

Business and Planning Bill

Report Stage

House of Lords

Monday 20 July 2020



Key messages:

- Local government's delivery of important public services during the COVID-19 pandemic highlights the value of place-based leadership. It has demonstrated how national policies are best achieved with local flexibilities and councils as democratically elected leaders should be free to shape priorities locally as they work best in their communities.
- Councils want to work with the Government to develop post COVID-19 recovery options. The economic, social and environmental recovery our communities need will look different in different areas of the country and only a locally coordinated response will be effective. As the economy is being re-opened, businesses that were forced to close have looked to local government for guidance and support about how they can reopen safely.
- The Business and Planning Bill is a positive step in the journey towards economic recovery, supporting the reopening of hospitality businesses as well as setting out measures to boost construction.
- We are supportive of amendments to prevent or limit smoking within pavement licenses, so that everyone can benefit from the provisions in the Bill to enable increased outdoor dining.
- It is also important that proposed licensing measures are amended to provide reassurance to local communities about the hours during which alcohol can be sold off-premises, as well as to protect people's safety by limiting the use of glass outside.
- The full set of LGA key messages on the legislation can be read in our previous parliamentary briefings available on our [website](#).

Briefing

Amendment statements

- **Amendments 13 and 14, tabled by Earl Howe, intend to make provisions in pavement licences for smoke-free seating conditions.**
- **Amendment 15, tabled by Baroness Northover and supported by Lord Young of Cookham, Lord Faulkner of Worcester and Baroness Finlay of Llandaff, intends to require that all pavement licences are subject to the condition that they are designated as smoke-free public places.**

During the Committee Stage of the Bill there was an important debate in response to a cross-party amendment supported by the LGA which sought to introduce a provision prohibiting smoking in pavement licensed areas; to ensure those dining or socialising outside could do so in a smoke free environment.

Whilst we continue to support the prohibition of smoking in these areas, as the cross-party amendment 15 seeks to do, it is positive to see that the Government is bringing forward its own proposal. We support the two amendments being introduced by Earl Howe on behalf of the Government as they seek to ensure that licence-holders must make reasonable provision for seating in outdoor areas where smoking is not permitted. Whilst this is not a blanket ban, it is a good step forward.

Only 1 in 7 people smoke, according to the latest release from the Office for National Statistics.¹ The majority of people are not smokers and do not like being exposed to tobacco smoke. Previously, those wishing to avoid exposure to second-hand smoke could stay inside, but indoor access to hospitality venues is more restricted as we emerge from the COVID-19 lockdown.

If smoking is not restricted, pavement areas will not become family-friendly spaces. It may exclude non-smokers from enjoying the benefit of eating and drinking outside. Neighbouring premises, particularly in cramped inner-city areas, will also be exposed to second-hand smoke.

If the reason to extend the use of pavement licenses is to provide additional space to comply with national guidance, the opportunity for non-smokers to eat outside in a smoke free environment should be provided and encouraged.

Last summer the Government announced its ambition for England to be smoke-free by 2030, with a commitment to bringing forward further proposals to deliver this ambition, recognising that it would require 'bold action' to achieve its vision. By setting such a condition on pavement licenses the Government would demonstrate its commitment to delivering the 'bold action' needed to achieve its smoke-free ambition.

- **Amendment 21, tabled by Earl Howe, which seeks to secure that, where a local authority has executive arrangements, functions relating to pavement licences are not the responsibility of the executive.**

We support amendment 21 as it would enable the alignment of the new pavement licensing framework with other licensing regimes in being designated as a non-executive function. This would mean decisions could be made more efficiently by existing Regulatory Committees, reducing the burden on local government.

- **Amendments 29 to 38, tabled by Earl Howe and Lord Kennedy, to introduce a standard cessation time of 11pm for operators to trade under new off-sales permissions.**

It is positive that the Government has listened to the concerns of local authorities on the issue of ensuring off-sales take place within appropriate hours. We support amendments 29, 31, 32, 33, 34, 36 and 38 tabled by the Government which aim to address these concerns, by introducing a standard cessation time for off-sales of 11pm.

We also support amendments 30, 35 and 37, tabled by Lord Kennedy, which go further, seeking to prohibit off-sales from 11pm until 9am in the morning.

Ordinarily, licensable hours are determined by local licensing authorities, who are best placed to judge the appropriate hours for both on and off-sales licences in local areas. While it is understandable that, in the context of recovery from COVID-19, the Government wishes to introduce a swifter, more standardised approach, it is equally important that there are safeguards in place against any potential harms arising from the increased provision of take-away alcohol late at night. If local licensing authorities are not able to determine the hours for individual premises, we therefore support the approach of a blanket cut off at 11pm.

We also welcome the steps set out in the Bill that give councils the ability to quickly review an off-sales permission where concerns are raised, and where appropriate amend or remove this.

- **Amendment 40, tabled by Lord Paddick and Baroness Pinnock, which intends to prevent the sale of alcohol off-premises in a beer glass or other container that could easily be broken and used as a weapon.**

The LGA supports amendment 40 as a sensible temporary public safety measure. In usual circumstances, any new application for an off-sales licence would give the local authority the opportunity to attach conditions to them, for example to restrict the use of glass outside. The Bill temporarily suspends locally determined conditions, therefore amendment 40 would be a welcome measure to protect people's safety whilst off-sales are extended by the Bill. In the long-term it is important that we revert to the position of councils having the flexibility to apply their own relevant conditions to off-sales licences where appropriate.

¹ Adult smoking habits in the UK: 2019, ONS,
<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/adultsmokinghabitsingreatbritain/2019>