

Dear Members

Extraordinary Council Meeting

I hereby give notice that a **Virtual** Extraordinary meeting of the Council will be held using [Zoom](#) on **Tuesday 28 July 2020 at 7.00pm** to deal with the business as set out on the agenda.

To watch the meeting, please follow the instructions below:-

- 1 Log on to Zoom at <https://zoom.us/join>
- 2 Enter Meeting ID **870 3586 9326** when prompted
- 3 Enter Password **893336** when prompted

Or, to listen to the meeting, please call the following telephone number:-

0131 460 1196



Tim Clegg
Chief Executive

EXTRAORDINARY COUNCIL MEETING - 28 JULY 2020

MAYOR, COUNCILLOR GARETH JONES

A G E N D A

- | | | |
|---|--|-----------------|
| 1 | Approval of the Minutes of the meeting of Council held on 25 February 2020, as published in Digest No 265 on 6 March 2020 | |
| 2 | Apologies for Absence | |
| 3 | Declarations of Interest | |
| | | Page Nos |
| 4 | Waiver of 6 Month Councillor Attendance Rule | 3 - 5 |
| | The Mayor has considered that the following item contains urgent business in accordance with Section 100(B)(4)(b) of the Local Government Act 1972, because the Council will need to authorise officers to carry out functions in relation to legislation that has now been brought into force. | |
| 5 | New Pavement Licensing Scheme | 6 - 10 |

Chief Executive

Civic Centre
Riverside
Stafford
ST16 3AQ

ITEM NO 4

ITEM NO 4

Report of:	Head of Law and Administration
Contact Officer:	Ian Curran
Telephone No:	01785 619220
Ward Interest:	Nil
Report Track:	Extraordinary Council 28/07/20 (Only)

**EXTRAORDINARY COUNCIL
28 JULY 2020
Waiver of 6 Month Councillor Attendance Rule**

1 Purpose of Report

1.1 To prevent the disqualification of members who are unable to attend a meeting within a 6 month period due to the COVID-19 pandemic.

2 Recommendation

2.1 That, having regard to the impact of the Covid-19 pandemic, the requirements of section 85 of the Local Government Act 1972 be waived until 31st October 2020 for all members.

3 Key Issues and Reasons for Recommendation

- 3.1 Section 85, of the local Government Act 1972, automatically disqualifies a member from office if they fail to attend any meeting of the authority, within a consecutive 6 month period, unless the Council approves the reason for non-attendance.
- 3.2 The Covid-19 pandemic has resulted in the cancellation of a number of meetings since March. This has limited the ability of members to attend meetings during this time.
- 3.3 If the Council does not approve the Covid-19 pandemic as an acceptable reason for not attending meetings, then a number of members will be at risk of automatic disqualification from office.

4 Relationship to Corporate Business Objectives

4.1 Leading and delivering for our community.

5 Report Detail

- 5.1 Section 85 of the Local Government Act 1972 states that, “if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority”.
- 5.2 The current Covid-19 pandemic has resulted in the cancellation of the normal schedule of formal meetings. Although the holding of many meetings has now resumed, through the use of remote video technology, it is not anticipated that all previously cancelled meetings will be re-instated before at least the end of September 2020.
- 5.3 Although the pandemic has prevented a number of formal meetings taking place, it has in many cases increased the work of members in their individual wards. For example, many members were involved with the Borough Councils Community Hub operation that was helping provide food and other services to some vulnerable and isolating residents. The ward members are often the first port of call for residents within the community for advice on where they can get help and support on a range of issues, and to make sure they are signposted to the relevant authority, agency or organisation, which has been vital in protecting all sections of our community during the Covid-19 lockdown.
- 5.4 The last full Council meeting was held on 25 February. This means that most members will have needed to attend another meeting by 25 August at the latest. In fact, there is one member whose last meeting was actually 11 February, meaning they would need to attend another meeting by 11 August.
- 5.5 For those members whose meetings have not been re-instated by that time, there will not, therefore, be an opportunity for them to attend a formal meeting within 6 months of their last meeting. There is also the ongoing risk that illness may prevent a member from attending a future meeting, even if one is arranged in time.
- 5.6 The proposed waiver extension to 31 October 2020 would allow the normal calendar of meetings to be re-instated, and allow time for a further Council meeting to be held before then, to review the waiver, if necessary.
- 5.7 Should a waiver not be granted, any resulting vacancies would need to proceed to by-election in May 2021.

6 Implications

6.1 Financial	There would be a cost associated with any by-election held as a result of a members office becoming vacant.
Legal	As set out in the report
Human Resources	Nil
Human Rights Act	Nil
Data Protection	Nil
Risk Management	Nil

6.2 Community Impact Assessment Recommendations	<p>The Borough Council considers the effect of its actions on all sections of our community and has addressed all of the following Equality Strands in the production of this report, as appropriate:-</p> <p>Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.</p>
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Previous Consideration - Nil

Background Papers - Nil

ITEM NO 5

ITEM NO 5

Report of:	Head of Operations
Contact Officer:	Robert Simpson
Telephone No:	01785 619411
Ward Interest:	Nil
Report Track:	Extraordinary Council 28/07/20 (Only)

EXTRAORDINARY COUNCIL**28 JULY 2020****New Pavement Licensing Scheme**

The Mayor has considered that the following item contains urgent business in accordance with Section 100(B)(4)(b) of the Local Government Act 1972, because the Council will need to authorise officers to carry out functions in relation to legislation that has now been brought into force.

1 Purpose of Report

- 1.1 The Business and Planning Act 2020 amongst other things will create a new licensing scheme to allow premises to place tables and chairs and associated furniture outside of their premises under 'pavement licences'. This report sets out recommendations on the authorisation of officers to carry out the duties under the Act, and to authorise officers to produce policies and/or procedures.
- 1.2 Furthermore, the Act allows for a fee to be set for the issuing of Pavement Licence subject to a maximum of £100.

2 Recommendation

- 2.1 The Head of Operations is given delegated power to determine applications for licences under this legislation.
- 2.2 That the Head of Operations can delegate the power to determine applications for licences under this legislation to other officers in the Operations Service who have suitable knowledge, qualifications and experience of licensing regimes.
- 2.3 The Head of Operations is authorised to produce policies and procedures for the issuing of Pavement Licences.
- 2.4 The fee for the granting of a Pavement Licence is set at £100.

3 Key Issues and Reasons for Recommendation

- 3.1 The Business and Planning Act is likely to be in force by the time of the next Council meeting on 28 July 2020. This Act will enable applications to be made to the Council for pavement licences. The Council needs a mechanism in place for determining pavement licensing applications. This is a non-executive matter. It is recommended that this non-executive function is delegated to the Head of Operations owing to the expertise of dealing with licensing matters within this service and the need for decisions to be made within a strict timescale to avoid deemed approvals being granted.

4 Relationship to Corporate Business Objectives

- 4.1 To:
- (i) deliver sustainable economic and housing growth to provide income and jobs.
 - (ii) improve the quality of life of local people by providing a safe, clean, attractive place to live and work and encouraging people to be engaged in developing strong communities that promote health and wellbeing.

5 Report Detail

- 5.1 At the time of writing this report the Business and Planning Act is progressing through the parliamentary process. It is likely to receive Royal Assent before the next Council meeting on 28 July 2020.
- 5.2 The Act introduces a new licence – a ‘pavement licence’. Operators businesses selling food and drink may apply to their local authority for authorisation to put furniture such as tables and chairs on the highway adjacent to their premises to sell food and drink from and/or for their customers to use.
- 5.3 As the country emerges from lockdown, pavement cafes have assumed a new importance given the scientific evidence of a lower risk of spreading coronavirus outdoors. With the re-opening of restaurants, cafes, bars and public houses from 4 July 2020, the pavement licensing regime set out in the Business and Planning Act, will offer the hospitality sector a simpler administrative route to providing an outdoor environment for customers. The Government hopes this will give a boost to the hospitality sector, which is particularly badly hit by coronavirus, allowing premises to trade to as full an extent as possible given the constraints placed on capacity by social distancing.

- 5.4 The new licensing regime in the Act provides a fast track procedure for the grant of a pavement licence which bypasses the existing regulatory regimes. Trading pursuant to a pavement licence does not need a Highways Act permit; is deemed to have planning permission; and is not street trading for the purposes of street trading legislation.
- 5.5 Pavement licences are a temporary measure. No licence will extend beyond 30 September 2021 or on such a later date as the Secretary of State may prescribe (but no earlier).
- 5.6 The pavement licensing regime is operated by District Councils in Staffordshire, with a requirement to consult with Staffordshire County Council as the Highways Authority.
- 5.7 The grant of a pavement licence will not alter the permitted operational hours of premises on an associated planning permission or premises licence.
- 5.8 There can be an application fee of up to £100 for a pavement licence to cover the administrative cost of issuing the application, and the ensuring compliance. The maximum fee will mean that the Council will make a loss on these applications, because the fee cap does mean that we are not able to operate on a full cost recovery basis. Officers did consider whether recommending setting a lower fee to support business recovery was appropriate. However, we understand the majority, if not all Staffordshire LAs are going with £100 fee. It is considered that more suitable support to businesses be the length of time the licence is granted for to enable security and certainty. For this reason, officers are recommending the licences run until 30 September 2021. This reduces the burden on businesses having to renew a licence and reduces the time officers spend on this licensing regime.
- 5.9 The timescales for consultation and determination of a licence application are tight. The applicant must post a notice on the premises on the same day as the application is made. The notice must be in place for a consultation period of 7 days beginning with the day after the day the application is submitted. The Council must publish the application on its website and allow people to comment during the 7-day consultation period. The Council must consult the highway authority and 'such other persons as the local authority considers appropriate' (e.g. police, residential neighbours). The Council must determine the application within a period of 7 days beginning with the first day after the consultation period. If the Council does not determine the application within this period, the pavement licence will be deemed granted.
- 5.10 The Council can either grant the licence application, with or without conditions, or reject it. The Council must act reasonably in determining pavement licence applications in accordance with normal public law principles, e.g. it must have regard to relevant considerations and disregard irrelevant considerations.

- 5.11 It is noted that there is no formal route of appeal set out in the legislation. However, any appeals against a decision can be considered by the Council's Public Appeals Committee.
- 5.12 In determining the application, the Council will need to evaluate whether the proposal is reasonably acceptable in the particular location, having regard to the temporary nature of the licence and the objectives of the Act. The Council must take into account any representations received and will have regard to Government guidance.
- 5.13 It is recommended that the Council adopt a new policy to assist in processing applications and decision making. Adopting a policy enables the Council to include conditions that will manage the impact and help guide applicants on the suitability of proposals. It is recommended that the production of any policy and/or procedures is delegated to the Head of Operations and should follow Government Guidance, and emerging best practice.
- 5.14 Alternative options available to the Council.
 - 5.14.1 Council could decide not to delegate powers in relation to pavement licensing, or to delegate to a different officer or a Committee of the Council, or the Licensing Committee. This is not recommended owing to the tight timescales for processing of licence applications and deemed approvals in the event of failure to determine on time. The Council's licensing team, within the remit of the Head of Operations, supported by the Council's Legal Manager has the expertise to process and determine these applications.

6	Implications
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6.1	Financial	The Council can charge a fee of up to £100 per pavement licence application. This is unlikely to cover the full cost of administering the service.
	Legal	The function of determining these new licence applications will fall to the Council. The Council must decide how this function is exercised.
	Human Resources	None
	Human Rights Act	None
	Data Protection	None
	Risk Management	The risk of not accepting the recommendation is that the Council will not have in place an appropriate mechanism of determining applications for pavement licences, which must be determined within strict timescales to avoid deemed licences being granted without the merits of the proposals being properly assessed.

6.2 Community Impact Assessment Recommendations	The Borough Council considers the effect of its actions on all sections of our community and has addressed all of the following Equality Strands in the production of this report, as appropriate: Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
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Previous Consideration - Nil

Background Papers - Papers in Operations