

Crawley Borough Council

Minutes of Licensing Committee

Monday, 5 August 2024 at 7.00 pm

Councillors Present:

I Ashraf (Chair)

K L Jaggard (Vice-Chair)

M L Ayling, T G Belben, B J Burgess, C M Burke, S Bushnell, D Crow, J Hart, N Hilton, I T Irvine,
M G Jones, Y Khan, A Nawaz and B Noyce

Officers Present:

Georgina Bouette Head of Community Services

Kareen Plympton Health, Safety and Licensing Manager

Jess Tamplin Democratic Services Officer

Astrid Williams Senior Lawyer (Solicitor)

1. Disclosures of Interest

The following disclosures of interests were made:

Councillor	Item and Minute	Type and Nature of Disclosure
Councillor Nawaz	Pavement Licence Policy (minute 6)	Personal Interest – has an interest in a business in Crawley town centre.

2. Minutes

The minutes of the meeting of the Licensing Committee held on 18 June 2024 were approved as a correct record and signed by the Chair.

3. Licensing Sub-Committee Minutes

The minutes of the Licensing Sub-Committee held on 12 February 2024 (applications for the review and variation of the premises licence at Mon Ami, 20 Broad Walk, Northgate, Crawley, RH10 1HQ) were approved as a correct record and signed by the Chair.

4. Licensing Sub-Committee Minutes

The minutes of the Licensing Sub-Committee held on 24 April 2024 (application for the review of the premises licence at Best One, 4 The Broadway, Northgate, Crawley, RH10 1DS) were approved as a correct record and signed by the Chair.

5. Public Question Time

There were no questions from members of the public.

6. Pavement Licence Policy

The Committee considered report [HCS/081](#) of the Head of Community Services. The Health, Safety and Licensing Manager presented the report which set out the draft policy for the determination of pavement licences, which would allow local businesses to provide street furniture outside their premises. Local authorities had been temporarily responsible for the provision of this function since 2020, but in March 2024, the Business and Planning Act 2020 (as amended by the Levelling Up and Regeneration Act 2023) had transferred this power to local authorities permanently. The implementation of a permanent policy was now required, including the fees to be charged for the application process. The Committee was asked to consider and approve the proposed policy and associated fee structure set out in the report.

The Committee then discussed the matter. There was general support expressed for the policy itself and for the implementing of a two-year licence term, but mixed views were offered about the fees proposed. Some Committee members believed that the fee structure should be stepped, with businesses paying different rates based on certain criteria (for example, the size of the outside space to be licensed or the rateable value of the premises) rather than the proposed 'one size fits all' approach. It was agreed that this alternative proposal may be more complicated to implement, but some felt that the priority was to create a fairer fee structure that did not penalise small businesses by charging them the same rates as larger businesses – smaller businesses were more likely to have less space and fewer outside tables, meaning fewer customers and less income as a result of their pavement licence – but they would pay the same as a larger business which would see greater benefit from the licence. It was considered important that smaller businesses not be put off from applying due to fees which they may deem unfair or excessive.

Some Committee members highlighted the importance of the licensing service being cost-neutral. If the fees were to be reduced (via a stepped approach), and an applicant's fee was lower than the cost of administering their licence, the Council would take on the shortfall and this would create a deficit within the service. The proposed fees set out in the report ensured that the actual costs were covered. The Licensing Manager also explained that businesses had reported how vital outside areas were to their success – the increase in covers/footfall due to the provision of street furniture generated substantial income. The proposed fees reflected this.

Officers were asked to further explain how the proposed fees were calculated. It was explained that Appendix B to the report gave a breakdown of the costs of providing the service and the proposed fees covered these costs. The fees charged by neighbouring

local authorities, which were set out at Appendix C, had also been taken into account. It was noted that the proposed initial fee equated to less than £21 per month – some Committee members believed this was good value to allow a business to utilise an outside area to increase business, while others believed it may be a more substantial cost for smaller businesses. It was estimated that approximately 14 officer hours would be required for the processing and maintaining of one new pavement licence application, which would be the same regardless of the size of the business. The rate at which the calculations were based on included the hours of a number of officers at various levels of seniority.

The following matters were also discussed:

- The proposed fees were at the maximum rate set by the Government, but were chargeable for a two year licence period rather than a one year period. This therefore equated to a monthly cost of half of the maximum possible fee.
- Officers were asked whether any consultation on the proposed fees had been carried out. It was confirmed that there was no statutory requirement to go to consultation before setting the fees, but the matter had been raised at a recent Pubwatch meeting at which many local businesses were in attendance. No feedback was offered.
- A Committee member asked whether a payment plan could be established for applicants who were not able to pay the entire fee on application. The Licensing Manager explained that managing monthly repayment plans would create a much greater administrative burden on the Licensing team and therefore would lead to higher costs. As well as this, the legislation set out that any application should be accompanied by the fee, paid in full.
- A concern was raised that if an application was refused by the Council, the accompanying fee would not then be refunded to the premises. Officers confirmed this was the case but assured the Committee that they worked closely with businesses in the pre-application period to ensure their application would be compliant as far as possible.
- It was confirmed that licences are not transferable – if a business was sold, an application for a new licence would be required.
- A Committee member highlighted that the equality impact assessment stated that no complaints had been received about the street furniture currently licensed at premises throughout the town, in terms of the impact on people with disabilities. A concern was raised that a lack of complaints was not an accurate means of concluding that the policy did not impact those with disabilities. The Licensing Manager confirmed that the policy complied with the national mandatory conditions set out in Government guidance, which included requirements on minimum footway widths and clear routes of access to assist those with reduced mobility. The policy was a continuation of the existing regime and the disability standards had not been changed or removed. If complaints were received, these would be responded to and investigated.
- The Committee discussed the previous financing of the policy, which had in part, since 2020, come under the Government's 'new burdens' doctrine. Local authorities had provided feedback that the previous £100 fee had not covered the costs of fulfilling the service, which had led to the Government amending the maximum fees to £500/350 for a new licence/renewal respectively.
- Officers and Committee members agreed that there could be further promotion of the pavement licence regime in order to inform and attract more businesses to apply for a pavement licence and to secure compliance. The Licensing team was now fully staffed so there was more capacity to action this.

It was then proposed by Councillor Jones that the recommendations be amended – that recommendation (a) be removed and recommendation (c) be amended as follows:

- c) That the Licensing Committee amends the Pavement Licence Policy as included at Appendix A to report HCS/081 **(with the exception of the figures in paragraph 3.2), subject to delegating the final decision on the fees outlined in the policy to the Head of Community Services (in consultation with the relevant Portfolio Holder and the Chair of the Licensing Committee), subject to the considerations raised at the Committee meeting on 5 August 2024, such as the size of the business and the benefit derived from the licence to be issued.**

The Licensing Manager requested further details about this amendment, to which Councillor Jones suggested that the differential rates could be based on the size of the outside area that the business sought to use. Legal and procedural advice was provided by the officers present in order to ensure the amended recommendations were in line with legislation and the Council's Constitution. The amendments were seconded by Councillor Noyce and the Committee moved to a vote on the amendments, which were agreed.

The Committee then moved to a vote on the full recommendations (as amended).

RESOLVED

That the Committee:

- a) Agrees that where it is appropriate to grant a Pavement Licence, that it is ordinarily granted for a period of two years.
- b) Amends the Pavement Licence Policy as included at Appendix A to report HCS/081 (with the exception of the figures in paragraph 3.2), subject to delegating the final decision on the fees outlined in the policy to the Head of Community Services (in consultation with the relevant Portfolio Holder and the Chair of the Licensing Committee), subject to the considerations raised at the Committee meeting on 5 August 2024, such as the size of the business and the benefit derived from the licence to be issued.

Closure of Meeting

With the business of the Licensing Committee concluded, the Chair declared the meeting closed at 8.33 pm.

I Ashraf (Chair)