

Report to: Licensing and Enforcement Committee



Date of Meeting 8 May 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## Pavement Licensing Update to the Licensing & Enforcement Committee

### Report summary:

This report is to explain the changes to the temporary pavement licensing regime under the Business & Planning Act 2020 and the impact of the changes to this regime made by the Levelling-Up and Regeneration Act 2023.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

That the Licensing & Enforcement Committee take note of the changes to temporary pavement licensing and proposed transitional arrangements and work plan outlined in the report.

### Reason for recommendation:

New legislation has come into force on 31 March 2024 to make changes to the temporary pavement licensing regime currently under the Business & Planning Act 2020 and has introduced changes including a new capped level fee structure for new and renewal applications.

Officer: Phillippa Norsworthy, Licensing Manager Governance & Licensing.

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### Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

### Equalities impact Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

### Climate change Low Impact

**Risk:** Choose a risk level; Low

**Links to background information** [Pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/pavement-licences)

**Link to [Council Plan](#)**

Priorities (check which apply)

- Better homes and communities for all
  - A greener East Devon
  - A resilient economy
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## Report in full

### 1 Background Information.

1.1 Temporary Pavement Licences were introduced by the Business & Planning Act 2020 (BPA 2020) on 19 August 2020 to streamline the process of obtaining a pavement licence and help businesses during the Covid pandemic. Section 229 of and schedule 22 of the Levelling Up & Regeneration Act 2023 (LU&RA 2023) amends the Business & Planning Act 2020 to make the provision of temporary pavement licences permanent. The commencement date for this amendment was 31 March 2024.

1.2 From 31 March 2024 the process for issuing temporary pavement licences under the BPA 2020 became permanent under the LU&RA 2023. A letter and guidance from the Department for Levelling Up, Housing & Communities was issued to all Local Authorities in England on 2 April 2024. A copy of the letter can be found at **APPENDIX A** and the Government Guidance is attached as a link to this report.

1.3 The main changes to temporary pavement licensing as a result to the amendment to the BPA 2020 are as follows:

The introduction of maximum standard capped fees for new and renewal applications. The fee levels are capped at a maximum amount of £500.00 for new applications and £350.00 for renewal applications. The fee applicable for a temporary pavement licence was previously £100.00.

The duration of the consultation and determination periods have increased from 7 days to 14 days.

The maximum term a licence can be granted has increased to 2 years (from one-year previously).

Pavement licences will be issued with, mandatory, national and local conditions. The mandatory conditions and local conditions can be found at **APPENDIX B**. At the time of writing this report the regulations outlining the national conditions have not yet been published.

It is for Members to note that Devon County Council have now stopped issuing pavement licences due to an amendment of Section 115E (5) of the Highways Act. This amendment can be found at **APPENDIX C**. Please also see section **3.5** of the guidance. '*Can licensable activities still be granted under the Highways Act?*'

### 2 Transitional Arrangements.

2.1 The licensing team currently manage a total of nine pavement licences, of which seven of these were issued before 31 March 2024 and therefore were licensed under the BPA 2020. These licences will expire on 30 September 2024 in line with the guidance issued from

Government last year. Two of the pavement licence applications were received within the period between the existing BPA 2020 legislation and the commencement date of the amendment and have in line with the guidance been issued under the new amendment.

2.2 Devon County Council has forwarded a list to the licensing team containing 23 existing pavement licences issued under the Highways Act 1980. A copy of the list can be found at **APPENDIX D** for reference.

2.3 Officers have already started work to contact the businesses holding pavement licences issued under the Highways Act 1980 to inform them of the amendment to the BPA 2020.

2.4 Work has commenced in updating our information to the public and to update our application process.

### **3 The impact of the changes.**

3.1 It is important for Members to be aware of the amendment to the BPA 2020 and the possible impact the amendment may have on the licensing team and East Devon District Council.

3.2 It is for Members to note the attached guidance and in particular section 1.11, '*Which authority can exercise pavement licence functions?*'

3.3 It is for Members to note that a recommendation from the Licensing & Enforcement Committee to Cabinet will be required to set a level for the proposed fees increase. A further report to the Licensing & Enforcement Committee will follow to outline these proposals.

3.4 It is for Members to note Section 7 of the guidance '*Enforcement*' and to be aware of possible circumstances where the local authority may enforce or revoke a licence and the possibility of removing furniture from the highway, see section 7.2 '*When can furniture be removed?*'

3.5 A further report will be submitted at a later meeting of the Licensing & Enforcement Committee to:

To present a draft policy for consideration.

To submit a draft report with a recommendation of proposed fees and charges to be considered.

#### **Financial implications:**

Financial implications are included within the report, and it is noted as per section 3.3, a further report to the Licensing & Enforcement Committee will follow to outline these proposals on Pavement licence income.

#### **Legal implications:**

The legal framework of the statutory changes is contained within the report and requires no further comment at this stage.