

<b>REPORT TO:</b>	<b>FULL COUNCIL</b>	<b>AGENDA ITEM:9</b>
<b>DATE OF MEETING:</b>	<b>15<sup>th</sup> JULY 2020</b>	<b>CATEGORY: DELEGATED/ RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>CHIEF EXECUTIVE</b>	<b>OPEN/EXEMPT PARAGRAPH NO:</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>EMMA McHUGH</b> <b>01283 595 716</b> <a href="mailto:emma.mchugh@southderbyshire.gov.uk">emma.mchugh@southderbyshire.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>INTRODUCTION OF PAVEMENT LICENCES</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE:</b>

## **1. Recommendations**

- 1.1 That Members note the introduction of pavement licences.
- 1.2 That Members approve the delegated authority for Officers to refuse and revoke any application for a pavement licence if relevant representations are received.
- 1.3 That Members approve the proposed fee for a pavement licence application.

## **2. Purpose of Report**

- 2.1 To provide Members with the necessary information to be able to consider the recommendations contained in paragraph 1 of this report.

## **3. Detail**

- 3.1 The Business and Planning Bill is currently passing through Parliament which contains provisions relating to pavement licences. As the Bill is being introduced to boost the economy post Covid-19 lockdown, it is anticipated that the Act will come into force within the next few weeks and Government expects Local Authorities to be in a position to start issuing pavement licences immediately in an attempt to assist the licensed trade.
- 3.2 Street café licences are currently administered by Derbyshire County Council under section 115E of the Highway Act 1980. The administration process can take up to 28 days and can be a complicated process. The new pavement licensing regime will be administered by this Licensing Authority and is intended to be a quicker and easier process for licence holders to obtain permission to place tables and chairs on the pavement outside of their premises. The pavement licence regime will end on 30<sup>th</sup> September 2021.
- 3.3 Under the proposed pavement licensing regime, there will be a 7-day representation period for relevant parties to raise an objection to the grant of the

licence. The Licensing Authority is required to consult with the Highways Agency but also intends to consult with Derbyshire Police, Environmental Health, Communities Department and Ward Councillors. The application will be placed on the Council's website and the applicant is required to place a notice on the premises in order to notify members of the public who may raise a representation against the application.

- 3.4 At the end of the representation period, the Licensing Authority has a further 7 days to determine the application. If the application is not determined within this time period, the application is deemed granted.
- 3.5 As the determination of the application is time sensitive, any representation received will not be able to be considered by the Licensing and Appeals Sub-Committee within the 7 day period therefore it is proposed that the Head of Legal and Democratic Services or their deputy receives delegated authority to refuse an application as required. An application can be refused if:
- The applicant has not been able to demonstrate how they will confirm with the latest guidance on social distancing and crowd management;
  - The proposal will create a nuisance to neighbouring occupiers by generating anti-social behaviour and/or litter and
  - There are concerns over accessibility for members of the public if the tables and chairs are placed on the highway.
- 3.6 There is no appeal process within the legislation however the Government Guidance states that Licensing Authorities should offer an appeal route through their Licensing and Appeals Sub-Committee therefore any applicant aggrieved by the Officer decision will be able to appeal to this Sub-Committee.
- 3.7 As the regime is intended to be light touch and to aid the licensed trade, the Licensing Authority intends to permit most applications if the applicant can demonstrate that they meet the above requirements detailed at paragraph 3.5. If the pavement licence subsequently creates issues, there is provision in the proposed Act for enforcement to be taken. This can be by way of a notice requesting the licence holder to take measures to rectify the issues and/or revocation of the licence. As any issues could be causing nuisance on the highway and to members of the public or not complying with social distancing guidance, any action must be taken in a timely fashion therefore it is proposed the Head of Legal and Democratic Services or their deputy receives delegated authority to revoke a pavement licence as required on any of the grounds detailed above at paragraph 3.5. Revocation is a last resort as with all areas of licensing and the Licensing Authority will endeavour to work with the licence holder first to rectify any issues.

### **Fee**

- 3.8 Under the proposed Act, a Licensing Authority is permitted to set a fee in support of the application. This fee is limited at £100 and it is proposed to charge £100 per application. This fee is set on a cost recovery basis up to the maximum limit permitted.
- 3.9 The length of the licence is to be determined by the Licensing Authority unless the application is not determined within the time period when a one-year licence will be deemed granted. As the pavement licensing regime is due to end on 30<sup>th</sup> September 2021 and to assist the licensed trade, it is proposed that all licences will end on 30<sup>th</sup> September 2021 to avoid any renewal application and associated fee.

#### **4. Financial Implications**

- 4.1 There are no financial implications to the Council.
- 4.2 There will be financial implications to any applicant for a pavement licence.

#### **5. Corporate Implications**

##### **Employment Implications**

- 5.1 None

##### **Legal Implications**

- 5.2 None

##### **Corporate Plan Implications**

- 5.3 These proposals will continue to demonstrate to members of the public that the Council takes the protection of local residents, children, and vulnerable adults seriously and that the Council supports the licensed trade, which contributes to the value of taking pride in our place and striving for excellence in all we do.

##### **Risk Impact**

- 5.4 None

#### **6. Community Impact**

##### **Consultation**

- 6.1 None

##### **Equality and Diversity Impact**

- 6.2 None

##### **Social Value Impact**

- 6.3 None

##### **Environmental Sustainability**

- 6.4 None

#### **7. Background Papers**

Business and Planning Bill