

REPORT TO: Executive Board

DATE: 15 July 2021

REPORTING OFFICER: Strategic Director – Enterprise, Community and Resources

PORTFOLIO: Environment and Urban Renewal

SUBJECT: Pavement Licence Policy

WARDS: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 To support economic recovery and encourage vibrant town centres, a policy is proposed to support Pavement Cafes, and the provisions of the Business and Planning Act 2020, which provides a time-limited alternative (expected to be until 2022) to the Pavement licences traditionally granted under Part 7A of the Highways Act 1980.
- 1.2 The policy guides those wishing to offer pavement café seating and table service. However, a balance must be struck to maintain the needs of other street users and ensure travel is unobstructed. Therefore, the policy requires a minimum of 1500mm free space between the furniture and the edge of the footpath.
- 1.3 It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. Other regulatory frameworks still apply such as the need for alcohol licences and the need to comply with registration requirements for food businesses.
- 1.4 The Environment and Urban Renewal Policy and Performance Board considered this item on the 23 June 2021 and recommended approval and adoption of the policy set out in Appendix A by the Executive Board.

2.0 RECOMMENDATION:

- 1) **That the policy set out in Appendix A is adopted as a formal policy of the Borough Council**

3.0 SUPPORTING INFORMATION

- 3.1 A pavement licence is a licence 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. This is a streamlined process to allow businesses to secure these licences in time for the summer and, where they are deemed to have been granted, allow these licences to remain in place for a year but not beyond 30 September 2021, or other date

determined by legislation, which is expected to extend to 2022. 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. An example licence is provided in Appendix B.

- 3.2 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.
- 3.3 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.
- 3.4 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, meaning it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

4.0 POLICY IMPLICATIONS

- 4.1 Pavement licences are traditionally granted primarily under Part 7A of the Highways Act 1980. The fee varies between local authorities. This new policy process provides a cheaper, easier and quicker way for businesses to obtain a licence. The fee for applying for a licence under the new process, is capped at £100 and the consultation period is 5 working days (excluding public holidays) starting the day after the application is sent electronically to the authority. It is currently a minimum of 28 calendar days under Part 7A. The fee for Halton is proposed to be £100 in line with adjacent local authorities.
- 4.2 If the local authority does not determine the application before the end of the determination period (which is 5 working 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 a year (but not beyond 30 September 2021) 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.
- 4.3 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.

- 4.4 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 and the authority can take action to cover any costs.

5.0 FINANCIAL IMPLICATIONS

None

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

- 6.1 Regulatory control over the public realm ensures that the legitimate interests of businesses together with the need for safe passage of pedestrians (including those with mobility aids) can be balanced. The policy is therefore in accordance with all the Council's priorities for safe and sustainable places.

7.0 RISK ANALYSIS

The proposed policy is required to support the changes in legislation arising through the Business and Planning Act 2020.

8.0 EQUALITY AND DIVERSITY ISSUES

- 8.1 Local authorities need to 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 s.29 of the Act not to discriminate in providing their service.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

None.