

Licensing Applications Committee

14 November 2024



Reading
Borough Council
Working better with you

Title	Street Pavement Cafe Policy 2024 - 2029
Purpose of the report	To make a decision
Report status	Public report
Report author	Tabitha Shaw (Licensing & Enforcement Officer)
Lead Councillor	Cllr Karen Rowland (Lead Councillor for Environmental Services & Community Safety)
Corporate priority	Inclusive Economy
Recommendations	<ol style="list-style-type: none">1) That the 'Street Pavement Cafe Policy 2024 to 2029', as attached at Appendix 1, be approved for immediate adoption;2) That the increases made to Pavement Cafe fees, included in the Council's Recovery Plan approved by Policy Committee on 21 October 2024, be noted.

1. Executive Summary

- 1.1. Although there is no statutory requirement to have a Street Pavement Cafe Policy, we understand the need for a policy to; encourage a vibrant borough, ensure there is accessibility for residents, business and visitors and ensure business operating a pavement café are regulated and held accountable to maintain a clean and tidy borough. It furthermore provides guidance, certainty and consistency for applicants.
- 1.2. The Covid-19 pandemic highlighted a health requirement for social distancing and outdoor eating, through reducing capacity within premises. Given the continuing importance and attractiveness of outdoor food and drink consumption, government strongly encourages local authorities to manage and plan outdoor dining through making all necessary changes to local high streets, squares and the public realm so this is as convenient as possible for businesses and members of the public.
- 1.3. A new statutory framework has recently come into force, so the Council require a new policy to align with the revised fee levels therein. In 2020 the fee was capped at £100 per licence. The new legislative framework sets the cap at up to £500 for new licences and up to £350 for renewals.

2. Policy Context

- 2.1. The Business and Planning Act 2020 (the 2020 Act) received Royal Assent on 22 July 2020 and quickly introduced a number of temporary measures with the purpose of allowing business sectors to adapt to a 'new normal' whilst managing the risks arising from the Covid-19 pandemic.
- 2.2. This included temporary fast-track provisions to reduce the regulatory barriers for premises such as restaurants and pubs in England to apply for pavement licences to be able to serve customers outdoors.
- 2.3. On 31 March 2024, the pavement licensing provisions laid out in the Levelling Up and Regeneration Act 2023 (LURA) section 229 and schedule 22, were commenced,

amending the 2020 Act and setting out a new, more permanent, process as well as clarifying our enforcement powers.

- 2.4. The provisions introduce a permanent pavement licensing regime in England to replace the temporary provisions introduced by the Business and Planning Act 2020. A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a pavement licence. The change to a permanent pavement licensing regime provides certainty to businesses when planning for the years ahead, particularly if they see outside dining as a key part of their offer.
- 2.5. A Pavement Café Licence permits the business to use temporary tables and chairs placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.
- 2.6. Policy Committee on 21 October 2024 approved the new fee structure for pavement cafe licenses which are contained in this proposal, with effect from 1 November 2024.

3. The Proposal

Current position:

- 3.1. The current Street Pavement Café Policy states that all pavement cafe licences granted before the 31/03/2024 will be from the date they are granted until 30 September 2024. The new policy will set fees and new enforcement powers, providing certainty for applicants and updating conditions attached to licences.

Options proposed:

- 3.2. The regime retains the key features of the Business and Planning Act 2020, intended to streamline processing and reduce administration costs, but also incorporates some changes, to ensure long-term sustainability. Under The Levelling Up and Regeneration Act 2023 fees are set locally, and it is for the licensing authority to determine the appropriate charge. Fees are capped at a maximum of £500 for first time applications and £350 for renewals. The fee range in Reading has been set to take into account the scale of the pavement license area. These are detailed below together with the other key changes:
 1. The fees are being amended increasing from a set £100 to the following: Grant of a new licence: Up to 2 tables and/or 6 chairs - £300, Up to 10 Chairs - £350, Over 10 Chairs - £500, Renewal of a licence: up to 2 tables and/or 6 chairs - £100, up to 10 Chairs - £200, Over 10 Chairs - £350.
 2. Extend the combined public consultation and officer determination period for applications from a total of 14 days to a proposed 14 day consultation period followed by a 14 day determination period (excluding public holidays) before a permission can be granted (s2(4) & 3 of the 2020 Act).
 3. Insert a new enforcement section giving powers to the local authority to give notice to businesses who have placed furniture on the highway without the required licence, and to remove said furniture if it continues to remain on the highway in contravention of the notice (new s7A inserted in the 2020 Act). Also reflect the new power for officers to amend licence conditions if required.
 4. Prohibit a local authority from granting a tables and chairs licence under the old regime (Highways Act 1980) if a pavement licence is capable of being granted under this Act (s115E(1) amended and new s115E(5) inserted in the Highways Act 1980).
- 3.3. Existing Licence holders can retain their licences granted under the temporary regime until this new policy is put in place and new licences are issued.
- 3.4. Once a new pavement licence is granted by the local authority, the premises will benefit from deemed planning permission for the furniture for the duration of the pavement licence.

- 3.5. We would propose to introduce a public register and a new requirement for licence holders to display their licence prominently to provide consumers with more information and signposting as to where to make a complaint (Licensing Team) if the furniture becomes an obstruction.
- 3.6. There are no further options for consideration as the change in legislation and expiry of licences under the temporary regime force us to adopt a new policy in line with the new legislation.

4. Contribution to Strategic Aims

- 4.1. This policy and its implementation contribute to the following strategic aims in the Council's Corporate Plan 2022-25:
 - Thriving Communities.
 - Inclusive Economy
- 4.2. The aim of the policy is to find a balance between securing the safety and amenity of our residential and business communities and responsibly maintaining and developing Reading's role as a major economic, entertainment and cultural centre.
- 4.3. In line with the digital transformation progress we will ensure these licences may be applied for online utilising our new Arcus database.
- 4.4. The proposals herein represent best value for our customers in that, despite maximising income by setting some of the licence fees at the maximum level, we have introduced a tiered approach to charge less than the statutory maximum to allow smaller businesses a fair fee, and allows economic benefits for businesses to expand their offering by utilising outdoor seating spaces.
- 4.5. This policy supports thriving communities by ensuring services can be provided where people can come together and socialise to eat and drink in a safe and managed place, improving public health and well-being through access to fresh air.
- 4.6. This policy also co-exists with and sits alongside our [Street Trading Policy 2023-2028](#).
- 4.7. For any business which holds a premises licence which covers any licensable activities (for example sale of alcohol, performance of live music, or provision of late-night refreshment), then the [Statement of Licensing Policy 2023-2028](#) will also continue to apply to them.
- 4.8. The fees are set alongside all other fees administered by the licensing Team, all of which go through Policy Committee.

5. Environmental and Climate Implications

- 5.1. There are no specific environmental or climate implications to this policy.
- 5.2. There are currently 46 business with a pavement café licence within the Reading Borough.
- 5.3. The number of tables and chairs permitted under current licences vary from just 1 or 2 tables for small business to 55 tables and 220 chairs for a large on-licensed premises in Friar Street. Appendix 2 is a spreadsheet showing the numbers of tables and chairs currently licensed by businesses.
- 5.4. Climate impact assessment is attached as Appendix 5.

6. Community Engagement

- 6.1. For expediency, consultation is not recommended for this particular policy as it only affects a small number of businesses who already have a pavement cafe licence with us, and it doesn't impact the general public directly.
- 6.2. There is no statutory requirement to hold a public consultation.

7. Equality Implications

- 7.1. Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to -
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.2. An Equality Impact Assessment (EqIA) is relevant to this decision and has therefore been completed to ensure due consideration, management and mitigation of effects from placement of tables and chairs in walkways in respect of blind and sight impaired people, and mobility aided people. The EqIA is included alongside this report as Appendix 3.

8. Other Relevant Considerations

- 8.1. In respect of GDPR, transparency of information and freedom of information implications we will require licence holders to publicly display their pavement licence, and we will seek their consent to hold/publish a public register on the Reading Borough Council website. This is an enhancement towards transparency.

9. Legal Implications

- 9.1. Enforcement: Under the Council's general scheme of officer delegation, all non-key decisions which do not require a committee decision are by default delegated to the relevant Assistant Director. The Levelling Up and Regeneration Act 2023 (LURA) section 229 and schedule 22, clarify the Council's enforcement powers, which include adding conditions to licences, and the ability to seize unauthorised tables/chairs. The intention is for the Assistant Director to delegate those functions to an operational officer level to carry out this work, subject to approval and following sign-off from a Principal Officer or Group Manager.

10. Financial Implications

- 10.1 Appendix 2 demonstrates the immediate financial implications when we renew the licences which have just lapsed. Appendix 4 is the completed template for financial implications. Revenue implications are also set out in the table below for easy. Please refer to Appendix 4 for further detail.

	2023/24 £000	2024/25 £000	2025/26 £000
Employee costs		No changes.	
Other running costs			
Capital financings costs			
Expenditure			
Income from: Fees and charges (As set out in Appendix 2)	£5230	£6870	

			(£6870 + 4% inflationary increase)
Total Income			
Net Cost(+)/saving (-)		- £1640	

10.2 The proposal offers value for money in that several businesses are not going to face an increase of their licence fee on renewal, however we will increase income from a number of others by increasing the licence fee to the statutory maximum of £350 for renewals and £500 for new licences as described in the policy document (Appendix 1).

10.3 There is a financial risk that smaller operators may decide, faced with the prospect of an increase to the annual renewal fee, not to have any tables or chairs. This has been mitigated by introducing a tiered fee system to (currently) not inflict any increase to smaller businesses. We will monitor the effect it has on numbers of new applications and renewals so that if it becomes apparent on testing what the market will withstand we face declining income then we will readjust the fee levels.

10.4 The fees are being set as part of a financial recovery plan report going to Policy Committee, so a decision on them is not required as part of this committee report, information is being provided on them so that it may be noted. [This is a link to the report.](#)

11. Timetable for Implementation

11.1 Once the policy and fee levels are agreed we will start processing the renewals, put in place the higher charges for new applications, update the information on the Council website and notify the licensees of the new licence conditions. This will be completed by the end of November.

12. Background Papers

12.1 There are none.

Appendices

1. Proposed Street Pavement Cafe Policy 2024 to 2029
2. Table demonstrating, for current licence holders, the changes to the renewal fees and aggregated income
3. Equality Impact Assessment
4. Financial Implications Assessment
5. Climate Impact Assessment