



Subject:	Pavement Café Licensing
Date:	13 December 2023
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext 2435
Contact Officer:	James Cunningham, Senior Licensing Officer, Ext 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

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

1.0	Purpose of Report or Summary of main Issues
1.1	At your meeting in September 2023 Members, in principle, agreed to the introduction of a permanent Pavement Café licensing scheme from 1 January 2024 with a transition and implementation period of 3 months.
1.2	Members had asked that Officers engage with various stakeholders regarding the prospect of implementing a permanent pavement café licensing scheme and that persons operating unlicensed pavement cafes would be surveyed to ascertain why they had not applied for a temporary licence.
1.3	This report provides a summary of the responses received from the consultation exercise and seeks your direction upon the implementation of a permanent licensing scheme.

2.0	Recommendations
2.1	<p>Based on the information provided in this report about the consultation work that has been undertaken Members are asked to agree to:</p> <ol style="list-style-type: none"> 1. Proceeding with the implementation of a permanent Pavement café Licensing scheme from 1 January 2024; 2. A 3-month transition period to enable existing licensees to move to the permanent scheme by 31 March 2024; 3. Introducing the application fees agreed at your meeting in December 2016; 4. A review of the current fees being undertaken and presented to Committee for consideration in due course; 5. The 5-year licence term remaining as agreed at your meeting in December 2016; 6. The standard hours of operation for Pavement Cafes being set as 7.00 am to 11.00 pm and, where individual circumstances dictate that these hours are deemed unsuitable, that authority is delegated to the Director of Planning and Building Control to either extend or restrict the standard times of 7.00 am to 11.00 pm as appropriate.
2.2	<p>Members are advised that the Licensing Committee does not have delegated powers in relation to policy decisions concerning licensing matters and as such your recommendation will be subject to ratification by Council.</p>
3.0	Background
3.1	<p>Members are reminded that the Council, in June 2020, introduced a temporary process for considering pavement café applications to assist the hospitality sector during recovery following the Covid-19 pandemic lockdown.</p>
3.2	<p>On 5 September 2023 a workshop was held for Members to discuss pavement café licensing and the future of the temporary scheme. Some key outcomes of that workshop were that:</p> <ul style="list-style-type: none"> • Members were generally of the view that Pavement Cafes were a positive addition to the City. • Proper regulation and proportionate enforcement would be an important aspect of any permanent scheme to ensure a fair approach for all those wishing to benefit from a Pavement Café licence. • Consultation on progressing with a permanent scheme should be undertaken with key stakeholders. • There should be clear and straightforward procedures for applicants. • Clarity on how we can progress to a permanent scheme should be provided for Members before a decision can be made on any future scheme.
3.3	<p>At your meeting in September 2023 the Committee agreed, in principle, to the introduction of a permanent Pavement Café licensing scheme from 1 January 2024 with a transition and implementation period of 3 months to allow existing licensed businesses to continue to operate until the grant of their permanent licence is determined and after which temporary licences will no longer be valid.</p>
3.4	<p>In addition, the temporary scheme was extended until the 31 December 2023 to enable consultation work with all stakeholders to be completed and for the findings of that</p>

	consultation to be reported to Committee for consideration before making a final decision in relation to the future of Pavement Café licensing.
4.0	Key Issues
	<p><u>Pavement Café Consultation</u></p> <p>4.1 Members are advised that we have engaged with a wide range of stakeholders regarding the Temporary Pavement Café Licensing scheme and the proposal to implement a permanent licensing scheme.</p> <p>4.2 This has been done through a variety of mediums including a YourSay Belfast on-line public consultation, email correspondence, an in-person survey with businesses that had not applied for a licence, workshops with representatives of people with disabilities (a number of Members attended one of these workshops) as well as workshops with the business and hospitality community, DfI Roads and DfC.</p> <p>4.3 A full synopsis of the consultation feedback is included as appendix 1 to this report. A summary of the key findings is outlined below:</p> <p>YourSay consultation</p> <p>4.4 A YourSay consultation to obtain views on the merits of Pavement Café Licensing was carried out. The consultation ran for 8 weeks from 29th September to 30th November 2023.</p> <p>4.5 The YourSay public consultation received a total of 256 responses and a further 27 current temporary licence holders responded to the Licensee consultation.</p> <p>1. YourSay public consultation</p> <p>4.6 The majority of respondents indicated that they have been recent customers of a pavement café in the city, with almost 59% visiting one in the last month. The most popular locations for visiting pavement cafes are in the city centre (66%) followed by South Belfast (23.8%).</p> <p>4.7 There is general agreement that pavement cafes are of benefit to customers and are a positive addition to Belfast.</p> <p>4.8 In terms of negative experiences of pavement cafes, respondents identified that some pavement café areas are too large and obstructed access or footfall to an adjacent business. They also identified that pavement café furniture is not being removed from the street at night or when the business is closed causing obstruction to vehicles.</p> <p>4.9 There was also strong support (85.4%) for proper regulation to reduce any negative impacts.</p> <p>4.10 Most importantly 88% of the public consultees were in support of a permanent pavement café licensing scheme for Belfast.</p> <p>2. YourSay licensee consultation</p> <p>4.11 The YourSay targeted consultation with temporary Pavement café licence holders received a total of 27 responses.</p> <p>4.12 The majority (72%) of those with a temporary licence found the application process to be straightforward.</p>

4.13	The majority of respondents (51.9%) said the fees previously agreed by Committee wouldn't stop them applying.
4.14	<p>Going forward, the consultees were overwhelmingly in support of a permanent pavement café licensing scheme for Belfast (88.5%). Comments from consultees indicate that a permanent scheme would enhance their businesses, encourage them to invest more, provide clear operating parameters, increase vibrancy and give Belfast a European feel with a café culture.</p> <p>Feedback from Section 75 and disability umbrella group meetings</p>
4.15	<ul style="list-style-type: none"> • Generally, people were supportive of pavement cafes and they are seen as a positive addition to the city. • For people that still feel vulnerable to covid, etc. they feel more comfortable in outdoor spaces. • Some cafes create a tripping hazard and some businesses have taken over pedestrian areas to the extent that sometimes people are being forced onto the road. • Pavement Cafes should not take over car parking spaces – accessible car parking needs retained. • Barriers surrounding pavement cafés can sometimes confine the space making it more difficult for some people using a rollator or wheelchair. • Conversely, it is recognised that barriers around cafes are important for those with sight issues. • Good regulation/monitoring and enforcement is required. • Voices of disabled people must be heard – the disabled (purple) £ is worth as much as anyone else's. • City needs to be safe for disabled people to go the places they want to.
4.16	Following the workshop Guide Dogs Northern Ireland provided their views on the proposed scheme. Guide dogs provides services that support the independence of people with sight loss as well as campaigning and giving advice to government on creating an inclusive and accessible built environment. A copy of their letter is included as appendix 2.
4.17	Guide Dogs Northern Ireland expressed how reducing obstacles on pavements and street clutter is important to improving the quality of life of people with sight loss and raised concern at a possible rapid expansion of licences for pavement furniture, with streets becoming inaccessible if large areas of pavements are occupied by new furniture.
4.18	<p>They asked specifically that:</p> <ol style="list-style-type: none"> 1) the application consultation process be made accessible. 2) it be a requirement for all pavement café furniture to be separated from the pavement by a barrier. 3) a minimum pavement width of 2m (reducing to 1.5 m when not feasible) be required. 4) the Council would investigate concerns around accessibility and that a licence should be revoked if the pavement is not sufficiently accessible.
4.19	To reassure Members our guidance document for temporary pavement cafes contains a minimum pavement width of 2 metres clearance with a reduction of 1.5m in constrained environments. It further states that the licensed area should ideally be enclosed by way of adequate screening, to demarcate the area, to make it distinguishable to other pavement users, and to assist blind and visually impaired pedestrians. The guidance is being reviewed and updated for the permanent scheme.

4.20	<p>Members will be aware that there is a separate agenda item on pavement café licence conditions. In that report we have suggested a condition to deal with keeping routes along pavements clear and taking into account the needs of disabled people.</p> <p>Hospitality / business umbrella group workshop</p>
4.21	<ul style="list-style-type: none"> • Very supportive of a permanent scheme for Pavement Cafes and also very supportive of Parklets (and more pedestrianisation in City) with regulation/enforcement. • Requirement to be able to remove furniture in 20 minutes is seen as a problem which makes aspiring to a good quality enclosure and furniture difficult. • Better quality plans were not seen as an issue. • The fees set previously were not viewed as unreasonable and it was suggested that this could increase if you were getting more space. Although size should not be related to available indoor space. • It was accepted that some existing Pavement Cafes are too large and will need to reduce in size for a permanent scheme. • Cleansing issues – agreed that should be condition of licence that they need to keep it clean. • There was concern that a minimum requirement of 2m clear footpath should be set for accessibility in all cases, as lesser width may be acceptable depending on location.
4.22	<p>Following the workshop the Federation of Small Businesses (FSB) provided their views on the proposed implementation of the scheme in January 2024. A copy of their letter is included as appendix 3.</p>
4.23	<p>Whilst they fully understand the need for updated, permanent arrangements the FSB have expressed concerns that the process appears to be rushed and incomplete. They have asked that the Council consider:</p> <ol style="list-style-type: none"> 1) Extending the current temporary scheme to allow for adequate stakeholder engagement with the consultation. 2) Re-consult stakeholders on the full draft pavement licensing scheme once the recommendations from stakeholders have been taken into account and/or the draft has been brought to the Licensing Committee for discussion. 3) Ensure all licensed and unlicensed pavement café operators have been contacted, and allow at least a 6 month transition period from the date a new scheme is properly consulted upon, agreed and has been fully communicated with respective premises.
4.24	<p>Officers believe that the Council has undertaken extensive consultation as outlined in this report. Two of the responding organisations welcomed the level and range of stakeholder engagement undertaken as part of this consultation process. We have visited over 60 unlicensed operators to discuss the licensing scheme as part of our consultation and this engagement will continue with both licensed and unlicensed operators. Officers are also looking at further ways to engage with businesses following the introduction of a permanent scheme to assist and support them.</p> <p>Dfl Roads engagement workshop</p>
4.25	<ul style="list-style-type: none"> • Pavement café culture and making spaces people-centric is something Dfl support but public safety/road safety/pedestrian safety is paramount. • Pedestrian numbers in city centre are likely to increase over time. Proposals in the Eastern Transport Plan will give space back to active travel, less parking spaces, more space for pedestrians.

- Each application needs be assessed individually on its own merits – need to consider levels of footfall on footway etc.
- The existing BCC guidance has been working satisfactorily for temporary scheme but Dfl would hope to get agreed NI wide guidance screened and published.
- Dfl favoured shorter licence period than 5 years, to help deal with changing road/footpath landscape, but realised this may mean licensees would make less investment etc.
- Council processes needed to revoke or vary PC Licences to cater for changing streetscape
- Street furniture (benches/cycle stands) need to be standalone and outside of pavement café areas.
- Dfl keen that pavement café furniture is removed outside operation hours, and that these hours should reflect the need to have furniture removed to facilitate unloading/loading hours for those in pedestrianised areas with restricted access for vehicles e.g. removed at night until 11am the next morning – if loading/unloading allowed until 11am.

Survey of business who did not apply for a Licence

- 4.26 At your meeting in September Members had expressed concern about the number of unlicensed pavement cafes and asked that we consult with those businesses which had not applied for licences under the temporary scheme, to determine if there were specific reasons or barriers which they had encountered.
- 4.27 A Licensing Officer conducted an in-person survey around the city, visiting 61 businesses that currently operate an unlicensed pavement café to follow up on this request.
- 4.28 The overwhelming reason (69%) given for not applying was that they were unaware of the licensing scheme.
- 4.29 However, feed-back provided was generally positive and the majority of businesses welcomed the permanent scheme and confirmed they would apply.
- 4.30 Most felt that the original fee agreed by the Council was reasonable and others commented that the introduction of the permanent scheme would give them assurance, by obtaining a licence that would be valid for a number of years, to invest in their pavement cafe.
- 4.31 The results of the consultation exercises demonstrate there is clear agreement that there should be a permanent Pavement Café licensing scheme.
- 4.32 Taking into consideration the range of feedback that has been received as a result of the consultation Committee is now asked to consider if a permanent Pavement Café licensing scheme should now be implemented on 1 January 2024 and, if so, that this will be subject to the transitional arrangements as outlined below.

Proposed Transitional Arrangements

- 4.33 It is considered necessary to have a transition and implementation period of 3 months for the introduction of a Permanent Pavement Café Licensing scheme. During the implementation period those with an existing temporary licence will be required to apply for a licence under the permanent scheme but may continue to operate their pavement café until their new application is determined.
- 4.34 The implementation period will also allow the Council time to process grant applications for permanent applications and for relevant statutory and public consultations to be undertaken.

4.35	A cut-off date for transitional arrangements to enable a move to a permanent Pavement Café Licence scheme is 31 March 2024. Thereafter any temporary licences will no longer be valid and any that have not made an application for a Licence will be subject to routine enforcement procedures.
4.36	Bearing in mind the comments of the FSB, if Members are minded to introduce a permanent scheme, you may wish to consider a longer transition period than 3 months.
	<p><u>Fees</u></p>
4.37	At your meeting in December 2016 the Committee, after considering a number of options, agreed the fees that should be charged for a Pavement Café Licence and determined a grant application fee of £225.00 with an annual licence fee of £55.00 for the ensuing 4 years. (No annual licence fee is charged in the first year). In addition, it was agreed that the fee for an application for the variation of a licence and also for the renewal of a licence would be £112.50.
4.38	Whilst the legislation allows the Council to set fees at full cost recovery levels Members decided to set a significantly reduced fee, equating to around 25p per day for a 5-year licence.
4.39	Given the circumstances under which the temporary scheme was introduced, the Council waived any fees associated with a Pavement Café application.
4.40	As a result of the YourSay public consultation the majority of consultees felt that the cost of administering the pavement café licence process should be met by Café owners or operators (74.4%) rather than coming from within existing council budgets (25.6%).
4.41	Also, through our stakeholder engagement it is apparent that businesses were not opposed to paying a fee. At the business workshop, the Federation of Small Businesses commented that paying a fee or bigger fee shouldn't be a problem for businesses, as they will carry out a cost benefit analysis to ascertain if its financially viable for their business.
4.42	Committee is asked to agree that the fees set in 2016 be implemented for the permanent scheme as there is scope within the Pavement Cafes Act for councils to ensure the cost of administering pavement cafes is not a rate borne activity. As these fees were set 7 years ago it is suggested that a review of fees be undertaken so that inflationary uplift and the costs of the operation of the scheme and associated enforcement activity can be assessed.
	<p><u>Duration of Licences</u></p>
4.43	It was previously determined by Council in 2017 that Pavement Café licences will be granted for a period of 5 years.
4.44	When asked about a licence period of 5 years, 52.2% of the public felt that was about right; 26.3% felt it was too long; and 6.7% thought it was too short. 77.8% of current licensees felt that a 5-year licence was about right whilst 11.1% felt it was too short a period.
4.45	Comments received on the licence duration indicate that business would be happy to invest in quality furniture knowing the licence was for 5 years. Other comments felt that the nature of the industry and the need to capture changes mean a shorter licence period would be more appropriate.
4.46	DfI Roads are concerned about the Council issuing a 5-year licence favouring a shorter licence period to help deal with changes to the road/footpath landscape.

4.47	Officers believe there are sufficient powers contained within the Licensing of Pavement Cafés Act (Northern Ireland) 2014 that should any part of the public area become, or is going to become, unsuitable for that purpose to revoke a licence.
4.48	Members are asked to determine if the 5-year licence term should be retained.
	<u>Licence Conditions</u>
4.49	At your meeting in December 2016, the Committee, agreed Standard Licence Conditions which would be applied to pavement cafés.
4.50	The majority of those conditions have proven appropriate, however there is scope to clarify and augment some of those Conditions, particularly in relation to street cleanliness issues and issues around removing and storing pavement café furniture.
4.51	A separate report will follow at this meeting to discuss this matter.
	<u>Licence hours of operation</u>
4.52	At your meeting in December 2020, the Committee, agreed that the standard hours for which a Temporary Pavement Café Licence may be permitted to operate would be set as 7.00 am to 11.00 pm, and authority was delegated to the Director of Planning and Building Control to grant any application for a pavement café licence to trade earlier or later than the standard times of 7.00 am to 11.00 pm.
4.53	The consultation exercise has highlighted issues around loading and unloading of vehicles making deliveries and that the times of operation of a pavement café should be set to minimise disruption of deliveries to business premises.
4.54	For clarity for any applicant for a permanent Pavement Café Licence Members are asked to agree that the standard hours of operation are set as 7.00 am to 11.00 pm. Where individual circumstances dictate that these hours are deemed unsuitable it is suggested that authority is delegated to the Director of Planning and Building Control to either extend or restrict the standard times of 7.00 am to 11.00 pm as appropriate.
	<u>Guidance documentation</u>
4.55	The Council produced a guidance document to help business owners to prepare an application for a Temporary Pavement Café Licence during the Covid 19 pandemic. That guidance document was based on guidelines prepared by the Department for Communities when they brought in the Licensing of Pavement Cafés Act (NI) 2014.
4.56	In addition, the Licensing Forum Northern Ireland produced a 'Guidance for Applicants' document to assist those intending to make an application for a pavement café licence.
4.57	Our guidance was equality screened with reviews in 2020 and 2021 for the temporary scheme.
4.58	Arising from the consultation exercise some suggested amendments to our guidance have been made by the Inclusive Mobility and Transport Advisory Committee (Imtac). Imtac is a committee of disabled people and older people. Its role is to advise Government and others in Northern Ireland on issues that affect the mobility of Deaf people, disabled people and older people.

4.59	A copy of the lmtac letter is included as appendix 4 to this report.
4.60	Officers understand that Dfl Roads are to finalise the technical guidance which the Council was seeking to base our own guidance upon at the time that the legislation was introduced in 2016. Any technical changes highlighted in this regional guidance will be reflected in our guidance.
4.61	As previously stated, our guidance document for pavement cafes is being reviewed and updated for the permanent scheme. Suggested changes from lmtac and others will be considered and incorporated where possible. In doing so we must strike a balance in addressing concerns raised through the consultation exercise as it highlighted differing and competing needs, not just from applicants but also in feedback from disability groups.
4.62	Officers will undertake additional engagement with interested parties to consider their views further and to develop our guidance. In addition, we will monitor the rollout and implementation of the scheme and, where necessary, guidance can be amended further if necessary.
5.0	Financial and Resource Implications
5.1	The grant application fee for a 5-year pavement café licence is £225.00 with an annual licence fee of £55.00 for the subsequent 4 years. If the fees are waived there will be a total lost income over 5 years of at least £41,830 on the basis of applications granted at present. Given that this only represents about 40% of the total number of pavement cafes in the City should a scheme be implemented the loss in income to the Council would be considerably higher.
6.0	Equality or Good Relations Implications/Rural Needs Assessment
6.1	The Building Control Service has consulted with a range of stakeholders on various aspects of pavement café licensing over the last number of years. This included a formal consultation with potential pavement café operators on the proposed fees for a pavement café licence application in 2016. In June 2020 the Council introduced the temporary process for pavement café licence applications, with no associated fee, to help businesses recover during Covid-19. The temporary scheme underwent a screening process in 2020 and it was reviewed in 2021.
6.2	Prior to the current public consultation, an equality screening process and rural needs assessment were undertaken. Views were sought on the information contained in these draft documents and these will be updated accordingly based on the feedback obtained through the consultation and engagement process prior to progressing to a permanent scheme.
7.0	Appendices
	Appendix 1: Full synopsis of the consultation feedback Appendix 2: Letter from Guide Dogs Northern Ireland Appendix 3: Letter from the Federation of Small Businesses Appendix 4: Comments from lmtac about the BCC public consultation on The Pavement Cafes Licensing Scheme