

**Classification:** Public

**Key Decision:** No

## **Gravesham Borough Council**

**Report to:** Management Team and Licensing Committee

**Date:** 19 October 2021

2 November 2021

**Reporting officer:** Emily Lane-Blackwell, Senior Licensing Officer

**Subject:** Pavement Licences and Off-Sales of Alcohol - Business and Planning Act 2020. Amendment to Temporary Event Notices under the Licensing Act 2003.

### **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, and temporary amendments made to the Licensing Act 2003 with regard to Temporary Event Notices.

### **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 included:
  - 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 were intended to be temporary only until 30 September 2021.
- 1.4 These provisions have since been extended to 30 September 2022.
- 1.5 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 introduced 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 All new licences were initially granted for a three month period, however in March 2021 the decision was made to extend all existing licences to expire on 30 September 2021 following guidance from the Secretary of State.
- 2.3 The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 extended the temporary pavement licence provisions to 30 September 2022.

## **3. Off-sales of alcohol**

- 3.1 The automatic addition of 'off sales' to premises licences, and relaxation of some existing associated licence conditions, were temporary measures that would have ended on 30 September 2021.
- 3.2 The Regulations also extend this to 30 September 2022.

## **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 2020, 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.
- 4.3 These delegations remain in place.

## **5. Temporary Event Notice (TEN) amendments**

- 5.1 The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021 were brought in to amend the number of TENs a single premises can be given in a calendar year.
- 5.2 Under the current regulations premises can hold 15 event notices covering up to 21 days.
- 5.3 The new regulations permit a premise to hold 21 events covering up to 26 days.
- 5.4 The easement is currently in place for years 2022 and 2023 only.

## **6. BACKGROUND PAPERS**

- 6.1 Report to Licensing Committee dated 14 September 2020

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 pavement 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.</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>	<p>The Licensing and Digital Teams have already created the 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.</p> <p>We will also work together to get the TENs guidance updated and ready to change for the end of the year.</p>
<b>Safeguarding children and vulnerable adults</b>	<p>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.</p> <p>The Licensing Act 2003</p>