

Building Control

Place and Economy Department
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pavementcafes@belfastcity.gov.uk



Copied to relevant elected members.

30th November 2023

Re: Public consultation on a Permanent Pavement Café Licensing Scheme

Dear Team,

The Federation of Small Businesses (FSB) has 160,000 SME members across all sectors, of which 6,000 are in Northern Ireland. SMEs make up 99% of all businesses in NI, employing more people than large business and the public sector combined. Hospitality businesses form a significant part of the FSB membership, and we welcome the support provided to businesses during the pandemic - including the Temporary Pavement Café Licensing Scheme currently in operation across the Belfast City Council (BCC) area.

Overall

We understand the consultation relating to pavement café licensing will inform the implementation of a permanent pavement café licensing scheme due to begin in January 2024, which will include a 3-month grace period until March 2023 allowing current license holders and non-holders to apply and transition.

We welcome stakeholder engagement on this issue and note the wide variety of views that need to be accounted for. We appreciate the approach taken by BCC in during previous years, and we recognise the support shown for businesses during the Covid-19 pandemic and recovery. We also acknowledge the need to agree and embed more permanent arrangements, having now moved beyond the pandemic.

However, we are concerned that the process is not being carried out in a way that will bring about the best quality stakeholder engagement - and therefore a suboptimal transition and/or operation of the new scheme is more likely. These concerns are outlined in the following ways below.

Concerns

Belfast City Council notes the following on its [consultation page](#):

"We intend that the permanent scheme beginning 1 January 2024 will mirror the existing temporary scheme. However, associated fees may apply, applications will be considered with a less liberal approach than was deemed appropriate during the temporary scheme in terms of location, size and so on and licence conditions may be amended, or new ones added to address specific issues. It is also intended that the permanent scheme will include increased monitoring and enforcement activity with

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regards to both licensed and unlicensed pavement cafés. A consultation exercise is being carried out prior to implementation of the permanent scheme to inform any changes that are required.”

Time of year - the ongoing consultation process is due to conclude in late November/December following an online public consultation and in person engagement with Equality groups and businesses. This will be followed by an almost instant implementation of the new scheme in January 2024.

This is the Holiday season and the busiest for the hospitality sector. Therefore, effective engagement with the consultation process is unlikely for many.

During in-person engagement with stakeholders that included FSB, officials were very helpful and open minded. It was explained that ~40% of those premises operating a pavement café currently hold a licence. This means there are over 130 premises operating without a licence – many of whom who may not be fully aware of present or upcoming requirements. In contacting FSB members with a pavement café, many have been unaware – and we recommended in discussions with officials that contact be made.

Given the importance of pavement cafes to the operating model of said businesses, the combination of timing and lack of effective engagement could result in businesses being taken by surprise – and potentially left without considerable seating space in their business. The knock-on effects, particularly for small independent businesses, could result in serious cash flow problems, and all that follows in such a scenario. The combination of timing and a compressed timeframe is not good, nor fair on small businesses.

No Draft – in addition to the time of year and compressed timeframes, the consultation has come about in the form of in person engagement and a survey. However, it is standard practice for government to do this type of work *ahead* of consultation on a draft proposal i.e. a new draft version of the temporary scheme documentation.

The benefit of consulting on an actual draft is that stakeholders can clearly see the areas of change, and comment about the positive or negative impacts of those changes. Without such an approach, we can only see an inadequate process unfolding that increases the risk of unnecessary harm or distress for small businesses.

If the temporary scheme was to be ‘rolled over’ in whole, then this would provide stakeholders with a document to critique and the primary issue would be one of timing. However, during the engagement process it became apparent that officials considering a range of changes that would be decided ‘behind closed doors’ and presented to a committee

– without stakeholders having had a chance for consultation on said proposals. This misses at least one key step in the use of best practice public consultation.

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Overlap – Furthermore, the Department for Communities (DfC) has also been carrying out an evaluation of the Pavement Café legislation. Although this evaluation is mandated by the legislation, it adds a question as to the timing of BCC consultation i.e. would be more appropriate to commence a permanent scheme when the DfC evaluation is complete, for example. For information, we have inserted our response to the evaluation in the letter below:



FSB NI Response to
Evaluation on Licensin

Recommendations

FSB members fully understand the need for updated, permanent arrangements – however the process appears to be rushed and incomplete. In light of the information outlined above, BCC should consider the following as a means of ensuring clarity, fairness and a lasting solution in keeping with the its wider aims:

- 1) Extend 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 licenced and unlicensed pavement café operators have been contacted, and allow at least a 6 months transition period from the date a new scheme is properly consulted upon, agreed and has been fully communicated with respective premises.

Conclusion

We are grateful for Belfast City Council’s continued engagement with businesses on this topic and other matters. Again, we reiterate our understanding of the need for the scheme to be updated and/or made permanent. However, we have serious concerns around process and have provided some low-cost, reasonable solutions to ensure that stakeholders have a voice on the matter and a fair period of time to transition.

We would welcome engagement in the months ahead. In the meantime, we wish you well with the process as it continues to develop.

Yours faithfully,

Team FSB NI

For more information and engagement please contact neil.hutcheson@fsb.org.uk

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