



Subject:	Pavement Café Licence hours of operation
Date:	16 December, 2020
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, 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	Committee are reminded that, at your meeting in December 2016, you determined a number of matters in relation to the administration of the Licensing of Pavement Cafés Act (NI) 2014.
1.2	This included setting Pavement Café Licence fees, agreeing the Standard Conditions to be attached to licences and amendments to the Scheme of Delegation to outline those matters that would be brought before the Licensing Committee for consideration.
1.3	This report is to consider and agree the standard hours of operation for licences issued under the Licensing of Pavement Cafes Act (NI) 2014.

2.0	Recommendations
2.1	<p>Members are asked to consider the information presented and:</p> <ol style="list-style-type: none"> 1. Agree that the standard hours for which a Pavement Café licence may be permitted to operate are set as 8.00am to 11.00pm, OR 2. Agree such other standard hours of operation as the Committee deems appropriate. AND 3. Agree that any application for a pavement café licence to trade earlier than the standard time of 8.00am is dealt with under the scheme of delegation, OR 4. Agree that any application for a pavement café licence to trade earlier than the standard time of 8.00am is brought before Committee to determine. AND 5. Agree that any application for a pavement café licence to trade later than the standard time of 11.00pm is brought before Committee to determine, OR 6. Agree that any application for a pavement café licence to trade later than the standard time of 11.00pm is dealt with under the scheme of delegation where no adverse representations are received.
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	Main report
	<p><u>Key Issues</u></p> <p>3.1 The Licensing of Pavement Cafes Act (NI) 2014 (“the Act”) came into operation on the 1st October 2016. However, the Council did not implement the legislation at that time as the Department for Infrastructure, Roads had not, and still have not, issued their technical guidance in support of the Act.</p> <p>3.2 That technical guidance was deemed crucial in that, among other matters, it was required to provide councils with the necessary information on an acceptable size and position of a pavement café such that there was clear demarcation between pedestrians and cafés to enhance health & safety regarding obstructions, tripping hazards and to provide a clear indicator for the visually impaired.</p> <p>3.3 In June this year a temporary process for considering pavement café applications was introduced to assist the hospitality sector during the pandemic. This process included drafting temporary guidance for applicants, which was based on the Department for Communities guidelines and supplementary guidance from the Licensing Forum Northern Ireland produced when the Act came into force.</p> <p>3.4 Council’s may set the hours and days of use for the pavement café area having regard to the location, likely disturbance to local residents or other businesses and representations from interested parties.</p> <p>3.5 The supplementary guidance offered general advice around the hours of operation of pavement cafés to maintain consistency across N. Ireland. It advised that pavement café should be licensed between 8am and 11pm and be reflective of the normal operating hours of the business. There was also advice that if the premises are licensed under the Licensing Order, a licence will not be issued beyond 11.30pm, regardless of the additional operating hours that may apply to the premises.</p>

3.6	The Council's temporary guidance was issued in unusual circumstances to assist the hospitality sector during the pandemic. It was made clear that it will be subject to review and that the council may modify or dispense with such aspects of the guidance as it thinks appropriate depending upon issues which may arise, or in response to changes in the Government's guidance in relation to Covid-19.
3.7	The Council has now received a number of applications from premises with a Liquor Licence where the hours applied for are not representative of the Council's guidance document or the current requirements of the N.I. Executive. Some applicants have requested a later finishing time up to 1.00am although these applications were generally submitted before the N.I. Executive requirement that licensed premises were to be closed by 11.00pm.
3.8	Under the current liquor licensing law, normal trading hours for licensed premises are 11.30am to 11.00pm on weekdays, 12.30pm to 10.00pm on Sunday or Christmas Day.
3.9	Licensed premises providing entertainment or refreshment, can apply for an Order for additional permitted hours to open to 1.00am on weekdays and Saturday and 12 midnight on Sundays.
3.10	Members are reminded that any application for an Outdoor Entertainments Licence is issued under delegated authority with a latest finishing time of 11.00pm. For any licensee that wishes to provide outdoor entertainment later than 11.00pm such application is brought before the Licensing Committee for consideration.
3.11	<p><u>Standard hours of operation of a pavement café</u></p> <p>For both temporary licences and, in due course, those issued on a permanent basis under the scheme of delegation Members are asked to consider that the standard hours for which a Pavement Café licence may be permitted to operate are set as 8.00am to 11.00pm. As such the finishing time is consistent with the current standard finishing time for outdoor entertainment.</p>
3.12	<p><u>Process for determining applications for hours outside standard pavement café hours</u></p> <p>(i) Opening earlier than 8.00am</p> <p>Some premises, particularly coffee shops, will open earlier to trade than 8.00am. Should the situation arise that any applicant for a pavement café licence wishes to trade earlier than the standard time of 8.00am, Members are asked to consider if that is a matter they are content may be dealt with under the scheme of delegation or if this must be brought before Committee to determine.</p> <p>(ii) Opening later than 11.00pm</p>
3.13	Where an applicant for a pavement café licence wishes to trade later than the standard time of 11.00pm, Members are asked to consider if they require that these applications are brought before the Licensing Committee for consideration.
3.14	Alternatively, Committee may only wish to consider those applications for later opening hours where representations have been received and delegate that function to the Director of Planning and Building Control where no adverse representations are received.
3.15	Members are reminded that under the Scheme of Delegation the Director of Planning and Building Control is responsible for exercising all powers in relation to the issue, but not

<p>3.16</p> <p>3.17</p> <p>3.18</p>	<p>refusal, of Pavement Café Licences, excluding provisions relating to applications for the grant, renewal or variation of licences where adverse representations are received.</p> <p>Any decision of the Committee in relation to policy and legislation concerning licensing matters must be ratified by Council.</p> <p><u>Financial and Resource Implications</u></p> <p>None</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>There are no issues associated with this report.</p>
<p>4.0</p>	<p>Appendices – Documents Attached</p>
	<p>None</p>