

Committee(s) Planning and Transportation Committee	Dated: 3 October 2023
Subject: Report of Action Taken	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1,2,4 and 5
Does this proposal require extra revenue and/or capital spending?	N
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: Town Clerk	For Information

Summary

This report advises Members of action taken by the Town Clerk since the last meeting of the Committee, in consultation with the Chairman and Deputy Chairman, in accordance with Standing Order Nos. 41(a) and (b).

Recommendation:

- That Members note the report.

Main Report

Urgency – Al Fresco Eating and Drinking – Business and Planning Act Extension 2023

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.

The temporary provisions in the Act for pavement licensing were initially set to expire on 30 September 2021. However, through the Business and Planning Act amendment regulations, these provisions have been extended year on year, with the latest extension taking them through to 30 September 2024.

The 2023 amendment regulations were made on 9 August 2023 and came into effect on 10 August 2023. They only apply to applications made on or after the date which the 2023 amendment regulations come into force. This means that any applications submitted before the effective date will only be valid until 30 September 2023 and those premises will need to reapply to maintain their pavement licence beyond that date. There is no automatic renewal or extension.

The draft Levelling-up and Regeneration Bill (LURB) is currently being debated

and scrutinised by Parliament and intends to make the pavement licence regime permanent. It is currently at report stage in the House of Lords. A further report will be brought to the Planning and Transportation Committee once the LURB has progressed to final stages and Royal Assent.

The LURB proposes to make amendments to the current provisions, which are summarised as follows:

- Amend the fee local authorities 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 local authority 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 LURB
- Insert a new enforcement schedule providing powers to the local authority to remove furniture if a premise is not abiding by its pavement licence conditions and hours.

The City of London hospitality sector has faced significant challenges as a result of varying levels of government restrictions, reduced visitor numbers, cost of living crisis, rising energy bills, and post-pandemic changes to working patterns. However, there has been a strong bounce back for businesses in the City and the trade has made it clear that the pavement licence regime has been a key part of their recovery, assisting their ongoing trade and enabling them to thrive.

In order to facilitate the hospitality sector's recovery during difficult financial times, the City Corporation waived the ability to charge the statutorily capped fee of £100 in 2020, 2021 and 2022.

In 2020, the City Corporation estimated a basic cost of £180 to process a new application and £140 to process a renewal application. These costs are estimated on the basic administration of the process and do not include policy costs, site assessments, pedestrian counts, cleansing, and compliance and enforcement costs and therefore the net cost of the temporary pavement licence scheme has been underestimated. This is because there was no data available to calculate the additional costs in 2020 and it was never anticipated that the scheme would keep being extended year on year requiring an annual review of policy and procedures, site visits and inspections.

The basic net cost of administering the pavement licence scheme has been met by the City Corporation each year.

Despite not charging the allowable £100 capped fee, costs have been partly offset by the government new burdens funding received of £80,000 in year 1 and £35,000 in year 2.

Assuming all 198 existing pavement licences are renewed by 30 September 2023, this will generate an income of £19,800. The cost of processing these applications will be £27,720, leaving a net cost of £7,920.00 to be met by the City Corporation.

A full cost calculation will be carried out when the permanent pavement licence scheme is made. This is anticipated to be in 2024.

In order to further assist businesses in their recovery, the City Corporation streamlined the renewal process in 2021 and 2022 by waiving the need to submit a fresh application and simply asking businesses to confirm by way of email that they intended to reapply for their pavement licence on the same terms as before.

Since the introduction of the Act, there has been an increased demand for outdoor space by businesses in the City wanting to place tables, chairs and other furniture on the highway.

In year 1 (August 2020 – July 2021), the City Corporation received 158 new applications. In year 2 (August 2021 – July 2022), the number of applications increased to 184 of which 112 were new and 72 renewals.

Since August 2022 (year 3), the City Corporation has received 203 pavement licence applications of which 92 have been first grants and 106 have been renewals. 5 applications have been refused due to police, counter terrorist or public objections, and there are 15 applications still to be determined. There are currently 176 live licences all of which are expected to reapply using the extended provisions.

Action Taken

The Town Clerk, in consultation with the relevant Members, agreed to the following policy amendments.

Key amendments to the policy:

6.3.1 Introduction

- a) references to COVID-19 removed.
- b) the need to support business balanced with the need to provide safe, accessible, and comfortable spaces for pedestrians added.

6.3.2 Section 1

- c) references to COVID-19 removed.
- d) safety measures around counter terrorism added.
- e) accessibility and pedestrian comfort levels defined.
- f) new street illustration added without COVID-19 distance restrictions.
- g) the City Corporation proposal to issue new pavement licences for the full term of the extension unless a shorter period is specified in the application or there are unique grounds on the merits of the application to issue it for a shorter period. This is with the proviso in Section 6 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.

6.3.3 Section 2

- h) City Walkway defined.
- i) use of poles and barriers defined.

6.3.4 Section 3

- j) references to the status of tables and chairs applications during lockdown removed.
- k) the streamlined process used for renewals in 2021 and 2022 removed and replaced with the requirement to submit a fresh application. This is to ensure that any changes to the City's footfall, street scene or public realm enhancements, and demand for public space are taken into consideration when determining the applications.
- l) the proposal to set the application fee at £100, which is the maximum permitted by the Act. The fee was previously waived by the City of London to assist businesses bounce back from the pandemic.

6.3.5 Appendix A

- m) Removal of conditions relating to COVID-19 restrictions.
- n) Addition of condition to prevent privatisation of public space.

REASON FOR URGENCY: The reason for urgency was due to the government's lateness in approving and making the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2023, which extended the temporary pavement licensing scheme until 30 September 2024. The regulations were signed on 9 August 2023 and came into effect on 10 August 2023. Pavement licences issued under the 2022 regulations would expire on 30 September 2023 and applications to enable the continued placing of furniture on the pavement must be made at least 2 weeks in advance of the expiry date. The next Planning & Transportation Committee meeting, scheduled for 3 October 2023, was beyond the expiry date of existing licences.

In accordance with Standing Order 41 (a) and 41 (b), Members are asked to note the recent decision taken by the Town Clerk in consultation with the Chairman and Deputy Chairman.

Copies of background papers concerning these decisions are available from the Town Clerk on request.

Zoe Lewis

Town Clerk's Department

E: zoe.lewis@cityoflondon.gov.uk