



Subject:	Update on the Licensing of Pavement Cafés Act (Northern Ireland) 2014
Date:	18th May, 2016
Reporting Officer:	Mr. Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Mr. Patrick Cunningham, Assistant Building Control Manager, ext. 6446

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report/Summary of main Issues
1.1	Members are reminded that the Licensing of Pavement Cafés Act (Northern Ireland) 2014 (the Act) will come into operation on 1st October 2016. From that point onwards, the operation of a pavement café will be subject to a licence granted by the Council.
1.2	Members may recall that, at your meeting on 21st October 2015, representatives from the Department for Social Development's (DSD) Social Policy Unit and from Hospitality Ulster appeared before you to discuss the introduction of the new legislation, the supplementary guidance being developed to assist councils to administer applications and the benefits and issues it may have for the licensing industry.
1.3	Arising from this, the Committee agreed that officers should facilitate discussions between the Council, other councils, the DSD and DRD, Hospitality Ulster, Disability Action, Transport NI, the PSNI and other relevant parties, with a view to formulating in advance of the commencement of the Licensing of Pavement Cafés Act a guidance and practice note on the design and management of pavement cafés in Northern Ireland.
2.0	Recommendations
2.1	The Committee is requested to note the content of the report and provide comment on the progress of our preparation for the commencement of the legislation and the supporting guidance documentation.
3.0	Main Report
	<u>Key Issues</u>
3.1	Pavement cafés can have a positive effect on urban environments and help to promote town and city centres. Well regulated pavement cafés can contribute to an excellent visitor experience, enhance the attractiveness of a local area and encourage visitors to stay longer and spend more.

3.2	At your meeting last October, Mr. Colin Neill of Hospitality Ulster advised that the introduction of the Act would provide small businesses with an opportunity to boost their income, particularly given the difficult trading conditions which they had experienced in recent years and urged the Council not to delay its implementation.
3.3	Members will, from previous reports to the Committee, be aware that the supplementary guidelines produced by the DSD were drafted without the appropriate level of engagement with councils or other key stakeholders. This was both frustrating and disappointing given that these Departmental guidelines will be integral to the successful implementation of this Act and particularly as it places an onus on council's to grant a licence unless it has good reason to refuse it.
3.4	Since your meeting in October, officers from the Service have been in discussion with Councils throughout Northern Ireland and other relevant stakeholders to develop good practice guidance on the design and management of Pavement Cafes prior to the introduction of the Act on 1st October 2016.
<u>Provisions of the Act</u>	
3.5	The Act permits the owners of cafés, restaurants, pubs or other premises selling food or drink to the public, to place furniture (tables, chairs etc.) on a public area for use by their customers. There is no requirement for a similar pavement café arrangement set up in a private area to comply with the Act.
3.6	However, the licensed area will remain a public place for the purpose of public order, environmental or other legislation and the furniture placed within the licensed area is considered to be of a temporary nature and must be removed within 20 minutes.
3.7	A Pavement Café Licence cannot be regarded as a substitute for any other licence or consent that may be required by statute or otherwise. For example, a pavement café associated with a mobile kiosk may be licensed under the Act but the kiosk itself still needs to be licensed under the Street Trading Act (NI) 2001.
3.8	If the Council considers that, by permitting persons to consume alcohol within an area covered by a Pavement Café Licence is likely to result in disorder, they can place an alcohol prohibition as a standard condition, requiring the licence holder not to permit the consumption of alcohol in the public area, even if the premise holds a Liquor Licence.
3.9	As with other licensing applications councils must consult with statutory agencies; in this instance Transport NI for all applications and, where the premises are licensed for the sale of alcohol, the PSNI.
<u>Consistency of Approach</u>	
3.10	The introduction of any new legislation it is open to interpretation by the industry and councils alike. Conflicting interpretations and advice leads to inconsistency and is not good for business, especially as Northern Ireland now has multiple retailers who operate across the Province and expect the same standard of advice, interpretation and consistency.
3.11	As a result, the Licensing Forum NI, which is Chaired by the Building Control Manager, has set up working groups with representatives from the 11 Councils to establish consistency of approach and to seek ways to reduce the administrative burden on councils and businesses alike.

3.12	The working groups have been tasked with examining the legislation, draft application forms, applicant guidance information and to engage with key stakeholders such as Transport N.I., PSNI and the Planning Service.
3.13	The Act will give Council's similar powers to other licensing functions. We will be able to impose a range of licence conditions, charge a reasonable fee and may vary, suspend or revoke the licence in certain conditions. Councils will also have the power to remove facilities at unlicensed pavement cafés.
3.14	Whilst the provision of pavement cafés is encouraged it is important that they are properly situated and managed. There is scope to ensure they enhance the locality in which they are to be situated and not create undue noise disturbance or other nuisance to residents or neighbouring businesses.
3.15	A key consideration prior to licensing will be that the Pavement cafe does not obstruct the footpath or footway and do not create a hazard for pedestrians, particularly those with a physical or visual impairment.
<u>Working with the Industry</u>	
3.16	Officers are mindful of the businesses that are currently placing tables and chairs on the pavement in the City and are very keen to develop a fair and reasonable approach to the enforcement and administration of the legislation within Belfast, an approach which is similarly shared by officers in the other Councils with whom we have been engaging.
3.17	The Service has been operating a Customer Forum for some time now and through this we have been raising awareness of the introduction of the Act, we will continue this engagement over the coming months and seek further input from Hospitality Ulster as well.
3.18	In addition we will shortly be making a presentation to the Public Space Management Action Group, which is facilitated by BCCM, to update them on progress with the Act. The intention is then to commence meaningful engagement with this body to help develop guidance and introduce a fair and equitable pavement café licensing system which minimises the burden of regulation on business.
<u>Fees</u>	
3.19	As previously mentioned councils will also have the ability to impose a reasonable fee for the new function. This is a similar power to that granted to councils regarding the licensing of Sex Establishments and Street Trading, where we also have the ability to determine an appropriate fee.
3.20	Work has been ongoing in the Licensing Forum NI to develop a consistent approach to how the fees may be set, although it will remain the responsibility of each council to determine their own fees. A further report will be presented at your June meeting to outline our proposals regarding appropriate charges for the new function.
<u>Financial and Resource Implications</u>	
3.21	The introduction of the new legislation will have administrative and resource implications for all council's. For instance we will be required develop new application forms and accompanying guidance, to put in place new application assessment and administrative procedures, provide guidance and training for officers and agree new Committee arrangements for considering applications. We will also have to develop policies around the new function as matters progress.

<p>3.22</p> <p>3.23</p> <p>3.24</p> <p>3.25</p>	<p>Once the Act is commenced, we anticipate there will around 300 applications to process and considerable awareness raising will need to be undertaken with the businesses this will affect.</p> <p>The Act enables councils to set fees such that they may recover any costs incurred in administering and enforcing the legislation and this will be the basis upon which we will report fee charging options to Members at your next meeting.</p> <p><u>Equality or Good Relations Implications</u></p> <p>We will assess the equality and good relations implications with the introduction of the legislation and liaise with the Council's Equality and Diversity Officer to ensure that all potential issues are appropriately addressed.</p> <p>A completed screening form will also be forwarded to them for approval.</p>
<p>4.0</p>	<p>Documents Attached</p>
	<p>None</p>