

LICENSING ITEMS REPORT FOR INFORMATION	5th December 2017
TO: ENVIRONMENTAL SERVICES COMMITTEE	
FOR INFORMATION	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Accelerating Our Economy and Contributing to Prosperity
Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	Officer time spend processing application offset by licence fee

1.0 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) (NI) ORDER 1985 ENTERTAINMENT LICENCES

The undernoted applications for an entertainment licence have been received, acknowledged and processed during the report period.

Unique Reference Number	Name of Premises
EL183	Giants Causeway Visitors Centre
EL255	Ballyweaney Presbyterian Church Hall
EL015	Brown Trout Golf & Country Club

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Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	Officer time spend processing application offset by licence fee

2.0 PROHIBITION OR RESTRICTION OF PUBLIC ROADS: SPECIAL EVENTS

During the report period two Orders have been made using the powers under Article 8A of Schedule 3A to, the Road Traffic Regulation (Northern Ireland) Order 1997 to facilitate Christmas Light Switch on Events in Ballymoney and Limavady.

A further four applications for Road Closure Orders to facilitate special events being held on the public road have been received, acknowledged and are currently being processed.

Linkage to Council Strategy (2015-19)	
Strategic Theme	Accelerating Our Economy and Contributing to Prosperity
Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	N/A

3.0 PUBLICATION OF COUNCIL'S DOG STATISTICAL RETURNS ON DEPARTMENT OF AGRICULTURE, ENVIRONMENT AND RURAL AFFAIRS WEBSITE

Council has received notification from Department of Agriculture, Environment and Rural Affairs of their intention to publish Councils' dog statistical returns on the Department's website and to include a link to returns on the NI Direct Website.

The Dogs (Northern Ireland) Order 1983 requires Councils to provide information on a quarterly basis to the Department. The Department and Councils deal with a range of requests for dog related information for example correspondence cases, Assembly questions, media requests and Freedom of Information requests. It is anticipated that providing direct access to this information will reduce the volume of dog related statistical requests made to the Department and Council.

The information will be freely available at the following website address
<https://www.daera-ni.gov.uk/publications/council-dog-summary-statistics-201718>

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Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	Officer time spend processing application offset by licence fee

4.0 EVALUATION OF THE LICENSING OF PAVEMENT CAFES ACT (NORTHERN IRELAND) 2014

Council are in receipt of correspondence from the Department of Communities, who wish to evaluate the legislation regarding pavement cafes and the implementation of this legislation by District Councils since its introduction in October 2016. A copy of the response to be forwarded on behalf of Causeway Coast and Glens Borough Council is attached at Appendix 1. This highlights to the Department that there has been significant difficulty in implementing this legislation throughout Northern Ireland due to the significant concerns of disabled groups as there is a lack of consistent guidance with respect to minimum pavement widths to ensure that any implications for pedestrians and public safety issues are properly taken into account

when considering an application for a Pavement Café Licence.

Linkage to Council Strategy (2015-19)	
Strategic Theme	Accelerating Our Economy and Contributing to Prosperity
Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	N/A

5.0 DOGS (NI) ORDER 1983 OUTCOME OF LEGAL PROCEEDINGS

5.1 LC1104963

Offences: Breach of Control conditions (keeping dogs on a leashes and having dogs muzzled in public) contrary to Article 30F of the Dogs (NI) Order 1983

Results:

Fine:	£200
Legal Costs:	£ 50
Court Costs:	£ 16

Background:

Control conditions had been placed by Council on two Presa Canario Dogs to ensure they were kept on leashes and muzzled when in public. These conditions were breached and as a consequence resulted in injuries being sustained by a member of the public who had encountered the dogs whilst utilising the public footpath.

5.2 LC1104172

Offences: Keeping of an Unlicensed Dog contrary to Article 17(1) (a) of The Dogs (NI) Order 1983

Results:

Fine:	£75
Legal Costs:	£50
Court Costs:	£20

Background:

The owner had been made aware of the legal requirement to licence their dog but had not done so. In accordance with Council enforcement policy a fixed penalty notice was issued. This remained unpaid so legal proceedings were instigated.

5.3 LC1105035

Offences: Keeping of an Unlicensed Dog contrary to Article 17(1) (a) of The Dogs (NI) Order 1983

Results:

Fine:	£100
Legal Costs:	£ 50
Court Costs:	£ 23

Background:

The owner had been made aware of the legal requirement to licence their dog but had not done so. In accordance with Council enforcement policy a fixed penalty notice was issued. This remained unpaid so legal proceedings were instigated.

5.4 LC1104357

Offences: Keeping of an Unlicensed Dog contrary to Article 17(1)(a) of The Dogs (NI) Order 1983

Results: Fine: £100
Legal Costs: £ 50
Court Costs: £ 28

Background:

The owner had been made aware of the legal requirement to licence their dog but had not done so. In accordance with Council enforcement policy a fixed penalty notice was issued. This remained unpaid so legal proceedings were instigated.

5.5 LC1104987

Offences: Keeping of an Unlicensed Dog contrary to Article 17(1)(a) of The Dogs (NI) Order 1983

Results: Fine: £100
Legal Costs: £ 50
Court Costs: £ 20

Background:

The owner had been made aware of the legal requirement to licence their dog but had not done so. In accordance with Council enforcement policy a fixed penalty notice was issued. This remained unpaid so legal proceedings were instigated.

5.6 LC1104937

Offences: Keeping of an Unlicensed Dog contrary to Article 17(1)(a) of The Dogs (NI) Order 1983

Results: Fine: £150
Legal Costs: £ 50
Court Costs: £ 17

Background:

The owner had been made aware of the legal requirement to licence their dog but had not done so. In accordance with Council enforcement policy a fixed penalty notice was issued. This remained unpaid so legal proceedings were instigated.

Linkage to Council Strategy (2015-19)	
Strategic Theme	Accelerating Our Economy and Contributing to Prosperity
Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	N/A

6.0 LICENSING (NORTHERN IRELAND) ORDER 1996 LIQUOR LICENCE

The undernoted applications for grant, renewal, transfer or grant of an occasional Intoxicating Liquor Licence have been received and acknowledged to Court Service during the report period.

<u>Name and Address of Premises</u>	<u>Date and Time</u>	<u>Type of Liquor Licence</u>
Function Room, The Royal British Legion, 6 Beresford Road, Coleraine, BT52 1HE	7 th November 2017 between the hours of 8pm and 11:59pm	Occasional Licence
Function Room, The Royal British Legion, 6 Beresford Road, Coleraine, BT52 1HE	12 th November 2017 between the hours of 1pm and 11pm	Occasional Licence
169 Hillside Road Armoy Ballymoney BT53 8RH	n/a	Amended Transfer of Licence
Cloughmills Community Centre 5a Loughill Road Cloughmills	25 th November 2017 between the hours of 7pm and 1am	Occasional Licence
The Point Bar 107 Point Road Doaghs Lower Magilligan Limavady	n/a	Provisional Grant of Licence
Banters Bar 22 Linenhall Street Limavady	n/a	Renewal of Licence
48 Main Street Limavady	n/a	Provisional Grant of Licence

Social Policy Unit

Evaluation of the Pavement Cafés Act (Northern Ireland) 2014

Questionnaire for District Councils

The Licensing of Pavement Cafés Act (Northern Ireland) 2014

Questionnaire

Name & Address of District Council:

Causeway Coast and Glens Borough Council,
Cloonavin
66 Portstewart Rd
Coleraine. BT52 1EY

District Council's e-mail address:

info@causewaycoastandglens.gov.uk

Name of Chief Executive & Contact Details:

David Jackson MBE
Causeway Coast and Glens Borough Council
Cloonavin
66 Portstewart Rd, Coleraine. BT52 1EY. TEL: 028 7034 7034

Implementation of the legislation:

1. Are all stakeholders in your council area aware of the new Licensing of Pavement Cafés Act (Northern Ireland) 2014 and its implications? **What has your council done to ensure stakeholders are aware of their responsibilities under the new legislation?**

Council have produced "Guidance for applicants on Licensing of Pavement Cafes". This document was made available for public consultation for twelve weeks through the Council website. Consultation responses were received from numerous bodies particularly those with disabilities.

2. Has your council produced any guidance regarding pavement café legislation in order to assist stakeholders in your area? **If so, how has this been publicised and shared with stakeholders?**

Council have produced "Guidance for applicants on Licensing of Pavement Cafes". This document was made available for public consultation for twelve weeks through the Council website. Consultation responses were received from numerous bodies particularly those with disabilities.

Granting & refusing of licences:

3. How many pavement café licences has your council issued since 1 October 2016?

None

4. How many pavement café licences has your council refused since 1 October 2016 and if so, which part(s) of section 4 of the Act referred when refusing any licences?

None

Applications – General Provisions:

5. The legislation states that on receipt of a pavement café licence application councils must make the application available to be viewed by the public until the end of the 28 days allowed for representations and publicise that any representations regarding the application may be made in writing to the relevant council until the end of the 28 days. **Please give details on how your council carries this out.**

N/A

Appeals:

6. Has your council received any appeals against refusing pavement café licences since 1 October 2016? **If so, what were the grounds for these appeals and were they successful?**

No

Notice of application to be displayed:

7. The legislation states that pavement café licence applicants must fix a notice on the premises as stated on licence which is visible and legible to the public

until the end of the 28 day period allowed for representations. **Have you advised stakeholders regarding this in your own guidance?**

Yes

Fees:

8. Has your council decided to charge a fee for a pavement café licence to cover administrative costs? **If so, please provide details of the charging system which has been agreed.**

Yes. Council has agreed a fee of £375 for the Grant of a pavement café Licence which will be issued for three years. On renewal a fee of £285 will be applied and the Licence renewed for a further three year period

Fees:

9. Does your council publicise the fee it intends to charge and how this is calculated? How does your council carry this out?

Yes. Council has made this information available to applicants in its Guidance.

Powers of entry and inspection:

10. Has any council official had to enter premises when evidence gathering during the decision making process of a pavement café licence application?

No

Powers to remove unlicensed furniture:

11. Has your council had to remove any unlicensed furniture from a public area in the course of a business, for use for the consumption of food or drink in the course of that business?

No

General:

12. Is there any other information you would like to add regarding the implementation of the Licensing of Pavement Cafés Act (Northern Ireland) 2014?

Concerns of disability action groups

The lack of progress in relation to the granting of licences is primarily due to ongoing pressure from lobby groups for disabled people who have raised concerns that guidance produced to date does not go far enough to prevent pavement cafes from causing further obstruction to pavement users; particularly those with disabilities.

As DfC will be aware Local Government representatives, including Belfast City Council (LGA, IoL and LFNI), raised concerns with the Committee for Social Development in October 2013, prior to the introduction of the legislation, about the need to ensure disabled access issues were carefully addressed.

This was also a key concern for MLA's arising from discussions at the Committee and it is understood separate representations were also made to the Committee on the issue by various disability groups at that time.

As councils are required to consult with Transport NI (now DfI – Roads) when considering an application for a Pavement Café Licence their advice is crucial to ensure that any implications for pedestrians and public safety issues are properly taken into account.

The guidance provided by the Department (see section 4.11 of "The Licensing of Pavement Cafes Act (NI) 2014, Department for Communities, Guidelines") in respect of minimum footway widths has been the subject of significant concern for disabled groups. This has resulted in them making representations to DfI – Roads, the Licensing Forum NI and to all councils individually.

As referred to in the Licensing Forum "Guidance for applicants" Councils have been working with DfI – Roads to seek the completion of technical guidelines. Such guidance will assist with consistency of interpretation regarding the factors to consider for the layout and design of a pavement café and, in particular, to take account of other pavement users. Consequently, a number of meetings have been held with disabled groups, including Imtac and Guide Dogs, to consider their views. Both DfI and the Licensing Forum were also recently invited to appear before the All Party Group on Visual Impairment at the Assembly as they were concerned guidance available did not give due regard to many of the issues raised by disability organisations.

Councils have been concerned about processing applications in the absence of definitive guidance from DfI – Roads and, in light of the concerns of the disability groups, are all the more aware of compliance with Disability Discrimination Act 1995 requirements.

Planning permission

Despite efforts by Heads of Planning and the Licensing Forum NI to resolve the matter there has been no agreement reached across the 11 Councils regarding the requirement for planning permission for pavement cafes. Whilst some have taken a pragmatic approach there are others who believe that a strict interpretation of the legislation means that a planning application is required. At the outset if consideration had been given to designating pavement cafés as permitted development then this would have avoided any confusion and ensured no additional financial burden was placed on prospective applicants.

Operational issues

Given that we have not yet issued any licences in the Causeway Coast and Glens Borough Council area it is unfortunate we are unable to respond to a number of the questions posed in the questionnaire. However, once the DfI – Roads guidance has been finalised we will very quickly be able to commence processing pavement café licence applications and may then identify matters relating to decision making and enforcement that the Department may wish to consider. One concern that we envisage will be the interpretation/application of what constitutes a public area, a matter which has already been raised through the Licensing Forum and remains the subject of ongoing debate.

Key learning point from the implementation of the Act

At the Committee for Social Development, Local Government officers made strong representations that the development of model technical and managerial guidance, drawn up by the Department in conjunction with key stakeholders, would provide the necessary basis to assist with the effective implementation of the legislation. Through such an approach there is no doubt that many of the issues which have been an impediment to councils would have been identified and addressed prior to the introduction of the legislation.