

Committee(s) Planning & Transportation Committee Licensing Committee	Dated: 19 July 2022 13 July 2022
Subject: Continued Support of the City Hospitality Sector: Al Fresco Eating and Drinking – Business and Planning Act Extension 2022	Public
Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?	1, 2, 4, 5
Does this proposal require extra revenue and/or capital spending?	No
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain’s Department?	N/A
Report of: Juliemma McLoughlin, Director of Markets and Consumer Protection	Planning & Transportation: For Decision Licensing: For Information
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Summary

To support the hospitality sector’s recovery and to allow its 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 extended these temporary provisions until 30 September 2022.

A further Statutory Instrument was laid on 16 June 2022 extending the Regulations to 30 September 2023, as they relate to pavement licences.

However, there is no further extension of the temporary alcohol off-sales provision beyond 30 September 2022.

The draft Levelling Up and Regeneration Bill (the Bill) is currently being debated and scrutinised by Parliament and intends to make the pavement licence regime permanent.

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 refreshed to reflect changes but remains primarily as agreed in 2021 including retaining the provision not to charge a fee to provide continued support to the City hospitality sector.

This report provides a summary of pavement licences currently granted and outlines proposals for the continuation of the pavement licence application process until 30 September 2023.

Recommendation(s)

Members are asked to:

1. Agree the continuation of the streamlined reapplication process as outlined in paragraph 11 of this report.
2. Agree the pavement licence duration period as outlined in paragraph 13 (a) of this report.
3. Agree the continued zero fee for all pavement licence applications as outlined in paragraph 13 (b) 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 were extended until 30 September 2022 and are proposed to be further extended until September 2023.
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 2022 and those premises will need to reapply to maintain their pavement licence beyond that date. There is no automatic extension.
4. The refreshed Alfresco Eating and Drinking Policy (the Policy) is shown at Appendix 1 (tracked changes copy available), defines the application and determination process, the licence fee, duration, conditions, and enforcement options where necessary.

5. The Policy was previously agreed by Planning and Transportation Committee on 20 July 2021 currently states that a licence issued by the City Corporation will last for a period of 1 year on the proviso that the City Corporation will monitor pedestrian/footfall numbers, temporary highway changes and the aggregate number of pavement licences in any given area, and that any licence may be reviewed or revoked dependent on changes.
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.

Levelling-up and Regeneration Bill

7. The draft Levelling Up and Regeneration Bill is currently being debated and scrutinised by Parliament and intends to make the pavement licence regime permanent. A further report will be brought to this Committee once the Bill has progressed.
8. The Bill proposes to make some slight amendments to the current provisions, which are summarised as follows:
 - Amend the fee councils can charge applicants, increasing it from £100 to £350 for premises which already hold a pavement licence, and £500 for new applicants.
 - Extend the public consultation period and council determination period from 7 days to 14 days.
 - Extend the maximum duration of pavement licences from 1 year to 2 years. The length of a licence is however at the discretion of the local authority.
 - Provide that pavement licences can also be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met.
 - Prohibit a local authority from granting a tables and chairs licence under the old regime (Highways Act 1980) if a pavement permit is capable of being granted under this Bill.
 - Insert a new enforcement schedule providing powers to the local authority to remove furniture if a premises is not abiding by its pavement licence conditions and hours.

Recovery of the City Hospitality Sector

9. The City hospitality sector has faced significant challenges as result of varying levels of government restrictions, changes to working patterns and reduced visitor numbers. There has been a strong bounce back in areas of high footfall but in lower footfall areas the trading conditions remain challenging. The trade has made it clear that the pavement licence regime has been a key part of their recovery and wishes for it to continue in its current form to assist their ongoing trade.

Current Position

10. Since September 2021, the City Corporation has received 151 pavement licence applications of which 78 have been first grants and 73 have been

renewals. Seven applications have been refused due to police, counter terrorist or public objections and two have been invalidated. There are currently 142 live licences all of which are expected to reapply using the extended provisions.

Proposals

The B&P Amendment Regulations

11. Processing the applications is time consuming and in order to continue with the streamlined reapplication process, the City Corporation will invite those businesses 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 policy.
12. Any new applications will continue to be submitted via the existing on-line portal.
13. In order to continue to facilitate the 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 2023 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 policy.
 - b. extends the zero fee to all applications received for the duration of the temporary provisions for pavement licensing.

Licensing Act 2003

14. The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021 (the Licensing amendment regulations) extended 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.
15. This easement will not be extended beyond September 2022; however, the Home Office have indicated their intention to consult on the potential streamlined approach to alcohol licences, which would be a permanent alternative to the current alcohol licensing easements. Any premises licence holder who wishes to continue to benefit from the changes that the easements allowed will need to apply for an off sales licence, statutory fees apply and are dependent on the rateable value of the premises and vary from £190 to £635.
16. The Licensing amendment regulations further amended 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

17. 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

18. Based on 151 pavement licence applications received since September 2021, 2 of which were invalidated, the remaining 149 applications would have generated an income of £14,900 if the maximum fee of £100 had been charged. The City Corporation has estimated a cost of £180 to process first applications and £140 to process second applications, meaning a net cost of £23,900 to the authority so far.

19. It is anticipated that all 142 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 £19,880.

20. 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 27 of the original 138 tables and chairs licences have been reinstated. The loss of income is estimated at £99,000 compared to pre-pandemic levels. This was largely taken into account when setting the 2022/23 income budget, so the shortfall against budget is estimated at only £15,000. With the temporary provisions for pavement licences extended until 30 September 2023, businesses are more likely to opt for the free pavement licence as opposed to applying for a tables and chairs licence.

Conclusion

21. The City's Al Fresco Eating and Drinking Policy has been reviewed and remains relevant to further support the recovery of the hospitality sector and facilitate City businesses to operate safely whilst encouraging workers and visitors to enjoy the City's vibrant offer.

Appendices

Appendix 1

Al Fresco Eating and Drinking (Business and Planning Act 2020) Policy – July 2022

Appendix 2

[The Business and Planning Act 2020 \(Pavement Licences\) \(Coronavirus\) \(Amendment\) Regulations 2022 \(legislation.gov.uk\)](#)

Background Papers

[Planning and Transportation Report 14 July 2020](#)

[Planning and Transportation Report 18 July 2021](#)

Business and Planning Act 2020.

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

The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022

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

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