

<b>Committee(s)</b> Planning & Transportation Committee Licensing Committee	<b>Dated:</b> 20 July 2021 14 July 2021
<b>Subject:</b>  Supporting the Recovery of the Hospitality Sector:  Al Fresco Eating and Drinking Policy Update, Off-Sale and Temporary Event Notice easements.	Public
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	1, 2, 4, 5
<b>Does this proposal require extra revenue and/or capital spending?</b>	No
<b>If so, how much?</b>	N/A
<b>What is the source of Funding?</b>	N/A
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	N/A
<b>Report of:</b> Jon Averbs, Director of Markets and Consumer Protection	<b>Planning &amp; Transportation:</b> For Decision  <b>Licensing:</b> For Information
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## Summary

To support the hospitality sectors recovery and to allow the businesses to operate whilst managing the risks arising from the COVID-19 pandemic the Business and Planning Act 2020 (the Act) was given Royal Assent on 22 July 2020. The Act initially relaxed licensing and planning laws until 30 September 2021 by (a) making it easier for the hospitality sector to obtain permissions to seat and serve customers outdoors, creating a fast-track pavement licence application process and (b) enabling automatic extension of alcohol off-sales to premises that already had permission for on-sales. Through the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 (the B&P amendment regulations) the government has now extended these temporary provisions until 30 September 2022.

The City of London Alfresco Eating and Drinking Policy (the Policy) sets out the City Corporation's strategy aimed at facilitating the pavement licence application process whilst maintaining public safety during the COVID-19 pandemic and beyond. The policy has been amended to incorporate the provisions of the B&P amendment regulations. The amendments have been highlighted in the attached policy for ease of reference.

This report provides a summary of pavement licences currently granted and outlines proposals to facilitate the pavement licence application process until 30 September 2022.

## **Recommendation(s)**

Members are asked to:

1. Agree the streamlined reapplication process as outlined in paragraph 8 of this report.
2. Agree the pavement licence duration period as outlined in paragraph 10(a) of this report.
3. Agree a zero fee for all pavement licence applications as outlined in paragraph 10(b) of this report.
4. Agree the strengthened requirement to comply with the new national Counter Terrorism Protective Security Pavement Licence guidance in para 10(c) of this report.

## **Main Report**

### **Background: Business and Planning Act 2020**

1. The Business and Planning Act 2020 (the Act) was given Royal Assent on 22 July 2020. The Act introduced a new temporary pavement licence application process making it easier for premises serving food and drink to apply for permission to place furniture on the highway for the purposes of seating and serving customers outdoors.
2. The temporary provisions in the Act for pavement licensing were set to expire on 30 September 2021. However, through the B&P amendment regulations, these provisions have been extended until 30 September 2022.
3. The new provisions only apply to applications made on or after the B&P amendment regulations come into force (date to be confirmed by government). This means that any applications submitted before the effective date will only be valid until 30 September 2021 and those premises will need to reapply to maintain their pavement licence beyond that date. There is no automatic extension.
4. The revised Alfresco Eating and Drinking Policy (the Policy) is shown at Appendix 1, defines the application and determination process, the licence fee, duration, conditions and enforcement options where necessary.
5. The Policy currently states that a licence issued by the City Corporation will last for a period of 6 months with the potential to re-apply if safe and appropriate to do so. The 6-month period was set to enable the City Corporation to monitor pedestrian/footfall numbers, temporary highway changes and the aggregate number of pavement licences in any given area.
6. The Act allows the local authority to set a fee up to a maximum of £100. In doing everything possible to assist businesses bounce back from the pandemic, the City Corporation set the fee at zero.

### **Current Position**

7. Since August 2020, the City Corporation has received 168 applications of which 97 have been first grants and 39 have been renewals. 21 applications

have been refused due to police, counter terrorist or public objections and 11 have been invalidated. There are currently 87 live licences all of which are expected to reapply using the extended provisions.

## **Proposals**

### **The B&P Amendment Regulations**

8. Processing the applications is time consuming and in order to streamline the reapplication process, the City Corporation will invite those business that currently benefit from a pavement licence to confirm by way of email that they propose to reapply on the same terms as before, capturing the mandatory requirements of the Act. Statutory consultation with stakeholders will remain the same and all comments will be considered as part of the decision-making process. This proposal is reflected in paragraph 3.2.1 of the revised policy.
9. Any new applications will continue to be submitted via the existing on-line portal.
10. In order to continue to facilitate hospitality sector business recovery in the square mile and to ensure public safety, it is proposed that the City Corporation:
  - a. issues any new licences until 30 September 2022 when the extended temporary provisions expire. This is with the proviso that a licence may be revised or revoked dependant on pedestrian footfall changes in the City and the aggregate number of pavement licences in any given area. In order to ensure the safety of residents, workers and visitors as people return to the Square Mile, all licences will be subject to regular monitoring by the City Corporation's enforcement officers. This proposal is reflected in paragraph 1.11 of the revised policy.
  - b. extends the zero fee to all applications received for the duration of the temporary provisions for pavement licensing.
  - c. Strengthen the requirement for licensees to consider counter terror vulnerabilities in the premises risk assessment and require that the new national guidance 'Counter Terrorism Protective Security Pavement Licence Conditions' is complied with in relation to CCTV systems and ACT (Action Counters Terrorism) training. This proposal is reflected in paragraph 7.3 of the revised policy.

### **Licensing Act 2003**

11. The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021 (the Licensing amendment regulations) extend the temporary modifications to the Licensing Act 2003 until 30 September 2022. The modifications relate to the automatic extension of off-sales to premises that currently only permit on-sales, and for those that have existing off-sales permission with conditions, to have those conditions temporarily disapplied.

12. This is relevant to the City's street space as it could potentially mean more vertical drinking on the highway once hospitality restrictions are lifted and no longer require alcohol to be served to persons seated on the premises.
13. The Licensing amendment regulations further amend the Licensing Act 2003 by increasing the number of Temporary Event Notices (TENs) that may be given by a premises from 15 to 20 in any calendar year for the years 2022 and 2023 and the total number of days permitted by those TENs from 21 to 26 in any calendar year.

### **Corporate & Strategic Implications**

14. The proposals within this report will help to meet four of the overriding aims contained within the Corporate Plan 2018-23 namely to: make people safe and feel safe, people enjoy good health and wellbeing, communities are cohesive and have the facilities they need, businesses are trusted and socially and environmentally responsible.

### **Financial Implications**

15. Based on 168 pavement licence applications received since August 2020, 11 of which were invalidated, the remaining 157 applications would have generated an income of £15,700 if the maximum fee of £100 had been charged. The City Corporation has estimated a cost of £180 to process the applications meaning a net cost of £28,260 to the authority so far.
16. It is anticipated that all 87 live licences will be applied for again upon expiry. The estimated cost of processing a second application is £140 per application so the net cost to the authority for those will be £12,180.
17. Many of the City Corporation's tables and chairs licences have been replaced by pavement licences and this will mean a loss of income on the tables and chairs budget. At present, only 73 of the original 138 tables and chairs licences have been reinstated. It is difficult to gauge the financial implications on the tables and chairs income as many hospitality venues in the square mile still remain closed and despite the forthcoming easing of restrictions on 19 July 2021, they may not reopen until such time that footfall in the City increases to make business viable for them. With the temporary provisions for pavement licences extended until 30 September 2022, businesses are more likely to opt for the free pavement licence as opposed to reinstating their tables and chairs licence when they reopen.

### **Conclusion**

The City's Al Fresco Eating and Drinking Policy has been refreshed to further support the recovery of the hospitality sector and facilitate City businesses to operate safely whilst managing the risks arising from the COVID-19 pandemic.

## **Appendices**

### **Appendix 1**

Al Fresco Eating and Drinking (Business and Planning Act 2020) Policy – July 2021 version

### **Background Papers**

Planning and Transportation Report 14 July 2020

Business and Planning Act 2020.

The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021

The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021

COUNTER TERRORISM PROTECTIVE SECURITY Pavement Licenses (CT) Conditions, available at:

<https://www.cpni.gov.uk/system/files/documents/5c/8e/2021%20Pavement%20Licenses%20%20Licensing%20CT%20inserts%20National%20-%200.2%20.pdf>

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