



Licensing Committee

26 August 2020

Report from the Strategic Director of Regeneration & Environment

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

Wards Affected:	All
Key or Non-Key Decision:	N/A
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	0
Background Papers	None
Contact Officer(s): (Name, Title, Contact Details)	<p>Simon Legg Head of Regulatory Services simon.legg@brent.gov.uk 020 8937 5522</p> <p>Anu Prashar Senior Regulatory Service Manager Anu.prashar@brent.gov.uk 020 8937 5515</p>

1.0 Purpose of the Report

- 1.1 This report is for the Licensing Committee to agree the fee charged by Brent Council and duration of the licensing of table and chairs (pavement licences) introduced by the Business and Planning Act 2020.

2.0 Recommendations for the Licensing Committee

- 2.1 That members agree to set the fee of £100 (maximum permitted under the Act) for each pavement licence application.
- 2.2 That members agree 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 is considered more appropriate by the council's Licensing Team. If a shorter term licence is granted, the business will be able to reapply without a further fee to extend the licence duration up to 30 September 2021.

3.0 Detail

- 3.1 On 22 July 2020, the Business and Planning Act 2020 (“the Act”) became law. Amongst other things, this provides for a pavement licence which is a licence granted by the local authority allowing businesses to place removable furniture outside their premises.
- 3.2 The Act intends to streamline existing processes to allow businesses to secure these licences before the end of summer in light of the impact of Covid-19. Where such a licence is granted, it must be for a duration of no less than three months and for a duration not beyond 30 September 2021.
- 3.3 It is necessary for there still to be clear pavement access, taking into account the needs of all users, including disabled people.
- 3.4 This new process is also intended to be cheaper for businesses such as cafes, restaurants and bars to obtain their licence compared to existing arrangements. The intention of the new process is to assist the hospitality industry to recover from the lockdown and to help them to trade safely while social distancing measures remain in place.
- 3.5 The Act amends the need for planning permission to use the land for anything done under the licence as this is deemed to be granted for as long as the licence is valid.
- 3.6 Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).
- 3.7 The Act states the local authority may require a fee not exceeding £100 at the point of each licence application. It is intended to charge the maximum fee to contribute towards the council’s cost of processing and enforcing a pavement licence.
- 3.8 As functions under this Act are non-executive, decisions regarding the setting of fees for them cannot be made by Cabinet. It is for this reason that the council’s Licensing Committee are being asked to determine the fee as provided for by the council’s constitution.
- 3.9 The policy which supports this fee is currently being finalised and will be circulated to the Committee prior to the meeting for information only.
- 3.10 In the intervening period, the Chief Executive acting as “Gold” holds the authorisation to agree or otherwise license applications and the fee to be charged where the matter is urgent and these powers have been exercised for the first applications the council received.

4.0 Alternative Options Considered

- 4.1 The Act permits local authorities to set the fee it charges for pavement licenses at whatever level it requires as long as the fee does not exceed £100. This means the local authority could choose not to make any charge for licence applications.
- 4.2 We do not recommend the Committee considers an alternative fee for the following reasons:

- The proposed fee provides for a much cheaper application than the current equivalent which would attract an £81 new licence fee plus typically a monthly £91 fee for a display outside a shop, (there are other fees depending on the purpose and type of licence applied for).
- The number of applications the council will receive, is not yet known, but it is highly unlikely, there will be sufficient number to cover the council's costs in processing, determining and enforcing licenses. If a lesser or no fee was charged, it will add further to the council's costs.
- There is a risk that if no fee or a lesser fee was charged, the council would receive a higher number of applications for pavement licences. Not only would this generate a significantly increased volume of work for the Licencing Team, it may also lead to an over population of businesses offering outside table and chairs having a detrimental effect on the character and space available on our high streets and a rise in anti-social behaviour or other complaints.

4.3 This is a statutory process, which is accompanied by guidance issued by the Ministry of Housing, Communities & Local Government meaning there is limited scope to consider alternative options.

5.0 Financial Implications

5.1 The Act states that a fee for applying for a licence under the new process is capped at £100. It is proposed that the council applies a fee of £100 for each licence, which will apply not beyond 30 September 2021.

5.2 It is proposed that additional members of staff will be required to assist with the extra work generated from the processing of these applications and it is intended to appoint two posts which would cost in the region of £60k for a six month period to assist with administering the new duties arising from this Act.

6.0 Legal Implications

6.1 The main legal implications of this Act are set out in the main body of the report

7.0 Equality Implications

7.1 There has not been any specific equality implications arising from this report as this is a statutory process supported by guidance issued by central government. It is unlikely to have specific equality implications.

8.0 Any Other Implications (HR, Property etc - if necessary)

8.1 None.

9.0 Proposed Consultation with Ward Members and Stakeholders

9.1 N/A

Report sign off:

Alan Lunt

Strategic Director of Regeneration & Environment

