



Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Council 14 July 2020

Wards affected: All wards

COVID 19 response : Amendment to Constitution

Report of Director (Environment & Planning)

1. Purpose of report

1.1 To seek Members' approval to amend the Scheme of Delegation.

2. Recommendation

2.1 That the scheme of delegation contained within part 2f of the Council's constitution is amended to delegate powers to the Director (Environment & Planning) in respect of Pavement Licences, when the Business and Planning Bill is enacted.

3. Background to the report

3.1 As part of the response to Covid-19, on the 25 June 2020 the Government introduced to Parliament the Business and Planning Bill. The purpose of the Bill is to introduce a range of measures to help businesses adjust to new ways of working as the country recovers from disruption caused by Covid-19. The measures support the transition from immediate crisis response and lockdown into recovery. The measures support businesses to implement safer ways of working to manage the ongoing risks from Covid-19, in particular the need for social distancing. It contains a mix of different legislative agendas: planning, licensing, financial, and HGV testing and licences. Whilst the majority of the measures that are being introduced are covered by the Councils existing Scheme of Delegation, such as temporary planning changes, the introduction of Pavement licences is not.

- 3.2 To ensure that the Council can respond quickly to support businesses if they apply for a Pavement Licence it is necessary to amend the Scheme of Delegation as contained within the Council's constitution.
- 3.3 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 highway land. It is usually administered by the County Council and is usually subject to a 28 day consultation period. The Bill, when enacted will introduce a streamlined process to enable businesses to secure the licences in time for the summer and to remain in place for a year but not beyond 30 September 2021. This will support them to operate safely while social distancing measures remain in place and enable them to trade over the summer months. It will also require the Borough Council to administer the regime.
- 3.4 Officers have already been working with the County Council as Highways Authority to put in place a temporary licencing regime prior to the legislation being announced. Useful work has been undertaken on identifying the processes and procedures to discharge our responsibilities. It is recommended that the Director (Environment and Planning) is delegated to discharge this function given the similarities with the Licencing and Planning regimes. However, it may be appropriate that the actual administration of the application process is undertaken by the Town Centre team.
- 3.5 It is envisaged that the Bill will receive Royal Assent by the end of July. Due to their not being another Council meeting scheduled until September it is considered that it is necessary to seek approval to amend the Scheme of Delegation enable the regime to be implemented once the Bill is enacted.

4. Exemptions in accordance with the Access to Information procedure rules

- 4.1 To be taken in open session.

5. Financial implications [AW]

- 5.1 The fee for applying for a licence under the new process, is capped at £100. There is expected to be minimal fee income from the issuing of licences at about £2,000 per year.

6. Legal implications [FA]

- 6.1 Pavement licences are presently granted primarily under Part 7A of the Highways Act 1980. 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). It is currently a minimum of 28 calendar days under Part 7A.
- 6.2 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 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.

- 6.3 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. The draft guidance refers to the possibility that licensing committees might be used to consider any “appeals” about refusals.
- 6.4 If the applicant has a licence to serve alcohol on-premises temporary amendments to the Licensing Act 2003 will allow them to sell alcohol for consumption off the premises without needing to apply for a variation of their licence.
- 6.5 As this requires an amendment to the constitution, a two-thirds majority decision is required.

7. Corporate Plan implications

- 7.1 This report contributes to the following priorities of the Council:
Prosperity: Support the regeneration of town centres and villages

8. Consultation

- 8.1 There has been no consultation on the specifics of the Bill by the Borough Council.

9. Risk implications

- 9.1 It is the council’s policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer’s opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) risks		
Risk description	Mitigating actions	Owner
None identified		

10. Knowing your community – equality and rural implications

10.1 The Government has assessed the implications of the requirements of the new legislation on Human Rights.

11. Climate implications

11.1 The ability for local businesses to continue to trade will help people to shop local and reduce the need for travel.

12. Corporate implications

12.1 By submitting this report, the report author has taken the following into account:

- Community safety implications
- Environmental implications
- ICT implications
- Asset management implications
- Procurement implications
- Human resources implications
- Planning implications
- Data protection implications
- Voluntary sector

Background papers: Business and Planning Bill (available on the .gov website)

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