

After further discussion, it was

Moved by Councillor Boyle,
Seconded by Councillor Hutchinson,

That the Committee, in its capacity as Licensing Authority, agrees to defer consideration of an application by Mr. T. O’Kane for a Stationary Street Trading Licence for a designated site in Lombard Street, at its junction with Rosemary Street, to allow for a review to be undertaken of the street trading function generally, including the designation process and the Stall Design Policy, and that the Planning Service should be consulted as part of that review.

Amendment

Moved by Councillor Collins,
Seconded by Councillor Bell,

That the Committee, in its capacity as Licensing Authority, agrees to grant to Mr. T. O’Kane a Stationary Street Trading Licence permitting him to sell telecommunications products and services from Monday to Saturday between 9.00 a.m. and 6.30 p.m. and on a Sunday between 11.00 a.m. and 4.00 p.m. from a designated site in Lombard Street, at its junction with Rosemary Street, subject to the submission of the required documentation and the appropriate licence fee.

On a vote by show of hands eight Members voted for the amendment and ten against and it was declared lost.

The original proposal was thereupon put to the meeting when eleven Members voted for and seven against and it was declared carried.

The Committee noted that it would receive from officers information on all sites across the City which had, to date, been designated under the street trading legislation.

Non-Delegated Matters

Fees Chargeable for the Licensing of Pavement Cafes

The Committee considered the following report:

“1.0 Purpose of Report/Summary of main Issues

To report on the outcome of the public consultation on the proposed fees for a Pavement Café Licence and the period for which a licence should be granted.

1.2 Members will recall that, at your meeting on 15th June 2016, the Committee agreed to initiate the consultation in relation to Pavement Café fees on the basis of the costing estimates presented, and to include within the consultation, options around the cost and duration of a licence and an indication that the Committee favours a five year fee, which would equate to an annual cost of £242.

1.3 The Committee agreed also that officers include within the consultation document information on the fees being charged by councils of a similar size to Belfast and whether the fees were being subsidised by those councils.

2.0 Recommendations

2.1 The Committee is requested to consider the contents of the report and, taking into account any representations received, agree:

1. to set the fees for Pavement Café Licences at the level outlined in the public consultation, or
2. to set the fees for Pavement Café Licences at a lower level, or
3. that there should be no fees for Pavement Café Licences and that the cost of administering the function should be rate borne, or
4. that further options for fees for Pavement Café Licences arising from your discussions be developed for your next meeting.

2.2 Members are also required to determine the period for which a licence will be granted.

3.0 Main Report

Key Issues

3.1 Members are reminded that the Licensing of Pavement Cafés Act (NI) 2014 gives the Council the power to set sufficient fees to allow it to recover the full costs of administering the Pavement Cafe Licence Scheme. However, the Council has the discretion to charge a reduced fee or to waive all charges.

3.2 Consultation on the proposed fees commenced on the 6th September and closed on 3rd October, after the statutory 28 day period, as required by the Act.

3.3 Notice of the consultation was published in the three main newspapers and over 1,000 letters were sent to businesses

across Belfast notifying them of the new Act and the proposed fees consultation.

- 3.4 The consultation sought the views from interested parties and a statement outlining how the fees were prepared was published and made available on the Council's website and at the Building Control offices.
- 3.5 Members are reminded that we have engaged extensively with a range of stakeholders throughout the process since the Act was introduced.
- 3.6 The matter has been a regular agenda item for our Licensing Customer Forum panel, we have published articles in City Matters, sent e-mails to existing licensees and attended various trade forum meetings including those of Belfast City Centre Management (BCCM) and Belfast Chamber of Trade and Commerce (BCTC) regarding our plans for the implementation of the Act and the proposed fees.
- 3.7 As a result of the consultation, a total of 19 responses were received which, based solely on the letters that we sent to potential licensees, equates to a response rate of less than 2% and only 1.5% from individual businesses.
- 3.8 A synopsis of the responses received, which includes a return from Hospitality Ulster, has been circulated to the Committee.

Summary of Responses

Response from:	Total	Percent
Members of the public	7	37%
Business owners	9	47%
A group or organisation	3	16%

- 3.9 Of these:
- all of the business owners indicated that their business would be affected by the proposals.
 - 60% of respondents felt that a licence should be for a period of five years or more, with most favouring five years.
 - of the businesses owners who responded, five operated businesses in the City centre, whilst three operated in East Belfast.
 - Strandtown Traders' Association and Hospitality Ulster responded online.

- 3.10** The majority of respondents to the consultation disagreed with the proposed licence fees, with most favouring a zero fee structure. The respondents, who did suggest an alternative fee, recommended an amount significantly lower than the proposed fee.
- 3.11** When asked about how the cost of administering the legislation should be met, opinion was mixed. Most respondents thought it should be added to the commercial rates and others were more concerned about the impact this and/or the fees in general would have on businesses.
- 3.12** BCCM expressed general concern that a proposed 'one size fits all' approach to pavement cafe licensing fees will not be viewed as proportionate and balanced across the hospitality sector. It disagreed with the fees because they do not consider the contrasting financial resources of the multi-national and independently owned businesses.
- 3.13** In its view:
- fees should be commensurate to the status of the business i.e. less for independently owned businesses and more for multinationals; or
 - a payment plan should be introduced for independently-owned businesses to minimise impact on cash flow.
 - fees should be based upon the quantities of tables/chairs which would give businesses a degree of control over their outlay and (in general) be proportionate, relative to independent and multi-nationally owned businesses.
- 3.14** It stated also that:
- the full cost associated with administering the Act should be recovered from the fees, and
 - Licences should be issued for five years.
- 3.15** A copy of BCCM's response has been forwarded to the Committee.
- 3.16** We have also consulted with BCTC and are currently awaiting their response. However, Officers will endeavour to obtain a response from them for your meeting.
- 3.17** Whilst the remaining businesses may believe that their views are being represented by trade bodies, such as Hospitality

Ulster, the level of return is unexpectedly low given the concerns that some had expressed about the proposed fees.

- 3.18 To remind the Committee, below is a summary of the proposed fees you provisionally agreed at your meeting on 15th June 2016:

	2016/2017
Grant Application Fee – Non refundable	£660
Renewal Application or Variation Fee – Non refundable	£4235
Licensed Fee (Annual)	£110

Comparisons

- 3.19 Research on the cost of a Pavement Café Licence in other larger local authorities across Great Britain and Ireland has been undertaken and a summary of findings has been circulated to the Committee.
- 3.20 Northern Ireland is unique in that we are the first region to have specific legislation for the licensing of Pavement Cafés. Other areas use highway permissions and effectively rent the land to the licensee.
- 3.21 This has made it difficult to give accurate comparisons but the following example may be of assistance. For a Pavement Café Licence, based on 3 tables and 12 chairs, in an area measuring 4m x 2m the annual (or equivalent annual fee) for other Cities is set out below.

Council	Annual (or equivalent annual) fee
Dublin (city centre pedestrian zone)	£880
Edinburgh	£800
Glasgow (city centre)	£450
Liverpool	£283(equivalent annual)
Manchester	£437
Southwark	£978
Sheffield	£95
Surrey County	£104
Newcastle	£363 (equivalent over 5 years)
Oxford	£700
Birmingham	£750

- 3.22 As reported at your meeting on 15th June, if Pavement Café Licences were to be granted for five years, the total licensing cost over that period would be £1210, with the greatest expense occurring in the first year due to application processing costs. This would be the equivalent of £242 per year. From the table above, only Sheffield and Surrey County Council have a lower fee.

3.23 The table below is an extract from the report of 15th June which may also assist Members in deciding the appropriate period of the licence.

	Year 1	Year 2	Year 3	Year 4	Year 5	Total	Average cost
1 Year Licence	£770	£545	£545	£545	£545	£2,950	£590
3 Year Licence	£770	£110	£110	£545	£110	£1,645	£329
5 Year Licence	£770	£110	£110	£110	£110	£1,210	£242

3.24 The other Councils in Northern Ireland are currently setting their fees for Pavement Café Licences and their latest proposed fees and period of licence are set out below.

District	Grant	Renewal	Variation	Licence Duration
Antrim and Newtownabbey	Free	Free		3
Ards and North Down	£225	£150	£150	3
Armagh, Banbridge and Craigavon	£213*	£111	£111	3
Belfast	£660	£435	£435	5
Causeway Coast and Glens	£375	£285	£285	3
Derry and Strabane	tbc	tbc	tbc	tbc
Fermanagh and Omagh	£375	£285		3
Lisburn and Castlereagh	£480	£360	£85	tbc
Mid and East Antrim	Free	Free		3
Mid-Ulster	£370	£285	£285	3
Newry, Mourne and Down	£375	£280	£280	3

***ABC Council fee will be up to a maximum of £831 if planning permission is also required.**

3.25 Whilst all the other councils have opted for, or are considering, three year licences, their equivalent annual licence cost is less than that proposed for Belfast and two councils have decided to waive fees completely.

Financial and Resource Implications

- 3.26 There are significant financial and resource implication associated with this report.
- 3.27 The proposed Pavement Café Licence fees will ensure the cost of the operational and administration processes are proportionate to the licensing scheme. Details outlining the costings associated with administering Pavement Café Licences have been forwarded to the Committee.

Equality or Good Relations Implications

- 3.28 The Council's Equality and Diversity Officer has been consulted to ensure there are no issues with regards to the setting of fees."

The Building Control Manager provided an overview of the report and, whilst providing clarification on a number of issues which had been raised by Members, confirmed that the Council had a statutory responsibility for enforcing the Licensing of Pavement Cafés Act (Northern Ireland) 2014, which precluded it from employing an external organisation to undertake the administration of the licensing process on its behalf.

After a lengthy discussion, it was

Moved by Alderman Spence,
Seconded by Councillor Boyle,

That the Committee agrees to adopt the following charging structure for Pavement Cafés Licences:

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|------|---|---------|
| i. | Grant Application Fee | £225.00 |
| | (No Licence Fee should be payable in the first year) | |
| ii. | Annual Licence Fee | £55.00 |
| iii. | Variation/Renewal | £112.50 |
| iv. | Licences should cover a period of five years, with fees being reviewed on an annual basis | |
| v. | Applicants should be offered the opportunity to avail of a payment plan to assist them in meeting the cost of licensing their premises. | |

Amendment

Moved by Councillor McDonough-Brown,
Seconded by Councillor Heading,

That the Committee agrees to defer until its next meeting consideration of the fees to be applied to Pavement Café licences, to enable officers to consider in greater detail the charging structure which had been proposed by Alderman Spence and to review the costs to be incurred by the Building Control Service in administering the Payment Café licensing process, with a view to formulating further options, which should take into account the comments which had been received during the public consultation exercise from Belfast City Centre Management, as set out within paragraphs 3.13 and 3.14 of the report.

On a vote by show of hands eleven Members voted for the amendment and four against and it was declared carried.

The amendment was thereupon put to the meeting as the substantive motion when thirteen Members voted for and four against and it was declared carried.