

Open

# Special Council

## Agenda

To be held remotely  
6pm  
Tuesday, 28th July 2020



## Council

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1. If you have any questions regarding the agenda, the attached papers or the meeting being webcast, please do not hesitate to contact the officer named below.
2. The Council meeting is open to the public except for any exempt/confidential items. These items are normally discussed at the end of the meeting. Where a meeting is held remotely, "open" means available for live or subsequent viewing.
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**COUNCIL MEETING**

21<sup>st</sup> July 2020

**TO ALL MEMBERS OF THE COUNCIL AND HONORARY ALDERMEN**

**PRESS AND PUBLIC**

Dear Member

**YOU ARE INVITED** to attend a special meeting of the Wyre Forest District Council to be held remotely at **6.00p.m. on Tuesday 28<sup>th</sup> July 2020.**

**The meeting will be available to stream from the Council's live meeting streaming channel**

<https://www.wyreforestdc.gov.uk/streaming.aspx>

The Agenda for the meeting is enclosed.

Yours sincerely

A handwritten signature in black ink that reads "I Miller".

Ian Miller  
Chief Executive

## **Declaration of Interests by Members – interests of members in contracts and other matters**

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct (“the Code”) requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members’ Code of Conduct as set out in Section 14 of the Council’s constitution for full details.

## **Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)**

DPI’s and ODI’s are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council’s Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

### **(A) TERMS OF REFERENCE OF THE COUNCIL**

The Council

1. Is the ultimate decision making Body.
2. Determines the Budget (but reserves powers to itself in relation to requirements).
3. Is responsible for appointing (and dismissing) the Leader of the Council.
4. Appoints at its Annual Meeting, the Regulatory Committees, the Overview and Scrutiny Committee and any other Committees/Forums necessary to conduct the Council’s business.
5. Decides on matters where the Cabinet is not minded to determine a matter in accordance with Council policy.

### **(B) MATTERS RESERVED TO THE COUNCIL**

1. Those reserved by Law e.g. levying a rate, borrowing money, promotion of or opposition to a Bill in Parliament.
2. Matters reserved to the Council by financial regulations.
3. The adoption and amendment of Standing Orders, including the powers and duties of Committees and other forums.
4. Power to make, amend, revoke or enact or enforce any byelaws.
5. The determination of the objectives of the Council.
6. Matters of new policy or variation of existing policy as contained within the budget and policy framework.
7. Local Development Framework adoption.
8. Any function where a decision would be contrary to a plan, policy, budget or strategy previously adopted by the Council, which would be contrary to the Council’s Standing Orders, Financial Regulations or Executive arrangements.
9. The Scheme of Delegations to Officers.

Wyre Forest District Council

Special Council

Tuesday, 28<sup>th</sup> July 2020

To be held remotely

Part 1

Open to the press and public

<b>Agenda item</b>	<b>Subject</b>	<b>Page Number</b>
<b>1.</b>	<b>Apologies for Absence</b>	
<b>2.</b>	<b>Declarations of Interests by Members</b>  In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered.  Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
<b>3.</b>	<b>Business and Planning Bill</b>  To consider a report from the Chief Executive on the Business and Planning Bill.	6

**WYRE FOREST DISTRICT COUNCIL**

**COUNCIL 28th July 2020**

**BUSINESS AND PLANNING ACT 2020 – DELEGATION OF FUNCTIONS**

<b>OPEN</b>	
<b>DIRECTOR:</b>	Chief Executive
<b>CONTACT OFFICER:</b>	Ian Miller
<b>DATE:</b>	28th July 2020
<b>APPENDICES:</b>	Appendix 1 – Wyre Forest District Council Policy on Pavement Licences Appendix 2 – Rt Hon Christopher Pincher letter 22 <sup>nd</sup> July

**1. PURPOSE OF REPORT**

- 1.1 To delegate the Council's functions in sections 1 to 10 of the Business and Planning Act 2020 to Bromsgrove District Council for exercise by Worcestershire Regulatory Services.

**2. RECOMMENDATION**

2.1 Council is asked to:

- (a) **DELEGATE** the Council's functions in sections 1 to 10 of the Business and Planning Act 2020 to Bromsgrove District Council for exercise by Worcestershire Regulatory Services;
- (b) **AGREE** the Wyre Forest District Council Policy on Pavement Licences;
- (c) **AUTHORISE** the Solicitor to the Council in consultation with the Corporate Director: Economic Prosperity and Place and Corporate Director: Resources to make any necessary amendments to the service level agreement and other documents governing the Council's relationship with Worcestershire Regulatory Services and to the Council's Fees and Charges.

**3. BACKGROUND**

- 3.1 The Government introduced what was then the Business and Planning Bill in Parliament on 25 June. It received Royal Assent on 22nd July 2020. Sections 1 to 10 of the 2020 Act introduce a regime of pavement licences that will be issued by district councils. An explanatory letter from the Rt Honourable Christopher Pincher MP setting out the content of the Act (which also contains other measures aside from the licensing matters) is attached at Appendix 2. Applications are subject to 7 days of consultation and then a decision has to be taken within a further 7 days: otherwise the licence is deemed to have been granted for a year. Only Christmas Day, Good Friday and bank holidays do not count so, generally, the whole process takes a maximum of two weeks. The Council needs to be ready to start

considering licence applications immediately and attached at Appendix 1 is the proposed policy, process and conditions that will be applied when any application is received. There are only two national conditions about maintaining sufficient access for disabled people and others along pavements and a smoke-free seating condition, but Annex B of Appendix 1 sets out the proposed local conditions which will also apply.

- 3.2 Section 8 (2) of the Act has amended the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 declaring that the functions in sections 1-7 of the Act relating to pavement licences are non-executive functions. Under Section 101 of the Local Government Act 1972, local authorities may delegate their non-executive functions.
- 3.3 District councils in Worcestershire already have an effective shared service, Worcestershire Regulatory Services (WRS), which provides the ideal county-wide vehicle to administer the new legislation on their behalf. Prior to the announcement of the Bill, WRS was already working with Worcestershire County Council on the means by which there could be a relaxation of the county policy on street furniture approval to enable businesses to use the pavement for trading purposes to help them safely trade following the re-opening of shops. WRS is therefore ideally placed to absorb these new functions across the county. Worcestershire Regulatory Services have worked at pace to draft conditions for operation of the new legislation in Worcestershire and to prepare changes to its website and a range of other steps that are necessary to be ready to begin considering applications for pavement licences immediately.
- 3.4 Historically the County Council had delegated authority to some districts which chose to take up the offer (Wyre Forest District Council was one of them) to enable the local determination of applications to place furniture on the street in connection with business trading, for example on Severnside in Bewdley. This is already a function which the Council delegates to WRS to implement on its behalf.
- 3.5 Section 11 of the Act amends the Licensing Act 2003 so that alcohol licences which provide for sales on the premises only are automatically extended to include sales off the premises for a temporary period. Whilst this is also a non-executive function, the 2003 Act is already among the delegations to officers of non-executive functions set out in Section 4 of the Council's constitution, and the constitution explicitly includes "any re-enactment or replacement or consolidation of the statutes or regulations or guidance, or any modifications or extensions thereof". Thus no change to delegations is required in respect of section 11.

#### **4. KEY ISSUES**

- 4.1 The Council has no capacity among its own staff to process applications under the 2020 Act. The requisite capacity and processes exist in Worcestershire Regulatory Services. Therefore, the report recommends delegation of all functions

in sections 1 to 10 of the 2020 Act to Bromsgrove District Council for exercise by Worcestershire Regulatory Services. Among other things, by the districts working as “One Worcestershire” through WRS, it reduces the risk of deemed licences as a result of non-determination. Deemed licences have effect for 12 months, so this Council would lose control of whether or not a licence should be issued if it does not have the necessary arrangements in place straightaway.

- 4.2 Among the matters that Worcestershire Regulatory Services will formally determine as part of the “One Worcestershire approach are the fee to be charged for applications and the period for which licences will be issued. The maximum fee is £100 and it is intended that the fee in Worcestershire will be set at this level: it is estimated that, in most cases, this will cover the costs of processing applications as well as one off set up costs for the new processing arrangements but may not cover the costs in full for all applications.
- 4.3 The legislation runs only to 30 September 2021 but could be extended by secondary legislation subject to affirmative resolute procedure. District councils have the ability to grant licences for whatever period they wish, subject to a minimum of 3 months, although the guidance expects 12 months to be the normal period unless there are good reasons for granting a licence for a shorter period, for example where plans are known to exist that will change the road space available within that shorter period. A 12-month licence issued in the next few weeks would extend for part but not all of summer 2021.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 As noted above, the maximum fee of £100 is estimated to cover, in most cases, the cost of processing applications but may not do so in all cases. In the event of any mismatch between the total costs incurred by Worcestershire Regulatory Service and the total income received, it would fall to the partner councils to consider how the shortfall would be met, including drawing on COVID-19 funding provided by the Government.

## **6. LEGAL AND POLICY IMPLICATIONS**

- 6.1 The relevant legislation is cited in sections 3 and 4 of this report.

## **7. EQUALITY IMPACT NEEDS ASSESSMENT**

- 7.1 An impact needs assessment is not required as this is a constitutional decision about delegation of functions. It would fall to Worcestershire Regulatory Services to undertake an assessment in setting policies under the functions in the 2020 Act.



**8. RISK MANAGEMENT**

8.1 The main risk relates to rapid deployment of a process for managing applications, as the legislation provides for “deemed licences” if councils do not take decisions within 7 days of the conclusion of the consultation period. Worcestershire Regulatory Services has made the necessary preparations and has draft policies and procedures that it is ready to implement for Wyre Forest following approval of the delegation of functions.

**9. CONCLUSION**

9.1 Council is invited to approve the delegations set out in paragraph 2.1 (a) to (c) above.

**10. CONSULTEES**

10.1 Cabinet

10.2 Corporate Leadership Team

**11. BACKGROUND PAPERS**

11.1 The Business and Planning Act 2020

<https://www.legislation.gov.uk/ukpga/2020/16/introduction/enacted>

11.2 MHCLG Guidance: Pavement Licences (outdoor seating proposal) 22 July 2020

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

## **Business and Planning Act 2020**

### **Wyre Forest District Council Policy on Pavement Licences**

#### **1.0 Background**

- 1.1 The Business and Planning Act 2020 was passed to promote economic recovery and growth in response to the economic impacts of the global Covid-19 pandemic. The Act included urgent provisions designed to make it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.
- 1.2 Sections 1 to 10 of the Act create a temporary regime for the issuing of “pavement licences” by appropriate local authorities. Wyre Forest District Council is the appropriate local authority for issuing pavement licences in the administrative area covered by the Council.
- 1.3 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. The aim of the legislation is to support businesses to operate safely while social distancing measures remain in place. The aim is to provide much needed income over the summer months and protect as many hospitality jobs as possible.
- 1.4 The temporary licensing regime is due to be in place until 30 September 2021 when these provisions are due to expire in accordance with section 10 of the Act.

#### **2.0 Pavement Licence**

- 2.1 A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows 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.
- 2.2 Licences can only be granted in respect of highways to which Part 7A of the Highways Act 1980 applies. In general terms, 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).
- 2.3 A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.
- 2.4 A licence permits the business to use removable furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.
- 2.5 Furniture in this context means:
  - (a) Counters or stalls for selling or serving food or drink,
  - (b) Tables, counters or shelves on which food or drink can be placed,
  - (c) Chairs, benches or other forms of seating, and
  - (d) Umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink;
- 2.6 The Council would expect the type of furniture to be ‘in keeping’ with the local area.

### **3.0 Secretary of State's Guidance**

3.1 In accordance with the requirements of section 8 of the Business and Planning Act 2020, the Council will have regard to any guidance issued under that section by the Secretary of State when dealing with the pavement licensing provisions contained in the Act.

### **4.0 Interaction with Part 7A of the Highways Act 1980**

4.1 Part 7A of the Highways Act 1980 already provides a mechanism for local authorities to grant businesses permission to place objects or structures on the highway for any of the following:

- (i) for a purpose which will result in the production of income;
- (ii) for the purpose of providing a centre for advice or information; or
- (iii) for the purpose of advertising.

4.2 In Wyre Forest District Council's area, permissions to put tables and chairs on the highway under Part 7A of the Highways Act 1980 are dealt with on the Council's behalf by Worcestershire Regulatory Services.

4.3 The new pavement licence regime runs alongside the provisions in Part 7A of the Highways Act 1980, which remain in place.

4.4 Any existing permissions issued under Part 7A of the Highways Act 1980 remain valid.

4.5 Those wishing to put removable furniture on the highway can apply for either a pavement licence under the Business and Planning Act 2020 or for permission under Part 7A of the Highways Act 1980.

### **5.0 Planning Permission**

5.1 If a pavement licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid and remains in force.

### **6.0 Submission of Applications**

6.1 Applications must be made on the Council's standard application form and must be submitted electronically to [enquiries@worcsregservices.gov.uk](mailto:enquiries@worcsregservices.gov.uk) along with the required supporting documentation and evidence that the required application fee has been paid.

6.2 The completed application must be accompanied by the following:

- A plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- A plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items of furniture that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.

- A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million,
- Photos or brochures showing the proposed type of furniture (including the means of enclosure such as barriers) and information on potential siting of it within the area applied.
- Evidence of consent from neighbouring frontager(s) to use footway space outside their property (if applicable).

6.3 The Council has determined that the fee for making an application for a pavement licence is £100. The application fee is non-refundable in the event that the application is refused or withdrawn or if any licence granted is subsequently surrendered or revoked.

6.4 An application will not be considered complete until the application form, all required documents and the application fee have all been received. The public consultation period will not commence until the day after a complete application has been made.

## **7.0 Applicant's Duty to Give Notice of Application**

7.1 The Act requires an applicant for a pavement licence to

- (a) On the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, and
- (b) Secure that the notice remains in place until the end of the public consultation period which means the period of 7 days beginning with the day after that on which the application is made.

7.2 A template notice for use by applicants can be found at Annex A to this policy statement and can also be downloaded from

[www.worcsreqservices.gov.uk/licensing/pavement-licences.aspx](http://www.worcsreqservices.gov.uk/licensing/pavement-licences.aspx)

## **8.0 Consultation on Applications by the Council**

8.1 Before determining an application, Wyre Forest District Council will consult with the following bodies:

- Worcestershire County Council (The Highway Authority)
- West Mercia Police
- Hereford and Worcester Fire and Rescue Service
- North Worcestershire Economic Development and Regeneration
- Relevant Ward Member(s) of Wyre Forest District Council

8.2 Details of applications received and the relevant public consultation periods for each application will also be published at:

[www.worcsreqservices.gov.uk/licensing/pavement-licences.aspx](http://www.worcsreqservices.gov.uk/licensing/pavement-licences.aspx)

**9.0 Determination of Applications**

- 9.1 Wyre Forest District Council supports the aims of the Act and wants to help promote economic recovery and growth in its area and will therefore seek to grant applications for licences where possible.
- 9.2 However this aim has to be balanced with the need to ensure the issuing of pavement licences does not put public health or safety at risk, does not lead to antisocial behaviour or public nuisance and ensures that the public, particularly those with disabilities such as sight impairment are unhampered when walking along streets.
- 9.3 The Council will consider all of the relevant circumstances in determining applications and will treat each case on its merits.
- 9.4 The Council will not grant a licence when doing so would lead to any of the following effects:
- (a) preventing traffic, other than vehicular traffic, from—
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway,
  - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
- 9.5 When considering whether furniture put on a relevant highway by a licence holder pursuant to a pavement licence has or would have the effect referred to in paragraph (a) above, the Council will have regard in particular to the needs of disabled people, and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.
- 9.6 This list is not exhaustive, and the Council may refuse an application on other grounds including (but not limited to) where the granting of the licence would put at risk public health or safety, lead to antisocial behaviour or public nuisance or unreasonably hamper pedestrian's ability to move freely.
- 9.7 The Council will consider any objections or comments received in respect of the application during the public consultation period, whether made by the bodies consulted or any other person, before the application is determined.
- 9.8 Given the important role it undertakes in maintaining the safety of users of the highway, it is extremely unlikely that a licence will be granted where objections to an application are received from the highway authority, but in all cases the thoughts of all consultees will be considered.

- 9.9 Having considered any objections or comments received in respect of the application, the Council may:
- (a) Grant a licence subject to the standard conditions
  - (b) Grant a licence subject to the standard conditions and any other reasonable conditions that are considered appropriate in the circumstances of the case
  - (c) Refuse the application

**10.0 Licences Deemed Granted**

- 10.1 The Council aims to determine all applications within the determination period provided by the Act. That means that applications will be granted or refused within the period of 7 days beginning with the first day after the public consultation period.
- 10.2 If the Council does not make a determination by the end of the determination period, section 3 (8) of the Act provides that the licence for which the application was made is deemed to be granted by the Council to the applicant.

**11.0 Licence Conditions**

- 11.1 All pavement licences whether granted or deemed granted, will be subject to the Council's published standard conditions, which can be seen at Annex B to this policy statement.
- 11.2 All pavement licences whether granted or deemed granted, will also be subject to the statutory conditions provided for under section 5(4) of the Business and Planning Act 2020. The statutory conditions are shown at Annex C to this policy statement.
- 11.3 In addition to the standard conditions and statutory conditions, further reasonable conditions may be attached to individual licences as the Council considers appropriate in the circumstances of the case having regard to any comments or objections received during the public consultation period. The need for further conditions beyond the standard conditions will be considered on a case by case basis.

**12.0 Duration of Licences**

- 12.1 All licences granted by the Council will be valid for a period of 6 months or until 30 September 2021, whichever is the shorter, and will then expire.
- 12.2 Any licence deemed granted under section 3 (8) of the Act will be valid for a period of 12 months or until 30 September 2021, whichever is the shorter, and will then expire.

**13.0 Enforcement and Revocation of Licences**

- 13.1 The Council will always seek to rectify any issues arising as a consequence of the activities authorised by a pavement licence by engaging in informal discussions with the licence holder in the first instance.
- 13.2 However if this informal approach does not resolve the issues in a satisfactory way, then formal action can be taken as detailed below.

- 13.3 If the Council considers that a licence-holder has breached any condition of the licence, the authority may—
- (a) revoke the licence, or
  - (b) serve a notice on the licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is so specified.
- 13.4 If a licence-holder on whom an enforcement notice is served fails to comply with the notice, the Council may—
- (a) revoke the notice, or
  - (b) take the steps itself and recover the costs of doing so from the licence holder.
- 13.5 The Council may also revoke the licence if it considers that—
- (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,
  - (b) as a result of the licence—
    - (i) there is a risk to public health or safety, or
    - (ii) anti-social behaviour or public nuisance is being caused or risks being caused,
    - (iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),
  - (c) anything material stated by the licence-holder in their application was false or misleading, or
  - (d) the licence-holder did not comply with the duty to advertise their application.
- 13.6 All enforcement activity will be undertaken in line with the principles set out in the Regulator's Code.

#### **14.0 Rights of Appeal**

- 14.1 The Business and Planning Act 2020 does not provide any statutory right of appeal against a decision to refuse or revoke a pavement licence. Nor is there a statutory right of appeal against any enforcement notice served on a licence holder.
- 14.2 However, clear and justifiable reasons will always be provided if a licence is refused or revoked, or if an enforcement notice is served on a licence holder.

#### **15.0 Hazards or Obstructions of the Highway**

- 15.1 Notwithstanding the grant or deemed grant of a licence, the highway authority reserves the right to remove items that present a hazard or obstruction to highway users.

**16.0 Review of this Policy**

- 16.1 This policy covers the temporary provisions for the issuing of pavement licences under the Business and Planning Act which are scheduled to expire on 30 September 2021.
- 16.2 This policy may be reviewed from time to time should changes occur in relevant legislation, relevant social distancing measures or as a result of local considerations in the area.

DRAFT



**ANNEX A**

**BUSINESS AND PLANNING ACT 2020**

**NOTICE OF APPLICATION FOR GRANT OF A PAVEMENT LICENCE**

I / We .....(1)

Do hereby give notice that on ..... (2)

I / we have applied to Wyre Forest District Council for a pavement licence at:

.....  
..... (3)

Known as..... (4)

The application is for:

.....  
..... (5)

Any person wishing to make representations to this application may do so by writing to [enquiries@worcsregservices.gov.uk](mailto:enquiries@worcsregservices.gov.uk) by:

..... (6)

The application and information submitted with it can be viewed at:  
[www.worcsregservices.gov.uk/licensing/pavement-licences.aspx](http://www.worcsregservices.gov.uk/licensing/pavement-licences.aspx)

Signed .....

Date ..... (7)

**Guidance notes on completing this notice of application.**

Complete the notice by putting the following information in the numbered spaces:

- (1) Name of the applicant
- (2) Date the application is made (submitted)
- (3) Postal address of the premises
- (4) Name the premises is known by
- (5) Brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink]).
- (6) Last date for representations being the date 7 days after the date the application is submitted to the local authority.
- (7) The date the notice was placed (must be the same date as (2) above)

On the same day that the application is made, a completed copy of this notice must be fixed to the premises so that it is readily visible to, and can be read easily by, members of the public who are not on the premises, and secure that the notice remains in place until the end of the public consultation period.

**Failure to comply this requirement may lead to the revocation of any licence granted or deemed granted.**

**ANNEX B – STANDARD CONDITIONS FOR PAVEMENT LICENCES**

1. The licence must only be used for the purpose of placing removable furniture on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the licence holder's business premises.
2. Furniture may only be placed within the area of the highway identified on the plan that accompanied the application for the licence.
3. The licence holder must ensure that furniture is positioned in such a way so as to ensure compliance with the relevant Government guidance on social distancing that is in place at any particular time and that staff can service the space regularly for cleaning and other purposes, in a manner that does not compromise their health and safety.
4. Furniture used on the highway is required to pose no risk to any users, to be durable and safe, and to be separated from the remaining footway by a means of enclosure such as barriers.
5. Clear routes of access along the footway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances suggested by guidance. A useable footway width of 1.8m should be maintained between area of the pavement licence, and any trafficked carriageway.
6. The licence holder shall not make excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
7. Unless another more restrictive condition has been attached to the licence in response to particular concerns raised during the public consultation period, the licence holder must not place any furniture on the highway in pursuance of this licence before 08:00hrs on any day and must remove all furniture placed on the highway in pursuance of this licence when the premises closes or by 22:00hrs on any day, whichever is the earliest.
8. The licence holder must observe and comply with any direction made by a Police Officer, Fire and Rescue Officer, or authorised officer of the local authority in relation to the use of the highway, including any direction to remove furniture from the highway.
9. The licence holder must at all times hold a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.
10. The area of the highway covered by the licence must be kept clean and tidy at all times. This will include washing down the area, and removing any refuse and litter on the highway in the vicinity of the removable furniture.
11. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.
12. The licence holder must not allow customers using the area to engage in anti-social or disorderly behaviour.
13. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that the conditions above are being adhered to.

**ANNEX C – STATUTORY CONDITIONS FOR PAVEMENT LICENCES**

1. Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6). These effects are:
  - (a) preventing traffic, other than vehicular traffic, from—
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway,
  - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
  
2. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

Rt Hon Christopher Pincher MP

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22 July 2020

Dear Local Authority Leader,

I am writing to inform you that the Business and Planning Bill received Royal Assent on 22 July 2020.

As we emerge from this pandemic, the Government wants to do all it can to support our economic recovery, help businesses adjust to new ways of working and support jobs. The Act introduces a series of urgent measures intended to help businesses, particularly in the hard-hit hospitality and construction sectors, get back to work safely and quickly whilst supporting the broader economic recovery.

In particular, the Act sets out various provisions Local Authorities will be required to implement, in order to:

- help businesses such as restaurants, bars and pubs get ready for summer and adapt to social distancing, by making it easier for them to serve food and alcohol for consumption off the premises and set up outdoor seating, whilst ensuring the needs for highway users, in particular disabled people, are considered throughout. Provisions on outdoor seating will apply in England and alcohol licensing in England and Wales;
- enable developers in England to begin work quickly on new developments as the economy recovers, by extending unimplemented planning permissions and listed building consents; and
- facilitate the safe resumption of construction work and new development without delay, by introducing a new route for developers in England to seek permission for extended construction site working hours, for example in evenings and at weekends, and making planning processes more flexible (including allowing for greater digitalisation).

The Government has published a suite of guidance to support Local Authorities deliver these measures. The majority of measures in the Act are temporary.

#### Pavement licensing guidance

The temporary pavement licences process introduces a streamlined consent route to allow businesses using or proposing to use premises for the sale of food or drink to apply for a licence to place temporary furniture, such as tables and chairs, on the highway quickly for a maximum fee of £100.

The Act requires that local authorities must have regard to the needs of disabled people when considering whether furniture put on the highway causes an unacceptable obstruction. In doing so,

local authorities are required to have regard to guidance issued by the Secretary of State, which now makes clear that in most circumstances 1.5 metres of clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway. There are also a number of good practice examples that authorities can consider to ensure clear access is maintained for all users of the highway, including disabled people, which are referred to within the pavement licence guidance. These include:

- using barriers that are accessible for people with sight loss to separate the pavement café areas from the rest of the footway, which include colour contrast and a tap rail for long cane users, taking care not to create obstructions that hinder accessibility for people with mobility impairments;
- consideration of the positioning of furniture so that it does not discourage pedestrians from using the footway, and ensuring that the available route must be entirely clear and not pass through an area with tables and chairs;
- ensuring that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place;
- factoring in any social distancing measures that are in place that may limit the space available for clear access, such as places where queues are likely to form.

The pavement licence provisions under the Business and Planning Act also impose a smoke free seating condition. As we have explained in the guidance this requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area.

Further details are available here: <https://www.gov.uk/government/publications/pavement-licences-draft-guidance>

#### New temporary permissions for off-sales of alcohol

The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to premises licences that only permit sales of alcohol for consumption on the premises (“on-sales”) to allow sales of alcohol for consumption off the premises (“off-sales”). This will help licensed premises to trade whilst keeping social distancing measures in place inside. It will be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.

The provisions remove the need for any application to be made, therefore no fee will need to be paid. This will deliver savings to businesses, as well as providing them with certainty about how they are able to trade. It will also reduce the burden on local authorities and the police, who will not need to scrutinise any applications for licence variations from the premises affected by these measures. Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through this legislation.

For premises with an existing off-sales permission, the Act may apply temporary conditions to the premises licence. These conditions relate to the time when an off-sale may be made, off-sales of alcohol in an open container, and the delivery of alcohol to homes or workplaces. If an existing licence has more restrictive conditions on these things, they are suspended and the temporary conditions replace them.

If problems of crime and disorder, public nuisance, public safety or the protection of children were to arise from how premises operate using the new permission, any responsible authority, including

the police or environmental health, will be able to apply for a new off-sales review. The off-sales review process is modelled on the existing summary review process. In the event that an off-sales review is triggered, it will only relate to off-sales authorised by virtue of the provisions in the Act., it cannot be used to revoke the existing licence or modify pre-existing licence conditions. Further details are available here: <https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>

Guidance on extension of certain planning permissions

The guidance provides further detail on the extension of certain planning permissions and the considerations which local planning authorities should take into account when determining applications for Additional Environmental Approval.

Further details are available here: <https://www.gov.uk/government/publications/extension-of-certain-planning-permissions-draft-guidance>

Guidance making current spatial development strategies available digitally

This guidance outlines mitigation the Greater London Authority (GLA) could undertake corresponding with the publicity requirements for the London Plan in the Business and Planning Act. The Business and Planning Act would temporarily amend the statutory provisions for spatial development strategies (SDS) public accessibility. This guidance outlines mitigation measures the Mayor of London could undertake to assist those who would not be able to access the London Plan electronically with reasonable convenience.

Further details are available here: <https://www.gov.uk/government/publications/making-current-spatial-development-strategies-available-digitally-draft-guidance>

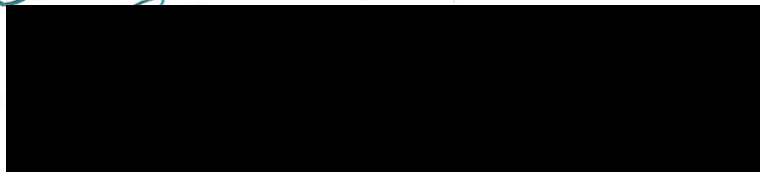
Extended construction site working hours guidance

The Act introduces a new route for developers to seek a temporary extension of construction site working hours, and sets out considerations which local authorities must take into account in determining applications under this proposed new route. Further details are available here: <https://www.gov.uk/government/publications/construction-working-hours-draft-guidance>

The full set of guidance relevant to the Act is available here:

<https://www.gov.uk/government/collections/draft-planning-guidance-to-support-the-business-and-planning-bill>

*Yours faithfully,*



RT HON CHRISTOPHER PINCHER MP