises (including public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours) to survive and bounce-back from the pandemic lockdown.

1.2 The provisions included:

- A new "Pavement Licence" regime, to be administered by local authorities, designed to make 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.
- Alcohol licensing changes that allowed operators with existing alcohol on-sales licences to also serve alcohol for consumption off the premises and to make deliveries.

1.3 The Act originally included temporary measures up to 30th September 2021 to support businesses selling food and drink through economic recovery as lockdown restrictions were lifted but social distancing guidelines remained in place. The temporary measures were extended to expire on 30th September 2022 and then subsequently 30th September 2023.

1.4 The measures in the Act were designed to support businesses selling food and drink such as cafes, pubs and restaurants by introducing a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, for the placement of furniture such as tables, chairs, umbrellas and patio heaters on the pavement outside their premises. This enabled them to maximise their capacity whilst adhering to social distancing guidelines.

2. **Issues**

- 2.1 The Council currently has 16 premises that have been granted a Pavement licence. There are an additional 4 that were issued but have since lapsed and a number of applications rejected on the basis of either being in unsuitable locations, or the applicant not providing the requisite documentation. The main reason for rejecting the applications is that the proposed locations of the outside areas were on private land and not public highway.
- 2.2 The Levelling Up and Regeneration Bill, which is currently working its way through both Houses, is seeking to make the Pavement Licensing regime permanent with a few minor amendments. Due to the length of time it is taking for the Bill to be finalised the Government have announced that to continue to support businesses they will be extending the provisions for Pavement Licences to end on 30th September 2024.
- 2.3 There are currently no formal provisions to renew a licence however if there are no amendments to be made the Licensing Department will implement a ‘renewal’ process where the licence holder confirms nothing has changed rather than ask them to apply anew. Where the premises proposes amendments they will have to apply anew.
- 2.4 The timescales for consultation and determination of a licence application are short and affect all applications. The applicant must post a notice on the premises on the same day as the application is made. The notice must be in place for a consultation period of 5 working days beginning with the day after the day the application is submitted. The Council must publish the application on its website and allow people to comment during the 5 working days consultation period. The Council must consult with the highway authority and ‘such other persons as the local authority considers appropriate’ e.g. police and residential neighbours. The Council must determine the application within a period of 5 working days beginning with the first day after the consultation period. If the Council does not determine the application within this period, the pavement licence will be deemed as granted.
- 2.5 There are a number of premises that benefit from the current off-sales relaxation which was due to expire on 30th September 2023 and if they had wanted to continue to benefit then they would have needed to make an application to the authority to vary their existing premises licence. On 14th August 2023 the Home Office announced that this relaxation would be extended until 31st March 2025 to allow for a permanent solution to be explored.

3. **Proposal**

3.1 That members:-

- a) Note the proposed amendments to the Business and Planning Act 2020 and contents of the Regulations.
- b) Note that all Pavement Licences will be granted to expire on 30th September 2024.
- c) Note that the relaxation to allow premises to have ‘off-sales’ has been extended to 31st March 2025

4. **Reasons for Proposed Solution**

4.1 Government have laid regulations to extend the provisions in relation to pavement licences.

4.2 The Council needs to continue with a mechanism in place for determining pavement licensing applications.

5. **Options Considered**

5.1 Members could decide not to approve that pavement licence applications can be issued with an expiry date of 30th September 2024. Any application received would then have to reapply in October 2023 which would add burden onto the businesses and Council.

6. **Legal and Statutory Implications**

6.1 The legal and statutory implications are fully addressed in the body of this report.

7. **Equality Impact Assessment**

7.1 There are no issues arising from this report.

8. **Financial and Resource Implications**

8.1 The Council can charge a fee of up to £100.00 per pavement licence application. In August 2020 the Committee agreed to waive this fee.

9. **Major Risks**

9.1 The risk of not accepting the recommendation is that the Council will have overly burdensome processes for dealing with applications.

10. **UN Sustainable Development Goals (UNSDG)**

10.1



11. **Key Decision Information**

11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 4th August 2020 – Licensing & Public Protection Committee

12.2 27th July 2021 - Licensing & Public Protection Committee

12.3 18th October 2022 - Licensing & Public Protection Committee

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 [The Business and Planning Act 2020](#)

- 14.2 [The Business and Planning Act Guidance for Pavement Licences](#)
- 14.3 [Business and Planning Act 2020 \(Coronavirus\) \(Amendment\) Regulations 2021](#)
- 14.4 [Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2022](#)
- 14.5 [Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2023](#)