

To: General Purposes Licensing Committee
Date: Monday 20 May 2024
Report of: Head of Planning and Regulatory Services
Title of Report: Miscellaneous Licensing Update Report

Summary and recommendations	
Purpose of report:	To update Committee on several matters within the Miscellaneous Licensing services group relevant to their delegated responsibilities
Corporate Priority	Enable an inclusive economy and Support Thriving Communities
Policy Framework	Street Trading Policy, Pavement Licensing regime.
Recommendation(s): That the General Purposes Licensing Committee resolves to:	
1. Note the current position and planned officer actions regarding the matters within this report	

1. This report is intended to inform the General Purposes Licensing Committee about progress with and plans regarding some key topics within the remit of the Council's "Miscellaneous Licensing" functions.

Pavement Licensing

2. On 31 March 2024, the temporary pavement licensing provisions introduced by the Business and Planning Act 2020 ("the 2020 Act") were amended by implementation of Section 229 and Schedule 22 of the Levelling Up and Regeneration Act 2023 ("the 2023 Act"). The amendments introduce a permanent pavement licensing regime in England, which retains the key features of the 2020 regime (which was intended to streamline processing and reduce costs) but also incorporates some changes, "*to ensure the long-term sustainability of the pavement licensing model.*" The main changes are shown in Appendix A.
3. The changes were brought about by The Levelling-up and Regeneration Act 2023 (Commencement No. 3 and Transitional and Savings Provision) Regulations 2024/389 ("the enabling Regulations"). Transitional Provisions in the enabling Regulations dictate which provisions apply to existing pavement licenses (those in place or subject to an application made before the 1st of April 2024), with new pavement licence applications (those made after 31st

March 2024) coming fully under the amended provisions. Certain new or amended powers, including those of enforcement, apply retrospectively to existing licenses as well as new ones.

4. Under the 2023 Act, it is no longer permissible to grant a Street Café Licence under Section 80 of the Highways Act 1980, except in very specific situations. Existing Street Café Licence holders have been advised that, upon expiry of their current annual licence they will need to apply for a pavement licence under the amended provisions.
5. All existing pavement licence holders have been notified of the changes and that, since their current pavement licence expires on 30th September 2024, they will need to apply for a new, 2-year licence before that date. However, Licensing Authorities should treat this as a renewal application if: it is made by the licence-holder; it is in respect of the same premises; and it is on the same terms as the expired licence (Regulation 5(3), Schedule 22 of the 2023 Act).
6. All web-based content referring to Pavement Licences and Street Café Licences has been updated in line with the changes, together with associated application forms and other documents.

Pavement Licence Smokefree Provisions

7. At its meeting of 5th February 2024, Committee requested “*the Business Regulations Team to prepare a report setting out the feasibility and implementation requirements for an amendment to the pavement licence provision to include an incentivised fee for smoke-free and vape-free establishments, for consideration of the Committee at its next meeting in May 2024.*”
8. The earlier than expected commencement of the 2023 Act has required Business Regulation Team officers to prioritise implementation measures over other work. It has not been possible to produce the requested report, though working towards a report for the 22nd September Committee meeting has begun.

Street Trading and Traffic Management Controls

9. In considering an application for renewal of a Street Trading Consent from James Sheriff, at its 25th March 2024 meeting, the General Purposes Licensing Casework Sub-Committee (“the Sub-Committee”) discussed the legal and policy status of street trading and traffic management controls, as implemented by the City and County Councils, respectively. Having done so, they resolved to:
 - a. **Grant** Mr Sherriff’s renewal application for Street Trading Consent, subject to the same conditions to that of his previous consent, enabling him to trade until 31 March 2025
 - b. **Refer** the matter of the review of the Council’s consultation processes and policy, including Section 6.4 of the Street Trading Policy, to the General Purposes Licensing Committee.
 - c. **Request** the Chair of the General Purposes Committee to call on the relevant Cabinet Members of both City and County Councils to review the traffic restrictions imposed on Frideswide Square and align this with the shared vision of both councils in relation to their policies on public realms.

10. Regarding item 8.b., officers have liaised with their County Council colleagues to amend the process for street trading application consultation, so that it ensures that all relevant teams within the Highway Authority are able to comment upon each application.
11. Regarding consultation policy, including Section 6.4, officers consider that a review would need to take account of the outcomes from any actions taken in response to the request in item 8.c. A further update on this matter will therefore be submitted to the next Committee Meeting of 23rd September 2024.
12. In support of elected Members as they engage with Item 8.c., officers have raised the matter of Frideswide Square traffic restriction review with the City-County Active Transport Group (CCAT). Officers consider that the principles and process for such a review would also apply to the wider review of 20 other street trading sites in the city, which are located in or near to traffic management-controlled areas.

Street Trading Consent numbers

13. As of 1st May 2024, 35 Street Trading Consents are in place. These result from 35 renewal applications, including 5 from traders who started up in 2023-24. In the same period, 4 consent holders ceased trading, with 1 closing one of 2 sites. This represents an overall increase in consents issued of one, compared to 2022-23.
14. One new application is in hand, awaiting referral to Sub-Committee for decision.
15. The St Aldate's fixed site (previously occupied by Gore's Van) has not been advertised, pending the outcome of the wider site review. A vacant site in High Street will be advertised shortly.
16. Overall, the demand for street trading sites continues to exceed the number of suitable sites available.

Finance Issues

17. The Fees & Charges scheme recommended to Budget Council by the Committee, came into effect on 1st April 2024. This includes the scheme provisions for the new maximum pavement licence fees allowed under the 2023 Act.

Legal Issues

18. The enforcement of legal requirements made under national legislation is subject to the Council's Corporate Enforcement Policy. Licensing officers have regard to this Policy for example in using education, encouragement, and enforcement to uphold statutory requirements and encourage good practice.

Equality impact

19. There are no adverse impacts anticipated on anyone with protected characteristics.

Environmental implications

20. There are no environmental considerations arising directly from this report overall. Though environmental impact and preventive measures form part of the Council's Street Trading Policy 2023.

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APPENDIX A

1. On 31 March 2024, the pavement licensing provisions laid out in the Levelling Up and Regeneration Act 2023 (LURA 2023) amended the temporary provisions introduced by the Business and Planning Act 2020 (BPA 2020). The new and amended provisions introduce a permanent pavement licensing regime in England, which retains the key features of the 2020 regime (which was intended to streamline processing and reduce costs) but also incorporates some changes, *“to ensure the long-term sustainability of the pavement licensing model.”*
2. Section 229 and Schedule 22 of the LURA 2023 contain amendments to Part 1, Section 1 of BPA 2020, thereby creating a permanent and slightly varied pavement licensing regime. These changes are brought about by [The Levelling-up and Regeneration Act 2023 \(Commencement No. 3 and Transitional and Savings Provision\) Regulations 2024](#)
3. The key changes
 - a. The application fee is no longer capped at £100 but instead but at £500 for first time applications and £350 for renewal applications, subject to each local authority deciding the level of fee up to the cap.
 - b. Local authorities may now grant pavement licences for a length of their choosing up to a maximum of two years.
 - c. The 7-day consultation and 7-day determination periods provided under the temporary regime, are now extended to 14 days for each.
 - d. Local authorities will now, with the consent of the licence-holder, be able to amend the licence in certain circumstances.
 - e. Local authorities are now able to serve notice on businesses who have placed furniture on the relevant highway without the required licence. If furniture continues to be placed on the highway, in contravention of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture, and refuse to return the furniture until those costs have been paid. If within three months of the notice being served, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.
 - f. Any licence application for activities in England licensable under pavement licensing legislation in the Business and Planning Act 2020 must now be granted under that Act (as amended by section 229 of and schedule 22 to the Levelling Up and Regeneration Act). It (therefore) should not be granted under the Highways Act 1980 (which applies to Street Cafes)
4. There are also some significant changes to the [Guidance](#) on the interpretation of the national *no obstruction* condition, including:
 - a. that when considering the needs of disabled people, under normal circumstances a width of 2000mm is the minimum that should be provided. In cases where this is not possible, a width of 1500mm could be regarded as the

minimum acceptable distance. Though, local authorities should take a proportionate approach when measuring this.

- b. when considering the no obstruction condition licencing officers should be mindful of the cumulative impact of multiple pavement licences and the potential impact this could have on disabled pavement users