

Draft Key Decision Report

Details of Leadership Team meeting or (in the case of individual Lead Member or Executive Director decisions) by whom and the <u>earliest</u> date the decision will be taken	Johnny Thalassites, Lead Member for Planning, Place and the Environment Date of report. 15 November 2021 Date of decision: (Not before 7 January 2022)	
Forward Plan ref:	KD05967	
Report title	A policy to support al fresco dining on streets and public spaces.	
Reporting officer	Mahmood Siddiqi, Director of Streets and Regulatory Services	
Key decision	Yes	
Access to information classification	Public	
Wards	All	

1. EXECUTIVE SUMMARY

- 1.1 This report seeks your approval to implement policies and procedures to support and regulate al fresco hospitality uses within the borough's streets and spaces including on suspended car parking bays, on pedestrianised streets and on public plazas.

2. RECOMMENDATION

- 2.1 It is recommended that you agree to adopt the policy document, "*Supporting al fresco hospitality in Kensington and Chelsea – British Summer Time Licensing*", included at Appendix A, to authorise attractive al fresco hospitality amenities during British Summer Time, at suitable locations, on an annual basis.

3. REASONS FOR DECISION

- 3.1 A policy on al fresco hospitality must be adopted by the Council to have material planning weight and to inform the actions of Council departments, including Transport Policy, Highways, Parking, Premises Licensing and Streetscene Enforcement, to realise the potential

of our streets and public spaces to support outdoor dining, inclusive to all, adding to their attractiveness and vitality. This policy would build on the popularity of Covid-era interventions.

4. BACKGROUND AND POLICY CONTEXT

- 4.1 Until 2020, if businesses in the borough wished to place tables and chairs on the highway (specifically, on footways), they were required to apply to the Council for a licence under Section 115E of the Highways Act 1980. In addition, planning permission was needed to place tables and chairs on the highway beyond the curtilage of the premises. In July 2020, the Government introduced pavement licences under the Business and Planning Act 2020 (the Act) as an emergency measure to permit hospitality businesses to operate on-street with minimal bureaucracy. Pavement licences remove the need for express planning permission. These licences have proved to be popular with businesses.
- 4.2 Pavement licensing under the Act (as amended in July 2021) removes the need for express planning permission for pavement furniture until 30 September 2022. The Act provides a fast-track approval process with a limited one-week consultation period and a one-week determination period. If pavement licensing powers are not extended beyond 30 September 2022, the retention of any parklet terraces and some seating areas on public footways will require planning permission. The granting of planning permission is never certain and must be based on a sound policy basis. On 11 July 2021, a Government press release indicated that pavement licensing is likely to be made permanent. Council officers now expect a Parliamentary Bill to be tabled on this subject during the current Parliamentary session.
- 4.3 The Council has issued more than 450 pavement licences. In Summer 2020, we modified our criteria for assessing proposals for tables and chairs on our footways to make it easier for businesses to provide seating outdoors. Additionally, in this borough, we have implemented the Act to permit 'parklet terraces' on 'footway extensions' created with traffic cones on suspended car parking bays. These temporary parklet terraces have been very successful and are valued by many who live, work, or visit the borough. Since July 2020, the Council has licensed 114 parklet terraces on temporary footway extensions primarily on suspended car parking bays, but on yellow lines too.
- 4.4 The Local Plan 2019 includes Policy CR3 on Street and Outdoor Life. This affirms that *"the Council will require opportunities to be taken within the street environment to create 'places' that support outdoor life, inclusive to all, adding to their attractiveness and vitality"*. This headline planning policy provides a basis to develop guidance that should allow suitable proposals for parklet terraces and tables and chairs pavement terraces to be granted planning permission. The Council's enthusiastic support for outdoor dining and its wish to build on this in the future is a central element of its approach to place-making. The Council has commenced preparing a new Local Plan and, subject to due process, this exercise presents an opportunity to further strengthen the policy support for al fresco dining. Pending the adoption of the new Local Plan, likely in 2023, this Key Decision will serve as a material consideration supporting proposals for al fresco hospitality uses on our streets and public spaces including on suspended car parking bays and pedestrianised streets.
- 4.5 Encouraged by Government, the Council moved to close streets and widen footways in response to the pandemic to facilitate social distancing, active travel, and outdoor activity, including socially distanced al fresco hospitality. Temporary footway widening in places like Hollywood Road and street closures on Portobello Road and Pavilion Road were popular early

interventions. Further closures on Elystan Street and Bute Street, as well as Kensington Park Road (partially, later) have also been well-received. In fact, the vast majority of new licensed areas have attracted no complaints. New outdoor hospitality terraces on Duke of York's Square and Sloane Square have helped businesses and residents reimagine our public realm.

- 4.6 The Council has medium-term plans to build on recent street closures and licensed al fresco dining terraces with public realm schemes to bring forward a greener and more vibrant street scene. The Council plans to commission research to develop high-level place-making principles that consider how best to embed good practice. A place-making document is expected later in the year. This will take account of changes to the way we live and shop as a result of the pandemic and technological progress. In key town centres, new Business Improvement District organisations could usefully serve to coordinate the outdoor offerings of hospitality businesses in their areas

5. PROPOSALS

- 5.1 There are three overarching proposals:

(i) To modify the Council's clear footway width requirements to allow a more flexible approach attuned to local circumstances.

(ii) To adapt the current model of temporary parklet terraces to authorise attractive al fresco hospitality amenities, at suitable locations, on an annual basis. The Council would consider authorising parklet terraces on its streets during British Summer Time (i.e. from late March to late October) every year, a duration of approximately seven months. The opportunity to provide a parklet terrace would be open to hospitality businesses with premises on suitable streets.

(iii) To approve suitable proposals for outdoor seating for up to five years.

- 5.2 The Government has signalled that legislation to make pavement licensing permanent is likely next year. In the event that pavement licensing is not made permanent, authorisation for tables and chairs on the highway would be achieved by securing planning permission, a highways licence and (where applicable) a premises licence. Whilst these consents are issued under distinct independent regimes, in practice a planning approval will significantly inform highways licensing and premises licensing decisions. Any proposal that is consistent with the Council's policies must be considered positively, subject to applicable statutory processes.

- 5.3 The overarching proposals are incorporated into the policy document, "*Supporting al fresco hospitality in Kensington and Chelsea – British Summer Time Licensing*", included at Appendix A.

6. ISSUES

- (i) *Land Use*

- 6.1 Tables and chairs situated on publicly maintained highways (and on private forecourts where a material change of use constituting development takes place) normally require planning permission as they involve a material change of land use. This requirement was waived by the Act (as amended) until the end of September 2022. Where planning permission is required,

the planning merits of establishing al fresco seating in each context must be assessed against development plan policies and all other material considerations.

6.2 The acceptability of any proposal for tables and chairs will be dependent on its scale. Accordingly, it is important that our policy document on “Supporting al fresco hospitality in Kensington and Chelsea – British Summer Time Licensing” is regarded as instructive on what we might approve.

6.3 Placing tables and chairs on footways and other pedestrianised spaces is appropriate throughout the year. For new external seating areas on footways, consent (whether under a planning permission or under a pavement licence) is granted initially for a period of one year only. This allows the Council to assess the impact the tables and chairs have had on the vitality of the local economy, the quality of life of neighbours and the wider community and pedestrian safety. If over the course of a year there have been no undue problems, the Council considers granting planning permission permanently for the external seating area should a further planning application be received.

6.4 For parklet terraces that operated under the pavement licensing regime without significant issues, future applications for planning permission if required (or for a pavement licence under anticipated regulations) would be granted for up to five years. The granting of authorisation for parklet terraces for more than five years would not be appropriate as such consents could frustrate the Council as highway authority in adapting the layout of our streets in the medium term. Consideration should be given as to whether parklet terraces should be licensed during British Summer Time only, as recommended by officers, or throughout the year.

(ii) Highway Status

6.5 Highways licences or pavement licences for tables and chairs are granted for a period of twelve months and applicants may apply to renew the licences annually. It is vital that all activities on the highway occur under licence to ensure that the status of areas occupied by pavement furniture continue to be highway. Highways licences need not last one year. The proposed policy is to grant highways licences for outdoor furniture for up to five years, subject to the payment of annual monitoring fees. It should be noted that highway licences are required in respect of both publicly and privately maintainable highways. We will also issue pavement licences for several years if future regulations permit us to do so. At present the vast majority of licences for tables and chairs are pavement licences, and officers expect this would continue to be the case if the Government makes the pavement licensing regime permanent.

(iii) Clear footway width requirements

6.6 Local Plan Policy CR3(e) requires “proposals for tables and chairs on the highway to maintain the primary function as public footway allowing for the free, safe and secure passage of pedestrians”. The Council’s adopted clear footway width standards are set out within the Transport and Street SPD 2016. These standards ensure that the clear footway width left after the placing of tables and chairs on the highway is sufficient for the footfall at a given location. Highways within Kensington and Chelsea are categorised as Busy (primary shopping frontages), Medium Use (secondary shopping frontages and neighbourhood town centres) and Lightly Used (all other locations). The minimum clear footway widths required for pedestrians within these categories are four metres, three metres and two metres respectively. The application of these criteria ensures that the Council meets its obligation under the Highways Act 1980 to maintain the safe operation of our footways for pedestrians.

- 6.7 Our clear footway width requirements give us an objective framework against which other considerations can be taken into account. Our current tables and chairs licensing policy does not preclude the consideration of any other factors. KD04402 confirms “that consent is granted solely at the Council’s discretion, in accordance with its policies and for proposals which do not have a detrimental impact on the amenity of the local area or the living conditions of local residents”.
- 6.8 In Summer 2020, the Council adjusted its clear footway width standards and introduced a greater degree of flexibility as part of its “Summer Trading Policy” which aimed to support businesses to respond to the pandemic. In operation, this approach has been invaluable in achieving proportionate layouts that assist businesses whilst ensuring safe pedestrian passage. The introduction of additional outdoor seating areas within the public domain has been broadly supported by Council Members.
- 6.9 Two metres remains an attractive lower limit for clear footway width as it provides enough width for pedestrians, including those using pushchairs or wheelchairs, to pass each other. Many of our older streets have narrow footways where it is not possible to provide two metres of clear footway width. On quieter footways, where passing occurs infrequently, the minimum the Council can accept is 1.5 metres in line with Government guidance, “Inclusive Mobility” (2005) and to satisfy Section 149 of the Equalities Act 2010. This minimum requirement will permit seating to be provided in some locations that did not benefit from outdoor seating before the pandemic.
- 6.10 On mixed use frontages additional footway width is required to accommodate greater pedestrian footfall and activities such as servicing, window shopping and conversing. Footway width should be sufficient to allow pedestrians to wait adjacent to pedestrian crossings to cross the road without blocking the footway. The most appropriate width at a given location would be assessed against the clear footway width standards included in the attached policy document, subject to the overarching principle that consent is granted solely at the Council’s discretion, in accordance with its policies and that the Council has discretion to depart from our standards, either above or below, when the Council considers it would be in the public interest to do so.

(iii) Design and Appearance

- 6.11 A variety of temporary structures has been installed on our streets since July 2020, some formed in scaffolding, others in timber. The latter have been far more successful aesthetically and have proven to be practical for business owners. Where road camber is not an issue, enclosures framed exclusively by planters have been successful and have served beneficially to green the street.
- 6.12 In several locations high sided canopies have been installed. Some businesses consider them essential due to the unpredictability of British weather, even in Summer. The value of canopies for businesses has been borne out during unseasonably poor weather during the spring and much of the summer of 2021. However, where covered, canopies do not always contribute positively to the street scene. They can serve to shield diners from the street. That misses the point: al fresco dining in parking bays, pedestrianised streets and plazas is intended to contribute to the vitality of the street. Careful, well considered, design is essential to marry the competing objectives of shelter and openness to the street, in an attractive way.
- 6.13 The installations that have appeared on our streets since Summer 2020 often reflect the exigencies of the pandemic and the objective to provide outdoor hospitality facilities at speed.

Most installations have a temporary appearance and would not have been found to be consistent with Local Plan policies on design in normal times. The past 18 months have provided an invaluable learning experience for the Council on what and on what does not work well in streetscape terms and has allowed the Council to identify design principles that we expect to be satisfied in future. These design principles are included in the attached document “Supporting al fresco hospitality in Kensington and Chelsea – British Summer Time Licensing”, included at Appendix A.

6.14 Although the Council is adopting a more flexible approach to tables and chairs, its approach to street clutter remains generally restrictive, and this Decision should not give rise to a proliferation of extraneous signage or additional A-Boards, which may disrupt the ‘feel’ of the street. To avoid the need for express advertisement consent, the use of branding on pavement furniture should be avoided.

6.15 Lighting associated with tables and chairs in pedestrianised streets and zones will be expected to be battery-powered LED lighting, consistent with the work the Council is doing to improve the environmental efficiency of lamp columns across the borough.

6.16 The Council will consider the use of artificial heating in exceptional circumstances, where the street-scene may leave residents and visitors to the seating area exposed in unseasonal conditions. We will expect to see a plan alongside applications that include artificial heaters to show how businesses plan to reach carbon neutrality by 2040, in line with the Council’s ambition.

(iv) Premises Licensing

6.17 The 2020 Act amended the Licensing Act 2003 to allow “off sales” of alcohol to businesses which are already licensed for “on sales” of alcohol, subject to a condition that “off sales” can only be made when the premises are open for “on sales”. From 2022, we expect this dispensation to be removed and applications to vary premises licences will be necessary. Such applications will be assessed under the Council’s Statement of Licensing Policy which was refreshed in January 2021 for five years. Any adopted policy supporting al fresco arrangements on pedestrianised streets and zones must have regard to the Council’s Statement of Licensing Policy. The attached policy document is consistent with the Council’s Statement of Licensing Policy however the Council’s Statement of Licensing Policy would benefit from being updated to refer to this Decision before 30 September 2022 This would afford an opportunity to insert an additional premises licensing policy to require “external management plans” if such are deemed necessary on assessment of a premises licence application.

(v) Impact on Parking Capacity and Loading

6.18 We propose to allow hospitality businesses to provide parklet terraces on up to ten metres of kerbside length (equivalent to two parking bays) at suitable locations. At a borough wide level this would not materially affect parking supply however there could be significant impacts on parking availability in locations with numerous hospitality businesses. As any policy framework cannot be discriminatory, any proposal for a parklet terrace that meets adopted criteria must be considered positively, subject to applicable statutory processes. It would be unfair to ration these opportunities. Moreover, it would be difficult to establish an acceptable proportion or number of spaces that could be lost to parklet terraces. Necessarily, parking occupancy is likely to be high in the areas where we have lots of hospitality businesses, as these businesses are themselves an attraction both to permit-holders and visitors.

Accordingly, this policy initiative may impact significantly on parking availability in certain locations.

6.19 In several locations, the potential impacts on local parking supply have already been realised. Significant numbers of parking bays have been suspended in Hollywood Road and removed in Bute Street with public acceptance and few complaints. This may be because parking demand has been suppressed because of the pandemic. Equally the provision of parklet terraces on yellow line, where it is safe to do, will remove potential loading opportunities. In locations where this opportunity to load is critical, this means consent for parklet terraces may have to be withheld to maintain safe and efficient highway operation.

6.20 There are two ways to create a temporary footway extension to allow an application for a parklet terrace to be made. One method is to suspend kerbside parking bays and that has been our favoured methodology to date. An alternative approach is to modify the Traffic Management Order to redesignate the status of the kerbside in locations where parklet terraces are proposed. The latter approach is best suited for year-round licences.

vi) Impact on Streetworks

6.21 Tables and Chairs provided on wooden decks cannot easily be moved and whilst in situ can hinder the Council's ability to carry out its statutory duties, including essential street works. Since April 2021, there have been a few instances of parklet terraces impacting on street works, including road resurfacing works and important utility works. This has affected service delivery and utility upgrades. Since Summer 2020, when seeking to balance competing demands for our street space, the Council has given priority to maintaining outdoor dining terraces given the importance of our public health duties during a pandemic. As the pandemic recedes this approach will no longer be justifiable given the necessity of maintaining good quality safe highways and effective utility networks.

6.22 The Council will not license installations which do not have an obvious way of being dismantled, stored, and reassembled at short notice. We will require applicants to submit details on how demounting and reassembly would be carried out as required. The Council is open to suspending nearby parking bays for short periods to allow larger items of pavement furniture to be secured out of the way while vital street works are underway. These details must satisfy the Council that the constituent elements of any installation are capable of being reused and would not need to be discarded when removed. Such redundancy is not environmentally sustainable or likely economic for licensees.

6.23 Before granting a British Summer Time Licence, we will expect evidence from applicants that the design and means of assembly of their installations would allow them to be removed as required. Clearly the Council would aim to limit the frequency of such occurrences but it has a duty to facilitate emergency and non-emergency utility works as needed. Routine maintenance works could be scheduled to occur outside of the summer months if British Summer Time Licensing is adopted. However, carrying out resurfacing works in the winter is not always practicable.

viii) Waste Management

6.24 The installation of parklet terraces on premises' frontages means that the traditional kerbside locations for the presentation of refuse sacks in front of businesses may not be available. In some locations this has led to unwelcome concentrations of refuse sacks, sometimes placed

in front of adjacent premises. Council officers will need to work with licensees and other stakeholders to devise suitable refuse management arrangements.

ix) Timely Applications

6.25 Using our statutory powers under the Highways Act 1980, the Licensing Act 2003 and the Town and County Planning Act 1990, it would take up to four months to get the requisite consents to provide a parklet terrace. Our proposed policy document on supporting al fresco dining clearly sets out what must be done and when to obtain the consents required. Our proposed policy document encourages businesses to apply as early as possible. The Business and Planning Act 2020 provides a fast-track approval process as an alternative to our long-standing statutory powers. We expect new regulations to replace the provisions of the 2020 Act within the next year.

viii) Fee Levels

6.26 Under the Business and Planning Act 2020 the Council levies an application fee of £100 for pavement licences, the maximum sum permitted. This fee level is insufficient for the Council to recover its costs.

6.27 Planning application and premises licensing fees are statutorily set. The highways licence fee must be set to cover the Council's costs. There are two classes of cost: the cost of processing licence applications before determination and the costs of implementing and monitoring the licensed area post determination. The latter can incorporate the cost of arranging the parking suspensions and supply of traffic cones. In theory the Council could also apply parking suspension charges but that would be a strong disincentive to take up and contrary to the aims of the policy.

6.28 The application fee for a tables and chairs licence issued under S115E of the Highway Act 1980 is £512 for the year 2021/22. This charge is reviewed annually and would be applied to any application for a highways licence received under the proposed policy.

6.29 The monitoring fees for current tables and chairs licences depend on the number of chairs and the terminal hour. These fees would remain applicable for outdoor seating areas on footways and other pedestrianised areas. Parklet terraces are different in nature as they include barriers and platforms to safely separate licensed areas from vehicular areas. It is important they are configured and used appropriately. Accordingly, their use will require regular monitoring by the Council's Wardens. A fee of £100 per metre squared of parklet terrace per season for monitoring is proposed. This works out at £1000 per parking bay suspended for a season. This fee would cover the Council's costs in providing and removing a temporary footway extension each year and in routinely checking that the licensed arrangement is set out appropriately, safe, clean and well managed. Parklet terraces need more intensive oversight than traditional seating arrangements situated against shop windows.

6.30 6.26 These fees would be reviewed annually along with the Council's other fees and charges. Fee structures to cover five-year licences and the regulation of parklet terraces would need to be in place before 30 September 2022.

6.31 6.27 In addition to our longstanding regulatory powers, we expect the Government to introduce new legislation during the current parliamentary session to replace the Business

and Planning Act 2020. The Local Government Association is lobbying for any new provisions to include fees that would full recover local authorities' costs.

7. OPTIONS

7.1 You have three options:

- i) Accept the Officer recommendation in Section 2, including the introduction of British Summer Time licences from 26 March 2023 and otherwise applying the overarching principles set out at 5.1 from the date of this Key Decision.
- ii) Modify the Officer recommendation to permit parklet terraces to be licensed throughout the year.
- iii) Reject the Officer recommendation in Section 2

8. CONSULTATION AND COMMUNITY ENGAGEMENT

8.1 At the full Council meeting of 21 July 2021 there was cross party support for a motion that called *"on the Council to help find a way to ensure that outside tables and chairs - where they are in appropriate locations - become a re-occurring fixture for the Summertime in Kensington and Chelsea"*.

8.2 The Citizens' Panel survey on making the borough greener included questions on al fresco dining. The survey was launched on 21 July 2021 and run until 23 August 2021. The Council received 301 completed surveys. Of those surveyed, 74 per cent expressed support for converting parking bays to all al fresco dining in Summer annually, whilst 16 per cent of respondents were opposed, a ratio of four to one in favour of parklet terraces. There was also support, though less pronounced, for closing roads to enable al fresco dining, with 57 per cent of respondents expressing support and 23 per cent opposed, a ratio of more than two to one in favour of road closures to enable al fresco dining.

8.3 In Summer 2021, the Council commissioned Common Place to carry out a public survey of attitudes to the borough's high streets. This consultation set out to inform new initiatives ensuring "Kensington and Chelsea's vibrant streets keep meeting the needs of our communities". Participants were asked about the desirability of using high streets to facilitate al fresco dining. Their feedback was overwhelmingly positive. "Eating/Drinking out" was listed as the second most popular reason to visit the high street. When asked specifically 'Would you like to see more Al Fresco Dining in the future?', 78% of respondents were in support, with most (61%) being very supportive of it. There was net support for al fresco dining in respect of every high street surveyed in the borough. Increased al-fresco dining was identified as the number one potential intervention to improve Portobello Road. In total there were over 100 unique comments reporting that offering al-fresco dining would improve life in the borough.

- 8.4 Between 12 November 2021 and 31 December 2021 the policy document, “*Supporting al fresco hospitality in Kensington and Chelsea – British Summer Time Licensing*”, included at Appendix A, shall be posted online. The Council shall invite comments from members of the public on the Council’s proposals set out in this Key Decision Report during this period.

9. HUMAN RESOURCES AND EQUALITIES IMPLICATIONS

- 9.1 The recommended decision aims to increase activity on our streets and will thereby increase demand for Council services. Any additional work generated will be fulfilled using existing resources.
- 9.2 The proposal to move to five-year licences would result in peaks in service demand every five years and potentially less service demand at other times. This variability will give rise to resourcing challenges. Most pavement licences will expire on 30 September 2022, the expected final day of pavement licensing, so significant variability in work volumes is expected come what may, as most premises will only apply for a new licence shortly before their existing pavement licence expires. Before introducing five-year licences, officers will work out how to deal with the resourcing issue. The arranging of temporary footway extensions to facilitate parklet terraces is a source of work that did not occur before the pandemic. The monitoring of parklet terraces requires additional officer resource.
- 9.3 The Council has had regard to its Public Sector Equality Duty contained under Section 149 of the Equality Act 2010 and places a general equality duty on the Council when exercising its functions and the making of such decisions to have regard to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct; advance of equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant protected characteristics are age, disability, gender assignment, pregnancy and maternity, race, religion or belief, sex and sex orientation. The duty also applies to marriage and civil partnership but only in relation to the elimination of discrimination.
- 9.4 The Council’s criteria for clear pavement width have been set with due regard to the Council’s Public Sector Equality Duty contained under Section 149 of the Equality Act.
- 9.5 Any businesses that apply for a pavement licence will also need to have regard to their own duties under the Equality Act 2010, such as their duty under Section 29 of the Act not to discriminate in providing their service.

10. LEGAL IMPLICATIONS

- 10.1 The Council must have regard to its Network Management Duty contained in Section 16 of the Traffic Management Act 2004 together with its statutory duties contained in Section 121B (London Borough Council exercising powers so as to affect another traffic authority’s roads) and Section 122 (Exercise of functions by local authorities) of the Road Traffic Regulation Act 1984 (and Section 301A of the Highways Act 1980 (London Borough Council exercising powers so as to affect another authority’s roads)).
- 10.2 Applications for tables and chairs up until 30 September 2022 may be received and processed in accordance with the provisions of the Business and Planning Act 2020 (as amended). An

applicant may during this time make an application for tables and chairs under Part VIIA of the Highways Act 1980. An applicant may not be required to make a Part VIIA application rather than a pavement licence under the 2020 Act.

- 10.3 Unless the Government makes changes to its declared plans for pavement licensing, after 30 September 2022 all applications for tables and chair licences will be dealt with in accordance with Part VIIIA of the Highways Act 1980 (Provision of Amenities on certain highways).
- 10.4 The Council will only accept application for areas of the highway that are pedestrian ways in accordance with s 115A of the Highways Act 1980.
- 10.5 Applicants must ensure that in addition to permission to place tables and chairs on the highway they have secured planning permission, street trading permission and permission for the sale and supply of alcohol as may be required.
- 10.6 The definition of street trading under the London Local Authorities Act includes ‘the supplying or offering to supply any service in a street for gain or reward’ (Section 21(1)). The proposed policy on supporting al fresco dining and our approach to tables and chairs licensing would apply primarily to street fronting premises. Street fronting premises do not require authorisations under the London Local Authorities Act so long as the point of sale is inside the premises.

11. FINANCIAL, PROPERTY, IT AND ANY OTHER RESOURCES IMPLICATIONS

- 11.1 During Summer 2021 approximately 110 parking bays were suspended to extend the footway temporarily to allow parklet terraces to be licensed, including 72 “paid-for parking bays”. Taking account of the spread of locations across paid for parking tariff areas, these bays produce £343,000 in parking income annually. The suspension of these parking bays would compel car borne visitors to find parking in alternative locations, including other proximate “paid for parking bays” It is likely the remaining 4,617 “paid for parking” bays would absorb much of the displaced demand for visitor parking. If parklet terraces are licensed for seven months, in line with the officer recommendation, the theoretical potential loss of parking revenue in a given year would be £200,000. This would rise to c. £340,000 if parklet terraces were licensed all year round. In practice many visitors will use other proximate “paid for parking” bays.
- 11.2 Fees and charges related to parking, parking suspensions and tables and chairs licensing are all related to the retail price index, whose future direction is unknown. Fees and income foregone are likely to rise over time. The monetary sums shown in this paper are based on constant 2021 prices.
- 11.3 The need to temporarily widen the footway whilst an application is being made to place pavement furniture on the highway, as is legally necessary, would result in a further potential loss of parking revenue of £30,000, assuming parklet terraces were licensed for seven months of the year (this cost would not arise if parklet terraces were licensed all year round). Again, this theoretic financial impact would be greatly tempered by the availability of other parking opportunities. This cost would arise once every five years for five-year licences.
- 11.4 During the pandemic there was an increase in demand for licences to place pavement furniture on street. Whilst the low fee levels and the ease of applying no doubt encouraged the uptake of licences, these applications were underpinned by consumer demand. We expect

that there will continue to be a strong demand for outdoor dining in future years. Accordingly, after 30 September 2022, in the absence of enduring regulatory changes, we would expect our fee income for tables and chairs licences to recover to, and to exceed, the £210,000 collected in 2019/20. The latter figure comprised £125,000 of application fees and £85,000 of monitoring fees. The monitoring fees depend on the number of chairs and the terminal hour.

- 11.5 Parklet terraces did not exist and were not licensed before the pandemic. They present a new source of fee income for the Directorate of Streets and Regulatory Services. If the licence application fee for a parklet terrace is set to match our Tables and Chairs Licence Application Fee (£512 for the year 2021/22) that would yield £58,368 in application fees for the 114 sites currently licensed. The duration of the licensed period would determine how frequently this income is received.
- 11.6 A fee of £100 per metre squared of parklet terrace per British Summer Time season for monitoring is proposed. Assuming the borough’s network of parklet terraces (currently 114 in number) has a total surface area of c. 2,000 m² (some parklet terraces are on yellow lines) that would yield c. £200,000 in monitoring fees annually. Whilst these fees are set to recover our monitoring costs, in purely financial terms the additional monitoring fee would be approaching the potential parking income foregone. If a proportion of displaced parking demand is satisfied through the more intensive use of other proximate paid for parking bays, as is likely, the net financial impact should not be significant.
- 11.7 The proposal to move to five-year licences would drastically reduce application fee income in four years out of every five, although income from monitoring fees would continue. This would result in a reduction of fee income of c. £125,000 most years compared to 2019/20.
- 11.8 An approximate income profile assuming no parking demand is displaced onto proximate “paid for parking” bays is presented within Table 1 (at constant prices). This profile takes account of the proposal for five-year licences to cover British Summer Time, issued under the Highways Act 1980. The table assumes that the number of tables and chairs licences on issue is constant. In reality the numbers are on an increasing trend.

Table 1 Summertime-only parklet terraces; full loss of parking income for affected bays, assuming variable licence fee related to monitoring costs and assuming constant prices.

	Estimated income over five years <i>Continuation of pre pandemic tables and chairs licensing on footways</i>	Year 1 post Pavement Licensing <i>(assuming no enduring regulatory changes).</i>	Years 2, 3, 4, 5 post Pavement Licensing <i>(assuming no enduring regulatory changes).</i>	Estimated income over five-years <i>Introduction of British Summer Time Licensing and Five-Year Licences.</i>
Tables and Chairs Licence Application Fee Income	£625,000 (£125,000 p.a.)	£183,368 (£125,000 + £58,368)	£0	£183,368

Tables and Chairs Monitoring Fee Income on Footways/ Closed Roads	£425,000 (£85,000 p.a.)	£85,000	£85,000	£425,000
Parklet Terrace Monitoring Income		£200,000	£200,000	£1,000,000
Parking Income Foregone during BST		(-£200,000)	(-£200,000)	(-£1,000,000)
Parking Income Foregone during BST application period.		(-£30,000)		(-£30,000)
TOTAL	£1,050,000	£238,368	£85,000	£578,368

11.9 Under this scenario, the cost of facilitating parklet terraces during British Summer Time would be largely recouped through licensing fees. The prospect of pavement licensing being made permanent casts significant uncertainty over these projections for fee income.

11.10 An alternative scenario, that assumes 50 per cent of parking demand is displaced onto proximate “paid-for parking” bays is presented within Table 2 (at constant prices). This profile takes account of the proposal for five-year licences to cover British Summer Time, issued under the Highways Act 1980. The table assumes that the number of tables and chairs licences on issue is constant. In reality the numbers are on an increasing trend.

Table 2 - Summertime parklet terraces; 50 per cent reduction in parking income for affected bays, assuming variable licence fee related to monitoring costs and assuming constant prices.

	Estimated income over five years <i>Continuation of pre pandemic tables and chairs licensing on footways</i>	Year 1 post Pavement Licensing (<i>assuming no enduring regulatory changes</i>).	Years 2, 3, 4, 5 post Pavement Licensing (<i>assuming no enduring regulatory changes</i>).	Estimated income over five-years <i>Introduction of British Summer Time Licensing and Five-Year Licences.</i>
Tables and Chairs Licence Application Fee Income	£625,000 (£125,000 p.a.)	£183,368 (£125,000 + £58,368)	£0	£183,368
Tables and Chairs Monitoring Fee Income on Footways/ Closed Roads	£425,000 (£85,000 p.a.)	£85,000	£85,000	£425,000

Parklet Terrace Monitoring Income		£200,000	£200,000	£1,000,000
Parking Income Foregone during BST		(-£100,000)	(-£100,000)	(-£500,000)
Parking Income Foregone during BST application period.		(-£15,000)		(-£15,000)
TOTAL	£1,050,000	£353,368	£185,000	£1,093,368

11.11 Under this scenario, the cost of facilitating parklet terraces during British Summer Time would be exceeded by licensing fee income. This surplus would largely offset the reduction in application fee income as a result of moving to five-year licences. The prospect of pavement licensing being made permanent casts significant uncertainty over these projections for fee income.

11.12 For year-round licences, the same financial dynamics would be at play. Forgone parking income could be balanced against fee income for monitoring parklet terraces. A higher monitoring fee would be justifiable to reflect the increased monitoring that year-round licences involve.

11.13 The projections in the above tables assume that we would license parklet terraces using the Highways Act 1980. We anticipate forthcoming legislation to introduce an alternative regulatory regime, the details of which are entirely unknown. Given the uncertainty as to future regulatory provisions and future fee levels it is not possible to present the revenue implications of a benign scenario, under which local authorities are permitted to recover all relevant costs under future legislation. The Local Government Association is lobbying Government for such an outcome. It is however possible to present a worst-case scenario. Under such a scenario, application fees for licences would be fixed at £100, as under the 2020 Act. An approximate income profile assuming no parking demand is displaced onto proximate “paid for parking” bays is presented within Table 3 (at constant prices). This profile takes account of the proposal for five-year licences to cover British Summer Time.

Table 3 Summertime-only parklet terraces; full loss of parking income for affected bays, assuming £100 licence fee.

	Estimated income over five years	Year 1 (<i>under assumed future regulations</i>)	Years 2, 3, 4, 5 (<i>under assumed future regulations</i>)	Estimated income over five-years
	<i>Continuation of pre pandemic tables and chairs licensing on footways</i>			<i>Introduction of Five-Year Pavement Licences under potential future regulations.</i>

Tables and Chairs Licence Application Fee Income	£625,000 (£125,000 p.a.)	£36,400 (364 licences @ £100 each)	£0	£36,400
Tables and Chairs Monitoring Fee Income	£425,000 (£85,000 p.a.)	£0	£0	£0
Parking Income Foregone during BST		(-£200,000)	(-£200,000)	(-£1,000,000)
Parking Income Foregone during BST application period.		(-£15,000)		(-£15,000)
TOTAL	£1,050,000	(-£178,600)	(£-200,000)	(-£978,600)

11.14 An approximate income profile assuming 50 per cent of parking demand is displaced onto proximate “paid for parking” bays is presented within Table 4 (at constant prices). This profile takes account of the proposal for five-year licences to cover British Summer Time.

Table 4 Summertime parklet terraces; 50 per cent reduction in parking income for affected bays, assuming £100 licence fee

	Estimated income over five years – <i>Reversion to pre pandemic Tables and Chairs Licensing</i>	Year 1 (<i>under assumed future regulations</i>)	Years 2, 3, 4, 5 (<i>under assumed future regulations</i>)	Estimated income over five-years <i>Introduction of Five-Year Pavement Licences under potential future regulations.</i>
Tables and Chairs Licence Application Fee Income	£625,000 (£125,000 p.a.)	£36,400 (364 licences @ £100 each)	£0	£36,400
Tables and Chairs Monitoring Fee Income	£425,000 (£85,000 p.a.)	£0	£0	£0
Parking Income Foregone during BST		(-£100,000)	(-£100,000)	(-£500,000)
Parking Income Foregone during BST application period.		(-£7,500)		(-£7,500)

TOTAL	£1,050,000	(-£71,100)	(£-100,000)	(-£571,000)
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- 11.15 Under the scenarios set out in Tables 3 and 4, application fees are set at £100 per application, the current fee level for a pavement licence. At this fee level, the impact of five-year licences on income is not significant. Indeed, the net cost of this measure would be negative once officer resource is taken into account. The higher the fee level, the greater the potential impact of multiyear licences on income levels.
- 11.16 Under the worst-case scenario (shown in Table 3), the net financial impact for British Summer Time parklet terraces is about £178,600 per annum. The equivalent figure for year-round licences is about £300,000. These outcomes are highly improbable. A proportion of displaced parking demand would be accommodated on nearby “paid for parking” bays. Under anticipated regulatory changes, licence fees are likely to increase from the current £100 to a figure more commensurate with local authorities’ costs.
- 11.17 Any financial costs of facilitating parklet terraces must be weighed against the positive impact parklet terraces have on the vitality of the local economy and the quality of life of neighbours and the wider community.

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Local Government Act 1972 (as amended) – Background papers used in the preparation of this report
– None

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