

Business and Planning Act 2020: Pavement Licence Fees

Summary:

The purpose of this report is to seek permission from the Licensing Committee to allow officers to waive the discretionary pavement licence fee.

Recommendation

The Committee is asked to RESOLVE that

- (i) The discretionary licence fee of £100 for Pavement Licence applications, made under the Business and Planning Act 2020, is waived in light of the current and ongoing impact of the COVID-19 pandemic.
- (ii) To authorise the repayment of pavement licence fees to applicants where these have already been paid, to ensure a fair and consistent treatment of applicants.

1. Background

- 1.1 The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months at a time, while others have had to significantly modify their operations.
- 1.2 The Business and Planning Act 2020(the Act) received Royal Assent on the 22nd July 2020. Part 1 of the Act, provisions relating to Pavement Licences, transferred authority to grant pavement licences from Surrey County Council in its capacity as the Highways Authority to Surrey Heath Borough Council. It also reduced the timescales for the approval of these applications.
- 1.3 These changes were introduced to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outside, whilst at the same time complying with social distancing rules.
- 1.4 On the 29th July 2020 the Licensing Committee received details of proposed arrangements for Surrey Heath to process applications for pavement licences.
- 1.5 These arrangements were approved by the Licensing Committee and the fee for a pavement licence was set at £100. (This is the maximum fee allowed under the Act).
- 1.6 It is likely that these arrangements could come to an end in September 2021 unless extended. The Government has recently indicated its intention to introduce secondary legislation to extend these provisions for a further 12

months subject to Parliamentary approval. We will monitor this closely in the coming months and respond accordingly.

2. Current Impact of Covid-19

- 2.1 Covid -19 continues to have a major impact on businesses within the Borough. Licensed premises remain closed with the exception of a limited food takeaway offering.
- 2.2 The Government recently published a 'road map' to recovery subject to conditions. It is planned that licensed premises will be allowed to open in a phased manner no earlier than the 12th April. With outdoor space having a greater part to play in helping to make businesses financially viable.
- 2.3 In Step 2 of the Government's plans, no earlier than the 12th April- Outdoor areas at hospitality venues(cafes, restaurants, bars, pubs, social clubs, including in member's clubs) can reopen, including for takeaway alcohol. The outdoor areas are only allowed to be used by groups of 6 people or 2 households.
- 2.4 In Step 3 – no earlier than the 17th May. Indoor areas of hospitality venues will be allowed to open. They can be used by groups of 6 or two households indoors; or in a group of no more than thirty people outdoors.
- 2.5 In Step 4- no earlier than the 21st June. All remaining settings, not opened in previous steps, will be allowed to open There will be a lifting of the restrictions on social contact that apply in Step 3.
- 2.6 It is likely that a number of premises will apply for pavement licences to allow them to open in the first phase (Step 2) using the adjacent pavement where appropriate.
- 2.7 Recognising that this has been a very difficult time the Council is keen to support businesses throughout the current restrictions and the phased re-opening of the hospitality sector. As a goodwill gesture we would like to be in a position to waive the fee for pavement licences as set out in this report. We hope that this will play a small part in helping to rebuild the economy as we emerge from the current restrictions.
- 2.8 All pavement licences issued by Surrey Heath will expire on 30 September 2021. This will change if the proposed extension to these provisions is introduced.

3. Resource and Financial Implications

- 3.1 The Licensing Service is ready to proceed with applications for pavement licences as part of the wider work to be ready for the reopening of the licensed trade as lockdown restrictions are eased.

3.2 We have currently received 9 applications for pavement licences. Of these 2 have been granted, 3 have been received recently and are still within the time limits for approval. Four applications were incomplete and despite chasing, we have not received the information required as part of their application. Reimbursing the applicants will mean that we will repay a total of £900.

3.3 The costs are expected to be accommodated within the existing Licensing Services budget.

4. Recommendations

- The discretionary licence fee of £100 for Pavement Licence applications, made under the Business and Planning Act 2020, is waived in light of the current and ongoing impact of the COVID-19 pandemic.
- To authorise the repayment of pavement licence fees to applicants where these have already been paid.

Annexes	Business and Planning Act 2020- licensing implications- Licensing Committee report and minutes of – 29 th July 2020
Background Papers	Business and Planning Act 2020
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**Minutes of a Meeting of the Licensing
Committee held at Virtually - Public
Meeting on 24 March 2021**

+ Cllr Rodney Bates (Chairman)
+ Cllr Vivienne Chapman (Vice Chairman)

+ Cllr Dan Adams	+ Cllr David Mansfield
Cllr Peter Barnett	+ Cllr John Skipper
+ Cllr Richard Brooks	+ Cllr Pat Tedder
+ Cllr Paul Deach	+ Cllr Helen Whitcroft
- Cllr Ben Leach	+ Cllr Valerie White
+ Cllr David Lewis	

+ Present
- Apologies for absence presented

Members in Attendance: Cllr Sharon Galliford, Cllr Emma-Jane McGrath and
Cllr Victoria Wheeler

Officers Present: Paula Barnshaw, Rebecca Batten, Eugene Leal, Helen Lolley,
Tim Pashen and Frances Soper

15/L Minutes of the Last Meeting

The minutes of the meeting held on 21 October 2021 were confirmed and signed by the Chairman.

16/L Statement of Licensing Policy

The Committee considered the proposed Statement of Licensing Policy 2021-2026 with a view to recommending it for adoption at Full Council. The Committee also considered renewal of the Cumulative Impact-Special Policy for Camberley Town Centre, which was required to be reviewed every 3 years.

Following the 6 week public consultation, which had started on 26 October 2020, 3 separate representations had been received on the draft Statement of Licensing Policy. Revisions to the wording of the policy had been made as a result of the consultation responses. The Cumulative Impact Policy had received 2 representations in support of its retention and the Council had not received any representations in favour of removal of the policy. It was underlined that applicants for licences for premises which fell within the Cumulative Impact area were required to show how they would be planning to mitigate the effects of cumulative impact during the application process.

Members' expressed endorsement of the Cumulative Impact Policy given its support on individual licence decisions in the past. Moreover Members were assured that the policy would be kept under regular review to reflect the changes in legislation and changing circumstances.

RECOMMENDED to Full Council that the Statement of Licensing

Policy 2021-2026, as set out at Annex A to the Licensing Committee agenda, be agreed; and

RESOLVED that the Cumulative Impact Policy be retained.

17/L Hackney Carriage (Taxi) and Private Hire (PH) Licensing Policy 2021-2026

The Committee considered the draft Hackney Carriage (Taxi) and Private Hire (PH) Licensing Policy 2021-2026, with a view to approving it for public consultation.

In July 2020 the Department of Transport issued new Statutory Taxi and Private Hire Standards which recommended that Councils made available a cohesive policy document which brought together all their procedures on Taxi and Private Hire vehicle standards and outlined that policies should include but not be limited to policies on convictions and vehicle standards. Under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 the Council was responsible for regulating the Hackney Carriage and Private Hire trades operating in the Borough. This included the central aim of protecting the public, including children and vulnerable adults when using such services.

Members were advised that we are required to consult on proposed changes in licensing rules that may have a significant impact on passengers and the trade.

As part of the proposal the upper age limit for licensed vehicles would be temporarily removed until the new draft Policy was adopted.

It was noted that Street Angels and the Parish Councils would be added to the list of consultees on the policy, which included the Taxi and Public Hire Trade, Ward Councillors and responsible body consultees. In addition, as part of the consultation members of the trade would also be invited to virtual consultation events to discuss and provide their views on the draft policy.

Following questions from Members, the Committee were advised that drivers within Surrey Heath were DBS checked to enhanced standards, which include checked against the Adults' and Children's Barred Lists and further checks every 6 months to ensure no new information has been added.

There was an expressed wish from Members to replicate the CCTV provision which was found in Hackney Carriage and Private Hire Vehicles in Greater London. This will be subject to a separate consultation with the trade and other interested parties. Moreover, it was acknowledged there was a balance to be struck between environmental considerations and the financial costs to the Hackney Carriage and Private Hire companies.

As part of the proposal the upper age limit for licensed vehicles would be temporarily removed until the new draft Policy was adopted.

RESOLVED that

- I. The contents of the agenda report be noted;**
- II. The Hackney Carriage (Taxi) and Private Hire (PH) Licensing Policy 2021-2026 be approved for consultation as per Annex A of the agenda pack;**
- III. The upper age limit for licensed vehicles be temporarily removed until a new draft Policy is adopted.**

18/L Business and Planning Act 2020: Licensing Implications

The Committee considered a proposal to waive the discretionary licence fee for pavement licence applications in light of the ongoing effects of the Covid-19 pandemic to businesses. As part of the proposal, in order to ensure fair and consistent treatment of applicants, repayment of licence fees to applicants, which had already paid the application fee, would be undertaken.

The Committee were reminded that the pavement licence fee was set at £100 as approved by the Licensing Committee on 29 July 2020 and was a product of the Business and Planning Act 2020, which received royal assent in July 2020 and made it easier for premises to serve food and drink to customers outside whilst obeying social distancing rules.

The Committee were advised that these new provisions are due to come to an end on the 30th September 2021. The Government had however indicated that they might be extended to the end of September 2022 and it was clarified that it was proposed for the fee to be waived until further review from the Licensing Committee.

The Committee reemphasised the need to help struggling businesses by bringing forward such proposals; despite the waived licence fee being a relatively small amount.

Furthermore it was requested by the Committee that bars, cafes, pubs and restaurants be reminded that despite the waived licence fee, that they would still need to apply for a pavement licence in order to serve food and drink on the highway.

RESOLVED that

- I. The discretionary licence fee of £100 for Pavement Licence applications, made under the Business and Planning Act 2020, be waived in light of the current and ongoing impact of the COVID-19 pandemic and until further review by the Licensing Committee;**
- II. the repayment of pavement licence fees to applicants where these have already been paid be agreed.**

19/L Amendment to Taxi Rank o/s No 72 to 84 High Street Camberley

The recently completed High Street Public Realm project had reduced kerbside parking along the High Street from its junction with Pembroke Broadway to its junction with St George's Road and Obelisk Way. In addition, the works had reduced taxi rank spaces from 7 to 4 spaces which had been approved at the

Surrey County Council Surrey Heath Local Area Committee meeting on 25 February 2021.

It was acknowledged that the timings and cancellations of the Surrey Heath Local Area Committee's meetings meant the decision to reduce the taxi rank spaces came before the Licensing Committee after the public realm works had dictated its hand. In addition, whilst it was appreciated that it was not a responsibility of the Licensing Committee, it was noted that there were concerns in respect of disabled parking provision on the High Street.

RESOLVED that

- I. The proposal to reduce the High Street rank from 7 taxis to 4 taxis and advertise the proposals in accordance with the Local Government (Miscellaneous Provisions) Act 1987 s63 be agreed;**
- II. Officers be asked to investigate the replacement of the spaces elsewhere in Town.**

20/L Licensing Act 2003 - Summary of Decisions

The Committee received details of the decisions taken under delegated powers in respect of licence applications where no representations had been received from the responsible authorities or any other persons.

21/L Uber Licensing Update

The Chairman of the Licensing Committee gave a verbal update on the meeting which he and the Council's Licensing Officer had attended with Uber's Head of Cities. The meeting discussed the implications of the presence of Uber Drivers within the Borough and their registration with Transport for London (TFL) which some Surrey Heath Hackney Carriage and Private Hire licensed vehicles felt was unfair competition.

At the beginning of 2018, Uber had created internal regional boundaries to where its drivers could pick-up passengers. The exclusive London Zone was expanded to include London and the surrounding areas which included Surrey Heath. It was picked up during the meeting that there some anomalies in respect of the boundary area within the Surrey Heath borough area. As a result, the Council had asked Uber if they were minded to conduct a review in respect of the boundaries and in particular the anomalies with in the Surrey Heath Area. However, due to the significant resource to undertake this work Uber declined to undertake this work immediately, but committed to review the Surrey Heath area when they next remapped and reviewed the boundary. Furthermore, it was noted that there were Uber Drivers who lived in Surrey Heath but were registered by Transport for London (TFL).

Members were advised that if they had concerns in respect of enforcement issues regarding Uber drivers, these should be flagged with the Police or the Council's Licensing Team. It was noted that a longer term solution could be the creation of nationwide rules in order to remove inconsistencies in conditions and rules between different geographical areas. It was noted that a follow up meeting had been arranged with Uber for 6 months' time.

RESOLVED that the update be noted.

22/L Licensing and Environmental Health Teams Update

The Committee received an update on the areas of work covered by the Licensing and Environmental Health Teams and their successes over the past year.

Licensing and Environmental Health were statutory functions of the Council with the primary aims of protecting public health and controlling public nuisances. In respect of its licensing functions the Council also had the aims of safeguarding the vulnerable and encouraging the reduction of crime and disorder. Collectively there were over 700 active Licenses in the borough area, including premises licences, gambling licences and charity collection licences.

The pandemic had resulted in a reduction of the amount of licences held within the Borough, but an increase in workload for the Licensing and Environmental Health teams. There had been a significant increase in enquiries from businesses in respect of asking for advice on how to comply with the regulations and guidelines. In addition, going forward, responses from responsible bodies as consultees to temporary event licenses, were to become more important in order to ensure the holding of covid-secure events.

The Council's Environmental Health team carried out services in respect of air quality, nuisances, contaminated land and the overseeing of pest contracts. This was in addition to food safety and health and safety services.

As a result of the pandemic, there were increased numbers of premises selling takeaways, which provided a different type of food safety risk, and still needed monitoring by the Environmental Health team. Despite the usual circumstances, inspections and food poisoning investigations were still taking place in person, with the necessary risk assessments in place. Whilst there had been decreases in cases such as stray dog complaints, there had been significant increases in noise complaints across the borough and the amount of bonfire complaints had approximately doubled within the past year.

Covid-19 had also offered a new stream of work which came under environmental health, and together with the Covid Marshalls, the Environmental Health team had conducted over 2000 visits to premises to ensure compliance, as well as parks and playgrounds.

Arising from Members' comments it was recognised that there was a balance to be struck in respect of food safety enforcement. During the pandemic there had been various informal community initiatives which entailed the cooking and dropping off of meals. Whilst under the Food Safety Act infrequent, informal services perhaps wouldn't need to register as a food premises, the Environmental Health team were always keen to liaise with such services in order to provide advice on best practice.

Whilst the Environmental Health team was aiming to proactively engage with the borough's premises in the form of mail shots, via the Economic Development Newsletter and via attendance of Pubwatch meetings, there was a perceived shortfall in respect of the guidance that businesses were receiving from the Council about the reopening process. It was agreed that there was an opportunity for the Council to hold a virtual engagement event with the Borough's businesses to offer support in respect of reopening of bars, pubs and restaurants in May. In addition, there was a need to ensure that the Council's website was up to date in respect of resources and information to allow businesses to successfully reopen as social distancing restrictions eased.

It was remarked that despite difficulties in being able to cover the whole of the borough, the Covid Marshalls had done an excellent job in encouraging adherence to the social distancing rules. The marshalls worked closely with the Environmental Health team which conducted any necessary enforcement work in respect of businesses, whilst it was acknowledged that it was the Police's responsibility to breakup any large gatherings. In addition, the Committee showed its dismay at the shared reports that a number of Covid Marshalls and Covid Ambassadors had received abuse as a result of the undertaking of their roles, and that a number of ambassadors had resigned from their roles as a result. The Executive Head of Community agreed to discuss this further with the Police.

RESOLVED that the update be noted.

23/L 21/22 Committee Work Programme

The Committee received its Work Programme for the upcoming 2021/22 municipal year.

RESOLVED that the Committee's Work Programme for the 2021/22 municipal year be agreed as per the agenda reports pack.

Chairman