



Supplementary Licensing Committee

Business and Planning Act 2020 – Pavement Licence

ADDENDUM

Date: 22 July 2020

Key decision: Yes

Class: Part 1

Ward(s) affected: All

Contributors:

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Outline and recommendations

At the time of drafting the Report to Members, the legislative status, is that the Business and Planning Act 2020 is having a 2nd reading in the House of Lords merely as a Bill. It is anticipated that the Bill will receive Royal Assent within days and prior to the Committee Hearing.

Due to imminent summer recess, Mayor and Cabinet will not be meeting before this date. Therefore additional recommendations are required to be considered by Members of Supplementary Licensing Committee.

1. **For Members to note an additional recommendation for delegation of powers to officers.**
2. **For Members to note the updated section 14 Equalities Implications**

1. **For Members to note an additional recommendation for delegation of powers to officers:**

1. To agree to delegate functions under the Act to both the Executive Director for Community Services and the Executive Director for Housing, Regeneration & Environment to implement the licensing regime and to make any amendments as a consequence of any changes made between the current Bill and the Act coming into effect.

In addition to the following recommendations outlined in the report:

2. Note the new provisions under the Business and Planning Act 2020 with regards to Pavement Licences and Off sales of alcohol.
3. To agree to the proposed fee of £100 per pavement licence application.

4. To agree that this borough will be applying local conditions to pavement licences (see annex 2) either expressly or by default pursuant to the Business and Planning Act 2020.
5. The above recommendations are all conditional upon and will take effect from the date when the Bill receives Royal Assent and becomes law, as the new Business and Planning Act 2020.

2. For Members to note the updated section 14 Equalities Implications

14. Equalities implications

- 14.1 Section 149 of the Equality Act 2010 (“the Act”) imposes a duty that the Council must, in the exercise of its functions, have due regard to:-
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 14.2 The protected characteristics under the Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 14.3 The duty is a “have regard duty” and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.
- 14.1 The Council’s Comprehensive Equality Scheme (CES) for 2016-20 provides the overarching framework and focus for the Council’s work on equalities and helps to ensure compliance with the Equality Act 2010. The CES has five objectives as follows:
- a) Tackle victimisation, discrimination and harassment
 - b) Improve access to services
 - c) Close the gap in outcomes between citizens
 - d) Increase mutual understanding and respect within and between communities
 - e) Increase participation and engagement
- 14.2 A key consideration when undertaking the new licensing regime for pavement licences is to have due regard to for the amount of space the extra street furniture will have and the potential impact on the rights of the physically disabled. A key priority in establishing a process for this licensing regime locally is ensuring licences do not negatively impact on disabled residents and visitors to the borough or those with other mobility concerns.
- 14.3 The below table summarises the potential impact on the protected characteristics by use of the pavement under the new licensing regime:

Protected Characteristic	Overall Assessed Impact of Proposals	Commentary
Age	Neutral	This group may be affected by reduced space on the pavement where they are used to more available space. However, the requirement in our conditions for a minimum available space between the furniture placed on the highway and the kerb is 2.1m which takes into account users of

Protected Characteristic	Overall Assessed Impact of Proposals	Commentary
		wheelchairs, push chairs and those less mobile. See 14.4
Disability	Neutral	This group may be affected by reduced space on the pavement where they are used to more available space. This may be especially pertinent for those who are mobility and visually impaired. However, the requirement in our conditions for a minimum available space between the furniture placed on the highway and the kerb is 2.1m which takes into account space required for 2 wheel chairs to pass each other or a wheel chair and a pedestrian. See 14.4
Gender reassignment	N/A	
Marriage and civil partnership	N/A	
Pregnancy and Maternity	Neutral	This group may be affected by reduced space on the pavement where they are used to more available space. However, the requirement in the conditions for a minimum available space between the furniture placed on the highway and the kerb is 2.1m which takes into account users of wheelchairs, push chairs and those less mobile. See 14.4
Race	N/A	
Religion or Belief	N/A	
Sex	N/A	
Sexual Orientation	N/A	

- 14.3 The government has set a national condition to be attached to all licences that 'clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility'.
- 14.4 It is proposed under the standard conditions in appendix 2 that the minimum space that must be available between the edge of the curb of the pavement and any furniture placed on the highway is 2.1 metres, which allow for two wheelchairs to pass each other or a wheelchair and a pedestrian. In high footfall areas this is extended to 3.5 metres. These are the standard widths that are used for the boroughs existing licensing regimes for use of the pavement and therefore there should be no change to what has previously been in place. Ongoing monitoring will be undertaken by services around the implementation of the new licensing regime.
- 14.5 Additionally the reallocation of disabled parking bays for use for the purposes of a licence will not be permitted by the Council.