

# Bath & North East Somerset Council

MEETING	<b>Licensing Sub Committee</b>	
MEETING DATE	<b>Thursday 21st March 2024</b>	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	<b>Pavement Licence application decision making</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>  <a href="#">Business &amp; Planning Act 2020 (internet link)</a>  <a href="#">Levelling Up and Regeneration Act 2024 (internet link)</a>		

## 1 THE ISSUE

- 1.1 Due to a change in officer structure it will be necessary to re-allocate the decision making officer on a Pavement Licence panel.

## 2 RECOMMENDATION

- 2.1 The Sub-Committee is asked to agree to the Environmental Protection & Licensing Manager to be the decision maker for Pavement Licence applications.

## 3 THE REPORT

- 3.1 Under the Business & Planning Act 2020, introduced during the COVID pandemic, local authorities were given powers to allow businesses which sold (or proposed to sell) food and drink, to apply for a Pavement Licence to be able to continue to operate outside and place removeable furniture on the highway in an expedited process.
- 3.2 Previous to the Business and Planning Act being enacted, removeable furniture was allowed to be placed on the highway under the Highways Act 1980, known as Tables and Chairs permits. This involved a significantly longer consultation period, 28 days, and the potential need to also gain Planning permission.

- 3.3 The Business and Planning Act was proposed to be temporary legislation and was originally only intended to remain in place until the end of September 2022, but since then the Government has extended the provisions twice to 30<sup>th</sup> September 2023 and now to 30<sup>th</sup> September 2024.
- 3.4 The charge for making a Pavement Licence application was set under statute at £100 in 2020 and has remained the same to date. The application and decision process is carried out online as much as possible to maximise efficiency.
- 3.5 The public consultation period for a Pavement Licence application is currently just 7 days and then local authorities are given a further 7 days to determine the application.
- 3.6 Due to the significantly shortened timescale on the decision making process it was decided at the time it wasn't practical or feasible to bring every decision to the Licensing Sub-Committee, but to allow an officer to make the decision on a Pavement Licence application where there were any relevant objections to the application. This was undertaken with the setup of a decision making panel including the Head of Service, a Legal Services officer and Licensing officers who had processed the application. As noted above, the decision rested with the Head of Service for Building Control & Public Protection.
- 3.7 There is no statutory right of appeal against a decision made by the Decision Panel.
- 3.8 To date, since the introduction of the Pavement Licence regime the Council has dealt with 396 applications. 309 granted, 22 refused, 19 withdrawn, 4 surrendered, 4 cancelled, 18 superseded, 18 invalid, with 2 pending.
- 3.9 The current Head of Building Control & Licensing is due to retire from the Council at the end of March 2024. Due to a re-organisation of the Council's officer structure occurring at the same time this post is not being directly replaced.
- 3.10 The Sub-Committee is therefore being asked to agree for the Environmental Protection & Licensing Manager to be the decision maker on Pavement Licence panels. This would be at least until September 2024 when the relevant provisions of the Levelling and Regeneration Act 2024 are expected to come into force. At this point a further report will be brought to the Licensing Sub-Committee explaining the changes to the pavement licence regime and seeking a further decision.
- 3.11 The provisions in the Levelling and Regeneration Act 2024 referring to Pavement Licence applications will make the provisions in the Business and Planning Act 2020 permanent with some alterations to charges, the consultation and decision periods. It will also repeal the Tables and Chairs permit Highways Act process.

## **4 STATUTORY CONSIDERATIONS**

- 4.1 An Equality Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 This decision would have no adverse impact on Council budgets and would continue to be a business efficient way to deal with Pavement Licence

applications.

## **6 RISK MANAGEMENT**

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

## **7 CLIMATE CHANGE**

- 7.1 There are no adverse impacts on climate change as a result of this report.

## **8 OTHER OPTIONS CONSIDERED**

- 8.1 To require the Licensing Sub-Committee to decide on Pavement Licence applications which have received objections.
- 8.2 This option has been rejected due to the short 7 day determination period which would make constituting a sub-committee each time impractical and costly.

## **9 CONSULTATION**

- 9.1 The Council's Monitoring Officer (Head of Legal & Democratic Services and Council Solicitor), Section 151 Officer (Director of Finance) have had the opportunity to input to this report and have cleared it for publication.
- 9.2 This report has not been sent to the Trades Union because they would have no involvement.

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<b>Background papers</b>	
<b>Please contact the report author if you need to access this report in an alternative format</b>	