



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Graham Walton  
[graham.walton@bromley.gov.uk](mailto:graham.walton@bromley.gov.uk)

DIRECT LINE: 0208 461 7743

FAX: 020 8290 0608

DATE: 20 May 2024

To: Members of the

## **GENERAL PURPOSES AND LICENSING COMMITTEE**

Councillor Pauline Tunnicliffe (Chairman)

Councillor Colin Hitchins (Vice-Chairman)

Councillors Jessica Arnold, Nicholas Bennett J.P., Robert Evans, Kira Gabbert, Christine Harris, Mike Jack, Simon Jeal, Josh King, Alexa Michael, Tony Owen, Melanie Stevens, Harry Stranger and Sam Webber

A meeting of the General Purposes and Licensing Committee will be held at, Bromley Civic Centre, Stockwell Close, Bromley, BR1 3UH Stockwell Close, Bromley BR1 3UH on **WEDNESDAY 29 MAY 2024 AT 7.00 PM**

TASNIM SHAWKAT

Director of Corporate Services & Governance

*Copies of the documents referred to below can be obtained from*

<http://cds.bromley.gov.uk/>

### **A G E N D A**

**1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

**2 DECLARATIONS OF INTEREST**

**3 QUESTIONS**

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting - by 5pm on 14th May 2024.

Questions specifically on reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically on reports on the agenda are received by the Democratic Services Team by 5pm on Wednesday 22<sup>nd</sup> May 2024.

**4 CONFIRMATION OF MINUTES OF THE MEETINGS HELD ON 6TH FEBRUARY AND 15TH MAY 2024 (Pages 3 - 14)**

- 5 BUSINESS AND PLANNING ACT 2020 AND THE LEVELLING UP AND REGENERATION ACT 2023: NEW POWERS, COMMENCEMENT DATE AND NEW FEES STRUCTURE FOR THE PERMANENT PAVEMENT LICENSING REGIME**  
(Pages 15 - 60)
- 6 OUTSIDE BODY APPOINTMENTS 2024/25**  
(Pages 61 - 68)
- 7 WORK PROGRAMME AND MATTERS OUTSTANDING**  
(Pages 69 - 74)
- 8 LICENSING SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 11 JANUARY, 6 FEBRUARY, 25 MARCH, 3 APRIL, 15 APRIL AND 22 APRIL 2024**  
(Pages 75 - 100)

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## **GENERAL PURPOSES AND LICENSING COMMITTEE**

Minutes of the meeting held at 7.00 pm on 6 February 2024

### **Present:**

Councillor Pauline Tunnicliffe (Chairman)  
Councillor Colin Hitchins (Vice-Chairman)  
Councillors Jessica Arnold, Nicholas Bennett J.P.,  
Robert Evans, Kira Gabbert, Christine Harris, Mike Jack,  
Simon Jeal, Josh King, Melanie Stevens, Harry Stranger,  
Sam Webber, Simon Fawthrop and Jonathan Andrews

### **85 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

Apologies for absence were received from Councillor Tony Owen, who was replaced by Councillor Simon Fawthrop, and from Councillor Josh Coldspring-White who was replaced by Councillor Jonathan Andrews.

### **86 DECLARATIONS OF INTEREST**

Councillor Simon Fawthrop declared an interest in relation to minute 92 as a member of the Free Speech Union.

### **87 QUESTIONS**

Two questions had been received for oral reply from Councillor Simon Jeal. The questions and replies are set out in Appendix A to these minutes.

### **88 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 8 NOVEMBER 2023**

The Chairman reported that the report requested at the last meeting on hybrid working and appraisal would be ready for one of the upcoming meetings. She also confirmed that she had received a note from the Nuisance, ASB, Health, Safety and Licensing Manager on the issue of planning and licensing which she would forward to Members.

**RESOLVED that the minutes of the meeting held on 8<sup>th</sup> November 2023 be confirmed.**

### **89 ANNUAL COMPLAINTS REPORT AND LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN LETTER 2022/23** Report CEF23061

The Council produced an Annual Complaints Report each year setting out statistics on the complaints it received. The 2022/23 Annual Report was presented in Appendix 1 to the report. The report also provided oversight of

the Local Government & Social Care Ombudsman's Annual Review letter which summarised Ombudsman complaints/enquiries received, and the decisions made about, the London Borough of Bromley for the year ending 31 March 2023. A link to the Ombudsman's letter was provided on the final page of the committee report.

Members noted that timeliness appeared to be an issue common across all departments, including timeliness of responses to the Ombudsman. There were corporate systems in place to chase up responses, but this problem probably reflected general pressure on resources and the increasing complexity of complaints and remedial actions. In common with most Councils, complaints about SEN issues had increased, with the national shortage of Educational Psychologists a factor.

Members also commented that the report had been delayed in coming before them. Officers had to wait for the annual Ombudsman letter, but then there had been delays with the current report due to a cancelled meeting which meant that the usual autumn cycle of meetings was missed. Although the report was not considered by all PDS Committees it was always submitted to Adult Care and Health PDS Committee and Children, Education and Families PDS Committee before this Committee.

A Member commented that the Ombudsman's findings were not always consistent. It was noted that each case was dealt on its merits rather by way of precedent, but there was a good decision database on the Ombudsman's website which officers did refer to.

In terms of lessons learnt from complaints, there was feedback to Directors particularly where systemic issues were involved. Feedback on the complaints process was not sought from complainants – generally this did not produce helpful information.

A Member noted that most of the compensation paid out related to just one case. It was explained that this concerned transport for children in foster care. A calculation error had been identified and officers had reviewed all cases going back over five years to pay any outstanding money.

It was clarified that reports made via Fix My Street were not complaints but were regarded as service requests, although these might lead to complaints in cases where the Council's response was inadequate.

**RESOLVED that the report be noted.**

## **90            2024/25 PAY AWARD**

Under the local terms and conditions of employment framework, the Committee was required to make a recommendation on staff pay awards to full Council. Pursuant to the local framework, the annual pay award review was now part of the Council's budget planning process. This requirement was a key driver for coming out of the national/regional pay negotiating frameworks. The Trade Union response to the Council's proposed pay award

of 3% was tabled – no other feedback from staff had been received other than two very specific queries.

Councillor Simon Jeal, on behalf of the Labour Group, proposed the following two amendments –

Amendment one:

Amend recommendation 2.1 (ii) to add the words:

[Spinal Point 12 (BR4)...] which shall be increased to an hourly rate of £13.15, in line with the London Living Wage as at 1st April 2024.

On being put to the vote, the amendment was lost.

Amendment two:

Amend recommendation 2.1(iii) to add the words "Subject to the condition that managers must have completed appraisals for at least 90% of their direct reports, in respect of the most recent appraisal year end period, to be eligible to receive a merit award. The Director of HR, in consultation with the Portfolio Holder for Resources and Commissioning, may waive this condition in exceptional circumstances."

On being put to the vote, this amendment was deferred to be considered as part of the report on hybrid working and appraisal.

**RESOLVED that**

**(1) full Council be recommended to approve the following:**

- (i) A flat 3% pay increase on all salary points and rates for Council staff (excluding teachers who are covered by a separate statutory pay negotiating process) for 2024/25.**
- (ii) The removal of the equivalent of spinal points 9-11 (affecting grade BR3) with assimilation to equivalent of spinal point 12 (BR4).**
- (iii) An increase of 3% to the Merited Rewards, for 2024/25, bringing the total to £412k for rewarding staff for exceptional performance.**
- (iv) The Trade Union pay claim for staff be rejected.**

**(2) It is noted that, as in the previous years since coming out of the nationally/regionally negotiated frameworks, Bromley staff will receive the 2024/25 pay increase in time for the April pay.**

**91 PAY POLICY STATEMENT 2024/25**

Under the Localism Act 2011 the Council was required to publish a Pay Policy Statement to be approved by full Council every year. The Committee considered the 2024/25 Pay Policy Statement.

**RESOLVED that full Council be recommended to approve the 2024/25 Pay Policy Statement attached to the report.**

**92 REVIEW OF THE COUNCIL'S MEASURES ON FREEDOM OF SPEECH FOR EMPLOYEES**  
Report CSD24016

At its meeting on 27<sup>th</sup> November 2023, the Executive, Resources and Contracts PDS Committee had considered a report on the Council's measures on freedom of speech for employees and contractor staff. Officers had reviewed the legal background to freedom of speech in Article 10 of the Human Rights Act and other legislation and showed how this was reflected in a range of relevant Council policies and procedures, including the Raising Concerns whistleblowing policy, Staff Surgeries, Departmental Representatives and Trade Unions, the Grievance Procedure and Bromley's values. This Committee was responsible for non-executive HR matters, so the report was referred here for consideration.

Councillor Simon Jeal requested that it be noted in the minutes that, at the Executive, Resources and Contracts PDS Committee meeting, he had objected to the Chairman adding text to the officer report.

**RESOLVED that**

**(1) The report be noted, including the additional text and recommendations made by Executive, Resources and Contracts PDS Committee.**

**(2) It is noted that the Standards Committee will consider how the recommendations should be reflected when reviewing the Council's Member Code of Conduct.**

**(3) It is agreed that officers carry out further work on relevant sections of the Constitution, such as the Member/Officer Protocol and the Officer Employment Rules, and report to Members where additional changes are required.**

**93 LIVE-STREAMING OF MEETINGS**  
Report CSD24003

At its meeting on 3<sup>rd</sup> November 2022, the Committee considered a report on the options for introducing live-streaming of all committee meetings. The Committee decided not to live-stream meetings except in cases where the Chairman and the Chief Executive agreed that it would be appropriate given wide public interest, subject to further review after a year.

The report set out the potential costs and technical challenges of live-streaming and recommended that the current policy of live-streaming only in exceptional circumstances should be maintained. However, the majority of

members considered that the problems and costs had been over emphasised and supported a move towards live-streaming becoming standard for most meetings. The impending move to the Council's new building and to a new Council Chamber (expected to be in September 2024), was an opportunity to look at improved technical options.

It was also suggested that a policy for the use of live-steamed material should be drawn up.

**RESOLVED that**

**(1) The current policy of using live-streaming as a useful tool available for a limited number of meetings where there is particular interest or a likelihood that the capacity of the public gallery will be exceeded is maintained only until the new Council year when it should be re-considered in the context of the move to the Council's new building.**

**(2) A draft policy be prepared on the use of live-streaming.**

(During consideration of this item Councillor Simon Fawthrop declared an interest as his wife was involved in the training of Council staff.)

**94 MEMBERS ALLOWANCES SCHEME 2024/25**  
Report CSD24002

The regulations governing Members' Allowances required that, before the beginning of each financial year, the Council should make a scheme of allowances for that year, and the report detailed the proposed allowances for 2024/25. The Scheme had to be agreed by full Council – this would be at the budget meeting on 26<sup>th</sup> February 2024.

In common with some previous years, if Members were minded to increase the allowances a reasonable guide would be the increase recommended for Council staff, which, subject to Member confirmation, was expected to be 3%. The Mayoral and Deputy Mayoral Allowances were not part of the Members Allowances Scheme, but were usually considered in conjunction with it. An increase of 3% would see these allowances rise to £16,452 and £4,036 respectively.

The following amendment was moved by Councillor Simon Jeal on behalf of the Labour Group -

Amend recommendation 2.1 (i) to read:

The Committee recommends that allowances are retained at the current level from 1st April 2024 subject to the following changes:

1. Removal of Special Responsibility Allowances for Executive Assistants

2. Amend the Special Responsibility Allowances for Vice Chairs of Committees such that payment is only made when they preside over a or attend a meeting in the absence of the Chair.
3. The Council's Monitoring Officer is asked to provide a report to GP&L before consideration of the members' allowance scheme for 2025/26, providing a summary of the approach taken by other London Boroughs to paying Dependents' Carers' Allowance.

On being put to the vote, this amendment was lost.

The Committee favoured following the 3% recommendation for officer pay. The Chairman reminded Members that they could decline to receive some or all of their allowances.

Members also discussed whether to change the payments for quasi-judicial meetings from monthly to quarterly or annual, but it was decided that this did not need to change at the present time.

It was noted that the allowance for the leader of the largest minority group was incorrect in the report, and was currently £15,000.

**RESOLVED that**

**(1) The proposed Members Allowances Scheme 2024/25 (appendix 2) and the Mayoral and Deputy Mayoral Allowances (paragraph 3.6 in the report) be approved on the basis of a 3% increase in line with the proposed increase for officers.**

**(2) The Members' Allowances Scheme 2024/25 and the Mayoral and Deputy Mayoral allowances for 2024/25 be submitted to Council for approval.**

**95 PROGRAMME OF MEETINGS 2024/25**  
Report CSD24003

The report presented the draft programme of meetings for the next Council Year (2024/25) for Members' consideration. The proposed timetable, which had been the subject of consultation, was based broadly on the current timetable, with only minor alterations. Should Members subsequently agree any changes to the current committee/sub-committee titles and responsibilities at the annual Council meeting these changes would be accommodated within the approved timetable.

Members noted that the Chairman of Development Control Committee had requested that her Committee's meeting on 29<sup>th</sup> August 2024 be moved to 19<sup>th</sup> September 2024. Members also requested that an ordinary Council meeting be included in March 2024 (so that the effect of the introduction of a special budget meeting was to increase the number of full Council meetings) and to look at moving General Purposes and Licensing Committee dates in



May and June 2024 that were adjacent to the Executive and the Executive, Resources and Contracts PDS Committee.

The Chairman asked Members to contact the clerk urgently if they had any other comments to be taken into account before the programme was finalised.

**RESOLVED that**

**(1) Subject to any changes of meeting arrangements subsequently approved by Members, and to the changes outlined above, the programme of meetings for 2024/25 be approved.**

**(2) The Director of Corporate Services and Governance be authorised to adjust the programme in accordance with any changes made to committees and sub-committees by Members, and to make minor corrections and updates to the programme as necessary.**

NOTE: The following changes to the Programme of Meetings were made:

- GP&L moves from 21<sup>st</sup> May 2024 to 29<sup>th</sup> May 2024
- GP&L moves from 25<sup>th</sup> June 2024 to 2<sup>nd</sup> July 2024
- DC moves from 29<sup>th</sup> August 2024 to 19<sup>th</sup> September 2024
- An additional full Council on 10<sup>th</sup> March 2025
- GP&L meetings missing on the circulated version would be added on 6<sup>th</sup> November 2024, 28<sup>th</sup> January 2025 and 1<sup>st</sup> April 2025.

**96            WORK PROGRAMME AND MATTERS OUTSTANDING**  
**CSD24001**

The Committee received a report summarising its work programme and also covering matters outstanding from previous meetings. There would be reports on live-streaming and on hybrid working and appraisal early in the new Council year.

A problem had arisen with an objector not understanding the procedure at a Licensing Sub-Committee meeting earlier that day; the Chairman stated that she would discuss ways of making the procedure more available with the officers.

**RESOLVED that the work programme be noted.**

**97            LICENSING SUB-COMMITTEE: MINUTES 26 OCTOBER, 20**  
**NOVEMBER AND 30 NOVEMBER 2023**

The Committee received and noted the minutes of the Licensing Sub-Committee meetings held on 26<sup>th</sup> October 2023, 20<sup>th</sup> November 2023 and 30<sup>th</sup> November 2023.

**98            RIGHTS OF WAY SUB-COMMITTEE: MINUTES 10TH  
                 JANUARY 2024**

The Committee received and noted the minutes of the Rights of Way Sub-Committee meeting held on 10<sup>th</sup> January 2024.

The Meeting ended at 8.08 pm

Chairman

**GENERAL PURPOSES AND LICENSING COMMITTEE**

**6 FEBRUARY 2024**

**QUESTIONS FOR ORAL REPLY**

**1. From Cllr Simon Jeal to the Chairman**

Item 9 - Live-streaming of Meetings

Over the past 12 months, how many (1) Councillors (2) Council officers (3) Staff from contractors or other third parties have remotely dialled into meetings via Microsoft Teams - and how many Council and BT staff have been required to facilitate these calls?

**Reply:**

35 Councillors have been recorded as joining meetings via Teams. We do not keep comprehensive records of officers or contractors/third parties attending meetings by Teams.

Additional Council or BT staff are not normally needed to facilitate online attendance at Teams meetings.

**2. From Cllr Simon Jeal to the Chairman**

Item 11- Programme of meetings 2024/25

Over the Council year 2023/24, how many meetings have been cancelled or the dates changed, and for what reasons?

**Reply:**

(See table overleaf.)

**Supplementary Question**

Do you agree that, where a chairman wants to change a meeting date, they should check with other members of the committee that they will be available?

**Reply:**

I would be surprised if that is not the usual practice, but, yes, I do agree.

## 2023/24 – Meetings Moved or Cancelled

Date	Meeting	Moved to	Cancelled	Reason
11/5/23	Licensing		Cancelled	Insufficient business
11/5/23	Plans 3		Cancelled	Insufficient business
16/5/23	Licensing		Cancelled	Insufficient business
8/6/23	Plans 1		Cancelled	Insufficient business
14/6/23	Standards		Cancelled	Insufficient business
19/7/23	Health Scrutiny	5/9/23		To align with ACH PDS
20/7/23	Plans 4		Cancelled	Insufficient business
7/8/23	ERC PDS		Cancelled	Replaced by RRH PDS
24/8/23	Licensing		Cancelled	Insufficient business
19/9/23	Health Scrutiny	21/11/23		To align with ACH PDS
21/9/23	GP&L		Cancelled	Insufficient business
17/10/23	Licensing	26/10/23		Insufficient business
6/12/23	Pensions	14/12/23		By election
7/12/23	Plans 2		Cancelled	Insufficient business
8/1/24	ERC PDS	16/1/24		To meet budget timetable
9/1/24	Economic Partnership	23/1/24		Availability of external venue
10/1/24	Executive	17/1/24		To meet budget timetable
18/1/24	Development Control		Cancelled	Insufficient business
24/1/24	Health Scrutiny	30/1/24		To align with ACH PDS
1/2/24	Health & Wellbeing	8/2/24		Clash with other health events
20/3/24	Health Scrutiny	12/3/24		To align with ACH PDS
11/4/24	Development Control	17/4/24		Clash with a Mayoral event
15/4/24	Council	11/3/24		To allow for budget meeting
<b>Total</b>		12	11	

## GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of the special meeting held at 8.30 pm on 15 May 2024

### Present:

Councillor Pauline Tunnicliffe (Chairman)  
Councillor Colin Hitchins (Vice-Chairman)  
Councillors Jessica Arnold, Nicholas Bennett J.P.,  
Robert Evans, Kira Gabbert, Mike Jack, Simon Jeal,  
Josh King, Alexa Michael, Tony Owen, Melanie Stevens  
and Sam Webber

### 99 PROPORTIONALITY OF SUB-COMMITTEES

**RESOLVED** that the proportionality of the Rights of Way Sub-Committee be agreed as follows for 2024/25 –

	Sub-Cttee Size	Con	Lab	LDem	Chis	BHill	Ind
Rights of Way Sub-Cttee	7	4	2	-	-	-	1

### 100 MEMBERS OF SUB-COMMITTEES

**RESOLVED** that the schedule of Members to serve on Sub-Committees for 2024/25 be agreed as follows –

#### (i) RIGHTS OF WAY SUB-COMMITTEE

	Councillors
1	Cllr Mike Botting (CON)
2	Cllr Michael Tickner (CON)
3	Cllr Jonathan Andrews (CON)
4	Cllr Harry Stranger (CON)
5	Cllr Alisa Igoe (LAB)
6	Cllr Chris Price (LAB)
7	Cllr Jonathan Laidlaw (IND)

#### (ii) APPEALS SUB-COMMITTEE

**RESOLVED:**

(1) That all Members of the Council, except Executive Members, be eligible for appointment to the Appeals Sub-Committee.

**(2) Three Members be drawn as required, to constitute an Appeals Sub-Committee.**

**(iii) LICENSING SUB-COMMITTEE**

**RESOLVED:**

**(1) That all Members of the General Purposes and Licensing Committee be eligible for appointment to the Licensing Sub-Committee;**

**(2) Three Members be drawn as required, to constitute a Licensing Sub-Committee.**

**101 APPOINTMENT OF CHAIRMEN AND VICE-CHAIRMAN OF SUB-COMMITTEES**

**RESOLVED that the following Councillors be appointed as Chairman and Vice-Chairman of the Rights of Way Sub-Committee.**

RIGHTS OF WAY SUB-COMMITTEE	Cllr Mike Botting	Cllr Michael Tickner
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The Meeting ended at 8.31 pm

Chairman

Report No.  
ES 20319

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** GENERAL PURPOSES AND LICENSING COMMITTEE

**Date:** 29<sup>th</sup> May 2024

**Decision Type:** Urgent Non-Urgent Executive Non-Executive Key Non-Key

**Title:** BUSINESS AND PLANNING ACT 2020 AND THE LEVELLING UP AND REGENERATION ACT 2023.

**NEW POWERS, COMMENCEMENT DATE AND NEW FEES STRUCTURE FOR THE PERMANENT PAVEMENT LICENSING REGIME**

**Contact Officer:** Steve Phillips – Group Manager of Health & Safety, Licensing, ASB and Nuisance  
Tel: 020 8313 4659 E-mail: [steve.phillips@bromley.gov.uk](mailto:steve.phillips@bromley.gov.uk)

**Chief Officer:** Colin Brand – Director of Environment & Public Protection

**Ward:** All Wards

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1. Reason for report

To support the hospitality sector's recovery and to allow businesses to operate whilst managing risks arising from the COVID-19 pandemic. The Business and Planning Act 2020 (the Act) was given Royal Assent on 22 July 2020. The Act initially relaxed licensing and planning laws until 30 September 2021 by (a) making it easier to obtain permissions to seat and serve customers outdoors, creating a fast-track pavement licence application process and (b) enabling automatic extension of alcohol off-sales to premises that already had permission for on-sales. Through the Levelling Up and Regeneration Act 2023 this temporary provision has now been made permanent with a commencement date of 31<sup>st</sup> March 2024.

The London Borough of Bromley Pavement Licensing Policy (the Policy) sets out the strategy aimed at facilitating the pavement licence application process whilst maintaining public safety. The policy has been amended to incorporate the provisions of the Business & Planning Act 2020 and the Levelling up and Regeneration Act 2023.

This report provides the background to provide guidance, and seek approval, for delegated authority in relation to Pavement Licensing to the Director of Environment & Public Protection to do all things necessary to implement and operate the pavement

licensing arrangements as amended and made permanent under the Levelling Up and Regeneration Act 2023.

The report provides a recommendation to keep the licence period for pavement licences to one (1) year. Additionally, to set the fees at the capped level of £500 for a new and £350 for the renewal of existing licences.

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## 2. RECOMMENDATION

Members are asked to:

1. Agree the amended Pavement Licensing Policy incorporating the changes of the Levelling Up and Regeneration Act 2023
2. Agree the new fee structure and time period for the length of a Pavement Licence
3. Agree the delegation of powers to the Director of Environment & Public Protection and his officers to administer the Business and Planning Act Pavement Licensing regime.

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### Impact on Vulnerable Adults and Children

1. When making decisions under the Licensing Act 2003 the Council is required to promote the licensing objectives, one of which is the protection of children from harm.
2. The Business and Planning Act does not specify objectives or requirements to promote any form of protection to vulnerable adults or children, however, the Council has a duty to safeguard children and vulnerable adults, and this has been considered in the attached Policy.

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### Corporate Policy

1. Policy Status: The Council has adopted a statement of Licensing Policy under the Licensing Act 2003 for the period 2021 to 2026.
2. The Pavement Licensing Policy is currently in place until the 30<sup>th</sup> of Sept 2024 and is provided, based on a non-statutory provision, to bring together the requirements of the Business and Planning Act 2020 and now the Levelling Up and Regeneration Act 2023. Approval of this report's recommendation will extend the policy life date to 31<sup>st</sup> of March 2026.
3. MBEB Priority: Ambition 3 – For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.

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### Financial

1. Cost of proposal: No Cost
2. Ongoing costs: Not Applicable:
3. Budget head/performance centre: Public Protection
4. Total current budget for this head: £1.6m
5. Source of funding: Existing Revenue Budget 2024/25



Personnel

1. Number of staff (current and additional): x3.5 FTE Business Support staff and x1 FTE Licensing Officer
  2. If from existing staff resources, number of staff hours: Approx. 5hrs per application
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Legal

1. Legal Requirement: Business and Planning Act 2020 and The Levelling Up and Regeneration Act 2023
  2. Call-in: Not Applicable:
- 

Procurement

1. Summary of Procurement Implications: None
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All premises with, or who wish to apply for, a Pavement License, and all residents of the Borough.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
  2. Summary of Ward Councillors comments: Not Applicable
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**3. COMMENTARY**

3.1 The London Borough of Bromley is the licensing authority for a broad range of legislation and licensable activities.

3.2 The Business and Planning Act 2020 (the 'Act') was introduced on 22 July 2020. Due to the timing of the legislation and the last minute change from an executive function to a non-executive function, the Council Solicitor exercised powers under Article 15 of the Constitution (paragraph 15.2 (d)) to make changes to the Council's Constitution arising as a result of legislative changes, brought about by the Business and Planning Act 2020 in relation to Pavement Licensing, and changes necessitated by administrative convenience, to delegate authority to the Director of Environment & Public Protection to do all things necessary to implement and operate the pavement licensing arrangements under the Business and Planning Act 2020 when enacted.

3.3 The Temporary scheme was identified in [The Levelling-Up and Regeneration Act 2023](#) (which became law after receiving Royal Assent on 26 October 2023) as being moved to a permanent licensing scheme within the next 12 months.

3.4 Subsequently this received a commencement date of the 31<sup>st</sup> March 2024

A summary of the relevant points from the new provision is shown here.

Section 135 The Levelling-Up and Regeneration Act 2023 (LARA) makes provision for a permanent regime for pavement licences by amending the Business and Planning Act 2020 (BPA '20), the

details of which are contained in Schedule 22 of LARA. The changes according to the LARA are as follows:

- Section 1 – There are no changes to this section, so the purpose & scope remain the same, this includes sub-section 2 which states “*A pavement licence in respect of any premises is a licence for the licence-holder to put **removable furniture** on part of a **relevant highway adjacent to the premises**”*”
- Section 2 – Amended to change the fees from £100 to £500 for a new licence and £350 for a renewal, and to insert a section explaining the procedure for renewal
- Section 3 – The period for consultation and determination are increased from 7 days for each stage (14 days total) to 14 days for each stage (28 days in total).
- Section 4 – Minimum duration of 3 months has been removed. The licence lasts for the period the authority specifies on the licence, but this cannot be more than 2 years. Where determination is not made within the 28 days, the licence is ‘deemed’ to be granted for 2 years.
- Section 5 – Conditions have not been amended so this section remains unchanged in relation to the ability of the LA to impose conditions it considers reasonable on any licence approved.
- There is nothing in LARA to provide the facility to vary a licence, however, S.6 of BPA '20 has been changed to allow the LA to amend the licence, either with the consent of the holder, or where the no-obstruction condition is not being complied with.
- **NOTE** – LARA also amends Section 115E of the Highways Act 1980 to state “*A council may not under this section grant a person permission to do anything which is capable of being authorised by a pavement licence under Section 1 of the Business and Planning Act 2020.*” **It should be pointed out here that within London the table and chair licensing regime is encapsulated within the London Local Authorities Act 1990 so it would appear that this is either an oversight on behalf of the drafting of the Act, or less likely, that the government intentionally intend to keep the two schemes running in tandem.**

A copy of the amended guidance issued by the government on the 2<sup>nd</sup> of April 2024 is shown in Appendix 1 of this report.

3.5 The Act permits premises to apply for a pavement licence to place furniture outside, adjacent to their premises, on the public highway. In this context, furniture means stalls for selling or serving food or drink, tables and chairs and articles such as patio umbrellas, barriers and heaters.

3.6 The application process remains streamlined in order to enable businesses to boost trade. The pavement licensing process requires a 14-day consultation period and a 14-day determination period. The implications for the authority if it fails to determine the application within 28 days is that the licence is deemed to be granted for a period of 2 years. Thus, the Council can lose the ability to refuse an application or to impose restrictions or bespoke conditions onto the license.

3.7 The BPA 2020 now caps the application fee that can be charged to £500 for a new application and £350 for a renewal.

3.8 All existing licence holders will be invited to re-apply for a pavement licence in advance of the expiry of their current licence on 30 September 2024, and all licenses issued as a result, will be granted for a period of one year

3.9 Since August 2023, LB Bromley has received, processed, and granted 124 pavement licence applications.

3.10 The London Borough of Bromley Pavement Licensing Policy (the Policy) shown at Appendix 2, defines the application and determination process, the licence fee, duration, conditions, and enforcement options where necessary.

3.11 The current policy with amendments to take account of the new permanent scheme is appended for comment and consideration of any alterations that the Committee may wish to implement. However, the end date for all pavement licences under the Business & Planning Act 2020 is the 30<sup>th</sup> of Sept 2024, in accordance with the B&P Amendment Regulations.

3.12 In determining the applications, the principal matters the Council need to consider are set out in the Act and guidance, and include the amount of available pavement to allow passers-by free, clear access and egress to and from the area covered by the Pavement License, ensuring access along the pavement, especially for wheelchair and pushchair users, those with reduced mobility and the visually impaired, and ensures there are no obstructions to statutory undertakers, utility providers, or operators of an electronic communications code network, in having access to any apparatus of theirs kept, installed, under, in, on or over the highway.

3.13 Accordingly authorisation is sought via a delegation of authority to the Director of Environment & Public Protection, who will exercise further delegations to their officers to do all things necessary to implement and operate the pavement licensing arrangements under the Business and Planning Act 2020, as amended. Including, but not limited to, the determination of standard conditions which apply, determining applications made at the fee set by the licensing committee, revocation of licenses and authorising officers to enforce and exercise these functions.

3.14 Whilst the new scheme does not contain any provision for an appeal against a decision of the licensing authority in respect of a refused application, the proposal is that where a pavement licence is refused by the delegated officer, and the applicant wishes to then lodge an objection to this refusal. Then the matter will be put to the Licensing Sub Committee for a final decision. This is in line with the advice given by the government guidance at point 5.7 shown in Appendix 1

#### **4. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

4.1 The Licensing regime provides for additional controls through specific permissions to undertake licensable activities. The Licensing Act 2003 contain 4 licensing objectives one of which is to protect children from harm. Businesses and the Council are required to promote this objective in the way they operate and/or make decisions.

4.2 The Business and Planning Act does not explicitly consider public protection to the same level as the licensing regime, however, where they relate to premises undertaking the sale of alcohol the licensing objectives apply to the Pavement Licence as well. The Council has a duty to protect the public, which includes children and vulnerable adults, and to promote equality, and should be fully aware of these duties when considering any Pavement Licensing application.

4.3 There is some potential for Pavement Licenses granted without controlling conditions to inadvertently impede the passage of pushchairs, prams and wheelchairs however that is balanced with

the improved access to the premises Pavement License area and the services and facilities they provide by those same persons.

## 5. POLICY IMPLICATIONS

5.1 The Licensing Act 2003 requires the Council to prepare, consult on, and publish a statement of licensing policy. This policy must be reviewed at least every 5 years under the Licensing Act 2003.

5.2 The current Pavement Licensing Policy is in place until the 30<sup>th</sup> of Sept 2024 and is provided based on a non-statutory provision to bring together the requirements of the Business and Planning Act 2020. Approval of this report's recommendation will extend that date to 30<sup>th</sup> of Sept 2026.

5.3 Members should note these current policies:

- Statement of Licensing Policy 2021 to 2026

[http://www.bromley.gov.uk/downloads/file/226/statement\\_of\\_licensing\\_policy\\_2021-2026](http://www.bromley.gov.uk/downloads/file/226/statement_of_licensing_policy_2021-2026)

- The Pavement Licensing Policy in place until 30<sup>th</sup> Sept 2024

[LBB pavement licence policy | London Borough of Bromley](#)

## 6. FINANCIAL IMPLICATIONS

6.1 The fee for temporary pavement licences was fixed by the Government at £100. The now permanent scheme has a fee capped to £500 for a new application and £350 for a renewal.

6.2 In 2023, the issuing of 117 licences generated income of £11,700.

6.3 The income generated if a similar number of licences are made from Sept 2024 under the new scheme based on an approximate 20 % new application basis would be c£42,500.

## 7. PERSONNEL IMPLICATIONS

7.1 No additional personnel were made available to administer the temporary Pavement Licensing scheme. This workstream will continue to be undertaken within existing staff resource.

## 8. LEGAL IMPLICATIONS

8.1 Decisions in relation to Pavement Licences are included in Schedule 1 (at B73) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as a non-executive function, which therefore come under the remit of the General Purposes & Licensing Committee, thus the decision can be delegated.

8.2 Section 3(9) of the Business and Planning Act 2020 is clear that any application made to the Council and not determined by the end of the determination period will be deemed granted, so the Council has no option but to agree a process to decide these applications or face uncontrolled licences. Officially adopting the extension of the legislation and extending the currently agreed process means

the Council can continue imposing generic and specific conditions on licences, or reject applications (see s3(3) of the Planning & Business Act below.

### **3 Determination of applications**

*(9) If the local authority does not make a determination under subsection (3) by the end of the determination period, the licence for which the application was made is deemed to be granted by the authority to the applicant.*

8.3 The attached policy at Appendix 2 covers all necessary points, including enforcement, which is essential when legislation requires such a short determination period. Effective enforcement protects residents' rights and safeguards the Council's reputation.

8.4 Section 149 of the Equality Act 2010 applies to all functions of the Council and will specifically need to be considered during the decision-making process for each application. Although some aspects are already included in the Business and Planning Act 2020 (mainly in relation to wheelchair users) not all are cited:

## **Part 11 Advancement of Equality**

### **Chapter 1 Public Sector Equality Duty**

#### **149 – Public sector equality duty**

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—*
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

8.5 As the Council has decided to include Climate Change at the heart of all its decisions, this aspect needs to be included in all decisions, strategic or operational, practicalities of which will vary depending on the type of application. In this instance, littering, re-use, noise, light and heat pollution should be considered for each application and strictly enforced.

## **9. PROCUREMENT IMPLICATIONS**

None

## **10. EQUALITIES IMPLICATIONS**

10.1 The Equality Act (2010) requires public bodies to have due regard to the need to:

- *eliminate unlawful discrimination, harassment, victimization and any other*

- conduct prohibited by the Act;*
- *advance equality of opportunity between people who share a protected characteristic and people who do not share it; and*
- *foster good relations between people who share a protected characteristic and people who do not share it.*

10.2 The protected characteristics covered by the Act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

10.3 The recommendation is to extend the current delegated powers in relation to pavement licensing. There are no changes proposed to the licensing arrangements that have been operating under the Business and Planning Act 2020 since last summer. No equalities concerns have been raised under these licensing arrangements to date.

10.4 There is no indication that the proposed recommendation will have a disproportionate impact on any individuals or groups with a shared protected characteristic.

## 11. ENVIRONMENTAL IMPLICATIONS

11.1 There are no further perceived environmental impacts associated with the recommendation of this report in comparison to the existing arrangements for temporary Pavement Licenses.

<b>Non-Applicable Sections:</b>	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	The Business and Planning Act 2020  Levelling-u and Regeneration Act 2023  Schedule 22.

## **Appendix 1**

# **Gov.UK Guidance on Pavement Licensing Updated 2 April 2024**

[Home](#) > [Housing, local and community](#) > [Planning and building](#)  
> [Planning system](#) > [Pavement licences: guidance](#)

[Department for  
Levelling Up,  
Housing &  
Communities](#)

[Ministry of  
Housing,  
Communities &  
Local Government](#)

Guidance

# Guidance: pavement licences (outdoor seating)

Updated 2 April 2024

## Applies to England

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This publication is available at <https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

# 1. Pavement licences

## 1.1 What is a pavement licence?

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. The Levelling Up and Regeneration Act 2023 makes permanent the provisions set out in the Business and Planning Act (BPA) 2020 that streamlined the process to allow businesses to secure these licences quickly. Licences that are deemed to have been granted, should remain in place for such period as the local authority may specify in the licence, with a maximum limit of two years. Existing licences with no end date are extended to 2 years from the commencement date. 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.

## 1.2 What is the purpose of the Business and Planning Act 2020 process for pavement licences?

The Business and Planning Act process provides 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 provide much needed income for businesses and protect as many hospitality jobs as possible, particularly during times of increasing living costs.

## 1.3 What does the Levelling Up and Regeneration Act do to the pavement licencing regime?

The Levelling Up and Regeneration Act makes permanent the pavement licensing regime under the Business and Planning Act 2020, with a number of changes. The Levelling Up and Regeneration Act introduces a standard fee cap for both new and renewals of licences as well as increased consultation and determination periods, lengthens the maximum duration of licences and provides local authorities with new powers to remove unlicensed furniture.

## 1.4 How does the process for pavement licences work?

Permission to place objects or structures on the highway are otherwise granted primarily under Part 7A of the Highways Act 1980. The fee for the Highways Act process varies between local authorities, and there is a minimum 28 calendar day consultation period. The Business and Planning Act process provides a cheaper, easier, and quicker way for businesses to obtain a licence. The fee for applying for a licence under the Business and Planning Act process is capped at £500 for first time applications and £350 for renewals and the public consultation period is 14 days (excluding public holidays), starting the day after the application is sent electronically to the authority.

If the local authority does not determine the application before the end of the determination period (which is 14 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 for two years and the business can place the proposed furniture such as tables and chairs within the area set out in the application for the purpose or purposes proposed.

## 1.5 What businesses are eligible?

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 including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.

A licence permits the business to use 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.

Businesses that do not use their premises for the sale of food or drink, for example salons, are ineligible. Though they can apply for permission to place furniture on the pavement under the Highways Act 1980.

## 1.6 What furniture can be permitted by a licence?

The furniture which may be placed on the pavement include:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;

- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable and related to the serving, sale and consumption of food or drink. Local authorities should be pragmatic when determining what is 'removable' but in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away at night.

## **1.7 What furniture is not permitted by a licence?**

Furniture that is not removable and used in connection with the outdoor selling or consumption of food or drink are not permitted by a pavement licence.

Advertising boards are not included in the definition of furniture within the pavement licencing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.

Applicants that wish to place non-removable furniture onto the highway must apply for permission under the Highways Act 1980.

## **1.8 How much do applications cost?**

Fees will be set locally, and it is for the licencing authority to determine the appropriate charge. Fees are capped at a maximum of £500 for first time applications and £350 for renewals.

## **1.9 Are there any exclusions from this provision?**

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footways 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).

A pavement licence does not grant the right to permanently close a road. To do so, a pedestrian planning order made under section 249(2) or 249(2A) of the Town and Country Planning Act 1990, extinguishing the right to use vehicles on the highway, is required.

## 1.10 Where does this new process apply?

This process applies to England only, including London and other areas where statutory regimes other than the regime in the Highways Act 1980 may be relevant to the grant of licences for street furniture.

## 1.11 Which authority can exercise pavement licence functions?

Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of their functions by a committee, a sub-committee, or an officer of the authority, or by any other local authority. This means that the executive of a local authority can delegate decisions to a committee, or officer of the authority. They may also wish to delegate the functions to another authority, for example to a County Council in a two-tier area.

## 1.12 How does this interact with other regulatory process, such as alcohol licensing?

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. A pavement licence does not negate the need to obtain approvals under other regulatory frameworks, such as the need for a licence to sell alcohol, and the need to comply with registration requirements for food businesses.

Temporary amendments to the Licensing Act 2003, under the Business and Planning Act 2020, allow the sale of alcohol by eligible holders of an on-sale licence for consumption off the premises without needing to apply for a variation of their licence. These temporary amendments apply if the premises had a licence that permitted sales of alcohol only for consumption on the premises on 22 July 2020, and the premises still retain that licence. More details can be found in the [guidance accompanying the Business and Planning Act 2020 \(https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill\)](https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill). This is currently in place until 31 March 2025. It will remain legally independent and separate from the pavement licences process.

Local authorities must have regard to the Public Sector Equality Duty, under the Equality Act 2010 when devising and implementing the new licensing regime, which includes the need to have due regard to eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act. Any businesses which apply for a pavement licence will also need to

have regard to their own duties under the Equality Act 2010, such as their duty under section 29 of the Act not to discriminate in providing their service and the duty to make reasonable adjustments.

### **1.13 Does the applicant need planning permission as well as the licence?**

No. Once a 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.

## **2. Duration**

### **2.1 How long are pavement licences valid for?**

If a local authority determines an application before the end of the determination period (which is 14 calendar days, beginning with the first day after the end of the public consultation period, excluding public holidays), the authority can specify the duration of the licence. To help support local businesses and give them more certainty, the expectation is that local authorities are pragmatic and will grant licences the maximum 2 years, unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for two years starting with the first day after the determination period. However, if, when implemented, a licence that has been deemed granted does not meet the conditions set out in the legislation or any local conditions, it can be revoked at any time on the grounds that it has breached the conditions.

### **2.2 When will the permanent pavement licensing come into force?**

The permanent pavement licensing regime and changes provided for in the Levelling Up and Regeneration Act will come into effect on 31 March 2024 (the commencement date). This means that local authorities are able to grant pavement licences to new applicants under this regime effectively immediately from this date.

## **2.3 How long will the pavement licencing process set out in the Business and Planning Act be in place?**

The process set out in the Business and Planning Act is made permanent as amended by the Levelling Up and Regeneration Act.

# **3. Applications**

## **3.1 What information does an applicant need to provide?**

An application to the local authority must:

- specify the premises and, the part of the relevant highway to which the application relates;
- specify the purpose (or purposes) for which the furniture will be used which must be for use by the licence-holder to sell or serve food or drink, and/or for use by other people for the consumption of food or drink. In both cases the food or drink must be supplied from, or in connection with relevant use of the premises;
- specify the days of the week on which and the hours between which it is proposed to have furniture on the highway;
- describe the type of furniture to which the application relates, for example: tables, chairs, and/or stalls;
- specify the date on which the application is made;
- contain or be accompanied by such evidence of public liability insurance in respect of anything to be done pursuant to the licence as the authority may require; and
- contain or be accompanied by such other information or material as the local authority may require, for example how national and local conditions have been satisfied.

Local authorities may require applications to be made on a standard application form.

### **3.2 What other information may the local authority require?**

Local authorities may require the applicant to provide other information or material to help them make a swift determination. This could be included in their standard application form. Publicising information requirements, and applicants ensuring that they have provided all relevant information to meet these requirements, is beneficial to all parties involved in the process and can speed up decision making. Any requirements imposed should be reasonable and should be kept as minimal as possible. Examples of the information a local authority might require include:

- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified (some authorities may require this on an OS Base Map);
- 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 proposed duration of the licence (for e.g. 3 months, 6 months, a year etc.);
- evidence of the right to occupy the premises e.g. the lease;
- contact details of the applicant;
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- evidence that the applicant has met the requirement to give notice of the application (for example photograph);
- (if applicable) reference of existing pavement licence currently under consideration by the local authority
- any other evidence that shows how the furniture to be introduced is in accordance with national guidance regarding accessibility (such as use of good colour contrast, suitable physical barriers around chairs and tables and or other appropriate measures); and
- any other evidence needed to demonstrate how any local and national conditions will be satisfied, including the 'no-obstruction' national condition.

### **3.3 What are the transitional arrangements?**



Existing pavement licences granted under the Business and Planning Act 2020, prior to the commencement date, will remain valid until the expiration date on the license, given to them by the licencing authority. Once this has expired, businesses will need to apply for a new licence. Licencing authorities should treat this as a renewal application if it is made by the licence-holder, it is in respect of the same premises and it is on the same terms as the expired licence.

Licences determined before the 31 March 2024 will be subject to the enforcement powers set out in the permanent regime.

Any pavement licence that was granted under the Business and Planning Act 2020 before the commencement date with no limit on its duration, or that was deemed to be granted will expire 2 years from the commencement date. Any permission that was granted by a council under the Highways Act 1980 before the commencement date will continue under that legislation.

Applications made (and submitted to the local authority) on or before 30 March 2024 but determined on or after 31 March 2024 will be subject to a 7-day consultation, 7-day determination period. The maximum fee that can be charged for applications during this timeframe is £100. However, these licences can be granted for up to 2 years.

### **3.4 How should applications for renewals of licences granted under the temporary provisions be submitted?**

To obtain a licence for any period after 31 March 2024, a new application will need to be made even if the premises already had a licence until 31 March 2024.

An application will need to have been made after the commencement date for it to be treated as a renewal. Local authorities are encouraged to take a proportionate approach to information requirements for businesses seeking a new pavement licence where a licence has existed, so that this is as convenient as possible for businesses and members of the public. An example of a proportionate approach could be allowing applicants to re-use application material from their original application, updating where relevant to ensure they still comply with local and national conditions.

Businesses who have had a licence under the previous regime and are seeking a new licence should be treated as a renewal application if it is made by the licence-holder, it is in respect of the same premises and it is on the same terms as the expired licence.

### **3.5 Can licensable activities still be granted under the Highways Act?**

Any licence applications for activities in England licensable under pavement licencing legislation in the Business and Planning Act 2020 must be granted under the Business and Planning Act 2020 (as amended by section 229 of and schedule 22 to the Levelling Up and Regeneration Act). They should not be granted under the Highways Act 1980

Applicants will still need to apply for permission to carry out activities not licensable under the Pavement Licensing regime, under the Highways Act 1980. Example of such activities include the placement of furniture that is not removeable, such as bolted to the ground or cannot be reasonably removed, or placement of furniture other than tables, chairs or stools on the highway.

### **3.6 What happens if an applicant has already made an application under the Highways Act 1980 regime?**

It remains open for an applicant to apply for permission to place furniture on the highway under the Highways Act 1980. If the applicant has applied for permission under the Highways Act before the commencement date, but the Highways Authority has not determined the application, the applicant can instead apply for a pavement licence under the Business and Planning Act 2020. In those circumstances the pending application will be deemed to have been withdrawn. If the fee for the pending application was paid the authority will not be permitted to charge a fee for the new application for a pavement licence.

From the commencement date, a council may not grant an applicant permission to do anything which is capable of being authorised by a pavement licence under the Business and Planning Act 2020.

### **3.7 What happens if an applicant has already made an application under the Business and Planning Act 2020 regime?**

Licences applied for prior to the commencement date, but not yet determined by the local authority until after the commencement date, will be subject to the 7-day consultation and 7-day determination period. Though the maximum duration a local authority can grant the licence can be up to 2 years.

## 4. National conditions

The 2020 Act sets out two conditions which apply to pavement licences which are granted or deemed to be granted; these are: a no-obstruction condition and a smoke-free seating condition. These apply only to licences granted under the Business and Planning Act 2020, not existing licences permitted under Part 7A of the Highways Act 1980, or other relevant legislation.

### 4.1 How can the local authority and applicant consider the needs of disabled people when considering whether the requirements of the no-obstruction condition are met?

The no-obstruction condition is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act. When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order to do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:

- Section 3.2 of [Inclusive Mobility](https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians) (<https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians>) s- gives advice on the needs of particular pavement users sets out a range of recommended widths which would be required, depending on the needs of particular pavement users. Section 4.2 of Inclusive Mobility sets out that footways and footpaths should be as wide as practicable, but under normal circumstances a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters. Local authorities should take a proportionate approach if this is not feasible due to physical constraints. A minimum width of 1500mm could be regarded as the minimum acceptable distance between two obstacles under most circumstances, as this should enable a wheelchair user and a walker to pass each other.
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, as these are not necessary for the consumption of food, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway. Advertising boards are not included in the definition of

furniture within the pavement licencing regime, therefore, should not be used as a barrier;

- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway or force pedestrians into the highway. The available route must be entirely clear for pedestrians to use and not be impeded with tables and chairs;
- the cumulative impact of multiple pavement licenses in close proximity to each other and if there is specific evidence that this may create a build-up furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people;
- so 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.

Section 149 of the Equality Act 2010 places duties on local authorities, to have due regard to: the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who do not and foster or encourage good relations between people who share a protected characteristic and those who don't.

## 4.2 What is reasonable provision for seating where smoking is not permitted?

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition 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. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.

- Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

### **4.3 Where an authority has set a local condition covering the same matter as a national condition, which take precedence?**

Where a local authority sets a local condition that covers the same matter as set out in national conditions, then the locally set condition would take precedence over the national condition where there is reasonable justification to do so.

## **5. Determining the application**

### **5.1 What happens once the information is submitted to the local authority?**

Once the information is submitted to the local authority, the authority has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 calendar days for public consultation, and then 14 calendar days to consider and determine the application after the consultation.

If the local authority does not determine the application within the 14-day determination period, the application will be deemed to have been granted subject to any local conditions published by the local authority before the application was submitted.

### **5.2 What will a local authority consider when deciding whether to grant a pavement licence?**

The local authority will need to consider a number of factors, when determining whether to approve the application. These include whether local conditions might be needed to make it possible to approve an application which would otherwise be unacceptable.

The Secretary of State may specify conditions for pavement licences, in Regulations (although to date there has not been a need to do so). This is in addition to the statutory 'no obstruction' condition referred to in sections 5(4) and 3(6) of the Business and Planning Act 2020 Act and 'smoke-free' seating condition.

Authorities are encouraged to publish local conditions subject to which they propose to grant pavement licences so that applicants and those making representations are aware of them. When considering their powers in relation to local conditions they should bear in mind the requirements of the no-obstruction condition and the smoke-free seating condition. They should also take into account any national conditions which may be specified in the future in Regulations.

When setting local conditions and determining applications, issues authorities will also want to consider include:

- public health and safety including security – for example, any reasonable crowd management measures needed as a result of a licence being granted;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour, and litter;
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings, and its users, taking account of:
- considerations under the no-obstruction condition including the cumulative impact of multiple pavement licences in close proximity, in particular considering the needs of disabled people
- any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
- whether there are other permanent street furniture or fixed structures in place on the footway that already reduce access; and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

### **5.3 How can local authorities consider security?**

When considering public health and safety, local authorities should seek to ensure a balanced consideration for security implications, particularly the risk to

groups of people from interaction with hostile vehicles, and the creation of large crowds in new public spaces. The impact of several pavement licences in an area may result in larger, distributed, or dense crowds of people. Local authorities should factor this into the security planning process and ensure the [overall security arrangements for an area are adapted as appropriate](https://www.protectuk.police.uk/) (<https://www.protectuk.police.uk/>). Examples of appropriate measures could include increased CCTV surveillance, manned guarding, vehicle security barriers and ACT (Action Counters Terrorism) training for businesses. Find more information about [ACT Awareness Products](https://www.protectuk.police.uk/catalogue) (<https://www.protectuk.police.uk/catalogue>).

Local authorities should consider consulting with Police Licensing Teams, Designing Out Crime Officers and Counter Terrorism Security Advisors for relevant advice.

Additional [guidance is available for managing the most common security implications](https://www.protectuk.police.uk/user/login?destination=/advice-and-guidance/risk/pavement-licences-how-can-local-authorities-consider-security) (<https://www.protectuk.police.uk/user/login?destination=/advice-and-guidance/risk/pavement-licences-how-can-local-authorities-consider-security>) and how to protect crowds and [queues of people](https://www.cpni.gov.uk/system/files/documents/cd/70/CPNI%20and%20NaCTSO%20Advice%20Note%20-%20Protecting%20pedestrian%20queues%20from%20Vehicle%20As%20a%20Weapon%20Attack%2015%20Sept%202020%20V02.pdf) (<https://www.cpni.gov.uk/system/files/documents/cd/70/CPNI%20and%20NaCTSO%20Advice%20Note%20-%20Protecting%20pedestrian%20queues%20from%20Vehicle%20As%20a%20Weapon%20Attack%2015%20Sept%202020%20V02.pdf>). This includes information on suggested Counter Terrorism licence considerations, which local authorities are encouraged to consider when determining pavement licence applications.

## **5.4 Can local authorities impose conditions which are not published?**

Yes. When they grant a licence, local authorities may impose reasonable conditions whether or not they are published upfront. There is an expectation these will be supported by a clear justification for the need of a condition, such as evidence raised during the consultation, which is in addition to any published local conditions. Conditions might, for example, limit the maximum number of chairs and tables, or type of furniture, time and days of operation with justification for this. Conditions imposed by the local authority should be proportionate and tailored to the applicant's premises.

## **5.5 How can local authorities and applicants maintain outdoor spaces safely, following confirmation of the removal of social distancing measures?**

There are no COVID-19 restrictions in the UK and since 19 July 2021, social distancing guidance no longer applies. This means that local authorities and businesses are not expected to adhere to COVID-19 regulations and do not need to implement social distancing (2m or 1m+) and the public do not need to keep apart from people they don't live with. However local authorities and businesses may wish to consider that some people may make a personal choice and limit their close contact with others. Businesses still have a legal duty to manage risks to those affected by their business. The way to do this is to carry out a health and safety risk assessment and to take reasonable steps to mitigate the risks businesses identify from the assessment.

## 5.6 What are the outcomes of an application?

If the local authority determines the application before the end of the determination period, the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

To the extent that conditions imposed on a licence by the local authority do not have the effects specified in the statutory conditions (see [paragraph 4.1](#) and [paragraph 4.2](#)) the licence is granted subject to those requirements.

## 5.7 Is there a route to appeal a decision?

There is no statutory appeal process for these decisions, however, councils may wish to consider the scope for an internal review process, for example permitting appeals to their Licencing committee.

# 6. Consultation

## 6.1 What steps should an applicant take to engage with their community?



The applicant is required to affix a notice to the premises, so it is easily visible and legible to the public on the day they submit the application to the local authority. They must ensure the notice remains in place for the duration of the public consultation period which is the period of 14 days beginning with the day after the day the application is submitted to the authority. When counting 'days' public holidays are not included. Applicants are encouraged to keep evidence of this. Applicants are encouraged to engage with any services operated in the vicinity for vulnerable customers, for example, care home or disability organisations nearby where individuals may be at particular risk.

## 6.2 What must a notice contain?

The notice must:

- be in the form which the local authority prescribes, if it prescribes one;
- state that the application has been made and the date on which it was made;
- indicate that representations relating to the application may be made to that local authority during the public consultation period and when that period comes to an end; and
- contain such other information or material as that local authority may require, for example a description of how the applicant will adhere to the national conditions.

The applicant is encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

## 6.3 What information may local authorities require to be displayed on the site notice?

The local authority may require that other information is included in the notice such as:

- the statutory provisions under which the application is made;
- description of the proposed use of the furniture;
- address of the premises and name of the business;
- website for the council where the application and any accompanying material can be viewed during the consultation period;
- address (which might be an email address) to which representations should be sent during the consultation period.

A template site notice local authorities may wish to adapt is contained in Annex A (<https://www.gov.uk/government/publications/pavement-licences-draft-guidance>).

## **6.4 Who must local authorities consult?**

The local authority must consult the highways authority to which the application relates, if they are not the highways authority; this is usually the County Council in a two-tier area. Transport for London is the highway authority for some roads in London. For security advice, local authorities should consult Police Licensing Teams, Designing Out Crime Officers or Counter Terrorism Security Advisors. The authority must also consult such other persons as the local authority considers appropriate.

## **6.5 How can members of the public make representations about the application?**

Members of the public can contact the council to make representations. Local authorities must take into account representations received from members of the public during the public consultation period, which is the period of 14 days starting the day after the application is submitted. In order to promote accessibility to those unable to access printed notices, Local Authorities are encouraged to consider using digital methods of publicity. They should also consider the needs of those who may find it more difficult to access online publications and should consider ensuring that all formats of consultation are available at the same time, so that all representations can be considered equally.

## **6.6 How must local authorities publicise the application and seek representations from local communities and other stakeholders?**

The local authority is required to publish the application and any information or material which the applicant has submitted with it to meet the requirements of the authority, in such a manner as it considers appropriate, for example, on their website or via an online portal.

The local authority is also required to publicise the fact that representations may be made during the public consultation period and when that period comes to an end. Local authorities might consider using digital methods of publicity.

such as automatic notices, which members of the public can opt in to receive. In deciding what steps to take local authorities should consider the needs of those who may find it more difficult to access online publications.

When publishing applications and publicising the fact that representations can be made, authorities will need to have regard to their duties under the Equality Act 2010 and will need to meet the requirements in the Public Sector Bodies (Websites and Mobile Applications) (No 2) Accessibility Regulations 2018, and therefore ensure that these are made accessible.

## 7. Enforcement

### 7.1 In what circumstances can the local authority enforce or revoke a licence?

If a condition imposed on a licence (either by the local authority or nationally) is breached, the local authority will be able to issue a notice requiring the breach to be remedied. If the licence-holder fails to do so, the local authority may amend the licence, with the consent of the licence-holder, revoke the licence or itself take steps to remedy the breach and can take action to recover any costs of so doing. Local authorities are encouraged to regularly review licenses and enforce any breaches.

The authority may revoke a licence, or amend it with the consent of the licence holder, in the following circumstances:

1. If it considers that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licensed area (or road adjacent) is no longer to be pedestrianised.
2. Or if there is evidence that:
  - there are risks to public health or safety – for example where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
  - this use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition – for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway; or

- the use is causing, or risks causing, anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up.

The local authority may revoke a licence in the following circumstances:

1. For a breach of condition, (whether a remediation notice has been issued or not) or
2. It comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
3. The applicant did not comply with the requirement to affix the notice to notify the public of the application or secure that the notice remains in place until the end of the public consultation period.

It is good practice for local authorities to give reasons where these powers are used.

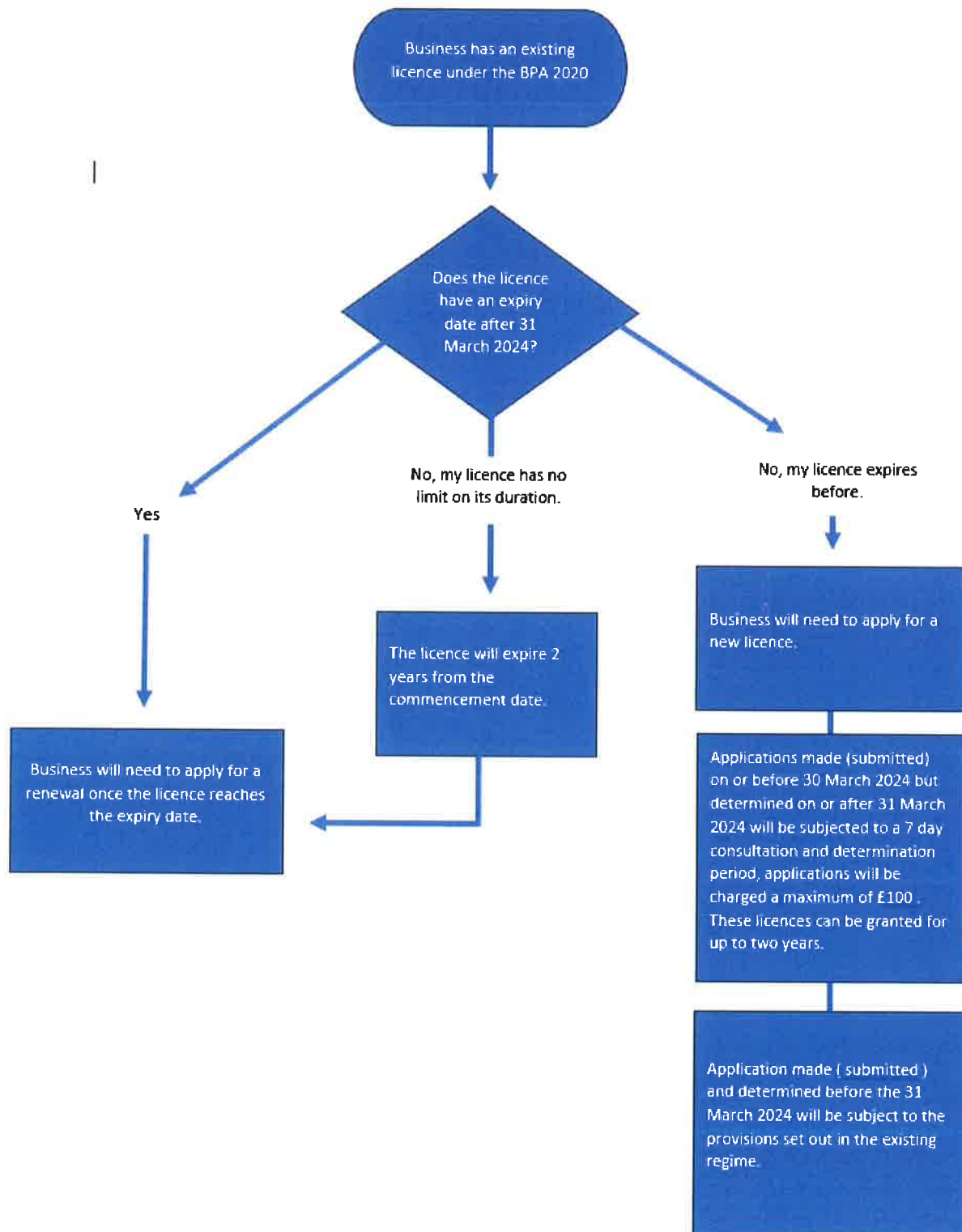
## 7.2 When can furniture be removed?

In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, local authorities can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

## 8. Annex

### 8.1 Transitional arrangements flowchart



### Accessible version

Business has an existing licence under the BPA 2020

Does the licence have an expiry date after 31 March 2024?

#### If yes:

Business will need to apply for a renewal once the licence reaches the expiry date.

## **Appendix 2**

### **Licensing Policy**

# Pavement Licensing Policy



Effective: 21<sup>st</sup> July 2020  
Version Sept 2021

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## 1. Introduction

The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.

As the economy started to re-open, on 25 June 2020 the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing short term obstacles that could get in their way.

The Business and Planning Act 2020 made it easier for premises serving food and drink such as bars, café's, restaurants and pubs, as lockdown restrictions were lifted but social distancing guidelines remained in place to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The measures included in the Act modified provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It was to be a temporary measure to boost the economy, with provisions initially lasting until the end of September 2021 now extended to end of September 2022.

The Act also introduced a temporary fast-track process for these businesses to obtain permission, in the form of a "pavement licence", from the London Borough of Bromley for the placement of furniture such as tables and chairs on the pavement outside their premise which enabled them to maximise their capacity whilst adhering to social distancing guidelines.

Prior to the Summer of 2020, tables and chairs permissions were granted as Pavement licences by *Bromley* Council, the Highways Authority, only under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a time consuming 28 day consultation period.

The temporary measure placed a cap on the application fee for businesses, and introduced a new 7-day determination period, ensuring that businesses could obtain licences in a timely and cost effective manner aiding to their financial recovery.

## 2. Scope

### 2.1 Definition of pavement café

A pavement licence is a licence granted by the local authority, or deemed to have been granted by the Local Authority, 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 Eligible Businesses

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.

A licence permits the business to use 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.

### 2.3 Eligible Locations

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).

### 2.3 Type of furniture permitted

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure and is able to be moved easily, and stored away at the end of an evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

### 2.4 Planning Permission

Once a 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.

## 3. Application and Determination of Pavement Licences

### 3.1 Submission of the Application

An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted with the application:

- a completed Application Form
- the required fee of £100, paid by credit or debit card online
- 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 that the applicant wishes 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.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence if less than 6 months

- evidence of the right to occupy the premises (e.g. the lease) or current premises licence issued under the Licensing Act 2003
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- 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, and
- any other evidence needed to demonstrate how the Council's local conditions and any national conditions will be satisfied.

### 3.2 Fees

The fee for applying for a licence under the new process are set locally, but are capped at £100. The Council has determined that the fee for applications will be £100. The licence will be valid until 30<sup>th</sup> Sept 2022

### 3.3 Consultation

Applications are consulted upon for 7 days, starting with the day following the day a valid application was made to the Council.

The Council will publish details of the application on its website at [www.Bromley.gov.uk](http://www.Bromley.gov.uk) On the Search Licensing Application Portal

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application the Council will consult with:

- London Borough of Bromley Environmental Health Service (
- Environmental Protection, Health, Safety, Food and Licensing Teams
- Any other Department or Agency deemed relevant to the application

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

### 3.4 Site Notice

An applicant for a pavement licence must 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, including wheelchair users. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of the site notice requirement must be supplied to the Council and may be checked on site at any time without prior notice.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;

- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (7 days starting the day after the application is submitted to the authority).

A Template for the Site Notice is shown as Appendix 1.

### 3.5 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses re-opening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and / or litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
  - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
  - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
  - the impact on any neighbouring premises
  - 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](#), and
  - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority and so take any issues around noise, and nuisance into consideration as part of the proposal.

### 3.6 Determination

Once the application is submitted the Council has 14 days from the day after the application is made (excluding public and bank holidays) to consult on, and determine the application. This consists of 7 days for public consultation, and then 7 days to consider and determine the application after the consultation.

If the local authority determines the application before the end of the determination period the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or

- refuse the application.

If the local authority does not determine the application within the 14 day period, the application will be deemed to have been granted for one year (but will come to an end on 30 September 2022).

### 3.7 Approval of Applications

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement Licences between 09:00 and 21:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

### 3.8 Licence Duration

If the Council determines an application before the end of the determination period (which is 7 days, beginning with the first day after the public consultation period, excluding public holidays) the *Council* can specify the duration of the licence, subject to a minimum duration of 3 months.

The Licence will generally be granted until 30<sup>th</sup> Sept 2022, unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.

If the Council does not determine an application before the end of the determination period, the licence is deemed granted until 30<sup>th</sup> September 2022.

A licence granted or deemed to be granted will not be valid beyond 30 September 2022.

Licences previously granted without an end date are extended to 30<sup>th</sup> September 2022 without the need for a further application.

### 3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions, then the application may be refused.

There is no statutory appeal process against decision to refuse an application so the correct approach to challenge the decision would be via Judicial Review.

#### 4. Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

However, this is not the case for the statutory no-obstruction and smoke-free zone conditions which apply to all Licences. The National 'no obstruction' and "smoke-free zone" conditions are shown in Appendix 3.

#### 5. Enforcement

The Council aims to work closely with licence holders and other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a Consent does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Social distancing controls and applicants must ensure all such permissions, etc. are in place prior to applying.

If a condition imposed on a licence either by the Council or via a National Condition is breached, the Council will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs.

The authority may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
  - There are risks to public health or safety – for example where users breach government guidance on social distancing by placing tables and chairs too close together;
  - the highway is being obstructed (other than by anything permitted by the licence);
  - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise or light generated late at night and litter is not being prevented or cleaned up;
  - it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
  - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

## **6. Review Procedures**

This Policy covers the Temporary Permission for Pavement Licences under the Business and Planning Act which are scheduled to expire on 30 September 2022.

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement Licences generally, relevant social distancing measures or as a result of local considerations within the Bromley Borough.



Public Protection &  
Enforcement

**Site Notice for display by an applicant for a Pavement Licence.**

**Issued under the Business and Planning Act 2020.**

I/We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to London Borough of Bromley for a 'Pavement Licence' at:

*(postal address of premises)*

known as

*(name premises known by)*

The application is for:

*(brief description of application (e.g. outdoor seating to the front of the premises for serving of food and drink))*

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

Licensing Team  
London Borough of Bromley  
Stockwell Close  
Bromley  
BR 3UH  
0208 313 4218  
Licensing@bromley.gov.uk

by: *(last date for representations being the date 7 days starting from the day after the date the application is submitted to the local authority (excluding public holidays))*

The application and information submitted with it can be viewed on the Council's website at: [www.Bromley.gov.uk](http://www.Bromley.gov.uk)

Signed .....

Dated *(date the notice was placed which must be the same date as the date of application)*



## Standard Pavement Licence Conditions

1. Permission to operate a pavement café does not imply an exclusive right to the area of public highway. The licence holder must be aware that London Borough of Bromley and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause. This may mean that the pavement café will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
2. The licence holder will have Public Liability Insurance at all times the Pavement Licence is operational. This must cover indemnity to London Borough of Bromley against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.
3. Tables and chairs must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside premises away from the highway.
4. London Borough of Bromley is empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored.
5. The licence holder is not to make or cause to be made any claim to London Borough of Bromley in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
6. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
7. The method of marking the boundary of the licensed area must be agreed between the licence holder and Bromley Licensing Department. Whatever method is agreed, a 1.5 metre clear walkway must be maintained for the use of pedestrians.
8. Emergency routes to the premises and adjacent buildings must not be obstructed by the Pavement Café, which should not, in normal circumstances, extend beyond the width of the premises frontage.
9. Tables and chairs should be of an approved type and should be kept in a good state of repair. Furniture must be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council.
10. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.

11. The licensee must ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises, is minimised.
12. The operation of the area must not interfere with highway drainage arrangements.
13. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
14. All detritus (food and drink remnants, spillages, bottles, cans, wrappers etc) must be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the Facility, for a distance of up to 10 metres from the boundary of the Facility. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
15. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc, will be recovered in full from the licence holder by London Borough of Bromley or the Highway Authority.
16. The Licensee of premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the area covered by the Pavement Licence.
17. The Alcohol licence obtained under the Licensing Act 2003 for the main premises extends to the area covered by the Pavement Licence. The Licensee of premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the Facility outside the hours in force for the premises itself.
18. The licence must be displayed on the premises with a plan of the agreed layout of the pavement café.
19. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to, including in the area covered by the Pavement Licence. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.
20. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period and on revocation of the licence.
21. London Borough of Bromley reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.
22. The Premises Licence Holder or nominated person shall erect suitable and sufficient conspicuous signage on the exterior of the premises advising patrons of the need not to cause excessive noise whilst queuing due to the proximity of residential dwellings.

23. The Premises Licence Holder or nominated person shall control levels of noise and light in the outside area and advise customers of the need to respect local residents.
24. No speakers for the amplification of music shall be placed on the outside of any building forming a part of the premises (including land), other than for events where the prior written approval of the Licencing Authority, upon consultation with Environmental Health, has been obtained in accordance with the appropriate application process

### Appendix 3

#### National Conditions

1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to 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](#), the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.
3. 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 (including vaping) is not permitted.

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# Agenda Item 6

Report No.  
CSD24052

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** GENERAL PURPOSES AND LICENSING COMMITTEE

**Date:** Wednesday 29 May 2024

**Decision Type:** Non-Urgent Non-Executive Key Non-Key

**Title:** OUTSIDE BODY APPOINTMENTS 2024/25

**Contact Officer:** Graham Walton, Democratic Services Manager  
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

**Chief Officer:** Tasnim Shawkat, Director of Corporate Services and Governance

**Ward:** All

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1. Reason for decision/report and options

- 1.1 This report requests that the Committee, on behalf of the Council, considers the appointment of Council representatives to serve on a range of outside bodies and partnerships. Most appointments are made annually, following the municipal year, but a small number of appointments are for three or four year terms.
- 1.2 The draft schedule of nominations from the Groups is attached as Appendix A, but this is being updated and a final version will be circulated as soon as possible.

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2. **RECOMMENDATION**

**The Committee is recommended to consider the nominations made by the Groups in Appendix A and make appointments to outside bodies and partnerships.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
- 

### Transformation Policy

1. Policy Status: Existing Policy
  2. Making Bromley Even Better Priority:  
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
- 

### Financial

1. Cost of proposal: No Cost
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £402k
  5. Source of funding: Revenue Budget
- 

### Personnel

1. Number of staff (*current and additional*): 6FTE
  2. If from existing staff resources, number of staff hours: Not Applicable
- 

### Legal

1. Legal Requirement: None
  2. Call-in: Not Applicable: This report does not involve and executive decision
- 

### Procurement

1. Summary of Procurement Implications: Not Applicable
- 

### Property

1. Summary of Property Implications: Not Applicable
- 

### Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
- 

### Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable
- 

### Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable
- 

### Customer Impact

1. Estimated number of users or customers (*current and projected*): Not Applicable
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### 3. COMMENTARY

- 3.1 The Committee is asked to make various appointments to partnerships and outside bodies on behalf of the Council. Most appointments are annual and follow the Council year, but there also a small number of longer appointments that run for three or four years. Some of the appointments on the list are, effectively, restricted to particular post-holders, while some are associated with particular wards in the borough.
- 3.2 The schedule of appointments to be made is attached at Appendix A. All groups have been invited to make nominations, and an updated version of the schedule will be circulated before the meeting.

<b>Non-Applicable Headings:</b>	Impact on Vulnerable Adults and Children/Policy/ Financial/Legal/Personnel/Procurement/Property/Health and Wellbeing/Carbon Reduction/Customers/ward Members
Background Documents: (Access via Contact Officer)	2023 Outside Bodies Report (GP&L Committee, 23 May 2023)

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**LONDON BOROUGH OF BROMLEY**  
**ANNUAL APPOINTMENTS TO OUTSIDE BODIES**  
**AND PARTNERSHIP BODIES 2024/25**

**(i) London Councils' Annual Appointments**

**Leaders' Committee**

(S.101 Joint Committee)

Cllr Colin Smith

Cllr Kate Lymer (*Deputy*)

**London Councils Transport and Environment Committee (TEC)**

(Associated Joint Committee)

Cllr Nicholas Bennett

Cllrs Will Rowlands & Simon Fawthrop (*Deputies*)

**Grants Committee** (Associated Joint Committee)

(*Must be Executive Members*)

Cllr Kate Lymer

Cllrs Colin Smith and Diane Smith (*Deputies*)

**Greater London Employment Forum**

Cllr Pauline Tunnicliffe

Cllr Colin Hitchins (*Deputy*)

**Lead Members for London Councils**

(*Normally Executive members or chairmen*)

Children & Young People, including Safeguarding, Schools, Education and Children's Social Care: Cllr Kate Lymer

Skills & Employment: Cllr Yvonne Bear

Communities (including Asylum seekers and Refugees): Cllr Yvonne Bear

Economic Development/Business: Cllr Yvonne Bear

Crime and Public Protection: Cllr Angela Page

Arts/Culture, Tourism, Sport & Leisure: Cllr Yvonne Bear

Health and Social Care including Adult Services: Cllr Diane Smith

Housing & Regeneration: Cllr Yvonne Bear

Planning/Infrastructure/Development: Cllr Alexa Michael

Environmental Issues: Cllr Will Rowlands

Licensing and Regulatory Services:

Digital and Innovation: Cllr Christopher Marlow

Devolution and Levelling Up: Cllr Christopher Marlow

Finance & Corporate Services: Cllr Christopher Marlow

**London CIV** (Shareholders Committee)

Cllr Keith Onslow

Cllr Christopher Marlow (*Deputy*)

## **(ii) Partnership Annual Appointments**

### **Safer Bromley Partnership Strategic Group**

*(Normally, relevant Portfolio Holder)*

*(Appointed by full Council – listed for information)*

Cllr Angela Page

### **Safer Neighbourhood Board** (3)

*(Normally includes Portfolio Holder and PDS Chairman)*

Cllrs Angela Page, David Cartwright & Kim Botting

### **Bromley Economic Partnership**

*(Normally, relevant Portfolio Holder)*

Cllr Yvonne Bear

### **Adults Safeguarding Board**

Cllrs Colin Smith & Diane Smith

### **Children's Safeguarding Board**

Cllrs Kate Lymer & Colin Smith

**(iii) Children, Education & Families Annual Appointments**

**Management Committee of Wood Lodge Living Skills Centre**

*(Bickley & Sundridge ward)*

Cllr Kira Gabbert

**Early Years Development & Child Care Partnership**

Cllr Kira Gabbert

**Bromley “Y” Project**

Cllrs Felicity Bainbridge and Kate Lymer

**Mentoring Steering Group**

Cllr Angela Page

Cllr David Cartwright *(Deputy)*

**(iv) Environment & Community Services Annual Appointments**

**London Road Safety Council**

Cllr Nicholas Bennett

**(v) Renewal, Recreation & Housing Annual Appointments**

**The Crystal Palace Community Development Trust - Council Attendee**

*(Crystal Palace and Anerley ward)*

Cllr Ruth McGregor

**Newable Ltd Council Contact** *(formerly Greater London Enterprise – GLE)*

Cllr Yvonne Bear

**London Youth Games**

Cllr Pauline Tunnicliffe

Cllr Hannah Gray (Deputy)

**Proactive Bromley**

Cllr Yvonne Bear and Cllr Colin Hitchins

**Biggin Hill Airport Consultative Committee**

- (i) Representative of the Council as freeholder:  
Cllr Christopher Marlow*

- (ii) *Representative of Biggin Hill Ward:*  
Cllr Melanie Stevens  
Cllr Sophie Dunbar (*Deputy*)
- (iii) *Representative of Darwin Ward:*  
Cllr Jonathan Andrews  
Cllr Simon Fawthrop (*Deputy*)

**(vi) General Annual Appointments**

**Bromley Town Twinning Association**

Cllr Kathy Bance, Cllr Kim Botting, Cllr Hannah Gray and Cllr David Jefferys

**Community Links Bromley - Council attendees**

Cllrs Kathy Bance and Kevin Kennedy-Brooks

**Leadership Committee of the Bromley Community Fund**

Cllr Pauline Tunnicliffe

**(vii) Three Year Terms (2024-27)**

**Clarion Housing Group South London Regional Scrutiny Committee**

Cllr Thomas Turrell

**Oxleas NHS Trust**

Cllr Yvonne Bear

**(viii) Four Year Terms**

**Hayes (Kent) Trust (2024-28)**

Mrs Carol Truelove (*current trustee proposed for re-appointment by the Trust*)

**Petts Wood and Hawkwood Trust (2022 -26)**

Cllr Simon Fawthrop

Cllr David Cartwright & Cllr Tony Owen (*deputies*)

# Agenda Item 7

Report No.  
CSD24028

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** GENERAL PURPOSES AND LICENSING COMMITTEE

**Date:** Wednesday 29<sup>th</sup> May 2024

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** WORK PROGRAMME AND MATTERS OUTSTANDING

**Contact Officer:** Graham Walton, Democratic Services Manager  
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

**Chief Officer:** Tasnim Shawkat, Director of Corporate Services and Governance

**Ward:** All

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1. Reason for decision/report and options

- 1.1 This report summarises the Committee's work programme for the 2024/25 Council year; it also covers matters outstanding from previous meetings.

---

2. **RECOMMENDATION**

**Members are requested to consider and note their work programme and matters outstanding.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
- 

### Transformation Policy

1. Policy Status: Not Applicable
  2. Making Bromley Even Better Priority:  
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
- 

### Financial

1. Cost of proposal: No Cost
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £402k
  5. Source of funding: Revenue Budget
- 

### Personnel

1. Number of staff (*current and additional*): 6fte
  2. If from existing staff resources, number of staff hours: Not Applicable
- 

### Legal

1. Legal Requirement: None
  2. Call-in: Not Applicable: This report does not involve an executive decision.
- 

### Procurement

1. Summary of Procurement Implications: Not Applicable
- 

### Property

1. Summary of Property Implications: Not Applicable
- 

### Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
- 

### Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable
- 

### Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable
- 

### Customer Impact

1. Estimated number of users or customers (*current and projected*): Not Applicable
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### 3. COMMENTARY

- 3.1 Bromley Council operates under a “Leader and Executive” constitutional model, with most decision-making functions resting with the Leader, the Executive and Portfolio Holders. However, there are a number of functions which the executive side is prohibited from dealing with, for which Committees need to be appointed. In Bromley, the majority of these “non-executive” functions are the responsibility of Development Control Committee for town planning and related functions, Pensions Committee, Audit and Risk Management Committee, Standards Committee and this Committee for any other non-executive functions.
- 3.2 General Purposes and Licensing Committee fulfils the role of Licensing Committee under the 2003 Licensing Act (which requires a membership of between ten and fifteen councillors), but also deals with a range of other non-executive functions that cannot be dealt with by the Executive or do not fall within the terms of reference of other non-executive Committees. It therefore has a range of varied and sometimes unrelated responsibilities, including human resources, complaints, elections and appointments. The Committee’s Terms of Reference as set out in the Constitution are set out at Appendix A.
- 3.3 The Committee’s role is very different to that of a PDS Committee, in that it has decision-making powers, many of which are delegated to a number of sub-committees -
- Appeals Sub-Committee
  - Licensing Sub-Committee
  - Rights of Way Sub-Committee
- These sub-committees have decision-making powers within their own terms of reference, and only meet when issues arise that require a decision from Members. The former Industrial Relations Sub-Committee has not needed to meet for nearly a decade, so it has not been re-appointed
- 3.4 The Committee has six scheduled meetings each year, plus a special meeting after the Council’s annual meeting to appoint its Sub-Committees. The meetings for the 2024/25 Council year are set out in Appendix B, along with the reports anticipated for each meeting.

#### Matters Outstanding

- 3.5 Members should note the following matters outstanding -

##### **Minute 90 – 6<sup>th</sup> February 2024 (2024/25 Pay Award)**

Members deferred the following amendment from Cllr Simon Jeal -

Amend recommendation 2.1(iii) to add the words "Subject to the condition that managers must have completed appraisals for at least 90% of their direct reports, in respect of the most recent appraisal year end period, to be eligible to receive a merit award. The Director of HR, in consultation with the Portfolio Holder for Resources and Commissioning, may waive this condition in exceptional circumstances."

It was proposed that this issue could be considered in a proposed report on Hybrid Working and Appraisal. It is now proposed that a briefing be arranged for Members to cover these issues.

**Minute 93 – 6<sup>th</sup> February 2024 (Live Streaming of Meetings)**

A further report is required in the summer setting out proposal for live-streaming of meetings once the Council moves into its new headquarters building, and proposing a policy on use of live-streamed material.

**Minute 96 – 6<sup>th</sup> February 2024 (Work Programme)**

The Chairman agreed to discuss with officers how to make the procedure for licensing hearings more available.

<b>Non-Applicable Headings:</b>	Impact on Vulnerable Adults and Children/Policy/Finance/Personnel/Legal/Procurement/Property/Carbon Reduction/Local economy/Health & Wellbeing/Customers/Ward Councillors
Background Documents: (Access via Contact Officer)	Previous Work Programme Report – to meeting on 6 <sup>th</sup> February 2024



**General Purposes and Licensing Committee  
Terms of Reference**

(Constitution, Chapter 5, section 22)

(Membership proportional – may include one Member of the Executive from each recognised party group, subject to Executive Members not being in a majority.)

- (a) Electoral issues
- (b) Making byelaws
- (c) Staffing matters
- (d) Open Government
- (e) Complaint Procedures
- (f) Member appointments
- (g) Health and Safety
- (h) Licensing of births, deaths and marriages
- (i) Licensing matters, including, where appropriate, determining cases relating to individual licenses.
- (j) Non-executive highway functions as set out in Schedule 1 to the Functions Regulations (excluding functions under the [Town and Country Planning Act 1990](#))
- (k) Any non-executive function not delegated elsewhere or reserved to Council.

**General Purposes and Licensing Committee**  
**Work Programme 2024/25**

**15<sup>th</sup> May 2024** *(following the annual Council meeting)*

Appointment of Sub-Committees

**29<sup>th</sup> May 2024**

Appointments to Outside Bodies  
Business and Planning Act 2020 – Pavement Licensing  
Work Programme & Matters Outstanding

**2<sup>nd</sup> July 2024**

Work Programme & Matters Outstanding

**26<sup>th</sup> September 2024**

London Elections 2024  
Annual Complaints Report and Annual Ombudsman's Letter 2023/24  
Live-streaming of meetings  
Work Programme & Matters Outstanding

**6<sup>th</sup> November 2024**

Teachers Pay Policy 2024/25 - Centrally Based Staff  
Work Programme & Matters Outstanding

**28<sup>th</sup> January 2025**

Staff Pay Award 2025/26  
Pay Policy Statement 2025/26  
Members Allowances Scheme 2025/26  
Programme of Meetings 2025/26  
Work Programme & Matters Outstanding

**1<sup>st</sup> April 2025**

Work Programme & Matters Outstanding

*Draft Minutes from Sub-Committee meetings are received for information at each meeting.*

## LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 11 January 2024

### Present:

Councillor Tony Owen (Chairman)  
Councillors Robert Evans and Melanie Stevens

### Also Present:

#### **5 APPOINTMENT OF CHAIRMAN FOR THE MEETING**

Councillor Tony Owen was appointed Chairman for the meeting.

#### **6 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **7 APPLICATION FOR A NEW PREMISES LICENCE AT STOP N GO 61 ELDRED DRIVE ORPINGTON BR5 4PE**

##### The Application

The application sought a premises licence for the off-premises sale of alcohol from 07.00 hours to 23.00 hours every day. During the public consultation, the Council received a total of thirty three valid objections which were attached to the agenda.

##### (i) The Case for the Applicant

The Committee was addressed by the applicant and by his representative. Members were advised that the proposed DPS had decades of experience running licensed premises in the Borough. He was a resident in the Borough and had a convenience store about half a mile from the premises. The application complied with the four licensing objectives. The applicant received advice from a licensing consultancy, staff were trained in the sale of alcohol which was repeated every 12 months, and a CCTV system would be installed with the images being retained for 31 days. The premises would be adequately staffed with three staff members, two of whom would be on the shop floor all the time. A Challenge 25 policy would be operated and spirits would be kept behind the counter. There was no objection from the Police--subject to the imposition of the agreed conditions. In response to a question as to whether the closing time of 11pm could be reduced, the Committee was informed that there would have to be a good reason. In the absence of any evidence that the terminal hour would cause harm to the licensing objectives, a requirement of an earlier closing time could be regarded as premature.

(ii) The Case for the Objectors:

In addition to the written representations, the Sub-Committee received verbal representations. The Committee was advised that there had been issues concerning anti-social behaviour in the local area, for example evidenced by empty beer bottles and laughing gas canisters being discarded and by the gathering of groups of individuals. The owner of the current convenience store decided to close his business at 9pm, which had helped to reduce issues around anti-social behaviour and to maintain a quieter time during the later evening. The police did not have the resources always to attend incidents. There was a concern that the later closing time of 11pm would act as an attraction to persons who may have an intention to cause nuisance. A petition containing over three hundred signatures was evidence of the concern felt locally.

Reasons for Decision

Members considered the amended application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. They concluded that the application with the additional conditions agreed with the police could be permitted without harm to the licensing objectives.

Neither the police nor any of the other Responsible Authorities had objected to the application. Members concluded that the conditions requiring a CCTV system, a Challenge 25 policy, training of staff and an incident register and refusals record should be adequate to assist the business in dealing with issues concerning the four licensing objectives. Members did take account of the concerns expressed about the 11pm closing time, but because the business had not yet begun trading, these could only be speculative in character. If contrary to their assessment, the 11pm closing time did result in unforeseen harm to the licensing objectives, then the licence could be subject to the review process.

Decision

That the application for a premises licence at Stop N Go, 61 Eldred Drive, Orpington BR5 4PE be granted subject, to the imposition of the conditions agreed with the Police.

## LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 6 February 2024

### Present:

Councillor Nicholas Bennett J.P. (Chairman)  
Councillors Kira Gabbert and Melanie Stevens

### 1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Nicholas Bennett was appointed as Chairman.

### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 3 APPLICATION FOR TO VARY THE PREMISES LICENCE AT MOON LOUNGE BAR & RESTAURANT 59-63 HIGH STREET BECKENHAM BR3 1AW

#### The Application

The application sought to vary the current licence by extending the licensed hours for the sale of alcohol on the premises from 00.30 to 02.00 hours, recorded music and the provision of late night refreshment from 01.00 until 02.00 hours on Friday and Saturdays. For both recorded music and the provision of light entertainment, the application envisaged a reduction of 30 minutes in the permitted times on Sundays. The application sought to add the provision of live music on Mondays to Wednesdays, between 12.00 to midnight, on Thursdays between 12.00 to 01.00 hours, on Friday and Saturdays between 12.00 to 02.00 hours and Sundays between 12.00 to 23.30 hours. The application stated "We request the additional hour for the main bar only. Terrace operation hours will remain the same. No change to rear of Premises Garden operation / times".

#### The Case for the Applicant

The Applicant's solicitor explained that the intention was for last orders on Friday and Saturdays to be given at 1.30 hours with a winding down period thereafter, and the premises closing at 02.00 hours. After contact with the police his client sought to address the possibility that his customers may leave the premises and walk along the High Street to other venues with later opening hours. The intention of the application is that customers will be able to remain on the premises until 2am on Fridays and Saturdays and there will

be no extra journey through the Town Centre. Conditions had been agreed with the police including a requirement that there be a last entry time to the premises of 00.30 hours.

It had been agreed with the Council's Environmental Health Officer that triple glazing would be installed on the High Street elevation. For financial reasons this could be undertaken within 6 months of the grant of permission. With reference to the objection from the planning department, the applicant had not applied to vary the planning condition or apply for a certificate of lawfulness. However, the planning and licensing regimes were separate. With respect to the Council's Special Policy of Cumulative Impact, due to the last admission time there would be no additional customers in the premises and therefore no further detrimental impact on licensing objectives. The intention was to reduce the number of people journeys and customers could remain in the premises and not move uphill along the High Street to another premises with later hours. In response to a question, it was confirmed that the noise complaints since July 2023 had not been made in respect of later hours. The business had direct contact with residents living either side of the premises. The number of external smokers would be limited to three persons who would only smoke in a position where a door supervisor was positioned. The premises had operated using TENS in December and January. The premises had engaged a DJ on Fridays and Saturdays, either to the current permitted hours or to the hours permitted by the TENS.

#### The Case for the Objectors

The Council received two written objections from residents. The first representation expressed a concern that there was already significant late night noise from revellers leaving the Bridge Bar and that extending the opening times at the premises would have a detrimental effect to many residents both on the High Street and the surrounding roads. The second representation also referred to the area being severely affected by the noise from the High Street bars being open so late and expressed a concern that moving the opening time to 2am would set a precedent for other bars to follow. The local area was already severely affected by noise from High Street bars and pubs.

A representative from the Council's planning department advised that the premises were subject to a planning condition which only permitted opening hours to 00.30 hours. There had been no application submitted by the business to extend these permitted hours or submit an application for a certificate of lawfulness (if it was claimed there has been a longstanding breach of the planning condition).

#### Reasons for Decision

Members considered the amended application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. They concluded that the application should be refused.

The Council's statement of licensing policy at paragraph 22.1 provided that:

*There should be a clear separation of the planning and building control functions and the licensing regimes. Licensing applications should not be a re-run of the planning application process. The Licensing Authority **will not grant** an application for a new Premises Licence or Club Premises Certificate unless it is satisfied that all relevant planning permissions are in place where necessary.*

*.....When considering representations to the granting of a new Premises Licence or Club Premises Certificate or a variation of an existing licence or certificate, which is not subject to any planning conditions, the Licensing Sub Committee may request information as to any planning conditions attached to similar premises in the locality. The Sub Committee may consider the reason for the implication of such conditions and consider those in relation to the application being determined.*

Although it was accepted that the policy could be more clearly worded, the committee concluded that the intention of the policy could not be to exclude considerations of planning conditions on a variation application, where a current planning condition on the application premises would be breached, but allow consideration of planning conditions on similar premises in the locality where no condition existed on the application premises.

The committee noted the submission for the Applicant's solicitor that licensing and planning were separate regimes, but also noted that the Applicant had taken no steps to resolve the planning situation, either by way of an application to vary the planning condition or by an application for a certificate of lawfulness. Taking everything into account, it was concluded that the application was premature in advance of any progress being made to resolve the planning position and some weight should be given to the objection raised by the planning department.

The premises were located in an area subject to a Special Policy of Cumulative Impact. That policy stated:

*In any area declared to be subject to a Special Policy of Cumulative Impact it would be the Licensing Authority's intention to refuse to grant new premises/club licences or variations, unless the application is such that the grant of the licence would have no further detrimental impact on the area and the promotion of the licensing objectives. This policy applies to all new premises licences and club premises certificates, including but not limited to night clubs, wine bars, pubs, restaurants, take-away premises, supermarkets, shops, theatres and cinemas and leisure services which include licensable activities e.g. Sports centres.*

The Applicant's solicitor said there would be no further detrimental impact on licensing objectives, as the intention was to reduce the number of people journeys and customers could remain in the premises and not move up the High Street to another premises with later opening hours.

We considered the closing times of premises in the High Street and Southend Road, as attached to the agenda papers. We noted that the only premises with licensed closing hours on Fridays and Saturdays at 2pm and beyond were Patricks, Bridge Bar and 10 Below. These premises were located in the section of the High Street north of Albemarle Road. The Committee considered if it were to allow the application, it would encourage other licensed premises in the vicinity of the application site to apply for extended hours. Rather than reducing the number of people journeys, the eventual outcome would be to encourage patrons to stay in this section of the High Street in the early hours of the morning, contributing to issues of cumulative impact that the licensing policy sought to prevent. For these reasons it was considered that the application would alter the character of the area with a detrimental impact on the character of the area and the licensing objectives relating to prevention of public nuisance and the prevention of crime and disorder.

Decision:

That the application be REFUSED.

**4 NEW PREMISES LICENCE APPLICATION FOR FESTIVAL  
REPUBLIC LTD CRYSTAL PALACE PARK, THICKET ROAD,  
PENGE, LONDON SE20 8DT**

The Application

The application sought a premises licence to supply alcohol at Crystal Palace Park, to provide regulated entertainment including live and recorded music, to provide films, plays and performance of dance. The hours for regulated entertainment and alcohol are Monday to Sunday 11:00hrs to 22:30hrs. The opening hours stated on the application are 10:00 to 23:00 every day.

The proposed conditions submitted with the application stated that the Premises Licence should authorise licensable activity for up to six event days at a maximum capacity 29,999 persons and a further 2 event days at a maximum capacity of 5,000 persons each calendar year between 1st May and 30th September.

A copy of the application form and plan were attached to the agenda in Appendix 1. The application included the area shown red on the plan but excluding the grey shaded area which was the National Sports Centre. During the public consultation, the Council received a total of nine valid objections which were attached to the agenda in Appendix 2.

The Case for the applicant

The Committee was addressed by the Applicant's solicitor. The Applicant had previously been granted a licence for events in the park which had been held between 2021 and 2023. The current application reflected the experience



gained. In particular the maximum capacity sought had been reduced from the previous permitted capacity of 49,999. A change had also been introduced from holding events for a three day festival to a series of individual events.

The Applicant called expert evidence. The earlier events had generated some concern that nearby residential property was being adversely affected by vibrations from the events. It was identified that the source of the vibration was not air based but caused by the audience dancing together in response to the music. This had been difficult to predict and would last for only a few seconds. A solution was achieved by reducing the numbers attending the events and also by repositioning the stage. The result has been a marked reduction in the number of complaints.

In terms of noise issues, the Committee was advised that an improved sound system had been introduced in 2023 which was designed to limit noise spillage from the events. The size of the stage was also reduced and reorientated for this reason also. The events were monitored in terms of noise. The result was a marked reduction in complaints concerning noise over the preceding years since 2021. The conditions required a noise management plan to ensure this progress was maintained.

A successful transport plan with necessary road closures had been implemented in 2023 with information being circulated to affected properties. In terms of social behaviour, anti-social behaviour measures, a drugs policy, and a security plan with stewards agreed with the police would be secured by condition.

The Applicant had considered the Council's Licensing Policy that discouraged multiyear applications for large scale events. The application for an indefinite premises licence had been reduced to a 5 year licence. The Applicant felt a licence could be granted for this timescale given the experience to date and all the measures as detailed above. A considerable financial investment would be necessary to hold the events and some level of reassurance about the longevity of the licence was needed.

#### (ii) The Case for the Objectors

The written representations submitted by local residents were set out in the agenda. The Committee noted in particular, a concern that the measures taken to reduce vibrations and noise may not be sufficient and concerns as to whether the park was a suitable venue for large events even with the reductions in attendance. It was felt that poor security and crowd control had caused issues at the previous events and that the festival line for residents had not dealt with the complaints received by it. Large sections of the park were being closed off during the summer. It was not explained how the events would relate with events being provided by other organisers. Noise and air pollution from heavy machinery used to transport equipment and stages was significant. There was a potential impact on wildlife.

In addition to the written representations the Sub-Committee also received verbal representations. Councillor Simons of the London Borough of Southwark spoke on behalf of Mr Bernstein. He asked that vibration monitoring take place at Princess Court and indicated residents would prefer a shorter licence period of 3 years to encourage a dialogue with the event organisers. He was particularly concerned to ensure that residents got notification in advance. He pointed out the difficulties in delivering communications to residences in blocks with door entry systems.

Councillor Thompson welcomed the offer of a 5 year rather than an indefinite licence. He felt a condition was needed to ensure vibration monitoring and that the impact on health should be considered. Councillor Jeal (for Councillor Brooks) asked for better engagement with ward councillors and consultation with local residents and businesses to be strengthened. He asked for a one year licence only given the size of the licensed area applied for and that it was envisaged the event might be moved to other areas of the park as a result of refurbishment works.

#### Reasons for Decision

Members considered the amended application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. They concluded that the application with conditions could be permitted without harm to the licensing objectives, but only if the licensable area was reduced.

The Committee considered the Council's licensing policy at paragraph 16.1 concerning large scale events which provides that they "*are generally dealt with on a time limited premises licence. They are not granted on a multi-year basis*". Both the Health and Safety and Public Health Nuisance Teams referred to this policy as part of their concern.

The Applicant had now amended their application so as to seek a 5 year licence. Members accepted that the Applicant had gained experience of managing events at the Park since 2021 and made significant amendments to the management of the licensed events so as to reduce the impact of them. The maximum capacity of the events was now reduced. Steps had been taken to reduce the impact of the events in terms of vibration and public nuisance from sound by relocating and reducing the stage. More sophisticated sound equipment designed to reduce noise spillage had been purchased. An extensive list of conditions were proposed including a requirement for a draft event management plan to be submitted at least 5 months before the first event. The plan would be subject to approval by the Safety Advisory Group. The police confirmed that from their perspective they would accept a 5 year licence. It was because of these changes that we felt the events could be permitted with the safeguarding conditions for a longer than annual time period.

When considering which time scale for the licence was appropriate, the Committee noted that the intention may be to move the stage to another

section of the park to enable refurbishment works to take place. The evidence given indicated that the position of the stage was of crucial importance. New assessments would need to be made, were the stage to be moved to a different area. The outcome of those assessments and impact of a relocated event was unknown. For these reasons, the Committee felt it could agree to a five year licence but only for the smaller area that had previously been licenced.

The Committee considered all the representations from nearby local residents. However, the expert evidence indicated that those concerns could be addressed by conditions and in particular the condition requiring an event management plan.

The Committee considered the proposed conditions as set out in the Agenda to be necessary. It was felt an amendment to proposed condition 113 was needed to make clear the monitoring report was required for each event. It was also felt that more detail was required in condition 130 concerning the extent of the public consultation.

#### Decision

That the application for the grant of a premises licence at Crystal Palace Park, Thicket Road, Penge, London SE20 8DT be GRANTED, subject to the imposition of a condition that the licensable area will be identical to that approved under premises license reference 20/00398/LAPRE, that the licence shall run until 30<sup>th</sup> September 2028 and subject to the conditions agreed with the Police and set out in Appendix 3 of the agenda with the following amendments:

Condition113: A monitoring report, demonstrating compliance with the relevant Licensing Conditions shall be submitted by the Acoustic Consultant to the London Borough of Bromley's Environmental Health Department within 14 days of each event day.

Condition 130: The PLH will make all reasonable efforts to ensure that effective communication will be undertaken with local residents. A meeting will be held for members of the local area which will be attended by members of the PLH. LBB will also be invited to attend. Details of the meeting will be circulated to local residents, businesses and councillors for all of the local government election wards that are adjacent to the park in advance of the meeting.

Chairman

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## LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 25 March 2024

### Present:

Councillor Nicholas Bennett J.P. (Chairman)  
Councillors Robert Evans and Simon Jeal

### 1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Cllr Nicholas Bennett was appointed Chairman.

### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 3 APPLICATION FOR A PREMISES LICENCE FOR SOULTOWN FESTIVAL 2024 CROYDON ROAD RECREATION GROUND BR3 3PR

#### The Application

The application was for a 2-day licence from 12.00hrs to 22.00 hrs on Saturday 31<sup>st</sup> August 2024 and 12.00hrs to 21.00hrs on Sunday 1st September 2024. Permission was sought for live music, recorded music, performance of dance and the supply of alcohol. The event would comprise of a main open stage at the one end of the site and an enclosed tented structure for live regulated entertainment provided by a DJ at the opposite end. The applied for capacity was for 9999 people. The event was described as a two-day Soultown Festival.

The event would be aimed at adults aged over 21 years on the Saturday, but on the Sunday, children and families would be welcome on the basis that an adult would be allowed to accompany no more than two children. The event would be in a fenced area with gates managed by security staff and stewards. There were amendments to the site plan approved for 2023, in that the main stage would be tilted slightly more away from residential properties and the DJ tent would be relocated with the objective of directing audio away from residential properties.

#### The Case for the Applicant:

The applicant, Ms L Bateman, attended the Sub-Committee meeting with Mr Joe Courtney who advised that the event would be similar to the preceding

two years, but with improvements to reduce any possible disturbance to residents. A complaint hot line would be maintained and residents would be notified of the number by advance publicity. The organisers would accept the conditions imposed on the previous licence last year, including the 4 additional conditions imposed by the Sub-Committee and with the conditions agreed with the police which were additional to that. The headline act on Saturday would end about 21.30 hours with music being provided by the resident DJ until 22.00 hours to encourage an orderly dispersal of patrons. The bars would be closed in rotation from about 21.30 hours until 21.45 hours for the same reasons.

#### The Case for the Objectors:

Written and oral submissions were made by neighbours. Concerns were raised that the park was too small for the event, that the music was excessively loud and the proposed two days with music over 10 and 9 hours respectively was too long. It was mentioned that preparations for the event started some 5 days before and finished 4 days after the event, which also caused disturbance. A representation was made that some residents felt they had no option but to leave their home during the event and that there should be the possibility, in extenuating circumstances, of financial compensation being paid to such persons.

#### Reasons for Decision

Members considered the amended application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. Members concluded that the event would not result in a level of nuisance that would justify refusal of the application, particularly given that it would be a two-day event only. The numbers attending the event would be controlled by the Licence and although there had been initial objections from the Health and Safety and Public Nuisance Teams, these had been resolved prior to the meeting. The event had now been run for a number of years with fewer complaints being recorded as the organisers gained experience and for last year, there had been no complaints recorded against the festival. The police had indicated their satisfaction with how the event in 2023 had been run. Although a resident had asked for compensation, this was not something the Sub-Committee could require.

#### Decision

That the application for a premises licence for Soul Town Festival 2024, Croydon Road Recreation Ground, BR3 3PR from 12.00hrs to 22.00 hrs on Saturday 31st August 2024 and 12.00hrs to 21hrs on Sunday 1st September 2024 be permitted, subject to the conditions imposed on the previous licence dated 8<sup>th</sup> February 2023 with the changes to those conditions recommended by the police in Appendix 4 to the Committee Agenda, namely:

- (i) an additional condition:

The cloakroom / property area will be staffed at all times that the event is taking place and until all property has been collected at the end of the event.

(ii) amendments to conditions 10 and 11

10. The event management plans for each event shall include the following information as a minimum; site plans, stewarding/security plans to include regular weapon sweeps before, during and post egress, crowd management plans, medical plan, fire plan, specific safety policies, risk assessments, traffic management plans, possible noise nuisance plans, and ingress/egress plan and an alcohol management plan.

11. Any queue to enter the premises that forms outside the premises shall be kept orderly and supervised by SIA door supervisors to ensure that there is no nuisance or obstruction to the public highway and footpaths. All persons managing the queue will have a radio or contact details to be able to communicate with each other and the event organisers.

Chairman

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## **LICENSING SUB-COMMITTEE**

Minutes of the meeting held at 10.00 am on 3 April 2024

### **Present:**

Councillors Christine Harris, Simon Jeal and Sam Webber

### **1 APPOINTMENT OF CHAIRMAN FOR THE MEETING**

Members appointed Councillor Jeal as the chairman for the meeting.

### **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **3 APPLICATION FOR A NEW PREMISES LICENCE AT FIRE AWAY PIZZA**

By way of update, Mr Slaney stated that there was no planning permission to operate at the proposed times, but an application was pending.

Applicant's case:

Mr Gibson announced that the application was amended so that the hours the premises would be open to the public on Sundays were reduced from 23:00 to 22:00. The proposed late night refreshment hours were unchanged.

After closing to the public, the premises would appear shut from the outside with the cooking taking place in the rear. Deliveries would be made following internet orders only. Although there had been an objection from the planning authority, there was nothing to prevent the licence being granted before planning permission had been obtained. If the licence were granted, the premises would comply with the current planning permission and not offer late night refreshments.

Delivery drivers would wait inside, be employed by the business and drive hybrid cars. There would be at most 2 vehicles and they would park at the front of the premises rather than the rear.

The premises was on a busy main road and most residents were at the rear, with Lidl between them and the premises. It was not considered granting the licence would materially add to public nuisance in terms of noise.

Questions to the applicant:

Cllr Harris asked if the unit above the premises was residential and the applicant stated it was an office. The applicant was not certain if the unit above the barber's next door was residential.

In relation to days, the applicant stated he would be content with just Fridays and Saturdays if Members thought that necessary.

As for noise from the premises itself, the applicant stated the ventilation was the quietest system available and that the door to the premises was silent when opening and closing.

Cllr Webber asked about closing before 02:00 and the applicant responded the business was suffering so that if he was not able to open until 02:00 on at least Fridays, Saturdays and Sundays before bank holidays, he would need to close down with jobs lost.

Cllr Jeal obtained clarification that although orders could be placed through third-party apps, such as Deliveroo, only the applicant's drivers would be used.

Objectors' case

Mr White stated he would be content with a licence being granted until 00:00. There would be noise from the ventilation as well as the vehicles coming and going. The unit above the barber's was residential, so parking would be there or at the rear where there were also residents. There was no longer a child protection concern as the premises wouldn't be open late on school nights.

In reply to the applicant's question, Mr White confirmed there had been no noise complaints about the premises.

Mr White advised Cllr Jeal he was not aware of any premises in the area which had a licence to operate after 00:00.

Mrs Bywater said she agreed with what Mr White had stated and that she too would be content with operating up to 00:00.

Final comments from applicant

Mr Gibson pointed out there had been no noise complaints so far and that it was no logical to assume that after 23:00 there would suddenly be absolute quiet so that the ventilation would cause a nuisance. Although the application had been advertised, there were no objections from residents. There would be no nuisance over and above the background noise.

Summary of decision

Following an adjournment, Members returned and the Chairman announced the licence would be granted in accordance with the amended application but for the hours between 23:00 and 01:00 on Fridays, Saturdays and the day before a bank or public holiday only. The licence was subject to the 12 conditions listed in Mr Gibson's representation of 22 March 2024, but with the 12<sup>th</sup> condition amended to include a requirement that deliveries be made by a maximum of 2 hybrid or electric vehicles only.

This struck a proportionate and reasonable balance between the needs of the applicant's business and protecting residents from public nuisance while having regard to the licensing objectives and objections made.

Reasons

The following are the reasons for the decision.

The Licensing Sub-Committee carefully considered the application for a new premises licence at Fire Away West Wickham 1 Bell Parade Glebe Way West Wickham BR4 0RH. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's current Statement of Licensing Policy
- The Secretary of State's guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- The application and all representations

Members noted the absence of any objection relating to the prevention of crime and disorder and public safety. In light the conditions the applicant had proposed, Members were reassured in relation to both of these objectives.

Although an objection had been made citing the protection of children from harm, this was withdrawn following the applicant's amendment to his application. Members found no reason to believe children would not be protected.

When it came to public nuisance, Members took the concerns raised by the responsible authorities seriously. They noted the premises would be a new late night noise source in the area. The applicant was most focussed on being able to operate late on Fridays and Saturdays and before bank holidays. This would limit the frequency of any impact as would the operation of deliveries only. It was relevant that the unit immediately above the premises was not residential and that no residents had objected. It therefore appeared any harmful noise impact would be limited to a relatively small number of individuals. Although things could change in the future, the premises appeared to be well run with no noise complaints to date. Members were also concerned that if a licence were not granted, the business could close.

In all the circumstances, Members considered while there would be noise impacts, refusing the application outright would be disproportionate and unreasonable. If the operating times and days were more limited, on balance Members were satisfied that the objective of preventing public nuisance would be met.

Members noted there was a choice of parking in front and at the rear. They gave consideration to imposing a condition preventing parking at the rear, but on balance concluded this would concentrate noise at the front.

Although the Council's Statement of Licensing Policy says a new premises licence should not be granted unless the relevant planning permission is in place, Members noted the objections all related to public nuisance. This was a licensing objective so that there were no matters most suitably considered as part of the planning process first. An exception to the policy was accordingly made.

The Licensing Sub-Committee therefore decided to grant a new premises licence for Fire Away West Wickham 1 Bell Parade Glebe Way West Wickham BR4 0RH in accordance with the amended application but for the hours of 23:00 and 01:00 on Fridays, Saturdays and the day before a bank or public holiday only. The licence was subject to the 12 conditions listed in Mr Gibson's representation of 22 March 2024 but with the 12<sup>th</sup> condition amended to include at the end "Deliveries shall be made by a maximum of 2 hybrid or electric vehicles only." Those conditions are necessary in order to uphold the licensing objectives.

#### **4 APPLICATION FOR A NEW PREMISES LICENCE AT SEL'S KEBAB STATION APPROACH ORPINGTON BR6 0ST**

By way of update, Mr Slaney confirmed that planning permission had now been granted to operate at the proposed times. There were no objectors present.

##### Applicant's case

Mr Avci clarified that although the planning permission allowed opening until 23:00 on Sundays, the premises would close at 22:00.

The intention was to meet the demand from customers arriving by train at Orpington station. There had been no alcohol-related problems at the premises and the nearest residential area was approximately 100 metres away.

Cllr Webber asked if anything could be done about litter and Mr Avci replied that no complaints had been received. Most customers left by car or bus.

##### Summary of decision

Following an adjournment, Members returned and the Chairman announced the licence would be granted in accordance with the application. The licence was subject to the conditions agreed between the applicant and police with an additional condition requiring a "Dispose of litter responsibly" sign to be displaced inside the premises.

The application would not have an adverse effect on the licensing objectives, having regard to objections made.

##### Reasons

The following are the reasons for the decision.

The Licensing Sub-Committee carefully considered the application for a new premises licence at Sel's Kebab Station Approach Orpington BR6 0ST. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's current Statement of Licensing Policy
- The Secretary of State's guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- The application and all representations

Members noted the absence of any objection from any responsible authority. In relation to the police, they did not object provided that their conditions were attached, which the applicant said they agreed to. Members were therefore reassured in relation to the prevention of crime and disorder.

Members took into account the Council's Statement of Licensing Policy, that the access of children to licensed premises will only be limited where it is necessary for the prevention of physical, moral or psychological harm (P27). No such harm was identified and no alcohol would be sold. Members therefore reached the conclusion that children would be protected from harm.

Members had no reason to believe public safety would be at risk.

When it came to public nuisance, Members took the concerns raised by local residents seriously, as well as the comments of the ward councillor. Members were conscious though that pre-existing problems could not be visited upon the applicant. There was no power to require the applicant to do anything outside of the premises, such as litter picking. A sign inside the premises would help though. Members were satisfied that any public nuisance would not be disproportionate or unreasonable. Accordingly, the objective of preventing public nuisance would be met.

The Licensing Sub-Committee therefore decided to grant a new premises licence for Sel's Kebab Station Approach Orpington BR6 0ST in accordance with the application. The licence was subject to the 3 conditions agreed between the applicant and police and new 4<sup>th</sup> condition requiring a "Dispose of litter responsibly" sign to be prominently displayed inside the premises. Those conditions are necessary in order to uphold the licensing objectives.

Chairman

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## LICENSING SUB-COMMITTEE

Minutes of the meeting held at 2.00pm on 15 April 2024

### Present:

Councillor Simon Jeal (Chairman)  
Councillors Mike Jack

### 1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Cllr Simon Jeal was appointed chairman for the meeting.

Apologies for absence were received from Cllr Harry Stranger.

### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 3 APPLICATION FOR A NEW PREMISES LICENCE AT LOUNGE 21 - 22 MARKET SQUARE BROMLEY BR1 1NA

Councillor Jeal announced that the third member of the sub-committee, Cllr Stranger, was not present and asked the parties if they were content to proceed with the hearing with just 2 councillors on the panel. If not, the hearing would be adjourned to the next available date. The applicant and both of the objectors confirmed they were content.

Mr Slaney updated members to say the report had mistakenly highlighted Five Guys as the application site, when it was in fact the vacant former Lakeland unit next door. The application had been amended so that the terminal hour at New Year's was 0200 on New Year's Day. The applicant had prepared a revised list of proposed conditions, which included conditions agreed with the police. Following discussions with the applicant, the Public Health Nuisance Team had withdrawn their objection.

#### Applicant's case:

Mr Botaki stated the venue would operate as a lounge diner and not a night time venue or drinking venue. There had been discussions with the police before the application had been submitted. It was unlikely the premises would open until 0000 during the week, but the applicant would like that flexibility included in the licence if possible.

A limit of 2200 would not work. Although off-sales were included in the application, there would be virtually none, save for customers taking an opened bottle home with them after a meal. There were no plans to use the

mothballed areas shown on page 29 of the agenda. There would be a protocol for the 6 outdoor tables and only customers would be allowed. It was unlikely this would attract additional drinking in the square. Five Guys sold alcohol, as did numerous other venues in the vicinity. This would be a family diner and customers would be seated at tables and chairs. The business was very much about food with alcohol to go with it.

Being in an area of cumulative impact changed the onus, but didn't mean every application had to be refused. On the balance of probabilities, the premises wouldn't add to the impact. It would add to the mix of premises. There was no objection from any responsible authority.

Questions to the applicant:

Cllr Jack asked about online deliveries and the applicant said there would be none. For the outside dining, customers would order on the app or at the counter and food would be brought out. The same applied to the indoor tables. While drinks could be collected from the bar, Challenge 25 would apply, so that staff would check everyone in the party was old enough. Following a discussion about times, Mr Botaki said he did not object if Members wanted to shorten the hours by 30 minutes Sundays to Thursdays.

Cllr Jeal asked about conditioning the availability of a phone number for residents and Mr Botaki said this could be agreed. During a discussion over the type of operation, Mr Botaki confirmed that it was not a pub. While there would be a drinks happy hour, there would also be food promotions at the same time. It was agreed that the outside seating area would not be used, and tables and chairs put away, by 22:00.

Mr Slaney queried the mothballed areas and Mr Botaki responded that they should not have been included as part of the licensed premises. There was a discussion over the door staff written risk assessment and Mr Botaki said it could be changed to require the assessment be kept under review and updated appropriately.

Mr Sylvester asked how the family diner operating model could be maintained in the future. Mr Botaki saying the applicant operated 240 Lounge premises so they had experience of who their customers were and how they behaved.

Mr Paolucci queried timings and the operating arrangements. Mr Botaki clarified and concluded that he did not consider the premises would add to the cumulative impact.

Objectors' case

Mr Paolucci said he objected on the basis of crime and disorder and public safety. He referred to statistics and existing crimes and disorder at Market Square and in the area. There was little protection for residents from the proposed conditions. He also objected due to public nuisance and harm to children. Five Guys was almost exclusively deliveries, so their outdoor seating



was rarely used after 1900. The newsagent sold alcohol as well. Noise echoing

around the square was a big problem. Granting the licence would have a significant impact on residents, in particular the children who lived in the area.

Mr Botaki asked Mr Paolucci at what time he would like the premises to close and the objector said 2100 or 2130.

Cllr Jeal asked Mr Paolucci about existing problems. The objector replied that it was mostly weekends from 2300-0200 and sometimes 2130-2200 weeknights. It was people singing, kicking bins and smashing things. There was also arguing. It was relatively low level a few times over the weekend but it would be likely to increase significantly.

Mr Sylvester said the square was a vibrant community hub, which was under threat by the licence. Granting it would lead to increased noise and crime and be a catalyst for bad behaviour. He asked members to err on the side of caution.

There were no questions to Mr Sylvester except confirmation that he wanted the application refused.

Final comments from applicant:

Mr Botaki said the cumulative impact policy was there to try and reduce problems and not eliminate them. The applicant had thoroughly engaged in the process and complied with the policy. There was no objection from the police or nuisance team.

Summary of decision:

Following an adjournment, Members returned and the Chairman thanked the objectors for attending the meeting and taking the time to address the sub-committee. Members had carefully considered their valid objections in reaching their decision.

The Chairman announced the licence would be granted in accordance with the amended application, but for late night refreshments on Sundays to Thursdays between 2300-0000 and Fridays and Saturdays 2300-0030; supply of alcohol on Sundays to Thursdays between 1000-2330 and Fridays and Saturdays 1000-0000 and opening hours Sundays to Thursdays 0800-0000 and Fridays and Saturdays 0800-0030. The mothballed areas were also excluded from the licence. The conditions were as per the applicant's Operating Schedule of 9th April, subject to (i) renumbering the added conditions as conditions 12 to 19, (ii) amending condition 8 to read 'after 22:00 each day' and (iii) adding condition 20 to say "The premises shall maintain, and communicate to residents the number of, a dedicated telephone line which residents can call during operating hours to report noise complaints, public nuisance or antisocial behaviour arising from the premises."

Considering the operating model outlined by the applicants, the changes to licensing hours they had indicated their acceptance of, and the additional conditions, and as the police had not objected, and the nuisance team had withdrawn their objection, Members considered that granting the premises licence would not be materially detrimental to any of the licensing objectives.

Reasons:

The following are the reasons for the decision.

The Licensing Sub-Committee carefully considered the application for a new premises licence at Lounge 21 - 22 Market, Square Bromley BRR 1NA. In doing so, they had regard in particular to:

- The four licensing objectives
- The Council's cumulative impact assessment (2021)
- The Council's current Statement of Licensing Policy
- The Secretary of State's guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- The application and all representations

Residents had objected on the grounds of prevention of crime and disorder, public safety and the protection of children from harm. Members noted the CIA said that residents in Bromley had greater than average concerns about crime and disorder and public safety, but more research was needed on the protection of children from harm.

Public concerns are serious and so Members gave weight to what had been written and said. However, Members had to balance this against the applicant's operating model, the conditions the applicant had proposed and the absence of any objection from a responsible authority. Members therefore concluded granting the licence would be unlikely to add significantly to the saturation of licensed premises and would have no further detrimental impact on the area. Those licensing objectives would therefore be promoted.

When it came to public nuisance, Members carefully considered all of the issues raised by residents. Members accepted there were existing problems with nuisance and that the cumulative impact policy said new licences shouldn't be granted. However, this was not absolute and Members took particular note of how the applicant said the premises would operate. Members considered the focus on food, reassurance that it would not be a late night venue and the conditions would not result in a public nuisance. There was also reassurance from the absence of an objection from a responsible authority. As a consequence, Members concluded granting the licence would be unlikely to add significantly to the saturation of licensed

premises and would have no further detrimental impact on the area. This licensing objective would therefore be promoted.

The Licensing Sub-Committee therefore decided to grant a new premises licence at Lounge 21 - 22 Market, Square Bromley BR1 1NA in accordance with the amended application but for late night refreshments on Sundays to Thursdays between 2300-0000 and Fridays and Saturdays 2300-0030; supply of alcohol on Sundays to Thursdays between 1000-2330 and Fridays and Saturdays 1000-0000 and opening hours Sundays to Thursdays 0800-0000 and Fridays and Saturdays 0800-0030. The mothballed areas were also excluded from the licence.

The conditions were as per the applicant's Operating Schedule of 9th April, subject to (i) renumbering the added conditions as conditions 12 to 19, (ii)

amending condition 8 to read 'after 22:00 each day' and (iii) adding condition 20 to say "The premises shall maintain, and communicate to residents the number of, a dedicated telephone line which residents can call during operating hours to report noise complaints, public nuisance or antisocial behaviour arising from the premises." Those conditions are necessary in order to uphold the licensing objectives.

Members gave thought to amending the door staff written risk assessment condition, however noted the condition had not been requested by the police. The premises would operate a lounge diner rather than a pub so that amendment was not necessary

Chairman

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