

Report of	Meeting	Date
Director of Planning and Development (Introduced by Cabinet Member (Planning, Business Support and Regeneration))	Council	Wednesday, 22 September 2021

Is this report confidential?	No
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Is this decision key?	Not applicable
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Extension to cafe pavement licences

Purpose of the Report

1. To seek approval to extend the current Café pavement licensing scheme until 30th September 2022 in line with The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021.

Recommendations to Council

2. To note the changes to the Business & Planning Act 2020 introduced by The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021.
3. To agree to extend the proposed duration of granting of pavement licences until 30th September 2022 as per The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021.
4. To confirm the level of fee charged in respect of applications for pavement licences issued under the Business & Planning Act 2020.
5. To extend delegated authority to Officers as described at Paragraph 28 of this report.

Reasons for recommendations

6. It is a statutory requirement to extend the current Café Pavement Licensing Scheme until 30th September 2022 in line with The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021.

Other options considered and rejected

7. There are no other options available.

Corporate priorities

8. The report relates to the following corporate priorities: (please bold all those applicable):

An exemplary council	Thriving communities
A fair local economy that works for everyone	Good homes, green spaces, healthy places

Background to the report

9. The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.
10. The Business and Planning Act 2020 obtained Royal Assent on 22 July 2020. The Act introduced a number of powers and requirements on local authorities that affect how they deal with a variety of issues, with the aim of supporting local businesses and helping economic recovery as the COVID-19 restrictions put in place by Government continue to be eased.
11. The Act introduced a temporary fast-track process for these businesses to obtain permission, in the form of a "pavement licence", from the Local Authority for the placement of furniture such as tables and chairs on the pavement outside their premise which will enable them to maximize their capacity whilst adhering to social distancing guidelines.
12. Any business selling and/or serving food or drink may apply for a pavement licence to have tables and chairs and other street furniture placed on the highway adjacent to their premises for the benefit of their customers.
13. The new powers are temporary, and were originally placed until 30 September 2021, however, The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021, extends the temporary outdoor furniture provision until 30th September 2022 for another 12 months.
14. Under the Business and Planning Act 2020, pavement licences are currently handled by the Licensing Authority, as an alternative to the previous regime which was the responsibility of the Highways Authority.

15. Due to the Covid 19 pandemic, an urgent decision was made last July under Standing Order 35 of the council's constitution, to adopt a Pavement Licensing Policy by virtue of the Business and Planning Act 2020. –Please refer to Background Documents 1, 2 and 3
16. A maximum fee of £100 can be charged for applications.

Recommended approach

17. As the pavement licence regime was originally time limited to run through to 30th September 2021, all of the licences issued under the scheme are due to expire on this date.
18. As such, if these premises wish to maintain their outside areas currently covered by a licence, they will need to re-apply.
19. As the application process is designed to be as burden free and expedited as possible, this should not cause any delay in re-issuing licences to premises and not be subject to a lengthy process.
20. The legislation does enable the Council to issue a pavement licence for a shorter duration than the length of the scheme, however guidance issued by the Local Government Association indicates that the Council should only consider issuing for a shorter duration than the length of the scheme where there is reasonable reason to do so e.g. where the application is linked to a time limited road closure.
21. In 2020, the fee for pavement licences was £100. It is recommended that Council confirms to retain the same fee of £100 for each new pavement licence in line with the maximum amount specified by Government.
22. With the exception that any pavement licences, issued by South Ribble Borough Council with an expiry of 30th September 2021 will be offered a new application free of charge until September 2022.
23. The reasoning behind this proposal is due to the premises being closed for a large duration of their previous pavement licence issued during 2020/2021, due to Covid restrictions set by the government.
24. The Policy and application form have been updated to reflect the extension of Pavement Licences until the 30th September 2022 and can be found at Appendix 1 and 2 respectively.
25. The policy seeks to extend authority to delegate decisions to officers in the following way;

Function		Decision Delegated to
Grant of Pavement Licence	Where, during the public consultation period, no representations have been received.	Licensing Officers.
	Where, during the public consultation period,	Shared Services Lead – Legal & Deputy Monitoring Officer or

	representations have been received.	Senior Solicitor in consultation with Chair/Vice Chair of Licensing/Portfolio holder
Revocation of Pavement Licence	In line with Paragraph 5 of the Policy above	Shared Services Lead – Legal & Deputy Monitoring Officer or Senior Solicitor in consultation with Chair/Vice Chair of Licensing/Portfolio holder
Remedial Notices	Breach of condition (case by case basis)	Licensing Officers

Climate change and air quality

26. N/a

Equality and diversity

27. N/a

Risk

28. The implementation of the Regulations and being in a position to accept and determine applications is a legal duty placed upon South Ribble Borough Council.
29. If the Council fails to implement the Regulations, it may be challenged when exercising its functions through several routes, e.g. service complaints to the Local Government and Social Care Ombudsman and judicial review. Conversely, by implementing the requirements of the Regulations, the Council is complying with its legal obligation.

Comments of the Statutory Finance Officer/

30. The charge to be made accords with the Café Pavement Licensing Scheme that has been extended until 30th September 2022 in line with The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021.

Comments of the Monitoring Officer

31. It is a statutory requirement to extend the current Café Pavement Licensing Scheme until 30th September 2022 in line with The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021.

Background documents

Background document 1 - Urgent Decision Report 2020

<https://southribbleintranet.moderngov.co.uk/documents/s18186/Background%20%20for%20Pavement%20Licensing%20Policy.pdf>

Background document 2 - Current Application Form

https://www.southribble.gov.uk/media/386/Cafe-Licence-application-form/pdf/Application_Form_SRBC-Business_and_Planning_Bill.pdf?m=637423662921670000

Background Document 3 - Current Policy Wording
<https://www.southribble.gov.uk/article/1571/Contents>

Background Document 4 - Business and Planning Act 2020 (Pavement Licences)
(Coronavirus) (Amendment) Regulations 2022
<https://www.legislation.gov.uk/ukdsi/2021/9780348224344/contents>

Background Document 5 - Keeping workers and customers safe during COVID-19 in
restaurants, pubs, bars and takeaway services, HM Government.
<https://assets.publishing.service.gov.uk/media/5eb96e8e86650c278b077616/Keeping-workers-and-customers-safe-during-covid-19-restaurants-pubs-bars-takeaways-230620.pdf>

Background Document 6 - Licensing of Outdoor Drinking & Dining, Local Government
Association
https://www.local.gov.uk/sites/default/files/documents/UPDATE%20Outdoor%20eating%20and%20drinking%20guidance_0.pdf

Appendices

Appendix 1 - New proposed policy Wording

Appendix 2 - New application Form

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