

BOROUGH OF KETTERING

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Report Originator	Shirley Plenderleith	<i>Fwd Plan Ref No:</i> A20/012	
Wards Affected	All, but especially those with town centres in their ward.	8 th July 2020	
Title	SEATS ON STREETS – PAVEMENT LICENCES		

Portfolio Holder: Cllr Mark Dearing

1. PURPOSE OF REPORT

To seek approval to a change to the scheme of delegation to enable officers to progress pavement licences, and to agree the terms on which licences will be issued.

2. INFORMATION

- 2.1. In the Business and Planning Bill, likely to be made law by 1st July, the government has proposed temporarily transferring responsibility for issuing pavement licences from highways authorities to district councils. A pavement licence enables pubs, restaurants and cafes to cordon off an area of the pavement for their exclusive use, as ancillary to their business. The intention is to enable businesses to generate enough custom under social distancing rules to enable them to trade profitably in future. The new arrangements apply until September 2021. Councils have a very short period of time to consider and determine an application, and an undetermined application is deemed to be approved.
- 2.2. This report is submitted because there are of course no arrangements or policy in place to govern officers' handling of applications, given that it has until now not been a district council function. The legislation implies that this is an executive function of the Council, not a Council or licensing committee function, so therefore, the responsibility for determining policy lies with this Committee.
- 2.3. This Council already has a policy in place which provides deemed planning consent for "seats on streets" through a 2018 Local Development Order, within a specific area of Kettering Town Centre, and has therefore, a positive approach towards enabling on-street extensions for food and drink sales. This order exempts those defined premises from the PSPO, which otherwise prohibits on-street consumption of alcohol. The bill otherwise gives deemed planning consent to any approved applications outside Kettering town centre.
- 2.4. The following issues need determining:

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- a) To delegate the responsibility for handling and determining applications to the Head of Public Services, so that we can respond to the very quick timetable for determining applications
- b) Determining the fee for an application – the legislation introduces a maximum fee of £100 for a pavement licence (significantly less than NCC were previously charging). At least two other authorities in the county are planning to charge the maximum fee possible. Members are asked whether they wish to make a charge or not, and if so, at what rate. If the objective is to support local business return to profitability, then in common with the Council's approach to market trading fees, a nil fee might be appropriate.
- c) Determining the length of a licence. It is proposed that any licence issued by the Council should be in place until September 2021 (or a lesser period if the applicants request one), which is when the function returns to the highway authority, although by then this will be same authority as the licensing authority. Suitably managed spaces – the applicant will need to show at the point of application, that they can manage the space being used and to agree layout with the Council before implementation. In turn, the Council will need to be satisfied that the proposed use does not unreasonably impede the highway and takes account of the needs of users, including prams, wheelchairs and cyclists, as well as pedestrians. The licence should be able to be revoked if the premises are not adhering to the requirements of the licence for example not using plastic drinks containers or if social distancing is not properly observed or if anti-social behaviour or other issues such as safety, littering or overall lack of management of the area become a problem.

3. CONSULTATION AND CUSTOMER IMPACT

- 3.1. Given the brisk timetable associated with the change in legislation, the only dialogue that has taken place has been with the county council about how highway considerations can be secured and taken into account in the limited time. Each licence application will be subject to a maximum of 7 days consultation when it is submitted. Further discussion with other statutory consultees, eg the police, will need to be developed in the next few days.
- 3.2 Officers are currently working to produce design principles that partners including the highways authority and the police support in an attempt to ensure that the applications from businesses are able to be processed as quickly as possible.

4. POLICY AND RESOURCE IMPLICATIONS

- 4.1 This is a new function for the Borough Council but it sits well alongside its other functions and fits in well with the town centre delivery plan.
- 4.2. Licenses will be managed by the Joint licensing Unit who are in the process of setting up systems to handle applications.

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- 4.3. Pavement licences will not be required on land which is not designated highway, eg the Market Place, but where similar principles might still be applied in allocating space.
- 4.4. There will be an – unknown – resource implication of this legislation, which will be a function of the number of applications made, and most work will be taken up by specifying the boundaries, layout and dimensions of the allocated space. Additional resource may be needed in managing and resolving arising issues.

5. LEGAL AND EQUALITY IMPLICATIONS

- 5.1. Ensuring the balance between use of the highway and the operation of a local business will be key to the success of this initiative, particularly for those with mobility issues or sight loss.

6. CLIMATE CHANGE IMPLICATIONS

- 6.1 A small net benefit will arise if people are more able to use their local town centres.

7. RECOMMENDATION

The Committee is recommended that:-

- a) Authority to determine and issue pavement licences is delegated to the Head of Public Services
- b) A fee of £0 be applied to licence applications made in the 2020/21 financial year
- c) A licence issued during 2020 should be valid for 12 months from the date of issue or until September 2021, whichever is the longer
- d) That a licence approval should include the Council's agreement to the proposed layout, the means of marking the boundary of the allocated space, associated signage, and the exact dimensions of the allocated space

Revocation of a licence by the Head of Public Services can occur if the premises are not adhering to licensing conditions, including those relating to social distancing, littering or anti-social behaviour.

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Background Papers

Parliamentary Business and
Planning Bill
LGA Advice notes June 2020

Date 30th June 2020
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