

REPORT TITLE: REVIEW OF THE PAVEMENT LICENCE POLICY

16 JUNE 2025

REPORT OF CABINET MEMBER: Cllr Steve Cramoysan, Cabinet Member for Recycling and Public Protection

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WARD(S): ALL

PURPOSE

Effective from 31 March 2024, the Levelling Up and Regeneration Act 2023 made permanent the Pavement Licensing regime under the Business and Planning Act 2020.

This report reviews the council's Pavement Licensing Policy to reflect the changes brought in and other minor amendments.

RECOMMENDATIONS:

1. That Members agree the amendments to the Draft Pavement Licensing Policy at Appendix 1 to ensure that it reflects the current Government guidance, and;
2. That Members agree for the Licensing Manager to consult Hampshire County Council, as the Highways Authority, on the amendments to the revised Policy. If the Highways Authority have no significant comments, that the revised Policy is implemented with effect from 1 August 2025.

IMPLICATIONS:1 COUNCIL PLAN OUTCOME

- 1.1 Greener Faster
- 1.2 N/A
- 1.3 Thriving Places
- 1.4 Outdoor, 'al-fresco' style dining contributes to ensuring that the city, market towns and rural communities have attractive visitor offer.
- 1.5 Healthy Communities
- 1.6 N/A
- 1.7 Good Homes for All
- 1.8 N/A
- 1.9 Efficient and Effective
- 1.10 The review of the Pavement Licensing Policy ensures that the application and determination processes for Pavement Licences are open, transparent and reflects current legislation and guidance.
- 1.11 Listening and Learning
- 1.12 N/A

2 FINANCIAL IMPLICATIONS

- 2.1 The fees must not exceed £500 for new applications and £350 for renewals. Following implementation of the revised Policy, the fees charged will be in line with government maximum fee levels.
- 2.2 The application fee covers the cost of administering any application, including consultation and determination periods. However, this fee does not necessarily cover the costs incurred for any enforcement action taken; i.e. sending notices and conducting compliance checks.
- 2.3 The fees cover the licence period of two years, unless a shorter period has been issued for appropriate reasons.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Business and Planning Act 2020 requires that the local authority administer pavement licences and as such it is a service that must be provided as a statutory and not a discretionary function.

- 3.2 In exercising its functions under the Business and Planning Act 2020, a local authority must have regard to any guidance issued by the Secretary of State.

4 WORKFORCE IMPLICATIONS

- 4.1 The Licensing team will continue to administer applications within existing resources.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 N/A

6 CONSULTATION AND COMMUNICATION

- 6.1 Following the Member review of the revised Policy at Appendix 1, the Licensing Manager will consult with Hampshire County Council, as the Highways Authority, on the changes.
- 6.2 If no significant comments are received from the Highways Authority, the revised Policy shall be implemented as soon as possible.
- 6.3 If significant comments are received from the Highways Authority, the Licensing Manager will discuss these with the Service Lead for Public Protection and Chair of Licensing and Regulation Committee to decide if changes should be made to the Policy.
- 7 ENVIRONMENTAL CONSIDERATIONS
- 7.1 By providing outdoor 'al-fresco' style dining, this encourages local people to visit local restaurants and premises in the city centre and market towns, which supports sustainability.

8 PUBLIC SECTOR EQUALITY DUTY

- 8.1 These proposals raise no additional equality considerations beyond those identified in the existing equality impact assessment published in September 2020.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 These proposals raise no additional data protection considerations beyond those identified in the existing data protection impact assessment published in September 2020.

10 RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure	N/A	
Exposure to challenge	The Policy could be challenged by Judicial Review, but as the Council's decision-making process is considered to be lawful, a challenge is considered to be unlikely	
Innovation	N/A	
Reputation	N/A	
Achievement of outcome	The proposals seek to ensure that the Pavement Licensing Policy continues to be relevant to the legislation to which it relates.	Opportunity to review the Policy to ensure that it is fit for purpose and complies with the relevant provisions of the Business and Planning Act 2020 (as amended).
Property	N/A	
Community Support	N/A	
Timescales	The proposed amendment to the policy seeks to ensure that applications continue to be considered in line with a relevant and up-to-date policy.	
Project capacity	N/A	
Other	N/A	

11 SUPPORTING INFORMATION:Background

- 11.1 The Business and Planning Act 2020 (the Act) was introduced to provide a new, expedited process for premises to place furniture on the highway, under a Pavement Licence. The Act received Royal Assent on 22 July 2020.
- 11.2 The provisions for Pavement Licences under the Act was due to expire on 30 September 2021, as it was intended to be a temporary regime to assist businesses during the Covid-19 pandemic.
- 11.3 Since 30 September 2021, the provisions for Pavement Licensing were extended multiple times. The Levelling Up and Regeneration Act 2023 made

the Pavement Licensing regime permanent, with minor changes, effective from 31 March 2024.

- 11.4 This report seeks to revise the council's Pavement Licensing Policy dated 2021, which includes the changes made by the government and minor other amendments as set out in Appendix 1.

Proposed Changes

- 11.5 The proposed changes (shown tracked in Appendix 1) are summarised as follows:

- a) Page 1 - Update the introduction to reflect the current legislation and introduction to the process.
- b) Page 3 - Remove reference to the out-dated fee to future-proof the Policy. Add an additional requirement as part of the application process (to indicate objects already on the highway i.e. bollards, signs posts) to address public safety issues, thereby aid decision-making. Include evidence that the council is indemnified by Public Liability Insurance of at least £5,000,000.
- c) Page 4 – Remove reference to the previous statutory fee and include details of the maximum fees that can be charged. Other minor amendments, including the requirement for the applicant to provide evidence that the public notice is displayed within 24 hours of display.
- d) Page 5 – Change the consultation date from 7 days to 14 days, as required by the updated legislation. Remove reference to furniture placement for social distancing.
- e) Page 6 – Update the determination period from 14 days to 28 days which includes increasing the public consultation from 7 days to 14 days and council determination period increasing from 7 days to 14 days following the end of the consultation period.
- f) Page 7 – Increase the timescales if the local authority doesn't determine the application which the determination period, from 7 days to 14 days, as required by the updated legislation. Remove reference to the minimum licence duration as this is no longer applicable and other minor changes.
- g) Page 8 – Revise the paragraph relating to Enforcement to reflect the changes brought in. Licensing authorities now have the power to take enforcement action against premises where furniture has been placed on the highway without permission. This was previously limited to the Highways Authority as the landowner.

- h) Page 9 – Remove reference to social distancing. Delete the paragraph referencing the temporary permission which was due expire on 30 September 2022.
- i) Page 10 – updated example of the Notice of Intention (template) which is the public notice used by applicants to display at the premises.
- j) Page 11 – remove reference to social distancing and other minor amendments.
- k) Pages 13 and 14 – Update the National Conditions set by the government and provide guidance on these conditions, extracted from the [Pavement Licences: guidance – 2 April 2024](#).

12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 None. The amendments are required to reflect current legislation, which the council must implement or risk possible legal challenge. Officers have been processing Pavement Licences under the updated legislation since 31 March 2024.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

[LR534 Introduction of 'Pavement Licence' under Business & Planning Act 2020 – 15 September 2020](#)

[LR550 Review of Pavement Licensing Policy – 8 December 2021](#)

Other Background Documents:-

[Pavement Licences: guidance – 2 April 2024](#)

APPENDICES:

Appendix 1 Draft Pavement Licensing Policy – June 2025