

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO LICENSING & PUBLIC PROTECTION COMMITTEE**

30 July 2024

Report Title: Consumption of alcohol in licensed pavement areas / off-sales

Submitted by: Service Director - Regulatory Services & Licensing Administration Team Manager

Portfolios: Finance, Town Centres & Growth

Ward(s) affected: All

<u>Purpose of the Report</u>	<u>Key Decision</u>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
To inform the Committee of a Home Office consultation that has recently closed in relation to proposed amendments to the Licensing Act 2003 to support businesses with alcohol consumption within licensed pavement licence areas and off-sales of alcohol.			
<u>Recommendation</u>			
That Committee:			
1. Note the contents of the report			
<u>Reasons</u>			
The Home Office held a consultation on which of three proposed amendments should be made to the Licensing Act 2003 to support businesses with alcohol consumption within licensed pavement licence areas and off-sales of alcohol. The Council submitted a response to the consultation prior to the closing date.			

1. Background

- 1.1** The Business and Planning Act 2020 (the Act) 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 was amended in March 2024 to create a permanent Pavement Licensing regime. This Committee approved the application fees and standard licensing conditions at the meeting held on 29th April 2024.
- 1.4** The temporary measures in the Act that relate to off-sales of alcohol permitting alcohol to be consumed in areas covered by pavement licences, and for premises to allow the takeaway and delivery of alcohol come to an end on 31st March 2025. The purpose of this consultation was to seek views on how to best amend the Licensing Act 2003 to continue these measures to support the hospitality sector.

2. Issues

- 2.1** The Home Office launched the consultation on 16th May 2024 for a period of 8 weeks ending on 11th July 2024. As officers had not reviewed the consultation in its entirety and formed a view prior to publication of the agenda for the meeting on 11th June 2024 the consultation response had to be sent without Committee approval. Officers did however consult with the Chair and Vice-Chair of the Committee and Portfolio Holder prior to submission.
- 2.2** Whilst the Government have committed to supporting the Hospitality Sector in this regard, they also want to ensure that licensing authorities and local residents continue to have a say about what happens in their area.
- 2.3** Three options were put forward in the consultation:
- 2.3.1** Option 1 – Make permanent the temporary regulatory easements for off-sales under the Business and Planning Act 2020, whereby any on-sales alcohol premise licence automatically covers off-sales as well. This would apply to existing and future premises licence holders;
OR
- 2.3.2** Option 2 – Amend the Licensing Act to extend the definition of on-sales so that it includes consumption in a licenced pavement area.
OR
- 2.3.3** Option 3 – Amend the Licensing Act to permit on-sales only premises licence holders the right to make off-sales to any area for which there is a pavement licence.
- 2.4** The benefit of Option 1 is that all existing premises, and any new premises that were authorised for the sale of alcohol for consumption on the premises, would automatically be allowed to have off-sales. Meaning that they could sell alcohol to be consumed in an area covered in a pavement licence, to be taken away from the premises or offer a delivery service. It would be very simple to administer from an operational perspective. However, the main disadvantage was that the only protection to the public and licensing authorities would occur after any problem had already occurred.

- 2.5** With Option 1 there could be an option for licensing authorities to impose a condition which precludes sales for takeaway and/or delivery and/or for consumption in a licensed pavement area, should that be necessary in connection with individual premises in order to uphold licensing objectives.
- 2.6** The benefit of Option 2 is that it would allow all premises that were authorised for the sale of alcohol for consumption on the premises to automatically continue selling alcohol to be consumed in an area covered in a pavement licence. It would also mean that any premises that wished to offer take away and/or delivery services would go through the scrutiny of a premises licence application consultation, affording the responsible authorities and members of the public the opportunity to make representations against the proposal. This appears to be a benefit to the responsible authorities and members of the public who may be affected but a disadvantage to the businesses who may wish to continue or start to offer these services.
- 2.7** The benefit of Option 3 is that it would allow all premises that were authorised for the sale of alcohol for consumption on the premises to automatically continue selling alcohol to be consumed in an area covered in a pavement licence, but by virtue of being allowed off-sales for that specific purpose. Any other off-sales would require a variation to the premises licence the same as in Option 2.
- 2.8** With Options 2 and 3 to mitigate any potential increase in disorder associated with alcohol being consumed in the pavement area, the terminal hours for the operation of a pavement licence would remain in place, even if the permitted terminal hours inside the premises was later.
- 2.9** All options require a premises to have a premises licence that authorises alcohol on-sales and a pavement licence to have been issued to them.
- 2.10** Following consultation with the Chair and Vice-Chair of the Committee and Portfolio Holder the officers submitted the response that Option 2 was the most preferable of the three proposals. The basis for this was that it is the option that supports the businesses that hold pavement licences to continue as currently, but also offers the scrutiny for those wishing to offer a takeaway and/or delivery service, whilst being the easiest to understand and implement. A copy of the consultation response submitted is attached as **Appendix A**.

3. Recommendation

- 3.1** That Members note the content of the report.

4. Reasons

- 4.1** To inform Members of proposed amendments to the Licensing Act 2003.

5. Options Considered

5.1 Options 1 and 3 were considered alongside Option 2. However, when balancing the continued support of the hospitality sector with pavement licences, with being able to protect the public and promote the licensing objectives Option 2 was considered to be the preferred proposal.

6. Legal and Statutory Implications

6.1 Not applicable.

7. Equality Impact Assessment

7.1 Not applicable.

8. Financial and Resource Implications

8.1 It is not anticipated that the amendments would have any negative impact on the resources of the department to effectively administer the regime.

9. Major Risks & Mitigation

9.1 Not applicable.

10. UN Sustainable Development Goals (UNSDG)

10.1



11. Key Decision Information

11.1 Not applicable.

12. Earlier Cabinet/Committee Resolutions

12.1 Multiple Committee resolutions in relation the pavement licensing regime and off-sales temporary easements under the Business and Planning Act 2020.

13. List of Appendices

13.1 Appendix A – Consultation response

14. Background Papers

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

14.2 [The Business and Planning Act Guidance for Pavement Licences](#)

14.3 [The Levelling-up and Regeneration Act 2023](#)