

Bassetlaw District Council

Licensing Committee

17 January 2024

Report of Council Solicitor

Amendments to Business and Planning Act 2020

Cabinet Member: Corporate & Financial
Services
Contact: Stella Bacon

1. Public Interest Test

1.1 The author of this report Stella Bacon has determined that the report is not confidential.

2. Purpose of the Report

2.1 On 31 March 2024 the Department for Levelling Up, Housing & Communities announced new provisions and guidance to the Business & Planning Act 2020. Applications under the Act will be processed by District and Borough Councils in two tier local authority areas.

2.2 The Act sets out the process that must be followed in relation to processing an application. To simplify, an application must contain information set out in the Act, including specifying the area of land, the type of equipment to be placed on it, and the days it will be used. Once the information is submitted to the local authority, the authority has 14 days from the day after the application is made to determine the application. It must also consult the Highways Authority and any other person it considers to be appropriate before determining the application. The entire process consists of 14 days for public consultation, and then 14 days to consider and determine the application after the consultation period.

2.3 If a determination is not made within these timescales then the licence is deemed to be granted for two years.

2.4 Following the announcement it was confirmed that as of 31 March 2024 the act is now permanent.

3. Background and Discussion

3.1 Further to the direction of Department for Levelling Up, Housing & Communities the following changes were introduced:

3.1.1 The Fee cap has been increased to £500 for a new application and £350 for a renewal application.

3.1.2 The 5 Day consultation and 5 Day determination periods have both been increased to 14 Days.

3.1.3 The duration of a licence has been changed to a maximum of 2 years.

- 3.1.4 New enforcement powers have been granted to local authorities.
- 3.3 Additional smaller changes have been made.
- 3.4 A copy of the notice can be found at **Appendix A**.
- 3.5 A copy of the guidance for Pavement Licences can be found at **Appendix B**.
- 3.6 On 29 July 2020 the members agreed that :
- 3.6.1 Administering the new system was clearly a licensing task and sat most naturally within the Council's Licensing team.
- 3.6.2 It was proposed that the new systems, processes and forms required to operate this new type of license were developed and finalised by the Licensing Teams, under authority delegated to the Council Solicitor and Principal Solicitor (Licensing & Regulatory). Those forms and processes were developed in consultation with Licensing teams across the County.
- 3.6.3 As part of the process the Council is required to consult with Highways Authority. The Council also proposed to consult additional bodies, which will include the Police and the Council's Environmental Health, Community Safety, Planning and Economic Development teams.
- 3.7 In addition, in order to enable this provision to work effectively and efficiently it was necessary for officers to obtain delegated authority to issue or refuse licences and to undertake enforcement actions. Whilst there is no statutory route to appeal decisions made in respect of pavement licences, it is considered that the Council should have a mechanism to review decisions if an Applicant requests this. The recommendation was therefore that any review would be undertaken by a Licensing Panel consisting of three members of the Council's licensing committee.
- 3.6 Currently the Temporary Pavement Licence Fee is £100 and is valid for a maximum of 12 months ending 30th September each year regardless of when it is granted.
- 3.7 On average a Pavement Licence from receipt of application to grant of licence takes 4 Administration Officer Hours, 6 Licensing Officer Hours, and 4 Enforcement Officer Hours.
- 3.8 It is expected that if the duration of the licence is increased to 2 years from the date of grant the Enforcement officer hours will only increase slightly.
- 3.9 To keep costs down, we recommend that we only consult with ward members if there is a legitimate concern.
- 3.10 As the Act is now in force it is crucial that appropriate arrangements are made to enable the Council to immediately deal with any applications under the new legislation.

4. Implications

- a) For service users
None
- b) Strategic & Policy
None

- c) Financial - Ref: 25/513

Implementation of a new scheme of fees and charges will have to be approved by Licensing Committee who have delegated authority to set licensing fees and charges.

Fees will be set and reviewed annually on a full cost recovery basis.

The level of fees will take into account the administrative costs associated with the consideration of applications, the issue and administration of the Licence, and the costs associated with compliance checks carried out by the Licensing Authority to ensure that applicants operate in accordance with the conditions of their Licence.

- c) Legal – Ref: 013/04/2024

As contained in the report

- e) Human Resources

None

- f) Community Safety, Equalities, Environmental

- g) General Data Protection Regulations

None

- h) Whether this is a key decision, and if so the reference number

Not a key decision

5. Options, Risks and Reasons for Recommendations

- 5.1 This is a now a permanent statutory function for the Council and a process must be agreed for determination of applications received. There is discretion offered to Councils as to whether, and at what level, to set the fee for determination of such applications.

6. Recommendations

- 6.1 Members are asked to consider increasing the duration of the Pavement Licence to 2 Years from the date of issue and to implement a new scheme of fees and charges to cover the costs associated with the administration, consideration and compliance checks of Pavement Licences granted under the Business and planning Act 2020.

Background Papers
Legislation

Location
Legal Department