

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

meeting date: TUESDAY, 29 OCTOBER 2024
 title: PAVEMENT LICENSING POLICY
 submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE
 principal author: STEPHEN BARKER – SOLICITOR

1 PURPOSE

1.1 To seek Committee's approval of a policy for the issue of Pavement Licences pursuant to the Business and Planning Act 2020 (as amended), for conditions to be attached to such licences, and for appropriate fees to be set.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – } Consideration of these issues will promote
- Corporate Priorities – } the Council's aims to be a well-managed
- Other Considerations – } Council.

2 BACKGROUND

2.1 The Business and Planning Act 2020 ("the Act") introduced provisions designed to make it easier for premises serving food and drink such as bars, restaurants, cafes and pubs to seat and serve customers outdoors, maximising their ability to trade, assisting them to operate safely and promoting economic recovery in response to the COVID-19 pandemic.

2.2 The Act created a regime for processing applications for "Pavement Licences" to authorise such businesses to place furniture on the highway. This was a fast-track procedure to get the same permissions a business would previously have had from a Part 7A Highways Act permit, street trading consent and planning permission (change of use).

2.3 The Council adopted the scheme on 24 July 2020, with approval being given by the Chief Executive after consultation with the Leader and the Leader of the Opposition, in accordance with the scheme of delegation approved by the Emergency Committee on 7 May 2020. The approval of the scheme was reported to the subsequent meetings of Licensing Committee on 20 October 2020 and Policy and Finance Committee on 17 November 2020 (regular meetings having been suspended during the early stages of the pandemic).

2.4 The scheme initially introduced under the Act was temporary and was extended on a number of occasions by subordinate legislation. The Levelling Up and Regeneration Act 2023 made the provisions of the Act permanent with effect from 31 March 2024. The new provisions also include local setting of fees and enforcement powers where a premises is in breach of their licence or has no licence.

2.5 The Council has issued 7 licences under the temporary regime – 1 in 2020, 5 in 2021 and 1 in 2023. Unlike boroughs which have large pedestrianised areas of highway, the configuration of most streets in the Ribble Valley is such that implementation of a

Pavement Licence is not practicable as most streets have pavements. Currently, there are no premises with Pavement Licences, and one business has expressed interest in seeking a licence.

- 2.6 The Council's website gives a full explanation of what was required under the temporary pavement licensing regime, together with links to the national and local conditions, relevant guidance and the electronic application form, and applicants have not reported any issues in submitting their applications. However, in view of the regime becoming permanent, it is considered desirable to introduce a policy which sets out the Council's requirements and which will assist applicants in their submissions.

3 ISSUES

- 3.1 A copy of the proposed policy for pavement licences can be found at Appendix 1. The proposed policy incorporates national and local conditions, a template site notice and a scheme of delegation.

- 3.2 The proposed conditions are a continuation of the conditions which have been applicable during the temporary regime.

- 3.3 The Council must also set a fee structure for determination of applications for Pavement Licences. Under the temporary regime, the fee was capped at £100, and a licence should only be granted for a one year term. Under the new legislation, a licence can be granted for up to 2 years. Fees are capped at £500 for a new application and £350 for a renewal. Officer time involved in processing a new application and a renewal is the same, as similar documents and evidence have to be produced and considered for each. Although there is no statutory right of appeal on refusal, it is recommended that applications which attract relevant representations should be referred to the Council's Licensing Sub-Committee. Analysis of officer time engaged in processing the applications and preparation and attendance at sub-committee shows a cost on 2024/25 figures of £249.13. It is recommended that the fee be set at £250 with review as part of the annual fees and charges setting (subject to any nationally set cap).

- 3.4 Under the temporary regime, there was a time limit of 7 days for consultations, and a further 7 days for determination of the application. These limits have each been increased to 14 days. If the Council does not determine the application within 28 days, the application will be deemed to have been granted.

- 3.5 It remains the case that unlicensed placing of furniture can be enforced by the Police or highways authority as obstruction of the highway. A new enforcement regime has been introduced, so that if there is breach of a local or national condition, a notice can be served to remedy the breach and the Council can take action to recover any costs. Additionally, where furniture has been placed on the highway without there being a current licence, the Council now has powers to serve notice requiring its removal; in the event of non-compliance, there is a power for the Council to remove the furniture and not to return it until removal and storage costs have been paid.

- 3.6 A scheme of delegation is proposed and can be found at Appendix 2. It is recommended that Committee approve this scheme.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:

- Resources – The additional costs of administering the licensing scheme will be recovered through the fees charged.
- Technical, Environmental and Legal – Any decisions which are unreasonable or unlawful would result in loss of image, reputation and potential financial consequences.
- Political – None.
- Reputation – None.
- Equality & Diversity – None.

5 **RECOMMENDED THAT COMMITTEE**

- 5.1 Approve the draft Pavement Licensing Policy.
- 5.2 Approve the scheme of delegation within the draft policy.
- 5.3 Approve the proposed fee of £250 for new applications and for renewal of licences.

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MARSHAL SCOTT
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BACKGROUND PAPERS
(If any)

For further information please ask for Stephen Barker, extension 3216.

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