

LICENSING COMMITTEE

MINUTES OF A MEETING of the Licensing Committee held on Monday, 8 July 2024 at 11.00 am at the Guildhall, Portsmouth

Present

Councillors Emily Strudwick (Chair)
Yinka Adeniran
Dave Ashmore
Stuart Brown
Raymond Dent
Chris Dike
Abdul Kadir
George Madgwick
Hugh Mason

1. Apologies for Absence (AI 1)

Apologies were received from Councillor Ian Holder, Councillor Lee Hunt and Councillor Rajah Ghosh.

2. Declarations of Members' Interests (AI 2)

Councillor George Madgwick declared that he had seating outside his restaurant, but this was on private land and did not need a licence and was not a conflict of interest in determining the matter.

3. Minutes of the Previous Meeting held on 27 November 2023 (AI 3)

The minutes of the meeting of 27 November 2023 were approved.

4. Pavement Licences - Business and Planning Act 2020 and Levelling-up and Regeneration Act 2023 (AI 4)

Nickii Humphreys, Licensing Manager, presented the report. The purpose of which was to:

- 1) Provide an update on the pavement licensing regime which was introduced on a temporary basis during the pandemic under the Business and Planning Act 2020 and had been made permanent under the Levelling up and Regeneration Act 2023;
- 2) Approve the relevant fees payable for new and renewal applications and to delegate decision making to the Head of Service;
- 3) Recommend to Council the delegation of the function to the Licensing Committee and the associated delegations as set out in the recommendations.

Ms Humphreys told the committee that any applications are subject to full consultation with other PCC services and external partners.

Ms Humphreys advised that the matter would also be going to Full Council the following week in order for Council to approve the delegation of this licensing function to the Licensing Committee. This was necessary as, in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, this is a licensing function which is not the responsibility of an authority's executive and therefore was necessary for Council to delegate the function to the Licensing Committee.

Ms Humphreys clarified that under the Highways Act 1980 the current fees charged for licences were in the majority, higher than the fees now being recommended. As an example, the majority of applications start at £531 a year upwards to £1328. Under the new legislation, the maximum capped fees that a local authority may charge are £500 for the grant of a pavement licence and £350 for subsequent renewal periods thereafter. Based on the pavement licences currently in operation, analysis of the licensing budget in respect of the fees for pavement licences and amenity permits, the proposed fees would ensure that the current budget estimates could be delivered.

Ms Humphreys drew attention to the Secretary of State guidance at Appendix A.

Ms Humphreys noted that the new Act provides for some enforcement capabilities which did not exist before.

Questions and Comments

Councillor Brown agreed to the delegation of powers to officers but asked if this would still provide members with the ability to request call ins.

Ms Humphreys clarified that the delegation would provide licensing with the ability to grant all the licenses, but it was up to the Committee how they would like the decision making to happen. She stressed that officers were able to manage the process in the same way it was done under the Licensing Act. They would be able to deal with minor variations, add conditions or remove conditions with the committee's delegation and would only need to bring matters to the committee if there was a significant matter that would require decision making to be undertaken by the licensing sub-committee.

Councillor Madgwick asked if the licences issued under the Amenities and Highways and Pavement Licences would all be bought together under one umbrella.

Ms Humphreys confirmed this was correct. Any licences for tables and chairs on the highway under the Highways Act 1980 would move across to the new pavement licensing regime when they expire and come up for renewal.

Ms Humphreys confirmed there were approximately 25 amenity licenses and 60 pavement licenses currently.

Councillor Madgwick commented that the businesses currently paying the larger fees were, on the whole, large businesses/corporations probably in bigger buildings and the smaller businesses were paying less.

He was concerned that the new fee structure would benefit the larger businesses and disproportionately penalise the smaller businesses, some of whom were only currently paying £50 per year. The new fees would result in a 750% increase.

Councillor Madgwick stated he was not prepared to vote through fees that would penalise those small businesses and proposed a motion to amend the fee structure recommendation B. He proposed that the fee be based on the rateable value of the business with a sliding scale implemented as follows:

Recommendation B

Renewals

- £100 for businesses with rateable values less than £14,999
- £225 for businesses with rateable values between £15,000 - £24,999
- £350 for businesses with rateable values over £25,000

New Applications

- £150 for businesses with rateable values less than £14,999
- £300 for businesses with rateable values between £15,000 - £24,999
- £500 for businesses with rateable values over £25,000

Councillor Kadir seconded the motion.

Ms Humphreys advised the committee that the recommendation as it stood was for £350 for two years, so businesses would actually be paying £175 per year. They would not be paying £350 annually.

She advised that it was her duty to point out that she could not recommend any actions that would put the Licensing budget in a deficit position and her duty to provide figures that would ensure the budget balanced at the end of March. The fees proposed in the report would allow the service to meet their cash limit.

Councillor Madgwick asked if £350 was the maximum that could be charged and could it be every year, rather than every two years?

Ms Humphreys confirmed this had been capped by the Government so the department could not charge more than £350. The guidance had suggested that licences should be granted bi-annually so the licensing authority would have to provide good reasons why they felt an annual licence would be more appropriate and she did not consider budget reasons would be an acceptable justification. The regime was annually until 30 September but thereafter would be every two years.

Councillor Mason referred to page 19, points 1.5 & 1.6 and noted it would appear that a supermarket could have a stall outside selling coffee or food and drink on a standard licence and yet an independent trader would have to pay a street vendors licence of £1700.

Ms Humphreys advised that currently fees are under Amenities on the Highway and the larger the space the more the business pays. At the end of September all those

licences would have to convert to pavement licences. A coffee stall would continue to come under street trading consent and would not come under the Highways Act or Pavement licences. Street trading fees are set in the same way as market stalls.

Councillor Kadir and Councillor Adeniran stated they were in agreement with the comments made by Councillor Madgwick. They noted the need to protect small businesses.

Ms Humphreys clarified to the committee that the fees only relate to furniture on the highway so do not apply to any private land such as in Gunwharf.

Councillor Madgwick asked if the matter could be reviewed again in 12 months should it result in a budget issue.

Ms Humphreys stated that the committee was subject to annual fee reviews but that the new proposals would put the budget into a deficit position. She noted that whilst there was a duty to look after small businesses, there was also an obligation to look after council taxpayers and the money would have to come from somewhere to balance the budget.

Councillor Brown noted he had never seen the line-by-line licensing budget so was not aware of the impact changing the fees would have on the overall cash flow forecast or licensing budget. He asked how much it currently costs to process one licence application.

Ms Humphreys stated she could provide a cost-by-cost basis but did not have that information to hand. She stated that officers are time recorded across the functions so there was information on how much time they spend and this was included proportionately in the annual budget.

There was further discussion around details in the budget and meeting the deficit. Panel members considered it may have been beneficial to have a finance officer present to provide more detail. However, as it was likely that the deficit would likely be under £10k the panel felt comfortable with the proposed amended fees with an annual review if it would keep those 60 small businesses in operation.

Councillor Strudwick requested that a finance officer be present in future for items that affect the budget. Ms Humphreys advised all the reports contain finance comments but agreed, when a report comes to committee that may affect the budget and which can't be deferred, to request finance/legal to attend.

Councillor Brown wondered if it may be better to base the fees on outside pavement space rather than the rateable value. Councillor Madgwick pointed out that some very large businesses, such as Wetherspoons, have a small outside space but their turnover/revenue would be much higher than a small business with a larger outside space.

A vote was taken on the amended recommendation B. The committee voted unanimously in favour of the amendment. The committee then voted unanimously to accept the remaining recommendations.

DECISIONS

The Licensing Committee:

- a) Noted the changes to the pavement licensing regime as set out in the Levelling-up and Regeneration Act 2023;**
- b) Approved the relevant fees payable for new and renewal applications to be based on rateable values as follows:**

New applications:

£150 for new applications with rateable value less than £14,999

£300 between £15,000 - £24,999

£500 over £25,000

Renewals:

£100 for businesses with rateable values less than £14,999

£225 for rateable value between £15,000 - £24,999

£350 for rateable value over £25,000

- c) Recommended to council the delegation of this function to the Licensing Committee together with:**
 - Delegation to the Head of Service to undertake the administration of all pavement licensing matters pursuant to the Business and Planning Act 2020 as amended by the Levelling-up and Regeneration Act 2023. To include the power to grant, renew, refuse or revoke pavement licences, including confiscation of unauthorised furniture on the highway, and subject to such standard and special conditions as considered appropriate.**
 - Delegation to the Head of Service to recommend to the Licensing Committee, from time to time, such fees and/or other reasonable expenses/charges to recover the costs of administration and compliance with pavement licensing requirements. (Subject to the maximum cap applied by the Secretary of State for fees that may be charged).**
 - Delegation to the Head of Service to refund such fee(s) for unsuccessful applications as considered appropriate on individual merit.**
 - Delegation to the Head of Service to establish, amend, vary and/or substitute any necessary application forms, guidance notes, processes, and other necessary documentation commensurate with these proposals.**

The meeting concluded at 11.55 am.

Signed by the chair, Councillor Emily Strudwick