

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Portfolio Holder for Public Protection

To: South Holland District Council 29 July 2021

Author: Donna Hall Head of Public Protection

Subject Pavement Licences

Purpose: To consider continuing to delegate to the Lincolnshire County Council authority to discharge all functions relating to pavement licences under sections 1 to 9 of the Business and Planning Act 2020 as amended

Recommendations:

- 1) That Lincolnshire County Council be authorised to discharge, for the South Holland District Council area, all functions relating to pavement licences contained in sections 1 to 9 of the Business and Planning Act 2020 as amended by the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021
- 2) That the Head of Public Protection be authorised to agree any future extension or changes to the administration of the scheme.

1.0 BACKGROUND

- 1.1 The Business and Planning Act 2020 received Royal Assent on 22 July 2020. Sections 1 to 9 allow local authorities to issue pavement licences to enable proprietors of premises which sell food or drink for consumption on or off the premises to place removable furniture on part of a highway adjacent to their premises, either to enable the proprietor to sell or serve food or drink, or for use by customers.
- 1.2 The purpose of this legislation is to provide a cheaper, easier and quicker way for businesses to obtain licences with a view to businesses being able to make better use of outdoor space.
- 1.3 This was a temporary provision to expire on 30 September 2021
- 1.4 The Act placed this function with the District Council, but it was agreed by this Council at a meeting on 29 July 2020 that this function be delegated to Lincolnshire County Council. The rationale being that the County Council already dealt with furniture licences under Part 7 A of the Highways Act 1980, and that all other Districts in the County were also in agreement to delegate this function to the County Council for consistency.
- 1.5 The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 came into force on 20th July 2021

- 1.6 These new Regulations extend the expiry date of sections 1 to 9 of the Business and Planning Act 2020 from 30 September 2021 to 30 September 2022. New pavement licences which are subject to applications received on or after the date on which the Regulations came into force will expire on 30 September 2022 unless an earlier date is stated in the licence
- 1.7 The legislation does not automatically extend licences because existing licences were granted by Lincolnshire County Council on the basis that they would be in place until 30 September 2021 or before, as per the legislation. As a result, businesses will need to apply for a new licence if they wish to have one in place during the extended period. Officers will work with County Council and businesses if required to assist with any extension applications.
- 1.8 There is a maximum fee of £100 chargeable for applications, although Lincolnshire County Council have not been making a charge for this to date.
- 1.9 Lincolnshire County Council have granted 5 licences under the Business and Planning Act within South Holland District since the scheme started in July 2020, with 3 licences being granted under the Highways Act.
- 1.10 Lincolnshire County Council notify and consult with the District Council on receipt of an application. The applicant is required by County Council to submit a plan or drawing of the proposed layout, proof of permission from adjoining properties if the extension is proposed beyond their frontage, proof of public liability insurance (minimum £5million). The applicant is also required to display a specified public notice on the premises for five full working days from the day of application. Notices are also published on the Lincolnshire County Council website.
- 1.11 The Business and Planning Act 2020 states that functions relating to pavement licences are non-executive functions, and therefore any decision to delegate this function to the County Council must be made by the full Council.

2.0 **OPTIONS**

- 2.1 To continue to delegate this function to the Lincolnshire County Council. This is the preferred option.
- 2.2 Not to delegate this function to the Lincolnshire County Council. This option is not recommended, but if members decide to pursue this option it is recommended that the Head of Public Protection be authorised, in consultation with the portfolio holder for Public Protection, to determine the fee and all other matters, including conditions and duration of licences.
- 2.3 Do nothing.

3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 The Lincolnshire County Council already administers this scheme on behalf of South Holland District Council under the Business and Planning Act.

3.2 The scheme is intended to enable a quicker, cheaper temporary procedure for allowing businesses selling food or drink to obtain authority to place tables and chairs on the highway adjacent to their premises.

4.0 **EXPECTED BENEFITS**

4.1 All District Councils within Lincolnshire have provisionally agreed to continue to delegate this function to the County Council, allowing an integrated process across the County.

5.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

5.1 **Constitutional & Legal**

5.1.1 Sections 1 to 9 of the Business and Planning Act 2020 came into effect on 22 July 2020.

5.1.2 In accordance with section 8 of the Act, the functions relating to pavement licences are non-executive functions and cannot be dealt with by the Cabinet.

5.1.3 Under section 101 of the Local Government Act 1972, a local authority may arrange for the discharge of any of their non-executive functions by another local authority.

5.1.4 The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 came into force on 20th July 2021 amending the end date of the scheme to 30th September 2022.

5.2 **Financial**

5.2.1 There are no financial implications arising directly from this report. Lincolnshire County Council will be able to charge a fee of up to £100 per licence, but that is a matter for the County Council to determine. At the time of writing this report it was understood that no charge was anticipated.

5.3 **Health & Wellbeing**

5.3.1 The licences are intended to assist relevant businesses to operate safely during the pandemic.

5.4 **Stakeholders / Consultation / Timescales**

5.4.1 The Act requires the relevant Council to consult on each application, with the consultation period being 5 days beginning with the day after the day on which the application is made. The County Council consults with a number of interested parties including the District Council.

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All wards.

7.0 **ACRONYMS**

7.1 None

Background papers:-

Lincolnshire County Council Code of Practice for Street Cafes and Stalls can be found on their website [here](#)

The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment Regulations 2021

The Business and Planning Act 2020

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Key Decision: N

Exempt Decision: N

This report refers to a Mandatory Service

Appendices attached to this report: None