

MINUTES OF THE LICENSING COMMITTEE

**Held as an online virtual meeting on Wednesday, 26 August 2020
6.00pm**

PRESENT (in remote attendance): Councillor Ahmed (Chair), Long, Kennelly, Chohan, Shahzad, Mitchell Murray

1. **Apologies for absence and clarification of alternate members**

No apologies were received

2. **Declarations of interests**

There were no declarations of personal or prejudicial interest

3. **Minutes of the previous meeting**

RESOLVED that the minutes of the previous meeting, held on 7 November 2019, were approved and signed as an accurate record of the meeting

4. **Matters Arising**

Under matters arising, Councillor Long made a request to the licensing team that they provide members with regular updated figures for the policy, as there had now been Alcohol and Entertainment Licensing Sub-Committee hearings which had taken place – if the figures remained static, then she felt the decision making process would be much more difficult. In order to clarify further, Councillor Long advised that that the figures included incidents of anti-social behaviour which whilst still valid would change.

5. **Fees for the Licensing of Tables and Chairs under the Business and Planning Act 2020**

The Committee received a report from the Strategic Director of Regeneration & Environment regarding the Fees for the Licensing of Tables and Chairs under the Business and planning Act 2020.

Simon Legg (Head of Regulatory Services introduced the report and gave some background to the new Ac. As part of the update the Committee noted:

- The proposals for the fee charged by Brent Council's Licensing Team following applications for tables and chairs (under new business and planning act - pavement licences) under the new Business and Planning Act 2020.
- Members were being requested to agree to set the fee of £100 (the maximum charge permitted under the legislation) for each and every licence that was received. The licence would be valid for a duration of minimum 3 months and not

exceeding until 30 September 2021. The reason for this specific date was that the Act did not allow these licenses to be in force past that date.

- There may be a shorter duration, if the Council considered that they wished to only give a business a licence for a short period of time, for example on a trial basis, to see if there were any complaints or problems arising. If an application was issued for a shorter period, then the intention was to take one application fee and issue the licence for that short period i.e. 3 months. If after that period the applicant wished to re-apply to extend their licence, then the Council would not charge for a re-application fee if it was from the same original applicant. It was not possible to issue licences for longer term than the end September 2021.
- The legislation had been in place since 22 July 2020, the Act provided pavement licence which allowed businesses to place removable processes and make it easier for businesses to apply to trade outside their premises in response to the lockdown and concerns about social distancing. The legislation was one of the government's schemes to help stimulate the hospitality sector.
- One of the criteria applicants must satisfy to successfully apply for a license was to demonstrate there was clear pavement access outside their premises. The whole application process was intended to be cheaper, quicker and more efficient than the existing processes. Where possible, the Government was keen for local authorities to encourage businesses and support them gaining successful applications.
- Local authorities could change what they wanted but no more than £100. The London Borough of Brent proposed to charge the maximum fee of £100 to cover the cost of administration.
- The Chief Executive had, under her emergency planning delegated powers authorised the approval of two applications, with all future applications to now be considered by the Licensing team.
- The annual fee in this instance worked out cheaper than the current charge. If the fee charged was less, it may increase costs and Brent might receive more applications from business which would not only bring increased workloads, but also have a detrimental effect on the character of its high streets.
- The basis of the additional administrative charges to the Council in terms of processing the applications as a result of this change in legislation.

Comments were then invited from the Committee, with the following issues raised:

- a. Councillor Shahzad - spoke about the position of some shops in his ward (Cricklewood) who used the forecourt to display goods which were not on the public footpath. In these cases he felt the Council should not charge any fees.
- b. Councillor Mitchell Murray queried the position if it was not felt there was enough space on the pavement. In these cases she assumed that the licence would not

be granted and expressed her support for the proposed charge and approach outlined in the report whilst also requesting details of how the process would be monitored and enforced.

Simon Legg responded to the queries stating that whilst trading outside business premises was complex. If there was a private forecourt, there would be no suggestion of the Council levying a fee. A licence would only be required if a businesses wanted to use Council owned pavements and the fee would apply to those businesses who wanted to serve food & drink i.e. hospitality trade – restaurants, cafes, bars, pubs. The licence was not intended for those businesses wanting to display goods outside their shop.

Where permission was given, a business must retain a 2 metres clear pavement area. Officer's discretion would, however, be used to support businesses if an application was received from a business on a quiet side street, where 2 meter clear pavement access might not be possible.

Monitoring would be undertaken through CCTV and by Licensing staff to ensure compliance, with Councillor Mitchell Murray suggesting the possible use of the technology currently used by staff for the collection of garden rubbish to assist.

- c. Councillor Long felt that a charge of £2.00 a week was reasonable for trading on the pavement and queried:
- The process to ensure that furniture was not left on the highways overnight;
 - If someone had a licence for three months and applied in spring 2021; whether there would be an extra charge; and
 - If premises already had a trading licence, whether they could hand in that notice and go onto the new licence;

Simon Legg responded by saying that there was a requirement that the licence had to be on display, this may not be a high tech solution but the licence would need to be visible. If shops owned their forecourt, they may not need a licence or if they are already licenced under existing legislation, there was no need to display a license. It was a condition within any licence that all furniture will be taken inside at the end of the trading day and area kept clean and it would not be the council's intention when a trader had traded for three months then re-applied later, to levy another £100 fee.

If someone already had a licence, the council recommended to continue under those arrangements, as these new arrangements were only temporary. If businesses transferred to new scheme, it might mean they lose some of the arrangements under their existing permits. It would be in the businesses best interest to continue with the current licence. Councillor Mitchell Murray supported the need for licences to be on display with Councillor Chohan commenting that this was a good opportunity to give businesses a chance to get back on their feet.

- d. In response to a further query, Simon Legg advised that the legislation did permit smoking outside of premises, as long as there was provision for non smokers as well. However, Brent for public health reasons, had decided not to permit any

smoking outside of the premises. Under this licence, Shisha bars would not be permitted to allow smoking outside, but food and drink could be served.

- e. Councillor Kennelly asked how residents would be consulted on the proposals with details of approved businesses published on the website to make it easier for residents to check.

In response, Simon Legg advised that the current criteria stated that statutory notice was placed outside premises and the process allowed residents to make representations. The council must consult with residents and statutory partners, including police, highways, fire authority whilst also looking to try and balance this against the need to support local business. In terms of publishing a list, further discussion would be undertaken with officers given the need to ensure this was kept updated. Councillor Kennelly, whilst keen to support the hospitality sector also felt there would be a need to ensure consultation was as wide as possible, given the emergency nature of the legislation. Simon Legg confirmed that details of all decisions made in relation to licenses would be published online in the same way as for other licences would also include the display of statutory notices.

- f. Councillor Shahzad highlighted a suggestion about possibly marking up areas outside premises, including the potential use of pavement studs. In response, Simon Legg advised that whilst possible this would be expensive to maintain on a permanent basis. The alternative was to use the furniture or other temporary barriers i.e. flower pots with no requirement for a permanent marking. This would, he felt, be more relevant in areas where there were a number of premises or more limited space, although in these areas applications would need to be assessed on an individual basis to ensure adequate distance could be maintained. If not, it was unlikely the licence would be granted. This was an approach supported by Councillors Mitchell-Murray and Long
- g. In response to a query regarding monitoring on event days at the Stadium Simon Legg confirmed that it would not be possible for business in the Wembley area to operate under the licence. This would also be a condition to any premises in the footprint of Notting Hill Carnival.
- h. In response to a query relating to the serving of alcohol, Simon Legg confirmed provision had been made in the Act for premises to include the serving of alcohol on tables and chairs, as long as they had the relevant licence. This would, however, be subject to certain conditions and submission of a detailed plan as part of their assessment to show adequate spacing between tables. Any deviation from the plan or movement would be in breach of the licence and would result in the necessary enforcement action. CCTV would be used to support monitoring along with the neighbourhood patrol officers.
- i. In terms of the administrative arrangements and costs, Simon Legg advised that the additional support required would initially involve the use of agency staff to process the applications, with the focus then moving on to enforcing the scheme.

As no further issues were raised, the Chair thanked Simon for the report and it was **RESOLVED:**

- (1) To approve setting the fee at £100 (maximum permitted under the Act) for each pavement licence application.
- (2) To approve that the above fee shall be for a licence duration until 30 September 2021, unless due to representations or otherwise, a shorter period of not less than 3 months was considered more appropriate by the Council's Licensing Team. If a shorter term licence was granted, the business would be able to reapply without a further fee to extend the licence duration up to 30 September 2021.

The meeting closed at 7.05pm

COUNCILLOR AHMED

Chair