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**Democratic Services Section
Legal and Civic Services Department
Belfast City Council
City Hall
Belfast
BT1 5GS**

14th September, 2023

MEETING OF LICENSING COMMITTEE

Dear Alderman/Councillor,

In addition to those matters previously notified to you, the following item(s) will also be considered at the meeting to be held at 5.15 pm on Wednesday, 20th September, 2023.

Yours faithfully,

JOHN WALSH

Chief Executive

AGENDA:

- 3 (a) Review of Pavement Cafe Licensing Scheme (Pages 1 - 6)

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Subject:	Pavement Café Licensing
Date:	20 September 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	Members are reminded that the Council, in June 2020, decided to introduce a temporary process for considering pavement café applications to assist the hospitality sector during the recovery following the Covid-19 pandemic lockdown.
1.2	The temporary pavement café licensing scheme has now been extended twice and will expire on 30 September 2023.
1.3	This report is presented to seek guidance on how to progress with pavement café licensing when the temporary process comes to an end.

2.0	Recommendations
2.1	<p>Based on the information provided Members are asked to consider proposals that:</p> <ol style="list-style-type: none"> 1. The temporary scheme is extended until the 31 December 2023 to enable all consultation work to be completed and to report the findings back to Committee for consideration before that date. 2. In principle, Members support the introduction of a permanent Pavement Café licensing scheme from 1 January 2024. 3. A transition and implementation period of 3 months is introduced 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.
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>The Licensing of Pavement Cafes Act (NI) 2014 (“the Act”) came into operation on the 1 October 2016. However, the Council, along with a number of other councils, did not implement the legislation at that time as the Department for Infrastructure Roads had not, and still has not, issued their technical guidance for Councils in support of the Act.</p>
3.2	<p>That said, the Department for Infrastructure (DfI) has now evaluated and determined the appropriateness of 94 Temporary Pavement Café applications in Belfast, using their professional expertise and their own guidance documents.</p>
	<p><u>Temporary Licensing Process due to Covid 19</u></p>
3.3	<p>The Council, in June 2020, introduced a temporary process for considering pavement café applications.</p>
3.4	<p>The process was always intended to be a temporary process as Members will remember when businesses reopened after lockdown patrons were not allowed to be inside the premises due to social distancing restrictions.</p>
3.5	<p>This temporary process was considered as part of the solution to help business recovery but was originally to be for a period of one year. It gave the ability to businesses to start using the pavement café area whilst their licence application was being determined and statutory agencies were encouraged, by Government, to take a very liberal view when considering applications to allow hospitality businesses to reopen.</p>
3.6	<p>This liberal approach when considering applications meant permitting Pavement cafes that would not have been agreed in ‘normal’ circumstances. For example:</p> <ul style="list-style-type: none"> • Much larger pavement café areas, • Pavement cafes being allowed to use the road, • DfI introducing ‘Parklets’ to be used as a pavement café area, and • DfI temporarily closing or restricting roads so they could be used for a pavement café area.

3.7	<p>Also, post lockdown, the City was a very different place compared to now; patrons were not allowed to be inside hospitality premises, there were social distancing and mobility restrictions, most people were working from home, footfall was down in the City centre, as was traffic and this gave significantly more available space on the street.</p> <p><u>Pavement Café Workshop</u></p>
3.8	<p>On 5 September 2023 a workshop was held for Members to discuss pavement café licensing and in particular the temporary scheme. As well as officers from Building Control and Planning there were staff from Open Spaces and Street scene, City Regeneration and Development, and Legal and Civic Services available to provide input to the workshop on matters such as how pavement cafes contribute to vibrancy, impact on amenity and their effect on other road/pavement users.</p>
3.9	<p>Some of the key outcomes of the 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 including current licensees, the business community in general, representatives of those people with disabilities and relevant government agencies • There should be clear and straightforward procedures for applicants (including clear guidance on the transition between a temporary and permanent scheme) • 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.
4.0	<p>Key Issues</p>
4.1	<p>There is an obvious desire to create a vibrant café culture in the City with al fresco dining now an accepted part of the hospitality offer. In doing so we must also be mindful of the impact this may have on the various needs of all those who use our City.</p>
	<p><u>Current Situation</u></p>
4.2	<p>There are now 94 Pavement Cafés in Belfast that have received temporary licences. The majority of these are well run with no complaints to the Council. There are also a significant number of businesses operating who have not applied for a Temporary Pavement Café licence.</p>
4.3	<p>A recent survey carried out by council officers of pavement cafes in the City highlighted that almost 60% are operating without a Pavement Café Licence.</p>
4.4	<p>A few licensed pavement cafés, in particular in the City centre, have been a source of complaint from adjacent businesses and from members of the public. The nature of those complaints relates to:</p> <ul style="list-style-type: none"> • The size of the area being used. • The area affecting footfall and trade to adjacent businesses. • Furniture not being removed at the end of trade. • Impact on early morning deliveries.

4.5	As reported at the workshop the Council's cleansing and waste management crews are experiencing difficulties in getting their vehicles in to empty bins and clean the streets as pavement café furniture is not being removed at the end of trade.
4.6	Additionally, the pavement is not being cleaned and litter generated by customers using the area is not being collected by the business. This is contributing to the ongoing cleanliness issues in the City.
4.7	Temporary licences will expire at the end of September and several licensees have been enquiring about 'renewing' their licence.
<u>Next Steps</u>	
4.8	It was apparent from the workshop that Members were keen that further stakeholder engagement is undertaken and presented to Members before they make a final decision in relation to the future of Pavement Café licensing.
4.9	Consultation is therefore underway and we are currently engaging with existing licensees, the business community, representatives of people with disabilities and relevant government agencies, as well as undertaking a YourSay public consultation to obtain views on the merits of Pavement Café licensing and to gather any issues members of the public may raise.
4.10	The YourSay public consultation is planned to run for 8 weeks during October – November 2023 which, with additional more focused consultation and workshops targeted at those groups and businesses likely to be most impacted by the Pavement Café Licensing scheme running alongside the public consultation.
4.11	The consultation will not be completed before the temporary licences expire on 30 September, and it is therefore requested that Members extend the temporary scheme until the 31 December 2023 to enable all consultation work to be completed and to report our findings back to Committee for consideration before that date.
<u>Proposed Transitional Arrangements</u>	
4.12	It is considered necessary to have a transition and implementation period of approximately 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.
4.13	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. An implementation period will also avoid the prospect of an influx of grant applications having to be considered in a short space of time.
4.14	A cut-off date for transitional arrangements to enable a move to a permanent Pavement Café Licence scheme is suggested as 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.
4.15	It would be helpful if Members were to confirm that they are supportive of introducing a permanent Pavement Café licensing scheme with a proposed implementation date of 1 January 2024 and that this will be subject to the transitional arrangements as outlined.

4.16	<p>In providing such direction this will ensure we can effectively engage with licensees and other stakeholders and will provide clarity for them in the direction of travel proposed by the Council.</p>
<p><u>Guidance</u></p>	
4.17	<p>To implement the temporary licensing scheme guidance for applicants, based on the Department for Communities guidelines and supplementary guidance from the Licensing Forum Northern Ireland was produced.</p>
4.18	<p>In general, this guidance has proved effective but we will review this and reflect any feedback obtained through our stakeholder consultation to improve or supplement our guidance for applicants if necessary.</p>
<p><u>Fees</u></p>	
4.19	<p>Given the circumstances under which the temporary scheme was introduced, the Council waived any fees associated with a Pavement Café application, unlike in England where a nominal charge of £100 was set.</p>
4.20	<p>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 that a grant application fee is £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).</p>
4.21	<p>Whilst the legislation allows the Council to set fees at full cost recovery levels Members decided to set a significantly reduced fee, equating to 25 pence per day for a 5-year licence.</p>
4.22	<p>Through our stakeholder engagement we will explore their views on the Council charging the fees agreed by Council in 2017.</p>
<p><u>Licence Conditions</u></p>	
4.23	<p>The Licensing Committee agreed, at their meeting of December 2016, to Standard Licence Conditions which would be applied to pavement café's.</p>
4.24	<p>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.</p>
4.25	<p>Through our stakeholder engagement we will explore their views on any suggested revisions to these conditions which will then be reported to Committee for consideration.</p>
<p><u>Enforcement</u></p>	
4.26	<p>Over the course of the pandemic the Council has responded to requests from the Assembly and industry to assist recovery and we have therefore been endeavouring to provide support and minimise impact on small businesses.</p>
4.27	<p>For that reason, there has been a very 'light touch' approach to enforcement in relation to those who have not made application, failed to provide the necessary information to progress their application or who may not be operating in accordance with the terms of their licence.</p>
4.28	<p>As restrictions have ceased there needs to be a gradual return to normal and proportionate enforcement procedures in line with established council policy guidance. This will include</p>

	<p>addressing applications which cannot progress because insufficient information has not been provided, commencing proactive action in relation to unlicensed pavement cafes and dealing with breaches of Licence Conditions.</p> <p><u>Duration of Licences</u></p>
4.29	As previously determined by Council in 2017, Pavement Café licences will be granted for a period of 5 years.
4.30	Through our stakeholder engagement we will explore their views on the duration of licences which will then be reported to Committee for consideration.
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.
6.0	Equality or Good Relations Implications/Rural Needs Assessment
6.1	A review of the equality screening exercise undertaken in 2020 and reviewed in 2021 for the temporary scheme is being carried out prior to public consultation, and a full equality screening and rural needs assessment will be undertaken prior to progressing to a permanent scheme.
7.0	Appendices
	None