

<b>Report to:</b>	<b>LICENSING COMMITTEE</b>
<b>Date:</b>	<b>19<sup>TH</sup> JUNE 2024</b>
<b>Heading:</b>	<b>ADOPTION OF A PERMANENT PAVEMENT LICENCE SCHEME</b>
<b>Portfolio Holder:</b>	<b>DEPUTY LEADER – STRATEGIC HOUSING AND CLIMATE CHANGE</b>
<b>Ward/s:</b>	<b>ALL</b>
<b>Key decision:</b>	<b>YES</b>
<b>Subject to call-in:</b>	<b>NO</b>

### **Purpose of report**

For Members to note the new permanent pavement licence scheme which supersedes the Temporary Licence Scheme adopted by this Committee on 30<sup>th</sup> July 2020. To approve the adoption of the permanent scheme to replace the temporary scheme. To approve the fees for Pavement Licences. To delegate functions to officer level.

### **Recommendation(s)**

**It is recommended to:**

- a) Approve that the permanent pavement licence scheme replace the temporary scheme;**
- b) Approve the proposed fees for Pavement Licences; and**
- c) Delegate authority to the Chief Executive and Executive Director: Place to determine applications.**

### **Reasons for Recommendation(s)**

The Licensing Authority has very successfully run the Temporary Pavement Licence Scheme since its introduction providing assistance to local businesses and helping to improve and modernise the Town Centres, creating vibrancy that was previously vacant. Amendments to the Business & Planning Act 2020, made by the Levelling Up & Regeneration Act 2023, have introduced a permanent pavement licensing scheme to replace the temporary scheme.

Under the legislation if the Council does not determine a permanent application in the specified time the application will be deemed to be granted by the authority to the applicant. It is therefore necessary to introduce a permanent scheme to ensure that the Council is able to continue to provide this service and properly regulate pavement licences within the District.

### **Alternative Options Considered**

*(with reasons why not adopted)*

**Not to approve the scheme or fees:** This would mean that the Council would not be placed to determine applications and/ or would not be able to recover the costs to the Council of determining applications for permanent licences.

### **Detailed Information**

The Business & Planning Act 2020 delegated the issue, administration and enforcement of Temporary Pavement Licences to Ashfield District Council. The Temporary Pavement Licence scheme was adopted at a meeting of the Licensing Committee on 30th July 2020 – as detailed in **Appendix One to this report**). A copy of the Minutes of the Licensing Committee decision is attached at **Appendix Two**.

A Temporary Pavement Licence permits a pub, bar, restaurant, café, snack bar, coffee shop, or ice cream parlour to place street furniture in an approved location on the highway (defined as generally being footpaths restricted to pedestrians or roads and places to which vehicular access is restricted or prohibited).

Such a designated area is solely to provide for the serving and consumption of food and drink outdoors at such establishments, in order to continue to promote public safety in a post-Covid-19 world, and to give a boost to the hospitality sector as indoor capacities will be likely have been reduced during the pandemic. It also hopes to boost the vibrancy of localities by creating a “vibrant alfresco experience for all”.

The maximum fee permitted for a Temporary Pavement Licence was £100.00, however, the Council opted to not charge a fee, in order to assist businesses and remove financial burdens from them during a period of significant economic uncertainty.

With effect from 31st March 2024, the Levelling Up & Regeneration Act 2023 makes amendments to the provisions of the Business & Planning Act 2020, to make the Temporary Scheme become a Permanent Scheme.

Under the Permanent Scheme, individuals now have a legal right to make the application and if the Council does not determine such an application, the applicant will automatically get their licence. Therefore, if the Council does not replace the Temporary Scheme with the Permanent Scheme licences will be deemed granted.

There are only a few changes between what was in place under the Temporary scheme and what is required under the Permanent Scheme, namely:

- **The 7 day consultation period for applications increases to 14 days.**
- **The 7 day period to hold a Hearing following the close of consultation for contentious applications increases to 14 days.**
- **The Council can set fees for such licences (subject to new maximum permitted levels).**
- **Licences can be issued for a maximum period of 2 years, or less.**
- **The Council is provided with the powers to enforce designated Pavement Licence areas.**

The standard conditions, application form, and site notice devised by the Licensing Managers of Ashfield and Broxtowe, and used by all of the Nottinghamshire Councils have been amended to be taken forward under the Permanent Scheme, simply by removing the word “Temporary”, and offering licences for the duration of 12 months or 24 months. Licences to be issued for a shorter period than 12 months would be at the discretion of the Chair to any Hearing for a contentious application. A copy of the standard conditions is attached at **Appendix Three**, the application form at **Appendix Four**, and the site notice at **Appendix Five**.

The Licensing Manager has calculated the fees for new licences and renewal applications for 1 year and 2 year periods, a copy of the Fee Calculation Sheet is attached at **Appendix Six**, and the proposed fees are:

- **New Licence (1 Year): £250.00**
- **New Licence (2 Years): £300.00**
- **Renewal Licence (1 Year): £220.00**
- **Renewal Licence (2 Years): £270.00**

The authority to determine temporary licence applications was delegated to the Chief Executive / Executive Director: Place by way of the 2020 Licensing Committee report, and it is proposed that decision making in respect of the permanent scheme is delegated in the same way.

### **Implications**

#### **Corporate Plan:**

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

**Legal:** Any legal implications are already covered within this report.

**Finance:** Any financial implications are already covered within this report.

<b>Budget Area</b>	<b>Implication</b>
General Fund – Revenue Budget	Fees charged for licences should be set at a level to recover the costs of administering the scheme. Income from the scheme is ring fenced for licensing.
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

**Risk:**

<b>Risk</b>	<b>Mitigation</b>
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carry out its licensing functions and decision making processes.

**Human Resources:** There are no direct HR implications contained within this report.  
(KH:21.05.2024)

**Equalities:** There no diversity or equality implications contained within this report.

**Other Implications:**

**Environmental/Sustainability**

The Act seeks to provide a boost to the hospitality sector during the Covid-19 pandemic, and puts measures in place to promote the environment (i.e. conditions re: litter, public safety, preventing nuisance), as well as promoting outdoor well-being.

**Reason(s) for urgency**

The Levelling Up & Regeneration Act 2023 which amends The Business & Planning Act 2020 has been fast-tracked through Parliament and the House of Lords in order to enable businesses to apply for and benefit from the provisions contained within the Act.

**Reason(s) for exemption:** Not Applicable

**Background Papers**

- Appendix One:** Licensing Committee Report of 30.07.2020
- Appendix Two:** Minutes of Licensing Committee of 30.07.2020
- Appendix Three:** Pavement Licence: Standard Conditions
- Appendix Four:** Pavement Licence: Application Form
- Appendix Five:** Pavement Licence: Site Notice
- Appendix Six:** Pavement Licence: Fees Calculations

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