

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	25 July 2024
Subject:	Pavement Licensing Policy
Report of:	Licensing Team Leader
Head of Service/Director:	Director: Communities
Lead Member:	Lead Member for Environmental Services
Number of Appendices:	One

Executive Summary:

Members are asked to recommend the draft pavement licensing policy for approval and to approve delegations and set the application fees for pavement licences.

Recommendation:

- 1. To CONSIDER the draft Pavement Licensing Policy, attached at Appendix A, and:**
 - i. agree the delegations set out at Paragraph 5.1 of the report; and**
 - ii. set the fees for new and renewal applications as set out at Paragraph 6.3 of the report.**
- 2. To RECOMMEND TO THE EXECUTIVE COMMITTEE that the draft Pavement Licensing Policy be ADOPTED.**

Financial Implications:

The licensing service should set fees on a cost recovery basis.

The fees for licence applications have been calculated and set out in Paragraph 6.3 of the report.

Legal Implications:

The legal implications are contained within the body of this report.

Environmental and Sustainability Implications:

None arising directly from this report.

Resource Implications (including impact on equalities):

The increased workload arising from this regime will be monitored by the Licensing Team Leader.

Safeguarding Implications:

None arising directly from this report.

Impact on the Customer:

There may be businesses that already have tables and chairs on Highway land and will need to apply for a licence to be able to continue with this. In these cases, the licensing team will work together and support businesses through the application process.

1.0 INTRODUCTION

- 1.1** The Business and Planning Act 2020 (“the Act”) was introduced in 2020 to support various business sectors including hospitality. This Act included numerous temporary relaxations to existing legislations including the introduction of the Pavement Licensing regime which permitted businesses to apply to the Local Authority for a licence to use outside space to extend the trading area available for consumption of food and drink during the pandemic.
- 1.2** The Levelling Up and Regeneration Act now makes permanent the Pavement Licensing regime under the Business and Planning Act 2020. This came into force on 1 April 2024.
- 1.3** A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.
- 1.4** A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.
- 1.5** A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for the consumption of food or drink supplied from, or in connection with the use of the premises.
- 1.6** Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt.
- 1.7** A copy of the draft policy is attached at **Appendix A**.
- 1.8** It is proposed that the policy will come into effect on 1 October 2024.

2.0 TEWKESBURY BOROUGH REGIME

- 2.1** The temporary regime was not implemented in the Tewkesbury Borough due to the pressures that the Licensing service was under at the time during the pandemic. Any businesses with tables and chairs on the highway were permitted to trade within the government’s social distancing requirements and ensuring that access was not compromised to highway users.

2.2 The temporary regime was initially permitted for one year (until 30 September 2021) and then extended for a further year (until 30 September 2022). During this time, it was anticipated that the regime would become permanent under the Levelling Up and Regeneration Bill. For this reason, it was decided to wait until the Bill was enacted to commence work on the regime.

2.3 Due to the regime only impacting Highways owned land, it is not anticipated that there will a large volume of businesses that are required to apply.

4.0 CONSULTATION

4.1 All food registered businesses will be written to and informed of the licensing regime and the application process should they wish to apply.

4.2 The legislation states the Licensing Authority must consult with the Highways Authority. It is up to the Licensing Authority to specify any other consultees. These have been proposed as:

- Tewkesbury Borough Council Environmental Protection team
- Tewkesbury Borough Council Food, Health and Safety team
- Gloucestershire Police

4.3 All applications will be subject to a 14-day consultation period followed by a 14-day determination period (excluding public holidays).

5.0 DELEGATIONS

5.1 The Licensing Committee are asked to agree delegations for decision making as follows:

Decision	Delegated to
Grant of an application where no objections have been received during the consultation period	All Officers within the Licensing Team
Grant or refusal of an application where objections have been received during the consultation period	Licensing Team Leader in consultation with the Director of Communities and Chair of the Licensing Committee
Revocation of a licence	Licensing Sub-Committee Where there is an immediate impact on public safety, Licensing Team Leader in consultation with the Director of Communities and Chair of the Licensing Committee

6.0 FEES

6.1 The legislation permits the maximum fee for a new application at £500 and a renewal application at £350.

6.2 Licensing fees are set on a cost recovery basis.

6.3 A calculation exercise has been carried out and it is proposed to set the fees as:

- New application - £200
- Renewal application - £150

6.4 These fees will be reviewed annually as part of the annual fees and charges review.

5.0 ASSOCIATED RISKS

5.1 To not implement this regime would result in the Council not complying with statutory requirements. Any businesses with furniture on the highway will not have been assessed and may impact on public safety.

6.0 MONITORING

6.1 All food registered business will receive correspondence.

6.2 The Licensing Team Leader will work with the communications team to update social media.

6.3 An online application route is currently being built.

6.4 Officer time spent on applications and enforcement will be recorded to ensure that future fees and charges are set accurately.

7.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

7.1 [Tewkesbury Borough Council Plan](#)

Background Papers: [Business and Planning Act 2020](#)

[Levelling Up and Regeneration Act 2023](#)

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Appendices: Appendix A – Draft Pavement Licensing Policy