

LICENSING COMMITTEE – 9TH FEBRUARY 2010

Report of the Director of Partnerships and Customer Services

ITEM 6 PROPOSAL TO RESCIND THE POLICY IN RESPECT OF PAVEMENT CAFÉ LICENCES

Purpose of Report

To consider a proposal to rescind the policy relating to the issue of pavement (or street) café licences.

Recommendations

1. That the policy relating to the issue of pavement (or street) café licences for the Borough is rescinded.
2. That it be **recommended to Council** that the delegation to the Licensing Committee in Part 3 of the Constitution to determine applications for pavement café licences be deleted.
3. That Leicestershire County Council be requested to consult with the Licensing Team on any applications they receive for pavement licences.

Reasons

1. To enable the function to be undertaken by Leicestershire County Council as happens elsewhere in the County.
2. To reflect the removal of this responsibility from the Committee.
3. To ensure that relevant licensing issues can be considered and ward members made aware of applications.

Background

Pavement licences are issued under Section 115 of The Highways Act 1980, and where issued, are exempt from the provisions of the Criminal Justice and Police Act 2001, in relation to the establishment of “alcohol exclusion zones”. This would allow premises already licensed for the sale of alcohol to apply for pavement licences allow for external seating areas to be used for the sale of alcohol (subject, of course, to the current premises licence permitting this, or being varied to accommodate the external area).

Pavement licences are also be required for those non-liquor licensed food outlet premises merely offering seating outside, where food and drink purchased may be consumed.

The Highways Act is legislation that is dealt with by the Highways Agency, or its agent, and in Leicestershire, that agent is the County Council. Thus, the County Council has the responsibility for all functions under the Highways Act.

The policy for the issuing of Pavement Café licences was adopted in Charnwood at a meeting of the Licensing Committee on 5th June 2007, in the absence of a County Council policy for the matter. There was not, previously, been any significant demand to impose controls over pavement cafes in the borough. With the introduction of legislation restricting smoking, many premises providing food and drink (either with or without premises licences) have sought to create external areas for customers, with the result that many can only make use of the highway adjacent to the premises.

However, there is now a policy in place for Leicestershire, and Charnwood is the only Borough or District Authority in the County to have its own Pavement Café policy.

Officers feel that the issue should be dealt with by one authority, and as the County Council already carry out all other Highways functions, and already deal with pavement licences elsewhere in the county, the responsibility should be transferred to them. This creates consistency across the county,

However, it is also felt that a proper system of consultation should be put in place, and one suggestion is for all applications made to the County Council are copied to the licensing section for onward transmission to ward councillors, who would be able to impart their local knowledge.

As part of the consultation, it would fall to the licensing section to ensure that the County Council be made aware of any licences issued under the Licensing Act 2003 (i.e for the sale of alcohol, sale of hot food after 11pm or the provision regulated entertainment).

Background Papers: None

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Reports/Licensing Committee Re rescinding of Pavement café policy.