



## Licensing Committee

Members of the **Licensing Committee** of **Gravesham Borough Council** are summoned to attend a meeting to be held Virtually on **Monday, 14 September 2020 at 7.30 pm** when the business specified in the following agenda is proposed to be transacted. Details on how Members can attend the meeting will be sent separately.

In response to COVID-19, the Government has legislated to permit remote attendance by Elected Members at formal meetings. This is conditional on other Elected Members and the public being able to hear those participating in the meeting. This meeting will be streamed live and can be watched via Gravesham Borough Council's YouTube Channel:-

[www.youtube.com/graveshamtv](http://www.youtube.com/graveshamtv)

S Walsh  
Service Manager (Communities)

### Agenda

#### Part A

#### Items likely to be considered in Public

1. Apologies for absence
2. To sign the minutes of the previous meeting (Pages 3 - 6)
3. To declare any interests members may have in the items contained on this agenda. When declaring an interest a member must state what their interest is.
4. To consider whether any items in Part A of the agenda should be considered in private or the items in Part B in public.
5. Licensing Support during the Covid-19 Pandemic (Pages 7 - 14)
6. Licensing Panel Hearings (Pages 15 - 20)

7. Pavement Licences and Off-Sales of Alcohol - Business and Planning Act 2020 (Pages 21 - 26)
8. Any Other Business which by reason of special circumstances the Chair is of the opinion should be considered as a matter of urgency.
9. Exclusion of the Public

To move, if required, that pursuant to Section 100A(4) of the Local Government Act 1972 that the public be excluded from any items included in Part B of the agenda because it is likely in view of the nature of business to be transacted that if members of the public are present during those items, there would be disclosure to them of exempt information as defined in Part 1 of Schedule 12A of the Act.

## **Part B**

### **Items likely to be considered in private**

None

### **Members**

CLlr Steve Thompson (Chair)  
CLlr Jenny Wallace (Vice-Chair)

Councillors:           Derek Ashenden  
                              Helen Ashenden  
                              Gurdip Ram Bungar  
                              Emma Elliott  
                              Brian Francis  
                              Baljit Hayre  
                              Leslie Hoskins  
                              Lyn Milner  
                              Leslie Pearton  
                              Tony Rana  
                              Denise Tiran  
                              Frank Wardle

Substitutes:           To be notified

**Licensing Committee****Tuesday, 5 November 2019****7.30 pm****Present:**

Cllr Steve Thompson (Chair)  
 Cllr Jenny Wallace (Vice-Chair)

Cllrs:                 Derek Ashenden  
                           Helen Ashenden  
                           John Caller  
                           Emma Elliott  
                           Brian Francis  
                           Leslie Hoskins  
                           Nirmal Khabra  
                           Diane Marsh  
                           Lyn Milner  
                           Emma Morley  
                           Tony Rana  
                           Frank Wardle

PC Chris Hill	Licensing Officer, Kent Police
Geoff Rowley	Licensing Co-ordinator, Kent Police
Priscilla McBean	Chair – Gravesham Street Pastors
Sam Coveney	Coordinator – Gravesham Street Pastors

Mark Lees	Regulatory Services Manager
Chris Wakeford	Committee Services Officer (Minutes)

**79. Apologies**

An Apology for absence was received from Cllr Denise Tiran; Cllr Helen Ashenden appeared as her substitute.

An Apology for absence was also received from Cllr Leslie Pearton.

**80. Minutes**

The Minutes of the meeting held on 16 September 2019 were signed by the Chair.

**81. Declarations of Interest**

No declarations of interest were made.

## **82. Update on proactive review of premises licences with embedded conditions**

The Committee received an update on proactive review of premises licences with embedded conditions.

The Regulatory Services Manager advised Members that he and the Chair had now agreed to approach this by way of an invitation contained in a licensing newsletter. He had also been advised that the Leader of the Council and the Chief Executive had agreed that a video release that promotes the night time economy would be a good idea, and this was something to progress in due course.

The Chair advised the Committee that partners, including Kent Police, will be invited to join the Council in creating the promotional video.

The Chair highlighted that the Council had held six Licensing Panels in the last 6 months, but wanted to stress that, whilst enforcement action will be taken when necessary, the Council is fully supportive of the night time economy, good licence holders and a thriving and safe night life.

## **83. Gravesend Street Pastors update**

The Committee welcomed Priscilla McBean (Chair – Gravesham Street Pastors) and Sam Coveney (Coordinator – Gravesham Street Pastors) who provided an update on their work in Gravesham, you can view their presentation by clicking the link below:

<http://democracy.gravesham.gov.uk/ieListDocuments.aspx?CId=124&MId=3171&Ver=4>

Priscilla McBean and Sam Coveney fielded questions from the Committee and highlighted the following:

- A typical shift for a Gravesham Street Pastor is 10pm until 2am. The Street Pastors work in teams of four.
- Funding comes from a variety of sources including the following; fund raising events, Kent Police lost property fund, Gravesham Borough Council, Kent County Council, donations from local churches, anonymous donations, donations on the street.
- The Street Pastor volunteers are from a broad range of backgrounds and cultures.
- A 'safe place' that the Street Pastors can take people who need more help would be beneficial, other Street Pastors use buses and empty shops.
- The main challenges for the Gravesham Street Pastors are poor street lighting, uneven pavements / walkways and funding.
- Councillors are welcome to come out on patrol (as an observer) with the Street Pastors. Any Member who is interested can contact the GBC Committee Section with their available dates and they will be passed on to the Street Pastors.

The Chair highlighted that street lighting and pavements were the responsibility of Kent County Council and these issues could be fed back to KCC by both GBC and KCC Councillors.

The Committee thanked the Gravesham Street Pastors for everything they do in Gravesend.

#### **84. North Kent Police Licensing Team update**

PC Chris Hill and Geoff Rowley provided an update on the North Kent Police Licensing Team and highlighted the following:

- The Licensing Team consist of five people who cover Dartford, Gravesham, Medway and Swale (3200 licensed premises)
- The team trawl through calls made to the Police and record the incidents that relate to licensed premises. Many of the larger venues in Gravesend (e.g. McDonalds) provide the Police with their own records of incidents on their premises (e.g. ejections, how many people through the door etc.).
- The team try to maintain a good working relationship with licence holders. Most issues can be resolved by the team and a Licensing Panel is usually a last resort.
- Crime statistics for Gravesham can be found on the Kent Police website
- Poor street lighting and overflowing bins (containing glass bottles) are a big challenge for the Police in Gravesend.
- Most of the licensed premises in Gravesend are compliant and on the whole the town is a good place to go out at night.

The Committee discussed the recent Silk Bar Licensing Panel and noted the outcome of the hearing.

The Committee requested that the North Kent Police Licensing Team keep Members updated on their achievements in the borough.

Following a discussion on traffic issues in the town centre at night; the Regulatory Services Manager advised that discussions are taking place with the Community Safety Unit in relation to an audit of the night time economy.

The Chair highlighted that traffic issues should be raised at the Gravesham Joint Transportation Board.

The Committee thanked the North Kent Police Licensing Team for the sterling work they do in the borough.

#### **85. Licensing Panel hearings**

The Committee considered and noted the report on the Licensing Panel hearings.

#### **86. Minutes of the meeting of the Licensing Panel held on Thursday, 4 July 2019**

The Committee considered and noted the minutes.

#### **87. Minutes of the meeting of the Licensing Panel held on Thursday, 11 July 2019**

The Committee considered and noted the minutes.

#### **88. Minutes of the meeting of the Licensing Panel held on Thursday, 5 September 2019**

The Committee considered and noted the minutes.

**89. Minutes of the meeting of the Licensing Panel held on Monday, 9 September 2019**

The Committee considered and noted the minutes.

**90. Minutes of the meeting of the Licensing Panel held on Monday, 30 September 2019**

The Committee considered and noted the minutes.

**91. Minutes of the meeting of the Licensing Panel held on Tuesday, 1 October 2019**

The Committee considered and noted the minutes.

**Close of meeting**

The meeting ended at 8.55 pm

**Classification:** Public

**Key Decision:** No

### Gravesham Borough Council

**Report to:** Licensing Committee  
**Date:** 14 September 2020  
**Reporting officer:** Mark Lees, Regulatory Services Manager  
**Subject:** Licensing support during the Covid-19 pandemic

#### **Purpose and summary of report:**

1. To update Members on how the council has supported licence holders during the pandemic and how compliance was/will be monitored.

#### **Recommendations:**

1. Members to note the content of the report.

#### **1. Background**

- 1.1 The COVID-19 pandemic forced a rapid rethink on all areas of life, not least of which on licence holders/business owners and those tasked with their regulation, who had to adapt quickly and decisively to new rules and restrictions, and a myriad of associated guidance documents, brought in without advance notice during lockdown.
- 1.2 Local authority licensing functions are, not only statutory, but essential to:
  - 1.2.1 Enable businesses and individuals to work within the law
  - 1.2.2 Promote the licencing objectives of each regime
  - 1.2.3 Support the economy and employment at a local and national level
- 1.3 Soon after lockdown, the Institute of Licensing (IoL) helpfully published the first version of its 'Protocol for Licence Applications and Hearings under the Licensing Act 2003 During the Covid-19 Pandemic', which was intended to

*"...assist licensing authorities in complying with their obligations and duties under the Licensing Act 2003 during this emergency period. It takes into account the closure of premises (including most licensed premises), restrictions on freedom of movement and social distancing strictures set out in The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, The Coronavirus Act 2020 (in so far as it impacts on licensing proceedings), The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police*

*and Crime Panel Meetings) (England and Wales) Regulations 2020, and Government guidance.”*

- 1.4 Within the protocol, it stated:

*“It is recognised that during this emergency period local authorities and police, in particular, will be burdened with exceptional duties that go outside the usual realms of licensing. However, that is not a reason to bring the licensing system to a complete halt for the undoubtedly long period ahead of us until the pandemic is over. The backlog of applications and hearings that would arise if that course is taken would soon become unmanageable in the long-term and further damage the public interest.*

*“There is a significant public interest in ensuring that licensing processes can continue and enable new and current applications to be processed - and hearings convened - where necessary. Many operators in the licensed sector face an existential threat to their businesses. The resulting job losses will cause considerable damage to our national and local economies and to the lives of workers in the public and private sectors. To some degree, the continuation of the licensing processes may assist in mitigating some of this damage by ensuring that the necessary licences are able to be issued, or modified, where required.”*

- 1.5 Whilst this extract refers to licensing under the Licensing Act 2003, the same ethos can be equally applied to taxi and private hire, and other, licensing regimes. It is acknowledged that taxi and private hire licensing falls outside of the remit of the Licensing Committee; however it is considered important to highlight the great, supportive work of the council in relation to this regime too, to provide a more full picture of the effort that has gone in to supporting all of our licence holders during the pandemic.
- 1.6 Despite the challenges of lockdown and a seemingly constant stream of change and uncertainty, the Licensing Team therefore had to adapt quickly in order to continue operating the council’s licensing functions within existing statutory timescales.

## **2. Practical impacts and operational changes**

- 2.1 The following practical and pragmatic operational steps were introduced in order to maintain the licensing service and enable business and licence holders to continue functioning (where permissible) whilst adhering to Government advice/requirements, protecting staff and public health, and supporting customers:
- 2.1.1 Staff were set up to predominantly work from home on work-issued laptops with full access to all relevant systems.
- 2.1.2 Where staff were not present in the office, arrangements were out in place whereby incoming calls to the team were taken and managed by Customer Services so far as possible, with messages being taken and emailed to officers to respond to accordingly where necessary.
- 2.1.3 Staff attended the Civic Centre, generally on a twice weekly basis, to ensure that post continued to be collected, scanned, and distributed via email to relevant staff for processing remotely.



- 2.1.4 Taxi and private hire vehicle licence plates and driver badges necessarily stopped being printed. Temporary exemptions from displaying currently plates/badges were instead emailed alongside the paper part of the licences, and licence holders were asked to continue to display their old plates/badges and keep the exemption letter(s) with them at all times.
- 2.1.5 Where taxi and private hire applicants were unable to satisfy all renewal requirements due to COVID-19 measures outside of their control, temporary licences were issued to enable them to keep working until such time as they can be replaced with full licences.
- 2.1.6 Following consultation with the Leader and Chief Executive, existing taxi and private hire licence holders were given an option at the point of renewal to defer payment of renewal fees for 3 months (initially) and given temporary licences where this option was chosen. This deferral option was later extended for a further 3 months. No impact in annual income is envisaged as a result of this.
- 2.1.7 More online application forms with online payment facilities continued to be developed and published on the council's website to progress our overall digital offering, in support of Corporate Objective #3 – Progress, and facilitate more streamlined processes that can be progressed efficiently, and remotely.
- 2.1.8 All other applications continued to be processed as normal, but with all licence parts and documentation sent via email wherever possible.
- 2.1.9 Web content was provided and published on the Gravesham website, to keep licence holders abreast of relevant changes and signpost service users appropriately.
- 2.1.10 Remote meeting facilities (in terms of Licensing Panel Hearings) were set up and associated guidance was written to enable hearings to continue to take place in an effective, transparent and compliant manner.
- 2.2 With the exception of Temporary Event Notices, despite the temporary closure of licenced premises, the administrative day to day work of the Licensing Team did not reduce.
- 2.3 Staff were nevertheless able maintain their functions and continue to meet statutory timescales throughout lockdown.
- 2.4 Gravesham's licence holders are therefore highly unlikely to have observed any reduction in licensing service provided by the council during lockdown, which is a testament to the way in which officers adapted to maintain an excellent service provision.

### **3. Pavement Licensing**

- 3.1 In addition to the vast array of operational changes necessarily implemented, the Government introduced a new, temporary, Pavement Licensing regime and associated changes to off-sales of alcohol, under the Business and Planning Act 2020, which took effect immediately upon receiving Royal Assent on 22 July; just 4 weeks after the Bill was introduced into the House of Commons.

- 3.2 The provisions were intended to assist and promote economic recovery and growth.
- 3.3 The work involved in preparing to implement a brand new licensing regime is significant, yet the council has been able, through the hard work and dedication of its officers, to put in place the necessary arrangements to facilitate this despite only having a matter of weeks to do so.
- 3.4 Further details in relation to this are contained in a separate report presented to this Committee on 14 September 2020 entitled, 'Pavement Licences and Off-Sales of Alcohol - Business and Planning Act 2020.'

#### **4. Additional support**

- 4.1 Routine food hygiene inspections were halted by the Food Standards Agency (FSA) during lockdown. The Commercial Team, within the Environmental Health service, who deal with this area of work, were therefore tasked with leading the council's compliance efforts relating to business closure requirements and have liaised with licenced premises as required to provide advice and guidance, and ensure compliance, throughout the pandemic. This work was also largely supported by other council staff, notably the Town Centre Manager.
- 4.2 The same officers are also primarily responsible for ensuring that workplaces, including licenced premises, are 'Covid-secure' upon reopening since this is essentially a matter of workplace health and safety which falls within their usual remit.
- 4.3 As part of this work, prior to restaurants, pubs, bars and takeaway services reopening on Saturday 4 July (dubbed 'Super Saturday'):
  - 4.3.1 On 25 June, an email was sent to all licenced premises, and other applicable businesses, to help them prepare for reopening by signposting them to the appropriate guidance and putting them in contact with the Commercial Team.
  - 4.3.2 Licensing and the Commercial Team teamed up to carry out a day of 'light touch' visits to licenced premises on 2 July to check compliance in readiness for reopening, and provide guidance and advice where required.
- 4.4 On 4 July, officers from the Licensing Team carried out joint visits with police during the day and, on the whole, premises were compliant and it was relatively quiet. Police continued their visits without council staff during the evening and night time economy periods and, again, did not encounter excessive issues.
- 4.5 In addition to these targeted visits, ad-hoc visits were carried out throughout lockdown in relation to assessing compliance with the matters referred to 3.1 and 3.2 as required, but generally on a re-active, intelligence-led and risk-rated basis after remote efforts have been exhausted (e.g. phone and video calls, emails, photographs, etc.), in accordance with Health and Safety Executive advice to protect the health and safety of our own employees and comply with Government guidance.
- 4.6 In addition to the practical support provided by officers, the council was responsible for administering the Government's grant for smaller businesses in Gravesham, which will have included a number of licenced premises. Although it

is not known how many of the businesses receiving grants were licenced, to give an idea of scale, the Council has distributed business grants totalling £14,525,000 to 1,187 businesses under the Government's business grant scheme. Under the discretionary grant scheme that the Council was administering, 75 grants have been awarded and paid totalling £674,000.

- 4.7 The supportive work of the council remains ongoing and, to date, officers have only had cause to serve one formal Health and Safety Improvement Notice on a licenced premises in relation to non-compliance.

## **5. Next steps**

- 5.1 The Licensing Team are faced with a sizable tasks of:
- 5.1.1 issuing full licences to those currently issued with a temporary licence or missing an accompanying badge or plate;
  - 5.1.2 managing the collection of any deferred fees, and;
  - 5.1.3 satisfying any outstanding licence renewal requirements.
- 5.2 Whilst visits currently continue to be largely reactive and intelligence led, targeted and joined-up monitoring is/will be carried out where the need arises.
- 5.3 The Licensing Team will continue to maintain the high level of service provision expected of them in engaging with, and supporting, our licence holders whilst constantly endeavouring to find new and innovative ways to improve the service.
- 5.4 As food hygiene inspections gradually resume at licenced, and other food-based premises, inspecting officers will have the opportunity to monitor compliance with Covid-related requirements on a more frequent and ongoing basis.
- 5.5 Officers continue to maintain close working relationships with colleagues, both internally and externally, and will continue to work alongside them in a joined up way to ensure appropriate sharing of information and intervention.

## **6. Recommendations**

- 6.1 That Members note the content of the report.

## **7. BACKGROUND PAPERS**

- 7.1 None. Anyone wishing to inspect background papers should be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
<b>Legal</b>	The Coronavirus Act 2020 is the Government's main legislative change in response to the pandemic. Most of its provisions came into effect on 25 March 2020, but detailed further legislation in the form of statutory instruments, and government guidance (see Para 1.3) have been issued since that date and continue to be published.
<b>Finance and Value for Money</b>	The effects of the pandemic could result in a number of licenced businesses closing, resulting in a proportionate reduction in annual income through licensing fees.
<b>Risk Assessment</b>	<p>Additional burdens on staff arising from the pandemic will need to be continually reviewed in order to ensure they are balanced against statutory remits.</p> <p>'Catching up' on additional work arising as a result of operational changes could have a temporary adverse impact on usual levels of service, which would need to be adjusted accordingly, including in terms of managing expectations.</p> <p>The wellbeing of staff is paramount and has a direct impact on council services. This will need to continue be a primarily consideration at all stages.</p>
<b>Data Protection Impact Assessment</b>	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	<p>a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a>?</p> <p>No</p>
	<p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice?</p> <p>N/A</p>
<p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a>.</p> <p>N/A</p>	
<b>Equality Impact Assessment</b>	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer.</p> <p>No</p>
	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer.</p> <p>No</p>
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>

IMPLICATIONS	APPENDIX 1
<b>Corporate Plan</b>	Licensing links directly to Corporate Objective #1 People, and feeds into/supports Corporate Objective #3 Progress
<b>Crime and Disorder</b>	Licensing regimes are, in part, designed to prevent crime and disorder. Ensuring that the licensing service is able to undertake its functions effectively is therefore crucial to this.
<b>Digital and website implications</b>	Continued assistance is required from the IT and Digital to support the Licensing Services' ongoing digitation, as well for maintaining its existing online offerings.
<b>Safeguarding children and vulnerable adults</b>	Licensing regimes are, in part, designed to safeguard children and vulnerable adults. Ensuring that the licensing service is able to undertake its functions effectively is therefore crucial to this.

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**Classification:** Public

**Key Decision:** No

### **Gravesham Borough Council**

**Report to:** Licensing Committee  
**Date:** 14 September 2020  
**Reporting officer:** Mark Lees, Regulatory Services Manager  
**Subject:** Licensing Panel Hearings

#### **Purpose and summary of report:**

1. To update Members on Licensing Panel hearings that have taken place since the last Licensing Committee meeting on 5 November 2019.

#### **Recommendations:**

1. Members to note the content of the report.
1. **13 November 2019 - New premises licence application for Club Three, 42 The Grove, Gravesend, Kent DA12 1DP**
  - 1.1 The application, received on 17 September 2019, was for a new club with opening hours, sale of alcohol, late night refreshment and recorded music from 9am until 11pm Monday to Wednesday and from 9am until 3am Thursday to Sunday. Live music was also requested from 9am until 3am Thursday to Sunday
  - 1.2 During the statutory 28-day consultation period, objections were received from:
    - 1.2.1 The public/local residents; including by way of a petition with 20 signatures from residents of Stephenson House
    - 1.2.2 The council's Environmental Protection Team
    - 1.2.3 Kent Police
  - 1.3 The matter was heard by the Licensing Panel on 13 November 2019 and the decision of the Panel was to refuse to grant the licence.
  - 1.4 The full minutes can be viewed on the council's website

<http://gbc-modgov/ieListDocuments.aspx?CId=125&MID=4296#AI29130>

**2. 15 July 2020 - Review of Londis, 29 Milton Road, Gravesend, Kent DA12 2RF**

- 2.1 The review application from Kent Police, received on 9 June 2020, cited concerns related to all four licensing objectives in relation to such matters as high strength alcohol sales to street drinkers and breaches of licence conditions.
- 2.2 During the subsequent statutory 28-day consultation period, a further supporting representation was received from a local resident/business owner.
- 2.3 The matter was heard by the Licensing Panel on 15 July 2020 and the decision of the Panel was to add conditions requiring:
  - 2.3.1 A refusals register to be kept.
  - 2.3.2 An incident register to be kept.
  - 2.3.3 That no beer, lager, cider, perry or spirit mixer above 7.5% will be sold at the premises.
  - 2.3.4 A clear glazing policy to allow unobstructed viewing.
- 2.4 The full minutes can be viewed on the council's website

<http://gbc-modgov/ieListDocuments.aspx?CId=125&MId=4498&Ver=4>

**3. 17 August 2020 - Review of The Old Prince of Orange 1 Old Road East Gravesend Kent**

- 3.1 The review application from Kent Police, received on 6 March 2020, cited concerns related to the prevention of crime and disorder, public safety, and the protection of children from harm licensing objectives.
- 3.2 The review was applied for following a disturbance at the premises on 7 February involving both staff and the public; however Kent Police stated that it was not an isolated incident and that they also had other concerns about the management of the premises.
- 3.3 During the subsequent statutory 28-day consultation period, representations were also received from;
  - 3.3.1 A member of the public supporting the licence holder.
  - 3.3.2 The freeholder owner of the premises, largely supporting additional licence conditions requested by the police, which they considered to represent good practice.
- 3.4 The hearing, scheduled for 17 August, was cancelled with consent from all parties as the police and the premises licence holder reached an agreement, which was separately endorsed by the Panel Members.
- 3.5 Further details can be viewed on the council's website:

<http://gbc-modgov/ieListDocuments.aspx?CId=125&MId=4500&Ver=4>



**4. Recommendations**

4.1 That Members note the content of the report.

**5. BACKGROUND PAPERS**

5.1 None. Anyone wishing to inspect background papers should be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
<b>Legal</b>	The Licensing Act 2003 is the relevant primary legislation relating to the matters set out in this report.
<b>Finance and Value for Money</b>	There are no direct financial implications for Gravesham Borough Council concerning this report, which is for information only. Members should however be aware that anyone aggrieved by a decision made by the Licensing Panel could appeal that decision to the Magistrates' Court which can have cost implications.
<b>Risk Assessment</b>	Departure from Statutory Guidance or Policy, or any decision that is not based on evidence, proportionate and justifiable, could lead to an increased risk of appeal.
<b>Data Protection Impact Assessment</b>	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	<p>a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a>? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. No</p>
	<p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p>
	<p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a>. N/A</p>
<b>Equality Impact Assessment</b>	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p>
	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p>
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
Corporate Plan	<p>Objective 1: People - <i>a proud community; where residents can call a safe, clean and attractive borough their home.</i> Commitment: Enforce high regulatory standards: put customer and employee safety first by ensuring commercial businesses and licence holders are fully compliant with expected legislative standards.</p>
<b>Crime and Disorder</b>	There are obvious links to community safety and the perception of crime and disorder if licensed premises, particularly those that supply alcohol are not managed properly and adequately enforced.
<b>Digital and website implications</b>	N/A

<b>Safeguarding children and vulnerable adults</b>	The prevention of children from harm and prevention of crime and disorder are two of the four licensing objectives that fundamentally underpin the Licensing Act 2003.
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**Classification:** Public

**Key Decision:** No

### **Gravesham Borough Council**

**Report to:** Licensing Committee

**Date:** 14 September 2020

**Reporting officer:** Mark Lees, Regulatory Services Manager

**Subject:** Pavement Licences and Off-Sales of Alcohol - Business and Planning Act 2020

#### **Purpose and summary of report:**

This report provides an update on the provisions of the Business and Planning Act 2020 relating to pavement licences and associated off-sales of alcohol.

#### **Recommendations:**

1. That Members note the content of the report.

## **1. Background**

- 1.1 On 25 June 2020 the Government introduced the Business and Planning Bill into the House of Commons. Within just four weeks, and following a series of amendments, the Bill received Royal Assent on 22 July.
- 1.2 The provisions of the Business and Planning Act 2020, which seek to promote economic recovery and growth, came into effect immediately and include:
  - 1.2.1 The introduction of a new, temporary, fast-track process for businesses selling (or proposing to sell) food and drink to obtain a 'Pavement Licence' from their local authority for the placement of furniture, such as tables and chairs, on the pavement outside their premises.
  - 1.2.2 An associated amendment to the Licensing Act 2003 to allow premises with a licence authorising 'on-sales' only (sales of alcohol for consumption on the premises) to automatically have 'off-sales' added to their licence.
- 1.3 Both provisions are intended to be temporary only until 30 September 2021.
- 1.4 The key elements of the Act relating to pavement licences and off-sales, as set out in associated Government Guidance, are set out below.

## **2. Pavement Licences**

- 2.1 The Act introduces a new legal framework for local authorities to issue pavement licences, which will enable food and drink businesses to put removable furniture on the pavement adjacent to their premises in order to sell or serve food and drink, or for people to sit at to consume food and drink.

- 2.2 The framework supersedes the previous framework for pavement licensing set out in the Highways Act 1980, previously administered by the Highway Authority, i.e. Kent County Council, but does not impact on licences already issued by them.
- 2.3 Local authorities are required to process applications for pavement licences within 10 working days; each application will be subject to a five working day consultation period followed by a five working day determination period.
- 2.4 All new licences will initially be granted for a three month period in order to strike a balance between supporting local businesses and the recovery of the economy, whilst safeguarding local residents, visitors and businesses from possible associated nuisance or anti-social behaviour.
- 2.5 Where a local authority does not determine an application within the permitted timescale however, a licence will be deemed to have been granted for a year, but not beyond 30 September 2021
- 2.6 Both councils and the Secretary of State may issue conditions in relation to pavement licences.
- 2.7 A local authority may grant a pavement licence only if the authority considers that, taking into account any conditions subject to which it proposes to grant the licence, nothing done by the licence holder pursuant to the licence would have an adverse effect in relation to pedestrian flow/access (with particular regard to the needs of disabled people and recommended minimum distances required for access by disabled people as set out in guidance issued by the Secretary of State), or access to relevant apparatus by statutory undertakers or electronic communications code network operators,
- 2.8 The local authority can serve a notice or revoke the licence where licence conditions are breached. A licence can also be revoked in other specific circumstances, such as where the local authority considers that :
  - 2.8.1 the location to the which the licence relates has become unsuitable
  - 2.8.2 as a result of the licence, there is a risk to public health or safety, or anti-social behaviour or public nuisance is being caused or risks being caused; or the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence)
  - 2.8.3 anything material stated by the licence-holder in their application was false or misleading
- 2.9 There is no statutory appeal process set out in the draft provisions, thereby providing councils with full discretion over whether to permit appeals and, if so, how. It has been agreed that the council will operate a senior officer internal appeal process whereby any appeals against officer decisions will be considered and determined by the Director, Communities.
- 2.10 Once a licence is granted, or deemed to be granted, the applicant will benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.
- 2.11 Despite the sizeable task of preparing to implement a brand new licensing regime, the council has been able, through the hard work and dedication of its officers, to

put in place the necessary arrangements to facilitate this in only a matter of weeks.

- 2.12 As part of these measures, the Licensing and Digital Teams have already developed and published a new Pavement Licences page on the council's website, which contains helpful information and links to the applicable local and national conditions, as well as a new online form including fee payment and document upload facilities:-

<https://www.gravesham.gov.uk/home/licensing/other-licences/pavement-licences/overview>

- 2.13 The Government Guidance on pavement licences can be viewed via the following link:

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

### 3. Off-sales of alcohol

- 3.1 The automatic addition of 'off sales' to premises licences, and relaxation of some existing associated licence conditions, are temporary measures that will end on 30 September 2021 (unless further extended by the Government).

- 3.2 These provisions temporarily modify the Licensing Act 2003 under new sections - 172F to 172K '*Modification of premises licences to authorise off-sales for limited period.*'

- 3.3 The new off-sales permission will permit off-sales to be made at a time when licensed premises (not clubs covered by a Club Premises Certificate) are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the closure time of an existing outside area, whichever is earlier.

- 3.4 Because the addition of this authorisation is automatic, no applications have to be made to the Council, and no fee is payable. Responsible authorities are not consulted about it, and cannot object to it. However, if the premises licence holder wants to extend the hours for off-sales i.e. so that they are longer than on-sales, they can apply to vary the licence in the usual way.

- 3.5 Licence holders intending to make use of this addition should however notify the council, prepare a statement which sets out their intentions to use the provisions, and display a statement alongside their premises licence summary.

- 3.6 The Licensing and Digital Teams have already developed and published a new page on the council's website, designed to assist licence holders in understanding the new provisions and meeting their obligations outlined in Para 3.5. As part of this, a new online form has been developed which will, upon submission, send the relevant information directly to the Licensing Team and create the requisite statement for licence holders to display:-

<https://www.gravesham.gov.uk/home/licensing/for-existing-licence-holders/temporary-provision-for-off-sales/overview>

- 3.7 There are certain exceptions set out in the Act e.g. licence holders who have previously applied for authority to make off-sales within the last 3 years (whether

by way of a new application or an application to vary) and were refused, or who had their licence varied or modified so as to remove such authority within the same period.

- 3.8 The Act does contain some safeguarding provisions in case the addition of off-sales to a licence leads to difficulties. If particular problems do arise in an individual case, then any responsible authority (e.g. Police, Environmental Health, Licensing Authority, Trading Standards and others) can apply to the Local Authority for a summary (expedited) review. Any review would have to be based upon one or more of the statutory licensing objectives, and would be limited just to the new off-sales permission.
- 3.9 The Government Guidance on new temporary off-sales permissions, containing lots of helpful Questions and Answers, can be viewed via the following link:

<https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill/alcohol-licensing-guidance-on-new-temporary-off-sales-permissions#will-i-need-to-amend-my-premises-plan-to-show-new-outdoor-areas-where-customers-will-consume-alcohol>

#### **4. Delegation**

- 4.1 In accordance with the Council's Constitution, the discharge of such licensing functions have been delegated to the Planning Committee by Full Council.
- 4.2 On 2 September, Planning Committee delegated authority to the Director (Communities) to exercise the council's functions and powers in relation to pavement licences under the Business and Planning Act 2020 or any legislation replacing or amending the same or any regulations made thereunder.

#### **5. BACKGROUND PAPERS**

- 5.1 None

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.



IMPLICATIONS	APPENDIX 1
<b>Legal</b>	As set out above
<b>Finance and Value for Money</b>	<p>The Council can, currently, charge a fee of up to £100 for each application under the Act. Given the low level of the fee, and the time taken in setting up the new regime, processing applications, and regulating, the application fee has been set at the maximum permitted level.</p> <p>There is currently no specific budget for setting up/implementing/regulating the new pavement licensing regime. All efforts will be made to keep any costs within existing budgets so there is currently no anticipated adverse impact on the MTFP. The situation will be duly reviewed during the annual budget review/setting process.</p>
<b>Risk Assessment</b>	<p>Appropriate delegations have been put in place to enable the council to exercise the functions and powers in relation to pavement licences. As the new off-licence provisions are introduced by way of amendments to the Licensing Act 2003, existing officer delegations are already suitable.</p> <p>The new provisions provide powers to councils to take action against licence holders where problems arise, as set out in the report.</p>
<b>Data Protection Impact Assessment</b>	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a>? A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? No</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a>.</p>
<b>Equality Impact Assessment</b>	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
<b>Corporate Plan</b>	<p>There are direct links to all three Objectives: #1 People, #2 Place and #3 Progress.</p>
<b>Climate Change</b>	<p>There are no direct links to climate change</p>

<b>Crime and Disorder</b>	Licensing regimes are designed to regulate licensable activities in such a way as to support the prevention/reduction of crime and disorder through the imposition of permissible conditions and appropriate enforcement.
<b>Digital and website implications</b>	The Licensing and Digital Teams have already created new webpages and online application/notification forms with fee payment and document upload facilities as necessary to assist service users and allow online/electronic applications to be made in a reliable and efficient way, that is consistent with many of the councils other online licensing application forms. This also satisfies Section (2)(1)(b) of the Act which requires applications for pavement licences to be sent to the authority using electronic communications.
<b>Safeguarding children and vulnerable adults</b>	Whilst there are no specific elements of the pavement licence regime relating to the safeguarding of children and vulnerable adults, licensing regimes in general provide a means of regulating, which links in with safeguarding duties and responsibilities. The Licensing Act 2003