

OFFICER DECISION RECORD

Implementation of the Business and Planning Act 2020

Officer: Pat Graham, Chief Executive	Service: Public Protection
Delegated Power Being Exercised/Subject of Decision: To implement matters arising from the Business and Planning Act 2020, which received Royal Assent on the 22 nd July 2020 and coming into force, in respect of certain provisions, immediately. The matter was considered by the Council's Executive on the 21 st July 2020. However a late amendment by the Lords on that date switching the function of pavement licences from being an executive to a non-executive function (such amendment being passed and confirmed by the Commons late on the 21 st July) means that the Executive decision is of no effect. Recommendation (e) contemplated this happening and stated that the Chief Executive would endorse any decisions made by the Executive. The decisions being made by this urgent action are therefore: (a) that the non-executive function of determining applications for a pavement licence in accordance with part 1 of the Business and Planning Act 2020 be delegated to the Public Protection Manager, such delegation to include setting up new process and determining standard (published) and specific conditions to be attached to a licence and duration of licence; (b) that no fee should be charged for an application made in respect of a pavement licence; (c) that a review against a refusal of an application by the Public Protection Manager be delegated to the Chief Executive in consultation with the Mayor who may then grant the application, if appropriate, and subject to such conditions as may be appropriate and for a specified duration; and (d) that enforcement of conditions attached to a pavement licence is delegated to both the Public Protection Manager and the Community Services Manager (and in respect of the latter, the Council's Enforcement Officers). The issues of pavement licences is a new function to the Council and not contemplated by the Council's constitution. The constitution allows the Chief Executive to make a decision on behalf of Council where it is outside policy/approved budgets, it is not practical to	

convene a quorate meeting of Council and the Chair of the Overview and Scrutiny Committee agrees the matter is urgent.

Background information:

The report to the Executive contains a full background and is available via this link – <https://copeland.moderngov.co.uk/documents/s9734/Business%20and%20Planning%20Bill%20-final.pdf>

Decision on urgency:

The Act, coming into force, does not coincide with meetings of the Council. The Bill went through Parliament as an executive function until the eleventh hour when it switched to being a non-executive function. Even if this had not happened the speed with which the Bill became law would have meant that the Executive decision, even if an executive function, would not have been timely due to call-in period delays. Unusually, for an Act, many of its provisions are with immediate effect. Applications for pavement licences in particular could be received tomorrow, consulted upon and processed within 14 days otherwise they would be deemed granted. The matter therefore requires an immediate decision.

In view of the above I agree that the decision is urgent.

Authorised by email below dated 23rd July 2020 from Councillor John Kane, Chair, Overview and Scrutiny Committee:

From: Cllr John Kane <John.Kane@copeland.gov.uk>
Sent: 23 July 2020 15:16
To: Clinton Boyce <Clinton.Boyce@copeland.gov.uk>
Subject: Re: Urgent: Business and Planning Act 2020

Clinton,

Thanks for clarifying, so yes you can now proceed.

John

Sent from my iPad

Others consulted:

Monitoring Officer: Agrees with proposal.
Solicitor: Agrees with proposal.

Decision to be taken:

As set out in (a) to (d) above/below.

Reasons for the decision (specify all reasons for taking the decisions including where necessary reference to Council policy):

It is necessary for the proper implementation of the Business and Planning Act 2020.

Alternative options considered (if appropriate)

None.

Whether any conflict of interest arose whether of the decision maker or any consultee in the decision and if any was declared whether the head of paid service granted a dispensation:

None.

Background/Reports/Information considered and attached (legal, personnel, financial implications, etc.)

Report to Executive -

<https://copeland.moderngov.co.uk/documents/s9734/Business%20and%20Planning%20Bill%20-final.pdf>

The Act itself - <https://www.legislation.gov.uk/ukpga/2020/16/contents/enacted>

Approval

I agree, and now make the following decisions:

(a) that the non-executive function of determining applications for a pavement licence in accordance with part 1 of the Business and Planning Act 2020 be delegated to the Public Protection Manager, such delegation to include setting up new process and determining standard (published) and specific conditions to be attached to a licence and duration of licence;

(b) that no fee should be charged for an application made in respect of a pavement

licence;

(c) that a review against a refusal of an application by the Public Protection Manager be delegated to the Chief Executive in consultation with the Mayor who may then grant the application, if appropriate, and subject to such conditions as may be appropriate and for a specified duration; and

(d) that enforcement of conditions attached to a pavement licence is delegated to both the Public Protection Manager and the Community Services Manager (and in respect of the latter, the Council's Enforcement Officers).

Authorised by email below dated 24th July 2020 from Pat Graham, Chief Executive:

From: Pat Graham <Pat.Graham@copeland.gov.uk>

Sent: 24 July 2020 08:51

To: Clinton Boyce <Clinton.Boyce@copeland.gov.uk>

Subject: RE: Business and Planning Act 2020

Thank you Clinton I am happy to authorise the delegated decision as attached

Pat