

Delegated Decision Report

Subject:	Delegated Authority for Pavement Licences
Decision to be taken by:	Chief Executive David Stevens
Lead Director:	Interim Director of Regeneration and Growth , Tammy Stokes
Date of Decision:	29 th March 2021
Reason for Urgency:	The legislation came into effect on 22 nd July 2020. In light of the Government's roadmap for the lifting of lockdown measures, in particular the plans to allow pubs and restaurants to reopen from 12 th April 2021 for outdoor consumption, the Council is expecting applications for Pavement Licences under the Business and Planning Act 2020 to be made from 29 th March 2021, which allows the 10 working day consultation and consideration period permitted under the Business and Planning Act 2020. There is insufficient opportunity for Full Council to determine the matter.
Scrutiny Consultation:	The Deputy Leader, Cabinet Member for Sustainable Transport and Mayor
Lead Officer:	Service Manager, Highways Robin Weare

1 Recommendations

- 1.1 That the Director of Regeneration and Growth be authorised to determine applications for decisions under the Business and Planning Act 2020.



2 Reasons for Recommendations

2.1 The Business and Planning Act 2020 provisions relating to the temporary pavement licences came into effect on 22nd July 2020. The Council is expecting applications to be made from 29th March 2021, which allows for the 10 day consultation and determination period required, so that eligible businesses have them in place in readiness for 12th April 2021, when hospitality venues are able to reopen for outdoor consumption. There is insufficient opportunity for Council to convene in order to determine the matter.

The council's constitution provides that in such instances, the Chief Executive can take the decision, reporting to the next meeting of Council

3 How does this deliver objectives of the Corporate Plan?

	Best start in life for children and young people Supports safe, sustainable active travel
	People live well and age well Supports safe, sustainable active travel
	Strong resilient communities Supports safe, sustainable active travel
	Quality homes in thriving neighbourhoods NA
	A strong and inclusive economy Supports local businesses to reopen sooner from lockdown
	A connected and accessible Sandwell Supports safe, sustainable active travel



4 Context and Key Issues

- 4.1 The Business and Planning Act 2020 is temporary legislation for the granting of pavement licences by the local authority, which allow the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes. This is a streamlined process to allow businesses to secure these licences in time for the summer and, where they are deemed to have been granted, allow these licences to remain in place until 30 September 2021. Where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people.
- 4.2 This new process introduces a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. This will support them to operate safely while social distancing measures remain in place. This will provide much needed income over the summer months and protect as many hospitality jobs as possible.
- 4.3 Pavement licences are presently granted primarily under Part 7A of the Highways Act 1980. The approved Sandwell fee under the Highways Act 1980 is £294 per year. The fee for applying for a licence under the temporary business and Planning Act 2020, is capped at £100 and the consultation period is 5 working days (excluding public holidays) starting the day after the application is sent electronically to the authority. It is currently a minimum of 28 calendar days under Part 7A of the Highways Act 1980.
- 4.4 It is not possible for the Council to deal with applications for Pavement Licenses under Business and Planning Act 2020 using the current process for Pavement Licenses under Highways Act 1980. The Business and Planning Act 2020 is a separate piece of legislation. It does not seek to amend the Highways Act 1980. The Council must therefore have appropriate delegations in place in order to deal with any applications that are made under Business and Planning Act 2020.



- 4.5 If the local authority does not determine the application before the end of the determination period (which is 5 working days beginning with the first day after the end of the public consultation period, excluding public holidays), the licence is deemed to have been granted until 30 September 2021 and the business can place the proposed furniture such as tables and chairs within the area set out in the application.
- 4.6 The Government roadmap to lifting lockdown is set to allow the reopening of outdoor hospitality venues on 12th April 2021, in 10 working days-time. Applications received on 29th March 2021 would be deemed to be granted on 12th April 2021 without action by the Local Authority. There could potentially be a high demand for Pavement Licences from restaurants and cafes that will only be able to operate outdoors from 12th April 2021.

5 Alternative Options

- 5.1 Without action pavement licences would be deemed to be granted within 10 working days risking pedestrian safety particularly in town centres and on high streets.



6 Implications

Resources:	The process, paperwork, and highway officers are in place to deal with pavement licence applications under the Highways Act 1980 and the necessary modifications to operate under the temporary provisions of the Business and Planning Act 2020 have been made.
Legal and Governance:	The Business and Planning Act 2020 requires clear access routes to be maintained on the public highway. Sandwell as the Local Traffic Authority also has a Network Management duty under the Traffic Management Act 2004 to secure the expeditious movement of traffic [<i>includes pedestrians</i>] on the road network.
Risk:	The legislation requires clear access routes to be maintained on the public highway for the expeditious movement of traffic including pedestrians. This is essential for the safety of pedestrians so that social distancing can be maintained without walking in the road to get around tables and chairs. This is a particular risk where there are narrow pavements on high streets and in town centres with parked cars alongside. In many of these locations the re-allocation of road space using emergency active travel funding has created the necessary room to maintain social distancing. The risk is that tables and chairs at these locations could fill the extra space that needs to be retained for the passage of pedestrians.
Equality:	The provisions apply equally to all communities and towns served by the road network
Health and Wellbeing:	Supports safe, sustainable active travel
Social Value	Supports local businesses to reopen sooner from lockdown



7. Appendices

Sandwell guidance and application form for Pavement Licences.

8. Background Papers

<https://www.legislation.gov.uk> and Guidance on Pavement Licences

