

Surrey Heath Borough Council
Licensing Committee
7 February 2024

Pavement Licence Update

Strategic Director/Head of Service	Nick Steevens
Report Author:	Paula Barnshaw – Senior Licensing Officer
Key Decision:	Yes
Wards Affected:	All

Summary and purpose

The purpose of this report is to brief members on the changes the Levelling Up and Regeneration Act 2023 (LU Act 2023) have made to the Business and Planning Act 2020 (BPA 2020) with regard to the provisions for Pavement Licences and to propose fees for new and renewal Pavement Licence applications and to propose that the duration of the licences be to be 2 years.

Recommendation

The Committee is advised to RESOLVE that the fee for applications for a Pavement Licence be increased under the provisions of the Business and Planning Act 2020 (as amended by the Levelling-up and Regeneration Act 2023 (Schedule 22)), from 1 October 2024 and the licence period increase to 2 years, as set out in 2.2 and 2.3.

1. Background and Supporting Information

- 1.1 The BPA 2020 sought to assist the hospitality industry recover from the first Covid 19 'lockdown' by making it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning and alcohol licensing. The legislation was introduced with an end date of 30 September 2021.
- 1.2 The Act made it quicker and cheaper to apply for a pavement licence from Surrey Heath Borough Council temporarily replacing the Tables and Chairs licence previously issued by Surrey County Council.

- 1.3 Due to the unprecedented and prolonged restrictions of the Covid 19 pandemic the BPA 2020 provisions were extended with further statutory instruments extending the provisions in 2021, 2022 and 2023, pending the creation of a permanent Pavement Licensing regime under the Levelling Up and Regeneration Bill.
- 1.4 On 26 October 2023 the LU Act 2023 gained Royal Assent and Schedule 22 makes the provisions in the BPA 2020 permanent, it also made other provisions relating to pavement licences.
- 1.5 The new provisions include permitting pavement licences to be renewed, with an increase in fees up to a maximum of £350 for a renewal and £500 for a new application and extending the currency of the licence to a maximum of 2 years.
- 1.6 The public consultation period and the period for determining licences increases from 7 to 14 days.

2. Reasons for Recommendation

- 2.1 All current pavement licences issued will expire 30 September 2024, the new provisions will start 1 October 2024.
- 2.2 The application fee for a Pavement Licence is capped at £100 under the BPA 2020. This does not cover the full costs of administering pavement licensing and it is proposed to increase the fee to the maximum permitted under the LU Act 2023 to ensure full cost recovery i.e. £350 for a renewal and £500 for a new application.
- 2.3 Under the BPA 2020 the maximum duration of the licence was 1 year. It is proposed to increase this to the maximum permitted under the LU Act 2023 to 2 years. By increasing the duration of the licence this will reduce the burden on businesses and the licensing team.
- 2.4 A total of 13 pavement licences were issued for the period 01/10/2023-30/09/2024.

3. Alternative Option

- 3.1 The alternative is to charge a lower fee, but this would not achieve full cost recovery.
- 3.2 The duration of the licence could remain at 1 year, but this would increase the burden on businesses to renew annually and increase administration for the Council.

4. Contribution to the Council's Five Year Strategy

- 4.1 The Pavement Licence regime helps to support local businesses, permitting tables and chairs to be placed on the highway safely, and providing an

attractive café culture to the town and villages. This contributes to the Council's Environment, Economy and Health & Quality of Life strategic priorities.

5. Resource Implications

- 5.1 Setting the fees at the maximum allowed and for a 2 year duration will enable the Council to fully recover the cost of administering the licences with no additional resource implications.

6. Section 151 Officer Comments:

- 6.1 Waiting for comments.

7. Legal and Governance Issues

- 7.1 The Council is responsible for issuing Pavement Licences allowing businesses to place table and chairs on the highway under the BPA 2020 as amended by the LU Act 2023.

8. Monitoring Officer Comments:

- 8.1 Waiting for comments.

9. Other Considerations and Impacts

Environment and Climate Change

- 9.1 No direct impact.

Equalities and Human Rights

- 9.2 No direct impact.

Risk Management

- 9.3 Licensing will continue to enforce the Pavement Licence regime. Businesses must provide evidence of public liability insurance.

Community Engagement

- 9.4 Public consultation, notices are posted at the premises, the Council's public notice web page and shared on social media. Councillors are notified of each application within their ward.

Annexes

None.

Background Papers

Business and Planning Act 2020

Levelling-up and Regeneration Act 2023