



Minutes

Licensing committee

10:00 to 11:45

5 August 2020

Present: Councillors Stutely (chair), Fulton-McAlister (E) (vice chair), Ackroyd, Giles, Grahame, Huntley, Maxwell, McCartney-Gray, Oliver and Price.

Apologies: Councillors Brociek-Coulton, Ryan and Youssef.

1. Public questions/ petitions

There were no public questions or petitions received.

2. Declarations of interest

Councillor Maxwell declared an other interest in that she was a resident of St Benedict's Street and had been advising residents regarding the use of table and chair licences on the street.

3. Minutes

RESOLVED to approve the accuracy of the minutes of the meeting held on 5 March 2020 subject to the following amendment;

Item (5), paragraph (8), replace the word 'prolife' with 'profile'

4. Pavement Licensing Policy

The public protection manager started to present the report but due to technical difficulties members could not hear him, and the legal advisor to the committee instead presented the report. The government had introduced new legislation in relation to pavement licences. The new legislation was designed to provide a significantly faster and cheaper process to licence tables and chairs on the highway to assist businesses serving food and drink during the pandemic.

The new process reduced the consultation and application determination time and included provision for the automatic grant of an application if not determined within 14 days. Licensing authorities could adopt and publish standard conditions in relation to pavement licences and the report recommended standard conditions were adopted as

detailed in appendix 2. The legal advisor to the committee highlighted that for standard conditions to apply when applications were deemed granted due to non-determination the conditions had to be published in advance of applications being made. Licences granted under the new legislation were temporary and expired on 20 September 2021, the minimum duration for a licence was 3 months.

The new streamline process proposed was to delegate the authority to determine applications to officers where no relevant representations had been received or concerns were known of. In the case where a relevant representation had been received or there was a known concern it was proposed that applications would be determined by officers in consultation with the chair or vice chair. Due to the reduced timescales prescribed within the new legislation the previous method of referring contested applications to committee was unworkable.

Previously the application fee charged for a table and chairs licence was £467, during the pandemic the fee was halved and the new legislation set the maximum fee chargeable at £100. It was questionable that this would cover the administrative costs of processing applications. The legal advisor noted that businesses which only included food and drink as part of the business were still eligible to apply, it was not required to be the primary function of the business.

Members discussed the proposed Pavement Licensing Policy, particular discussions concentrated on the impact of noise and nuisance which could result to residents from outside eating and drinking, the impact on access particularly for those with physical disabilities and visual impairments; how to achieve resident engagement in the licensing process; and the use of patio heaters.

The legal advisor said in relation to access concerns that it would be unacceptable when determining an application to consider a pavement licence which resulted in pedestrians having to move into the carriageway unless it was a pedestrianised area. The legal advisor clarified that when granting a licence for a period of time, the end time of the licence was the time at which all furniture was to be removed from the Highway by.

Members resolved to make the following amendments:

- (1) Agenda page 18, paragraph 3.1, amend the third bullet point to; a clear plan showing the area of the Highway the application is requesting to have licensed;
- (2) Agenda page 18, paragraph 3.1, amend the penultimate bullet point from owner/occupier to owner or occupier and to amend any other such references;
- (3) Agenda page 20, paragraph 3.4, amend the last bullet point which shows in error as 1 to a bullet point;
- (4) Agenda page 20, paragraph 3.5, to include an additional bullet point stating that the assessment of the site would include whether the licenced area sought was a highway of the status where a pavement licence could be lawfully granted;

- (5) Agenda page 21, paragraph 3.6, to include in the list of representations the authority would take account of; residents and councillors;
- (6) Agenda page 23, paragraph 5, third paragraph, replace 'the authority can take action to cover any costs' to 'the authority can take the steps itself and can take action to recover the costs of doing so';
- (7) Agenda page 26, appendix 2, condition 4 amend 'used only for the purposes stated above' to 'Purposes specified in the licence';
- (8) Agenda page 26, appendix 2, condition 7 amend clause 13 to clause 14 and add 'or early termination of the licence under section 6 of the Business and Planning Act 2020';
- (9) Agenda page 26, appendix 2, standard conditions for a pavement licence, to amend condition 9, as follows; The objects and structures permitted by this licence, shall be removed from the licensed area each day by the end of the licence period and stored securely;
- (10) Agenda page 27, appendix 2, standard conditions for a pavement licence, to amend condition 19, removing the word 'reasonable';
- (11) Agenda page 27, appendix 2, standard conditions for a pavement licence, to add a new condition, condition number 21, that the use of patio heaters or similar devices authorised by a pavement licence shall not be used at any time between the 1st April and 30th September inclusive; and
- (12) To grant licences for a maximum period of 08:00 to 23:00 Friday and Saturday and 08:00 to 22:30 Sunday to Thursday.

CHAIR