

## LICENSING COMMITTEE - 5th June 2007

### Report of the Deputy Director of Partnerships and Customer Services

#### ITEM 5 PROPOSAL TO INTRODUCE A POLICY FOR PAVEMENT CAFÉ LICENCES

##### 1. Purpose of Report

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

##### 2. Recommendations

Committee is recommended to approve the policy relating to the introduction of pavement (or street) café licences for the Borough.

##### Report

Currently there are no controls imposed by the Council in relation to pavement or street cafes in the borough, and, in reality, there has been no significant call for such a regime. However, a request for information regarding the possibility of issuing a pavement licence has been received, which has culminated in this proposal.

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

A guidance note for applicants, and this, with the application form and standard conditions, along with a sample public notice can be found at appendix A.

It is proposed to set the licence fee at £100 for premises where there is no premises licence in force (and thus no alcohol sales), and £200 for premises where a premises licence is in force, both for first application and for renewal. This figure is based on the estimates of the administration and enforcement time involved. This fee will be subject to regular review, and is intended to recover the authority's costs in relation to the function

### Background

There has not, previously, been any significant demand to impose controls over pavement cafes in the borough, but following the request for information concerning the issue from J D Wetherspoon plc, in relation to their premises on Wards End, Loughborough (The Moon and Bell), research has led to this proposal.

It is anticipated that, with the introduction of the Health Act 2006, which next year will ban smoking in workplaces (including licensed premises), there are already indications of significant moves toward providing areas for smoking which are not covered by the legislation – in other words, pavement cafes, for those premises with no other available areas, or merely to be able to offer the facility of seats and tables in the open air for the customers of the particular venue. If there is such a move to provide such external amenities, it is suggested that having a licensing regime already in place will provide effective control over the location and size of any pavement cafés, which would lead to the prevention of unnecessary inconvenience to the public.

Officer(s) to Contact:           David Platts (01509 634850)  
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## Appendix A

### HIGHWAYS ACT 1980, SECTION 115E

#### APPLICATION TO PLACE TABLES AND CHAIRS ON THE PUBLIC HIGHWAY

Notes to applicants:

1. This form must be returned to the Licensing Section, Charnwood Borough Council, Southfield Road, Loughborough, Leicestershire, LE11 2TX. If you have any queries about completing it, you may telephone the Licensing Section on 01509 634623/01509 634622, direct fax 01509 211703 or e-mail [Licensing@charnwood.gov.uk](mailto:Licensing@charnwood.gov.uk).

Your application must be accompanied by a scale plan of the area you wish to place the tables and chairs, showing the precise location of the tables and chairs on the highway. Please make sure that the scale used is shown on the plans. Inaccurate or illegible plans will be rejected. A copy of the application and plan must be sent to the police at the address below:

Chief Officer of Police  
Licensing Section  
Mansfield House  
74 Belgrave Gate  
Leicester  
LE1 3GG

2. The fee for the permit is £100 for non-liquor licensed, and £200 for liquor licensed premises and is payable before a permit may be issued. The renewal fee is the same as the application fee. Unsuccessful applications may be given a refund after administration costs have been deducted, at the discretion of the Council.
3. No permit will be issued for longer than one year. On payment of the renewal fee the permit may be renewed for a further year, providing the Council is satisfied there are no reasons not to renew it. Reasons for non-renewal include failing to comply with permit conditions, or due to highways works which may be planned to take place.

4. Specimen conditions normally included in permits are enclosed. Applicants should ensure that they are able to meet these conditions before applying for a permit.



## APPLICATION FOR A PAVEMENT CAFÉ LICENCE

Please answer all questions:

Your Surname:	First Name:
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Company name/address and postcode:
Telephone:
Fax:
E-mail:

Address of premises where it is proposed to place tables and chairs:
Telephone Number:
<b>Please give the name of a contact person at these premises if different from 1) above:</b>

Please circle as appropriate:

Do you occupy these premises as freeholder Leaseholder tenant other

If you are not the freeholder of these premises, please state the name and address of who is:

Telephone Number:

Contact Name:

How many tables and chairs do you propose to site?

Please indicate below the proposed days and times of operation for the tables and chairs:

Day	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Times from							
Times to							

Please enclose a copy of your current Public Liability Insurance Certificate to the sum of £1 million.

Name of proposed licensee (this must be an individual):

Your signature:

Date:

**DATA PROTECTION ACT 1998**

Information about you may be stored electronically or manually, and will only be processed in accordance with the Act. Certain information may be open to public inspection or record. However, we may exchange information with others where necessary, for example, for the purposes of the prevention or detection of crime or the collection of taxes, or where we are required to do so by law.



## PAVEMENT LICENCE HIGHWAYS ACT 1980 PART VIII A

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### Definitions

“Defined Area” – the area shown on the agreed plan delineated in red where tables, chairs and other furniture as agreed by the Council may be placed on the highway

“Code of Practice” – the Department of Environment, Transport and the Regions Code of Practice on litter and refuse issued under section 89(7) of the Environmental Protection Act 1990

“Grade A, B, C or D” – the Photographic Standards set out in the Code of Practice

“Operational Margin” – an area surrounding the Defined Table Area to a distance of 2.4 meters (or less where this would be to a building line or to a point midway to an adjoining Defined Table Area

## **Standard Conditions**

### Duration and times of licences

1. The permission shall run from for a term of one year
2. The Licensee to use the Land for the placing of tables and chairs in the course of his business only between the hours of, except that the tables and chairs shall be removed from the Defined Area whenever the Premises are not open to the public.

### Use of Land

3. The permission is personal to the Licensee.
4. The Licensee to use the Defined Area for the purpose of consuming refreshments in connection with his restaurant business only and not for any other purpose whatsoever.
5. No tables, chairs or barriers may be placed in the Defined Area until the Council’s Head of Environmental Health and Licensing has given his approval as to the type and designs to be used and the tables, chairs and barrier must be kept in good repair and condition at the Licensee’s expense.

6. No charge shall be made by the Licensee for the use of the chairs and tables.
7. No other furniture or objects may be placed on the highway other than that expressly permitted in the licence.

#### Barrier around the tables and chairs

8. The Licensee must ensure that Defined Area is clearly delineated in a manner acceptable to the Council before tables and chairs may be placed on the highway;
9. (a) The Licensee must provide a sign to read: "These tables and chairs are for customer's use only".  
(b) The Licensee must provide a sign to read: [no alcoholic drinks to be consumed after pm]

#### Access to the Land

10. The Licensee shall, if required to do so by a Statutory Undertaker, in order that access may be obtained to equipment under or near the footway or highway or if the Council requires access to the Defined Area for any reason whatsoever, remove the tables and chairs from the Defined Area.
11. Where the Licensee is given at least seven days' written notice by either (a) the Council or (b) a police officer of at least the rank of Inspector, he shall remove the tables and chairs from the Defined Area for the period of time as will be specified in the notice.

#### Sale of alcohol

12. (1) Intoxicating liquor may only be served to customers using tables and chairs if the Licensee holds an appropriate liquor licence under the Licensing Act 2003 as amended.
12. (2) The licensee shall ensure that soft drinks and water are available to be purchased by customers using the tables and chairs.

#### Cleanliness and Hygiene

13. The Licensee shall:
  - (a) ensure that all litter arising from the operation of this licence shall be disposed of as the Licensee's trade waste;
  - (b) prior to placing furniture on the highway the Operational Margin shall be swept free of all litter and debris to Grade A of the Code of Practice;
  - (c) if the Operational Margin meets grades B of the Code of Practice it shall be cleaned and returned to grade A within one hour;
  - (d) if the Operational Margin meets grade C or D of the Code of Practice it shall be cleaned and returned to grade A immediately;

- (e) clear litter and food debris, and wash all spillages and grease, from the Operational Margin immediately after the table and chairs are removed from the Defined Area;
- (f) not dispose of waste from the Licensee's operations in the permanent litter bins provided by the Council;
- (g) ensure so far as possible that customers eating or drinking outside the Premises do so only at the tables provided and at the times specified in condition 2, and that the numbers of customers drinking outside the Premises are restricted to the number of chairs provided and which the Licensee is allowed to place outside the Premises.

#### Cutlery, Crockery, Condiments etc

- 14. A flame-retardant receptacle for litter and ash shall be provided within the Defined Area.
- 15. No paper cups, disposable sachets or containers shall be provided within the Defined Table Area.
- 16. All menus shall be enclosed in weighted folders.
- 17. Serviettes shall be enclosed within a dispenser and be specifically identifiable to the Premises.
- 18. No leaflets or other forms of advertisement or other printed material shall be left or distributed within the Defined Area or Operational Margin.

#### Good Order

- 19. The Licensee must ensure that good order and behaviour is maintained at all times by people using the tables and chairs. Where the Licensee employs any person to ensure the safety and security of the Premises and its customers, such persons must be registered with the Council's Registered Door Supervisors Scheme and must follow the Council's Regulations for Door Supervisors.

#### Costs

- 20. The Licensee shall be responsible for any rates, taxes and other outgoings which may be charged.
- 21. The fee for the provision of this permission shall be £.

#### Termination

- 22. The Licensee may surrender this licence at any time.
- 23. The Council may withdraw this licence at any time if it appears to the Council that the conditions by which it is granted are not being complied with, providing that the

Licensee is first given an opportunity to make representations to the Council as to why the licence should not be withdrawn.

#### Indemnities and Insurances

24. The Licensee shall make no claim or charge against the Council in the event of the chairs and tables or other objects being lost, stolen or damaged in any way from whatever cause.
25. The Licensee shall indemnify and keep indemnified the Council against all actions proceeding claims demand and liability in respect of personal injury, damage to goods or property, or any loss arising out of the grant of this licence and the Licensee's use of the Land and for this purpose must take out at the Licensee's expense a policy of insurance approved by the Council in the sum of at least £1 million in respect of any one event.

The Licensee's attention is drawn to the Highways Act 1980 Section 155k (failure to comply with terms of permission).