

Monday 10 June 2024

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## LICENSING COMMITTEE

You are summoned to a meeting of the Licensing Committee which will be held in Committee Room 1, Council Offices, Woodgreen, Witney, Oxfordshire OX28 1NB on **Tuesday 18 June 2024** at **10.00am**.



Giles Hughes  
Chief Executive

To: Members of the Licensing Committee

Councillors: Mark Walker (Chair), David Jackson (Vice-Chair), Jane Doughty, Edward James, Dan Levy, Andrew Lyon, Paul Marsh, Martin McBride, David Melvin, Sandra Simpson and Tim Sumner.

Recording of Proceedings – The law allows the public proceedings of Council, Executive, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted. By participating in this meeting, you are consenting to be filmed.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Democratic Services officers know prior to the start of the meeting.

# AGENDA

1. **Apologies for Absence**  
To receive any apologies for absence.
2. **Declarations of Interest**  
To receive any declarations from Members of the Committee on any items to be considered at the meeting.
3. **Minutes of the Previous Meetings (Pages 3 – 14)**  
To approve the minutes of the previous meetings held on 29 August 2023 and 22 May 2024, and also approve previous meeting minutes of the Licensing Panel on 18 January 2024 and 16 May 2024.
4. **Participation of the Public**  
To receive any submissions from members of the public, in accordance with the Council's Rules of Procedure, anyone who lives in the district or who pays council tax or business rates to the Council is eligible to read a statement or express an opinion at this meeting. You can register to speak by sending your written submission of no more than 750 words to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by no later than 10.00am on the working day before the meeting.
5. **Business and Planning Act 2020 – Update to Pavement Licensing Regime (Pages 15 – 34)**  
Purpose:  
To provide a draft Pavement License Policy Document for approval following the Levelling Up and Regeneration Act making permanent the pavement licensing regime.  
Recommendations:  
That the Licensing Committee Resolves to recommend to Council to:
  1. Approve the draft policy, subject to any further amendments; and
  2. Approve the new fees as detailed in paragraph 3.3 of the report.

(END)

# Public Document Pack Agenda Item 3

## WEST OXFORDSHIRE DISTRICT COUNCIL

Minutes of the meeting of the

### **Licensing Committee**

Held in Committee Room 1 at 12.00pm on **Tuesday, 29 August 2023**

### PRESENT

Councillors: Mark Walker (Chair), Jeff Haine, David Jackson, Andrew Lyon, David Melvin, Lysette Nicholls and Sandra Simpson.

Officers: Alex Kirk (Lawyer) and Alison Gardner (Licensing Team Leader), Michelle Ouzman (Democratic Services Officer) and Maria Harper (Democratic Services Assistant).

Other Councillors in attendance: None.

### **13 Apologies for Absence**

Apologies for absence were received from Councillors Jane Doughty, Edward James, Mathew Parkinson and Tim Sumner.

### **14 Declarations of Interest**

There were no declarations of interest received.

### **15 Minutes of Previous Meeting**

The Chair informed the Committee that he was only present at one of the meetings but was happy to be guided. Councillor Nicholls proposed that both sets of minutes were a correct record of the meetings, Councillor Dave Jackson seconded the proposal which was put to the vote and carried unanimously. The Chair signed both sets of minutes as a correct record.

The Committee **Resolved** to:

1. Approve the minutes of the meeting held on 22 September 2022;
2. Approve the minutes of the meeting held on 24 May 2023.

### **16 Participation of the Public**

There were no participation of the public.

### **17 Business and Planning Act 2020 - Extension to Pavement Licensing Regime**

Alison Gardner, the Licensing Team Leader, introduced the draft policy document for approval, following the extension of the current pavement licensing regime to 30 September 2024. Currently there were 14 pavement licences in place, these were also funded from the Council Priority Fund held by Cllr Duncan Enright and that he was happy to continue to do so for a further year. This would mean that the £100 cost to the applicant would be offset from the Council Priority Fund, and the applicant would therefore not be charged.

The Licensing Team Leader concluded that the policy changes were minor, Members were asked to consider the draft policy, approve the draft policy subject to any further amendments made, and agree the fee charged for 2023/2024.

The Chair thanked the Licensing Team Leader and asked Members if they had any questions. Members debated the policy and fee, discussing the following items:

- The Council Priority Fund;
- Was the Priority Fund County or District;
- What was the upper limit to the Council Priority Fund.

Licensing Committee

29/August2023

Following the debate the Chair requested that the Licensing Team Leader sought clarity on the Council Priority Fund:

- a) Was the Priority Fund a District or County;
- b) What was the upper limit of the fund, would it cover a significant increase of licence applications.

The Licensing Team Leader agreed to get back to the Committee direct via email once she had the information they requested.

The Chair thanked the Licensing Team Leader and suggested that the Committee Members considered the policy and the recommendations.

Councillor Sandra Simpson proposed that the Committee approve the draft Pavement Licencing Policy, subject to any further amendments made, and agree the fee charged for 2023/2024. Councillor Jeff Haine seconded the proposal, which was put to the vote and carried unanimously.

The Committee **resolved** to:

1. Approve the draft Pavement Licensing Policy, subject to any further amendments made.
2. Agree the fee charged for 2023/2024.

The Meeting closed at 12.14pm

CHAIR

## WEST OXFORDSHIRE DISTRICT COUNCIL

### Minutes of the meeting of the **Licensing Committee**

Held in the Council Chamber, Council Offices, Woodgreen, Witney, Oxfordshire OX28 1NB  
at 2.35 pm on **Wednesday, 22 May 2024**

#### PRESENT

Councillors: Mark Walker (Chair), David Jackson (Vice-Chair), Julian Cooper, Jane Doughty, Edward James, Sandra Simpson and Tim Sumner

Officers: Andrew Brown, Business Manager Democratic Services, Christine Elsasser, Interim Democratic Services Officer

#### **I Election of Chair**

The Chair of the Council, Councillor Elizabeth Poskitt, opened the meeting.

The Licencing Committee would be comprised of the following Members:

Councillor David Jackson;

Councillor David Melvin;

Councillor Paul Marsh;

Councillor Tim Sumner;

Councillor Dan Levy;

Councillor Jane Doughty;

Councillor Edward James;

Councillor Martin McBride;

Councillor Mark Walker;

Councillor Andrew Lyon;

Councillor Sandra Simpson.

The Chair of the Council requested nominations for position of the Chair of the Licensing Committee. Councillor Mark Walker was proposed as the Chair of the Licensing Committee and the vote was carried.

Council **Resolved** to:

- I. Appoint Councillor Mark Walker to the position of the Chair of Licensing Committee for the municipal year 2024/2025.

#### **2 Election of Vice Chair**

The Chair of Licensing, Councillor Mark Walker, requested nominations for the position of the Vice Chair of the Licensing Committee. Councillor David Jackson was proposed as the Vice Chair of the Licensing Committee and the vote was carried.

Council **Resolved** to:

- I. Appoint Councillor David Jackson to the position of the Vice Chair of the Licensing Committee for the municipal year 2024/2025.

Licensing Committee

22/May2024

**3 Apologies for Absence**

Apologies were received from Councillors Andrew Lyon and David Melvin.

**4 Appointment of Licensing Sub Committees**

The Chair of the Committee, Councillor Mark Walker, proposed that Council agree the appointments to the Miscellaneous Licencing Sub – Committee and it was unanimously agreed by Council.

Council **Resolved** to:

1. Appoint the following Councillors to the Miscellaneous Licensing Sub – Committee:
  - David Jackson;
  - David Melvin;
  - Edward James;
  - Andrew Lyon;
  - Sandra Simpson.
  
2. Note that the Licensing Panel membership would comprise of the Chair or Vice Chair of the Licensing Committee and two other Members of the Licensing Committee drawn on an alphabetical rota basis from the remaining Members of the Licensing Committee (subject to their availability and completion of licensing training prior to participation in a Licensing Panel meeting).

The Meeting closed at 2.37 pm

CHAIRMAN

WEST OXFORDSHIRE DISTRICT COUNCIL

Minutes of the meeting of the  
**Licensing Panel**

Held in the Committee Room 1, Council Offices, Woodgreen, Witney, Oxfordshire  
OX28 1NB at 10.00 am on **Thursday, 18 January 2024**

PRESENT

Councillors: Mark Walker (Chair), David Jackson, Julian Cooper and Jane Doughty.

Officers: Andrea Thomas (Licensing Officer), Kevin Dunford (Licensing Officer), Marianne Garrett (Senior Environmental Health Officer), April Paintain (Environmental Health Officer), Sara Anthony (Legal Executive).

Other Councillors in attendance: Nil.

**19 Apologies for Absence**

There were no apologies for absence.

**20 Declarations of Interest**

There were no Declarations of Interest.

**21 Minutes of Previous Meeting**

The minutes of the previous meeting were deferred to the Licensing Committee for approval.

**22 Application for a New Premises Licence - The Wilderness Festival, Cornbury Park**

The Chair Councillor Mark Walker welcomed everyone to the hearing and introduced the Panel in attendance, Councillors Cooper and Doughty.

The Chair asked for the Officers in attendance to introduce themselves, Andrea Thomas introduced herself as the Licensing Officer, Kevin Dunford introduced himself as the Licensing Officer, Marianne Garrett introduced herself as the Senior Environmental Health Officer, April Paintain introduced herself as the Environmental Health Officer, Sara Anthony as the Legal Executive and Anne Learmonth introduced herself as Strategic Support Officer.

Following introductions, the Chair asked those who wished to speak that were in attendance to introduce themselves.

Simon Taylor, Solicitor, on behalf of the Applicant.

Emma Kirby, Festival Manager, on behalf of Applicant.

Harry Lang, Vanguardia Accoustic Consultant, on behalf of Applicant.

The Chair outlined the process the hearing would follow and explained that the Panel would be advised by the Council's Legal Adviser, and Committee Clerk (the Strategic Support Officer).

Licensing Panel

18/January2024

The Chair reminded all parties to highlight only issues that related to Licensing Objectives, being:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm;

The Chair announced that the Panel were in attendance to consider an application for a new premises licence made by MAMA Festivals Limited for the Wilderness Festival at Cornbury Park.

The Licensing Officer, Andrea Thomas, outlined the application for a new premises licence made by MAMA Festivals Limited in regard to the Wilderness Festival at Cornbury Park. The Officer confirmed that there had been amendments to Annex D as follows;

- the main stage would not be in operation on Thursday and would only operate between the hours of 10am and 11pm on Friday, Saturday and Sunday. The site would open at 8am on Thursday and close at 4pm on Monday.

The Panel was asked to consider the application and to determine whether to:

- Grant the application as requested;
- Grant the application subject to such conditions that are necessary to promote the licensing objectives;
- Refuse the application in whole or in part where it is necessary in order to promote licensing objectives.

The Chair then invited Simon Taylor to address the Panel.

Simon Taylor addressed the Panel and gave an outline of the application by focusing on key points; background to the festival, the application, structure and planning, response from authorities and residents' comments.

- The Wilderness Festival had been running from 2011 as an arts and music festival. The attendance included a demographic age range from 35 – 50+, with a focus on families and was widely attended. There was a focus on music, food and drink, theatre and arts. The festival offered day passes and camping facilities from Thursday to Monday for weekend passes. Passes for local residents from two postcode areas were discounted.
- The 2019 licence was used as a template for this application. The length of the licence was for 5 days, which were broken down over individual days and times. The new application made two changes in timings. On page 41, Annex D, timings on Thursday had been amended from 10pm to 11pm, amended to 11pm to midnight. The largest stage would be closed on Sunday. With these amendments the noise levels would be better managed over the duration of the days.



18/January2024

- Sound systems were reviewed each year and checks were ongoing by sound engineers during the day to monitor noise levels. Decibel levels were explained and how these levels were managed to ensure reduction of noise within the later hours of the festival. The largest indoor stage would be closed on the Sunday, by closing this stage the off-site noise impact would be significantly reduced. Work would be done with Vanguardia and independent acoustic consultants throughout the duration of the festival. Local residents would be encouraged to contact a 'hotline' with any concerns or complaints, and these would be responded to promptly.
- Suggestions had been taken on from the Police, Fire and Ambulance services. Also there had been an improvement fed into the traffic management plan which included the use of traffic lights, train shuttle, improved signage, increased external staffing and liaising with local taxi firms with a pre-agreed route.
- There had been an expanded consultation with local residents and Parish Councils through meetings, letter drops, local forums and groups for residents and the provision of up to date information via the Wilderness website. Also, information regarding the festival to be provided for local councils to distribute and display.

The Chair invited questions from the Panel, which raised the following points:

- The Panel asked how long the licence would be in place for. Andrea Thomas, ERS Officer advised that the length of the licence would be dependant on the life of the business, objections from authorities and any breeches of conditions which would result in a review of the licence. Simon Taylor added that the festival had been running for 11+ years which provided the Panel with assurance as to how well managed the festival had been over previous years.
- The Panel questioned the robustness of the helpline and complaints process and how this would work. Emma Kirby, Festival Manager, confirmed that noise levels would be monitored. The Local Council would advise residents that there is a 24 hour residents' helpline and there would be an offsite monitoring team to support and deal with complaints.
- The Chair asked if there would be more engagement with the local communities and reduced rates to provide access for residents who were less able to afford the ticket process. The Festival Manager confirmed the availability to discounted day tickets for residents within the postcode OX29. In addition, local projects had been supported in the past by the event.

In Summary Simon Taylor invited the Panel to grant the licence as applied for and to include the amendment on page 41, Annex D, timings on Thursday which had been amended from 10pm to 11pm, amended to 11pm to midnight.

The Panel retired to determine the application.

The Panel returned and advised that they had considered all of the case papers and had taken into account what had been said during the hearing. They had listened carefully to Simon

Licensing Panel

18/January2024

Taylor, Emma Kirby and Harry Lang, the representations of the interested parties, and considered the Council's licensing policy and objectives.

The Panel agreed that the application was robust and had demonstrated that feedback from the festival being run in previous years had been taken on-board including residents' concerns. The Panel was confident to accept the submission of the Applicant and that they would adhere to the conditions laid out in the licence.

The Panel **Resolved** to:

- I. Grant the application as requested.

The Meeting closed at 11.40 am

CHAIR

## WEST OXFORDSHIRE DISTRICT COUNCIL

### Minutes of the meeting of the **Licensing Panel**

Held in the Council Chamber, Council Offices, Woodgreen, Witney, Oxfordshire OX28 1NB  
at 1.00 pm on **Thursday, 16 May 2024**

#### PRESENT

Councillors: David Jackson, Edward James, Andrew Lyon and Sandra Simpson (Reserve)

Officers: Helen Blundell as the Legal Officer (Interim Head of Legal), Andrea Thomas (Licensing Officer), Marianne Garrett (Senior Environmental Health Officer), April Paintain (Environmental Health Officer), Andrew Brown (Business Manager, Democratic Services), and Christine Elsasser (Democratic Services)

#### **23 Apologies for Absence**

There were no apologies for absence received.

#### **24 Declarations of Interest**

There were no declarations of interest received.

#### **25 Minutes of Previous Meeting**

The minutes of the previous were deferred to the Licensing Committee for agreement /approval.

#### **26 Application for a new Premises Licence -The Bull Charlbury Ltd, The Bull Charlbury, Sheep Street, Charlbury**

The Vice Chair Councillor David Jackson welcomed everyone to the hearing and introduced the Panel in attendance which consisted of Councillors Edward James and Andrew Lyons. Councillor Sandra Simpson was on hand as the reserve.

The Chair asked for the Officers in attendance to introduce themselves, Andrea Thomas introduced herself as the Licensing Officer, Marianne Garrett introduced herself as the Senior Environmental Health Officer, April Paintain introduced herself as the Environmental Health Officer, and Helen Blundell as the Legal Officer (Interim Head of Legal).

Following introductions, the Chair asked those who wished to speak that were in attendance to introduce themselves.

Will Robinson, Solicitor, on behalf of the Applicant along with James Gunner, Philip Winser and Dan Viney introduced themselves.

Mr Adam Leach introduced himself as an objector to the application and Mr Andy Pickard introduced himself as a supporter to the application.

The Chair outlined the process the hearing would follow and explained that the Panel would be advised by the Council's Legal Adviser, and Committee Clerk (the Interim Democratic Services Officer).

The Applicant's representative summarised how they sought flexibility with the application and that various conditions had been agreed. They explained how they were willing to work with the local residents on various issues and concerns they had and they outlined other conditions that had been already agreed including a Noise Management Plan, no expansion of alcohol sale times, and assurances of limited events.

16/May2024

It was explained that monitoring was a condition of the licence and therefore the staff would record and log all events to ensure they did not exceed the agreed limit of 15 events per calendar year.

Mr Leach spoke against the application and suggested that his concern was the noise from the music and that the efforts of reassurance were appreciated but not compelling. Furthermore, he felt that if a licence were to be granted there would need to be strict and enforceable limits on the volume of the music when it was played. He added that responsiveness to complaints needed to also be a condition.

Mr Pickard spoke in favour of the application and suggested that Chalbury was busier and more vibrant than it had ever been and that residents needed to embrace and enjoy the change. There were various camp sites and hotels that were thriving in the area and he felt that the pub management at the Bull, were professional and supportive of the community which was why he supported the application.

The Environmental Health Officer explained how complaints were dealt with and that residents could contact the Council directly if they had issues. This could be done in real time via the noise application which recorded noise and the time through a live submission. They reiterated that Licence Holders were held to account of their conditions, and they could be served notice if they abated the nuisance which was considered a serious breach.

The Applicant's representative thanked Mr Leach for his measured speech and constructive engagement. However, he explained there was no extension of the music into the garden and that the licence was simply having extra and new controls which were enforceable.

The Panel retired to determine the application.

The Panel returned and advised that they had considered all of the case papers and had taken into account what had been said during the hearing.

The decision was as follows based on the 13 conditions and according to the redlines and noise management conditions issued. These were as follows on page 61 of the agenda pack:

1. This premises licence shall have no effect until a Noise Management Plan (the "Plan") for the premises has been submitted to (and approved in writing by) the Licensing Authority. A copy of the Plan shall be kept on the premise and be made available to an authorised officer on request. Any revisions to the Plan shall be submitted to (and approved in writing by) the Licensing Authority within 14 days of the revision. (As proposed by Environmental Protection.)
2. Use of the designated outdoor seating area is prohibited past 23:00 on any day. (As proposed by Environmental Protection.)
3. Any recorded music played through speakers positioned outside shall be relayed through a sound limiting device set at a level which will not give rise to nuisance to nearby residents. The level of the sound limiting device shall be determined by and to the satisfaction of an authorised Environmental Protection Officer. Only the Premises Licence Holder and the Designated Premises Supervisor shall have access to the sound limiting device.
4. In the outside area, live music (other than carol singing) may only take place between 15:00 and 20:00 on a Saturday or Sunday, and at all times at the level that does not cause nuisance to nearby residents. Carol singing may take place outside until 21:00 on any day of the week in December.
5. No deliveries to the Premises shall take place between 22:00 and 07:00.

Licensing Panel


16/May2024

6. All staff shall be suitably trained for their job function in the operating standard for the premise. The training shall be under constant review. All Personal Licence Holders supervising the sale of alcohol shall hold a national recognised licensing qualification.
7. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
8. There will be no use of the outside areas after 23:00hrs.
9. There will be no regulated entertainment in any outside areas.
10. The Premises Licence Holder shall ensure that no nuisance is caused by noise emanating from the premises.
11. A telephone number for the manager at the premises shall be publicly available at all times the premises is open. The telephone number is to be made available to residents and businesses in the vicinity.
12. Prominent, clear notices shall be displayed at all exits and in the garden requesting customers to respect the needs of local residents and leave the premises and the area quietly.
13. This premises licence shall have no effect until premises licence W/23/00738/PRMDPS (or such other number subsequently issued for the premises) has been surrendered.

The Meeting closed at 2.07 pm

CHAIRMAN

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 <p><b>WEST OXFORDSHIRE DISTRICT COUNCIL</b></p>	<p><b>WEST OXFORDSHIRE DISTRICT COUNCIL</b></p>
<p>Name and Date of Committee</p>	<p><b>LICENSING COMMITTEE – 18 JUNE 2024</b></p>
<p>Subject</p>	<p><b>BUSINESS AND PLANNING ACT 2020 – UPDATE TO PAVEMENT LICENSING REGIME</b></p>
<p>Wards Affected</p>	<p>All</p>
<p>Accountable Member</p>	<p>Councillor Andy Graham – Leader of the Council. Email: <a href="mailto:andy.graham@westoxon.gov.uk">andy.graham@westoxon.gov.uk</a></p>
<p>Accountable officer</p>	<p>Jon Dearing – Assistant Director, Resident Services Email: <a href="mailto:jon.dearing@publicagroup.uk">jon.dearing@publicagroup.uk</a></p>
<p>Report Author</p>	<p>Mandy Fathers – Business Manager, Environmental, Welfare and Revenues Email: <a href="mailto:mandy.fathers@publicagroup.uk">mandy.fathers@publicagroup.uk</a></p>
<p>Summary</p>	<p>To approve a Draft Pavement Licence Policy document following the Levelling Up and Regeneration Act making permanent the pavement licensing regime.</p>
<p>Annexes</p>	<p>Annex A – Copy of Updated Pavement Licensing Policy</p>
<p>Recommendations</p>	<p>That the Licensing Committee recommends to Council to:</p> <ol style="list-style-type: none"> <li>1. Approve the draft policy, subject to any further amendments; and</li> <li>2. Approve the new fees as detailed in paragraph 3.3 of the report.</li> </ol>
<p>Corporate Priorities</p>	<p>Putting Residents First Working Together for West Oxfordshire Enabling a Good Quality of Life for All</p>
<p>Key Decision</p>	<p>YES</p>
<p>Exempt</p>	<p>NO</p>
<p>Consultees/ Consultation</p>	

## **I. EXECUTIVE SUMMARY**

- 1.1** This report introduces an amended Pavement Licensing Policy following The Levelling Up and Regeneration Act making the temporary pavement licensing regime permanent. Any new or existing applications made after 31 March 2024 must be dealt with under the new regime.

## **2. BACKGROUND**

- 2.1.** The Business and Planning Act 2020 (“the Act”) was introduced in 2020 to support various business sectors including hospitality. This Act included numerous temporary relaxations to existing legislations including the introduction of the Pavement Licensing regime which permitted businesses to apply to the Local Authority for a licence to use outside space to extend the trading area available for consumption of food and drink during the pandemic.
- 2.2.** The Levelling Up and Regeneration Act now makes permanent the Pavement Licensing regime under the Business and Planning Act 2020.
- 2.3.** West Oxfordshire District Council has a total of 15 licences across the District.

## **3. MAIN POINTS**

- 3.1.** Amendments have been made to the draft Policy to reflect the changes in legislation. These changes included:
- Increasing the minimum consultation period from 14 days to 28 days.
  - Expanding the licence validation from 12 months to 24 months.
  - Increasing the capped fees for a new licence from £100 to £500.
  - Introducing a renewal fee, capped at £350.
  - Enforcement powers to give notice to businesses without the required licence and enable the Council to remove and store furniture from the relevant highway and recover the costs from the business.
  - The ability to amend a licence in certain circumstances with the licence holder’s consent.
- 3.2.** For those licences already granted prior to 30 March 2024, these will remain valid until their expiration date on the licence of 30<sup>th</sup> September 2024. Once expired, businesses will need to apply for a new licence. If the application is made by the same licence-holder, in respect of the same premises, and is on the same terms as the expired licence, the Council will treat this as a renewal application.
- 3.3.** To ensure that the Council is reimbursed for the administration of this service a cost analysis has been undertaken. Proposals for the new costs for this service is as follows:
- New Licence Fee      £185.00
  - Renewal Fee            £150.00
- 3.4** The new licence fee will cover a period of 2 years and therefore equates to an overall reduction of £15 in the fees as a result of the cost based analysis.



#### **4. FINANCIAL IMPLICATIONS**

- 4.1. The licensing service should set fees on a cost recovery basis. The Council will not be reimbursed for any costs if no fee is set. Therefore if the Committee determines to not charge a fee then this work will need to be subsidised by the Council. Given the small number of licences issued by the Council, the increase in fee will not have a significant impact on forecast licensing income included in the 2024/25 budget and Medium-Term Financial Strategy.

#### **5. LEGAL IMPLICATIONS**

- 5.1. The legal implications are contained within the body of this report. The Licensing Committee holds the delegated powers for the amendment of the Policy and fee.

#### **6. EQUALITIES IMPACT**

- 6.1. Not directly applicable to this decision.

#### **7. CLIMATE CHANGE IMPLICATIONS**

- 7.1. There are no direct climate change implications arising directly from this report.

#### **8. ALTERNATIVE OPTIONS**

- 8.1. There are no alternative options.

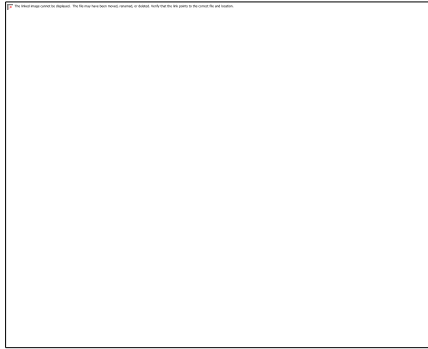
#### **9. BACKGROUND PAPERS**

- 9.1. The following documents have been identified by the author of the report in accordance with section 100D.5(a) of the Local Government Act 1972 and are listed in accordance with section 100 D.1(a) for inspection by members of the public:

- Licencing Committee 22 September 2022. Agenda Item 8
- Licensing Committee 29 August 2023.

- 9.2. These documents will be available for inspection online at [www.westoxon.gov.uk](http://www.westoxon.gov.uk) or by contacting democratic services [democratic@westoxon.gov.uk](mailto:democratic@westoxon.gov.uk) for a period of up to 4 years from the date of the meeting.

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# **West Oxfordshire District Council**

## **Pavement Licensing Policy**

Revised April 2024

## Contents

<b>Section 1</b>	<b>Introduction</b>	<b>3</b>
<b>Section 2</b>	<b>Scope</b>	<b>3-4</b>
<b>Section 3</b>	<b>Application and determination of Pavement Licence</b>	<b>4-8</b>
<b>Section 4</b>	<b>Conditions</b>	<b>9</b>
<b>Section 5</b>	<b>Enforcement</b>	<b>9-10</b>
<b>Section 6</b>	<b>Review Procedures</b>	<b>10</b>
<b>Appendix 1</b>	<b>Site Notice Template</b>	<b>11-12</b>
<b>Appendix 2</b>	<b>Standard Pavement Licence Conditions</b>	<b>13-15</b>
<b>Appendix 3</b>	<b>National Conditions</b>	<b>16</b>

## **I. INTRODUCTION**

The Business and Planning Act 2020 (“the Act”) was passed to promote economic recovery and growth in response to the economic impacts of the global Covid-19 pandemic. The Act included urgent provisions designed to make it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

Sections 1 to 10 of the Act created a temporary regime for the issuing of “pavement licences” by appropriate local authorities. West Oxfordshire District Council (“the Council”) is the appropriate local authority for issuing pavement licences in the administrative area covered by the Council.

The process introduced a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. The aim of the legislation was to support businesses to operate safely while social distancing measures remained in place and to provide much needed income over the summer months and protect as many hospitality jobs as possible.

The Levelling Up and Regeneration Act 2023 now makes permanent the provisions set out in the Act and all applications received after 31 March 2024 will be administered under the new regime.

## **2. SCOPE**

### **2.1. Definition of pavement licence**

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

### **2.2. Eligible Businesses**

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 licence. Eligible businesses include public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.

A licence permits the business to use furniture 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.

### **2.3. Eligible Locations**

Licences can only be granted in respect of highways listed in section 115A (1) of the Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicular access is restricted or prohibited. Highways maintained by Network Rail or over Crown land are exempt (so a licence cannot be granted).

## **2.4. Type of furniture permitted**

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable and related to the serving, sale and consumption of food or drink, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away at the end of the evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

## **2.5. Planning Permission**

If a pavement licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid and remains in force.

## **2.6. Existing tables/chairs**

The new pavement licence regime runs alongside the provisions in Part 7A of the Highways Act 1980, which remain in place.

Any existing permissions issued under Part 7A of the Highways Act 1980 remain valid.

Any existing tables/chairs that have been placed on the highway without permission under Part 7A of the Highways Act 1980 will require licensing under this regime.

## **3. APPLICATION AND DETERMINATION OF PAVEMENT LICENCES**

### **3.1. Submission of the Application**

An application for a Pavement Licence must be made to the Council on the appropriate form, and accompanied by:

- A plan showing the location of the premises marked by a red line, so the application site can be clearly identified
- A plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items of furniture to be placed on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- Photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied.

The applicant must also have public liability insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million before the licence can be utilised.

If a Traffic Regulation Order is required, the applicant must ensure that this permission is in place prior to applying for a Pavement Licence.

An application will not be considered complete (valid) until the application form and all required documents have all been received. The public consultation period will not commence until the day after a complete application has been made.

All expired licences will be treated as new applications. If a licence holder applies for a renewal before the expiration of the existing licence, this will be treated as a renewal. The applicant must advertise the application for a period of 14 days. If the application is for the same layout only a copy of the public liability insurance will be required. If there is a change to the original layout, all documents will be required (e.g. plan, photographs of furniture etc.). A fee will be due in both cases.

### **3.2. Fees**

The fee for applying for a new licence under the process is set locally but capped at £500. The Council has determined that the fee for new applications will be £185.

The fee for applying for a renewal licence is set locally but capped at £350. The Council has determined that the fee for renewal applications will be £150.

### **3.3. Consultation**

Applications are consulted upon for 14 days, starting on the day after a valid application is received by the Council.

The Council will publish details of the application on its public access register at [www.westoxon.gov.uk](http://www.westoxon.gov.uk)

The Council is required by law to consult with the Highway Authority. In addition, to ensure that there are no unacceptable detrimental effects arising from the application proposals the Council will consult with:

- West Oxfordshire District Council Planning teams
- West Oxfordshire District Council Food, Health and Safety team
- West Oxfordshire District Council Operations (Environmental Health) team
- Thames Valley Police
- Town/Parish Councils
- Ward Members

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

### 3.4. Site Notice

The applicant must, on the day the pavement licence application is made, fix a Notice of the application to the premises so that it is readily visible to, and can be read easily by, members of the public who are not on the premises. The Notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of the Site Notice requirement having been complied with must be supplied to the Council.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and the name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (14 days starting the day after the valid application is submitted to the Council).

A Site Notice template is shown as Appendix I.

### 3.5. Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposal:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and,
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
  - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
  - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
  - the impact on any neighbouring premises
  - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 4.2 of [Inclusive Mobility](#)
  - the cumulative impact of multiple pavement licences in close proximity to each other and if there is specific evidence that this may create a build-up of furniture in a particular area and potentially cause obstruction on the footway for certain pavement users, such as disabled people, and
  - other users of the space, for example if there are high levels of pedestrian or cycle movements.



Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the Council, and to take any issues around noise, and nuisance into consideration as part of the proposal. Discussions with neighbours should consider any plans neighbouring businesses have also to place tables and chairs on the highway and plans for customers to queue outside.

### 3.6. Determination

Once the valid application is submitted the Council has 28 days from the day after the application is made (excluding public holidays) to consult upon and determine the application. This consists of 14 days for public consultation, and then 14 days to consider and determine the application after the consultation end date.

If the Council determines the application before the end of the determination period it can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

If the Council does not determine the application within the 14-day determination period, the application will be deemed to have been granted.

The following are authorised to grant or refuse applications, and to revoke a Licence which has been granted:

<b>TABLE OF DELEGATIONS</b>	
Decision	Delegated to
Grant of an application where no objections have been received during the consultation period	Business Manager responsible for the Licensing Service or Licensing Team Leader
Grant or refusal of an application where objections have been received during the consultation period	Business Manager responsible for the Licensing Service or Licensing Team Leader, following consultation with the Chair of the Miscellaneous Licensing Sub-Committee
Revocation of a Licence	Business Manager responsible for the Licensing Service or Licensing Team Leader, following consultation with the Chair of the Miscellaneous Licensing Sub-Committee

### **3.7. Approval of Applications**

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement Licences between 08:00 and 22:00 hours. Applicants are encouraged not to apply to operate outside of these times.

Applications outside these hours will be assessed in terms of the criteria detailed above regardless of whether objections have been made or not. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

### **3.8. Licence Duration**

If the Council determines an application before the end of the determination period (which is 14 days, beginning with the first day after the public consultation period, excluding public holidays) the Council can specify the duration of the licence, subject to a minimum duration of three months.

The expectation from the Government is that Councils will grant licences for 24 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space. As such, the Council will normally grant applications for a two-year period.

If a licence is 'deemed' granted because the Council does not make a decision on an application before the end of the determination period, then the licence will be valid for two years starting on the first day after the determination period.

### **3.9. Refusal of Applications**

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against a decision to refuse an application.

A business may apply again after refusal but will have to make a new application and address the concerns raised in the original application.

## 4. CONDITIONS

The Council's standard conditions can be found at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case-by-case basis, and the Council will confirm the reasons why any additional conditions have been imposed.

The Act contains two national conditions that all granted and deemed granted licences must adhere to if the Council fails to publish their own conditions, or the published conditions fail to make provision for observing the national conditions. The two conditions are:

- a no-obstruction condition
- a smoke-free seating condition

The Council's published conditions make provision for these conditions, but for the sake of transparency, the national conditions are detailed in Appendix 3 to this document.

The Act also allows for the Secretary of State to produce, via Regulations, conditions for pavement licences, and to stipulate whether these conditions have effect as well as, or instead of, the conditions placed on a licence by the Council. If such conditions are created, this guidance will be amended to reflect them, and all licence holders will be notified of any changes this may create.

Where a Council sets a local condition that covers the same matter as set out in national conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

## 5. ENFORCEMENT

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. It remains the case that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing and social distancing controls. An applicant must ensure such permissions are in place prior to applying.

If a condition imposed on a licence either by the Council or via a National Condition is breached the Council will be able to issue a Notice requiring the breach to be remedied and the Council can take action to cover any costs.

The Council can give notice to businesses that have placed furniture on the relevant highway without the required licence. If furniture continues to be placed on the highway, in contravention of the notice, the Council may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture, and refuse to return the furniture until those costs have been paid. If within three months of the notice being served, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

The Council can amend a licence in certain circumstances with the licence holder's consent.

The Council may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a Remediation Notice has been issued) or
2. Where:
  - there are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;
  - the highway is being obstructed (other than by anything permitted by the licence);
  - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
  - it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
  - the applicant did not comply with the requirement to affix the Notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.
4. Any requests for revocation will be raised by the Officer and determined in consultation with the Chair of the Miscellaneous Licensing Sub-Committee

## **6. REVIEW PROCEDURES**

This Policy covers the Permission for Pavement Licences under the Business and Planning Act.

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement Licences generally, relevant social distancing measures or as a result of local considerations within the West Oxfordshire District.

**BUSINESS AND PLANNING ACT 2020**

**NOTICE OF APPLICATION FOR GRANT OF A PAVEMENT LICENCE**

I / We .....(1)

Do hereby give notice that on ..... (2)

I / we have applied to West Oxfordshire District Council for a pavement licence at:

.....  
..... (3)

known as..... (4)

The application is for:

.....  
..... (5)

Any person wishing to make representations to this application may do so by writing to [ers@westoxon.gov.uk](mailto:ers@westoxon.gov.uk) by:

..... (6)

The application and information submitted with it can be viewed at:  
[www.westoxon.gov.uk](http://www.westoxon.gov.uk)

Signed .....

Date ..... (7)

### Guidance notes on completing this notice of application.

Complete the notice by putting the following information in the numbered spaces:

- (1) Name of the applicant
- (2) Date the valid application is made (submitted)
- (3) Postal address of the premises
- (4) Name the premises is known by
- (5) Brief description of application (e.g. outdoor seating to the front of the premises for serving of food and drink]).
- (6) Last date for representations being the date 14 days after the date the valid application is submitted to the local authority (excluding public holidays)
- (7) The date the notice was placed (must be the same date as (2) above)

On the same day that the valid application is made, a completed copy of this notice must be fixed to the premises so that it is readily visible to, and can be easily read by, members of the public who are not on the premises. It should be secured so that the notice remains in place until the end of the 14-day public consultation period.

**Failure to comply with this requirement may lead to the revocation of any licence granted or deemed granted.**

### Standard Pavement Licence Conditions

Please note that these conditions are not an exhaustive list. Each application will be considered on its own merits and individual, specific conditions may be attached where deemed appropriate.

Where a licence is deemed granted, the applicant is deemed to be a 'licence holder' and is required to comply with all of the below conditions. In such circumstances, references to 'licensed area' should be understood to mean the area proposed for licensing within the application.

1. The licence holder must ensure that no activity undertaken by them by the placing of furniture on the highway will:
  - (a) prevent traffic, other than vehicular traffic, from:
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway,
  - (b) prevent any use of vehicles which is permitted by a pedestrian planning order, or which is not prohibited by a traffic order,
  - (c) prevent statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) prevent the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
2. The licence holder must ensure clear routes of access are maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in the Department for Transport's [Inclusive Mobility](#) document.
3. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted.
4. Permission to operate a pavement café does not imply an exclusive right to the area of public highway. The licence holder must be aware that West Oxfordshire District Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc. or any other reasonable cause. This may mean that the pavement café will need to cease operating and/or be removed for a period of time. On these occasions, there would be no compensation for loss of business.

5. Tables and chairs must not be placed in position outside of the permitted times of the pavement licence. All tables and chairs and other furniture must be stored securely inside a premises away from the highway outside of these times.
6. The licence holder must ensure that furniture is positioned in such a way so as to ensure compliance with the relevant Government guidance on social distancing that is in place at any particular time and that staff can service the space in a manner that does not compromise their health and safety or the health and safety of customers.
7. Unless another more restrictive condition has been attached to the licence in response to particular concerns raised during the public consultation period, the licence holder must not place any furniture on the highway in pursuance of this licence before 08:00 hours on any day and must remove all furniture placed on the highway in pursuance of this licence when the premises closes or by 22:00hrs on any day, whichever is the earliest.
8. The licence holder must at all times hold a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.
9. The area of the highway covered by the licence must be kept clean and tidy at all times. This will include washing down the area and removing any refuse and litter on the highway in the vicinity of the removable furniture.
10. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.
11. The licence holder is not to make or cause to be made any claim against the West Oxfordshire District or Oxfordshire County Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
12. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions (see Appendix 3).
13. The licensee should ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises, is minimised.
14. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
15. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc. will be recovered in full from the licence holder by West Oxfordshire District Council or the Highway Authority.



16. The premises must ensure that if alcohol is sold from the business that all necessary permissions under the Licensing Act 2003 are in place.
17. The licence must be displayed on the premises with a plan of the agreed layout of the pavement café.
18. West Oxfordshire District Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.
19. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that all of the above conditions are being adhered to.

## National Conditions

[All section references are to the Business and Planning Act 2020]

### No-obstruction condition

Section 5(5)

A “no-obstruction condition” is a condition that anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6):

Section 3(6)

The effects referred to in subsection (5) are-

- a) preventing traffic, other than vehicular traffic, from—
  - i. entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
  - ii. passing along the relevant highway, or
  - iii. having normal access to premises adjoining the relevant highway,
- b) preventing any use of vehicles which is permitted by a pedestrian planning order, or which is not prohibited by a traffic order,
- c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
- d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

### Smoke-free seating condition:

Section 5(6)

A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.