

PAVEMENT CAFÉ LICENSING - Guidance for Applicants	5th Sept 2017
TO: ENVIRONMENTAL SERVICES COMMITTEE	
FOR DECISION	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Accelerating Our Economy and Contributing to Prosperity
Outcome	Implementation of Licensing of Pavement Cafes Act (NI) 2014
Lead Officer	Head of Health and Built Environment
Cost: (If applicable)	None

Background

At Environmental Services Committee of June 2017 ES170606 item16 members were advised that the Health and Built Environment section had undertaken a public consultation on its Guidance for Applicants on Licensing of Pavements cafes and its Equality and Screening Policy documentation on this Guidance. Three consultations responses were received from Guide Dogs NI, Royal National Institute of Blind People Northern Ireland and Causeway and Glens Active Network Branch.

Detail

Having reviewed the consultation responses it is recognised that those who blind and partially sighted are both pedestrians and café users. The guidance prepared to assist business has been revised, to encourage applicants applying for a Licence for a pavement café, to ensure that their proposal does not hinder, obstruct or negatively impact on the wellbeing of those who are blind or partially sighted.

Recommendation

It is recommended that Council approve the Guidance for Applicants on the Licensing of Pavement Cafes Act (Northern Ireland) 2014 as provided at Appendix I.



Licensing of Pavement Cafes Act (Northern Ireland) 2014

Guidance for Applicants

CONTENTS

Section	Page
Definitions	3
Introduction	4
Legislation	4
Purpose of this guidance?	4
What is a pavement café licence?	4
Who may apply?	4
Is the area you want to use suitable for a pavement café?	5
Hours of operation	6
What enforcement powers do Council have?	5 - 6
Making an application	6 - 7
Public notice	7
Consultation	7
Can my licence application be refused?	7 - 8
How long will it take to process my application?	8
Appendix 1: Suitability criteria for licence	9 - 12
Appendix 2: Application form	13 - 16
Appendix 3: Public Notice of application	17 - 18
Appendix 4: Examples of café plans	19 - 20

Definitions

Furniture	Includes tables, chairs, umbrellas, barriers, heaters, menu boards, etc. which must be of a temporary nature and can be removed within 20 minutes.
Licensed Area	A public area as defined on a plan approved by Council as a pavement café.
Licensed Period	The hours and days approved by Council when the licensed area can be used as a pavement café.
Licensee	Shall include their nominee in their absence.
Licensing Order	The Licensing (Northern Ireland) Order 1996.
Pavement Café Licence	The permission given by Council to allow placement of temporary furniture on a specified public area for customers to consume food or drink supplied from the licence holder's premises.
Public Area	A place in the open air, to which the public has access, as of right and which is not a market area.
Public Nuisance	Noise disturbance or other nuisance caused to residents or neighbouring businesses.

Introduction

Pavement cafes are becoming a familiar sight across the UK and Ireland. They can help develop a local café culture, which in turn can have a positive effect on urban environments, promote town and city centres, contribute to the general well-being of communities and appeal to tourists.

Tourism is a key driver for economic growth in Northern Ireland offering business opportunities to create jobs and generate wealth. Visitor attitude surveys undertaken by the Northern Ireland Tourist Board have highlighted the attractiveness of a vibrant café culture, especially for short breaks where shopping, good food and evening entertainment are high on the agenda. Well-regulated pavement cafes can contribute to an excellent visitor experience, enhance the attractiveness of a local area and encourage visitors to stay longer and spend more.

Legislation

The power to licence pavement cafés is contained in the Licensing of Pavement Cafés Act (Northern Ireland) 2014 and associated Regulations. Further advice or guidance in relation to the legislation can be found on the Department for Communities website at <https://www.communities-ni.gov.uk/topics/dsd-law-and-legislation/social-law> or by contacting the Council.

Purpose of this guidance

This guidance document has been prepared by Officers of the Licensing Forum Northern Ireland to help those intending to make an application for a Pavement Café Licence and to assist with consistency of approach and administration by Council.

Please note that this document is for guidance only and is not intended to be definitive interpretation of the legislation.

What is a Pavement Café Licence?

A Pavement Café Licence ('a licence') authorises as person who carries on a business involving the supply of food or drink (in or from premises) to place furniture (tables, chairs, etc.) on a public area for use by customers. This includes cafés, restaurants, pubs, retail outlets providing refreshments, takeaways, supermarkets with a deli counter, etc.

Who may apply?

Any person or persons who carry on a business (in or from a premises), involving the supply of food or drink to the public, may apply for a Pavement Café Licence.

Is the area you want to use suitable for a pavement café licence?

This guidance document offers advice on what Council will consider appropriate for a Pavement Café Licence. Appendix 1 outlines suitability criteria required for a Pavement Café Licence, including:

- Pedestrian and vehicular access;
- Size and layout;
- Likely disturbance to other businesses or residents;
- Furniture design;
- Safety issues

In general, the pavement café area will need to be set-up immediately adjacent to the premises. However, a licence for a remote café may be granted where:

- The proposed café does not interfere with both vehicular and pedestrian traffic flow; and
- The licence holder is able to demonstrate that they will be able to exercise proper control and supervision of the pavement café area.

Hours of operation

The Council will confirm 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.

Licences will normally be granted for a set period between 8.00am and 11.00pm and will be reflective of the normal operating hours of the business. If the premises are licensed under the Licensing Order a licence will not be issued beyond 11.30pm, regardless of any additional operating hours that may apply to the premises.

What enforcement powers do Council have?

Failure to obtain an appropriate licence or failure to comply with the conditions attached to a licence may result in enforcement action being instigated.

- **Unlicensed pavement cafés**

It is an offence to place furniture to be used for the consumption of food and drink on a public area without a pavement café licence. This offence may be liable to a fine of up to £1,000 on summary conviction.

Council may also remove any furniture placed on the pavement without a licence and may recover the costs reasonably incurred in removing and storing this furniture.

- **Suspension/Compulsory variation of a licence**

The Council may suspend a licence when maintenance of street utilities is required or road works are scheduled. The licence can also be suspended for a breach of licence conditions, making false statements or failure to pay any fee to the Council without good reason.

During any period of suspension, the pavement café licence is invalid and Council may remove any furniture placed in the public area during the period of suspension.

The Council may also compulsorily vary a licence where part of an area has become unsuitable or its continued use is likely to result in interference or inconvenience to persons or vehicles in the vicinity or public order concerns.

The Council will consult with PSNI before varying a licence on public order grounds.

- **Revocation of licence**

A pavement café licence may be revoked following breaches of licence conditions, where the licenced area is no longer suitable for temporary furniture, or where there is undue interference or inconvenience to persons or vehicles in the vicinity or public order concerns. Council will consult with PSNI before revoking a licence on public order grounds.

- **Notice of revocation, suspension or compulsory variation**

If the Council proposes to revoke, suspend or vary the licence condition you will be given 21 days' notice unless it is considered that such action needs to be taken in the public interest.

An applicant can make representation to the Council to persuade the Council not to revoke, vary or suspend the licence, within a specified period of 21 days of receipt of notification of Council's intention to do this.

Making an Application

Before submitting an application please read this guide thoroughly to check whether your proposal meet all the criteria. You are advised to contact the Council to discuss your proposals PRIOR to submitting your application. This may help to minimise time wasted and expenditure on fees for applications which may later be refused.

All applications for a Pavement Café Licence must be accompanied by the following:

- **Licence Fee**

Application for Grant of Pavement Café Licence	£375
Application for Renewal of Pavement Café Licence	£285
Application for a variation of Pavement Café Licence	No charge

- **Location plan**

A plan must be provided to a scale not less than 1:2500 (preferably ordinance survey) showing the proposed pavement café marked in red and the adjoining streets and properties

- **Proposed Café plan**

A plan must be provided to a scale of not less than 1:100 the proposed pavement café area, the streetscape and all utilities and services including lampposts, bollards, fire

hydrants, manholes, cycle stands, litter bins and any other items of street furniture located within the immediate vicinity. The dimensions of the proposed pavement café area must also be shown. Please see appendix 4 for examples of pavement café plans.

- **Details of the furniture**
Provide details of the number, materials and types of chairs, tables, umbrellas, etc., to be provided in the cafe. (Photographs/manufacturers detailed brochures or of existing furniture would be an advantage).
- **Public liability insurance** cover with minimum indemnity of £5m.
- Evidence of **planning permission** where appropriate.

Public Notice

Applicants are required to fix a public notice (See appendix 3) to the premises on the day the application is made to the Council. The notice must be positioned so as to be visible and legible to the public for 28 days. Interested parties can make representations to the Council in respect of an application. In addition, Council will make the application details available to be viewed by the public on the Council's web site until the end of the period allowed for representations. You must complete the declaration on the application form stating that you have erected the required notice and that you will maintain it in place for 28 days from the date of application.

Consultation

It is recommended that businesses discuss their proposals with adjacent property occupiers to inform them of the application.

When accessing an application, Council will also consult with the following agencies:

- Transport NI; and
- The Police Service for Northern Ireland where the premises is licensed to sell alcohol;
- Any other Council Department, organisations or individuals as appropriate.

Depending on the nature of the application, Council may also consult with such others as it deems necessary.

Can my licence application be refused?

Yes. Each application will be considered on its own merits. However it may not always be possible to accommodate pavement cafés in all locations due to factors such as its potential impact on pedestrians with sight loss or other disabled persons, its visual impact, width restrictions, obstructions or very heavy pedestrian flow.

As an alternative to refusing an application Council may suggest changes to your proposal to make the proposal acceptable, for example by amending the size and shape of the licensed area.

If you application is refused by Council you will be informed of that decision and you will be refunded the application fee, less any administrative costs.

Should an application be refused the applicant may appeal the decision to the Magistrates' Court with 21 days of being notified of Council's decision. Licence holders may also appeal a decision to suspend or revoke a licence or vary the area and conditions of a Pavement Café Licence (as an alternative to revocation), or to limit the duration of a licence.

How long will it take to process my application?

The Council aims to provide you with a determination within eight weeks from date of receipt of a completed application including all the required plans and licence proposal. This is to allow full and proper consultation in line with Departmental Guidelines, site visits and consideration of any objections or other input from consultees.

Suitability Criteria for Licence

1. Design

The applicant will need to demonstrate that the café will make a positive contribution to the street scene and are in keeping with the surrounding street scene and other buildings and public realm. Simple robust designs will be preferred and excessive or elaborate detail or signage should be avoided unless clearly justified by the particular context. Applicants should also demonstrate commitment to the care and/or refurbishment of the external appearance of the building in which the business is housed, to ensure that the appearance of the street scene will be maintained and, where necessary, enhanced.

Street café proposals should not hinder reasonable use of the footpath by disabled people or those suffering sight loss, cause nuisance to adjacent frontages, or interfere with apparatus or access to apparatus within the footpath. To this end the applicant shall comply with all statutory requirements and obtain all necessary permissions before making a licence application.

2. Size and Layout

The extent of the area to be licensed will depend on the site characteristics, safety considerations and the criteria set by the Council and Transport NI to maintain adequate space for both pedestrian and vehicle movement.

The outdoor seating area should:

- Avoid conflict with the principal lines of pedestrian movement particularly for disabled people, those who are blind or partially sighted, older people and those with mobility needs including pram and wheelchair users.
- Avoid conflict between customers going in and out of the café, passing pedestrians and neighbouring premises.
- Ideally be confined to the frontage of its own premises with close integration of internal and external activities however this does not preclude a remote location.

The area to be used must take into account other needs in the immediate vicinity (e.g. kerbside parking, loading bays, bus stops, emergency vehicle access, emergency exits, street cleaning machines, and pedestrian crossings).

Where an application contains a proposal to establish a pavement café abutting neighbouring premises, the Council would advise that the applicant should discuss their proposal with the owners or occupiers of the adjoining premises before an application is made.

The limits of the approved café area will be agreed as part of the application process and it is important that no obstructions such as tables, chairs, portable advertising boards, planters or barriers are placed outside this approved area or left on the pavement or any part of the licensed area outside approved hours. A copy of the Pavement Café Licence (including approved plan) should be available on the premises for inspection on request.

When considering a new application Council must consult with Transport NI before arriving at a decision. Such consultation will ensure that any possible implications for people with

sight loss is actively considered and properly taken account of alongside possible implications for vehicular traffic or pedestrians, public safety, and environmental impacts are properly taken into account. For examples of pavement café layout please refer to appendix 4.

3. Boundaries

When in use, the pavement café area must be enclosed, by way of adequate screening, to demarcate the licensed area and contain the tables and chairs, in order to make it distinguishable to other pavement users, and to assist blind and visually impaired pedestrians. Portable, sturdy barriers with a top rail are recommended. Bases should not cause an obstruction or tripping hazard to pedestrians.

The enclosure shall be removed both outside the licensed period and when the pavement café is not operating within the licensed period. The materials must, therefore, be lightweight in construction and portable, but stable enough to prevent collapse if accidentally walked into or overturned by a sudden gust of wind.

The design of the barrier should complement the character of the surrounding area and may be required to be of a specific design in order to maintain continuity along the street frontage. The colours and materials used for the enclosure must provide a contrast with the background to take account of the needs of those with a visual impairment

4. Furniture

The furniture must be of a high-quality design and suitable for outdoor commercial use. Poor quality furniture will not be permitted.

The use of parasols, along with their locations, materials and colours must be specified as part of the design and must be positioned so that their extent is contained within the boundary to ensure they do not present a danger to any user of the pavement café or any other pedestrians.

Limited advertising is permitted on both the enclosure and parasols only. Proposed details must be provided with the application.

All furniture items, e.g. menu boards, signs and portable gas heaters need to be approved as part of the licensed area and details must be included in the application. Where heating is to be provided, this must be of a type suitable for outdoor use and shall be placed within the licensed area. If patio style liquid petroleum gas (LPG) heaters are to be used, they must to be adequately secured upright, be fitted with a flame failure device and to be maintained in an efficient working order.

All furniture must be of a temporary nature that can be removed within 20 minutes at the end of the permitted period or when access to the area is required by any statutory body or in the event of an emergency.

If the main premises operate for longer than the licensed period the applicant should give consideration where furniture is to be stored, this should be made clear within the application.

5. Environmental Implications and Other Requirements

It will be the responsibility of the pavement café operator to keep the area clean and free of litter, during licensed/operational hours and after the conclusion of business each day.

The conduct of customers using the outdoor seating area will also be the responsibility of the operator.

All food premises should be registered with the Council.

The licence does not imply an exclusive right to the area and others have rights over it for events, maintenance, repairs etc.

No amplified music or loudspeaker equipment shall be used in the pavement café area.

Proprietors must promote a safe, clean and generally welcoming environment in the pavement café area. Councils may make it a requirement that patrons using the area are seated at the furniture provided.

Proprietors should give consideration to dividing their outside café area into smoking and non-smoking sections, with each section clearly marked.

6. Safety and Control

It is the responsibility of the applicant to ensure that the pavement café and equipment used comply with all appropriate legislation in relation to food safety, health and safety and alcohol sales requirements.

Applicants are reminded of their duties, to carry out a risk assessment, under the Health and Safety at Work (NI) Order 1978 as they relate to the area and activities covered by the pavement café.

Applicants proposing to licence a café which is separate from their main premises or where you need to cross a public pavement to reach the café area must provide a management plan for the café and a proposal as to how the café will be controlled and supervised.

Individual pavement café operators with the required Pavement Café Licence will be responsible for securing full and proper insurance cover.

7. Other Statutory Bodies

Planning Service

Depending on the circumstances of a proposed pavement café on a public area, a planning application may be required if development is to be undertaken. Anyone considering the establishment of a pavement café is advised to contact the Planning Service of Causeway Coast and Glens Borough Council for advice and guidance on whether an application for planning permission is required or not.

Rates Liability on Grant of Licence

The Department for Finance has advised that for the vast majority of cases a marginal, seasonal increase in seating of a temporary nature under the terms of the licence would be regarded as de-minimus in rating terms and would not warrant a change in Net Annual Value (NAV). Where the type of arrangement goes beyond the marginal, seasonal or temporary arrangement and it is assessed or evidenced that it adds to the rental value of the premises, an adjustment to the NAV may be warranted. Each case will be judged on its merits and will be the decision of the District Valuer. Councils will wish to refer prospective applicants, who have concerns in this respect, to the District Valuer, Land and Property Services.

8. Consumption of Alcohol

Alcohol **may** be consumed (but not sold) in a pavement café area unless:

- The business is an 'off sales' as defined under Article 5(1) (b) of the licensing Order; or
- The Council is satisfied that permitting persons to consume intoxicating liquor in a pavement café would be likely to result in disorder; or
- The premises are not licensed under the licensing Order (see note below) and are located within an area designated under bye laws prohibiting the consumption of intoxicating liquor.

Note: Only premises licensed under the Licensing Order as a public house, a hotel, a restaurant or a guest house with a restaurant will have their licensed area for the consumption of alcohol extended to include the pavement café area.



LICENSING OF PAVEMENT CAFES ACT (NORTHERN IRELAND) 2014

I / We hereby make application to Causeway Coast and Glens Borough Council under the provisions of the Pavement Cafés Act (Northern Ireland) 2014 for the:

Application Type - *tick as appropriate*

- Grant of a Pavement Café Licence
- Renewal of a Pavement Café Licence
- Variation of a Pavement Café Licence

Applicant Details

Name:..... DOB:	Telephone No:..... Mobile No:..... Email:
Address:.....Postcode:.....	
Designation: OWNER / DIRECTOR / MANAGER / PLEASE STATE: <i>(Please circle as appropriate or please state)</i>	

Premises Details

Premise Type:
Premise Name:.....
Address:.....Postcode:.....

Operating Details – Proposed Days and Hours of Operation of the Pavement Café

Days:	Hours	
	From:	To:
<input type="checkbox"/> Monday		
<input type="checkbox"/> Tuesday		
<input type="checkbox"/> Wednesday		
<input type="checkbox"/> Thursday		
<input type="checkbox"/> Friday		
<input type="checkbox"/> Saturday		
<input type="checkbox"/> Sunday		

Licensing Details

Is alcohol to be consumed in the curtilage of the Pavement Café?		YES	NO
Are the premises licensing under the Licensing (NI) Order 1996?		YES	NO
<i>Please tick as appropriate:</i>			
Public House		Off Sales	
		Restaurant	
		Hotel	
		Guest House with restaurant	

Proposal Details

Total width of footpath: metres
Is the area within 10 metres of a road junction:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Dimensions of Café area:
Number of table and chairs:	No of Tables: No of Chairs:
Barrier Heights:
Barriers/Tap Rails:	Yes <input type="checkbox"/> No <input type="checkbox"/>

Site Details – (See guidance document)

Provide an area Location Plan, scale 1:1250, depicting location of Pavement Café and sufficient surrounding area with infrastructure.	HERE ENCLOSED	TO FOLLOW
Provide a proposed Site Plan, scale not less than 1:100, depicting street space occupied, size and type of barriers, number and type of tables and chairs, and any other Pavement Café furniture.	HERE ENCLOSED	TO FOLLOW
Where will the Pavement Café furniture be stored when the premises is closed for business?	PLEASE STATE	

I confirm that I wish to apply for a Pavement Café Licence for the development as described within this application.	<input type="checkbox"/>
I confirm that the information provided in this application is correct.	<input type="checkbox"/>

Signature of Applicant: Date:

The completed application form should be returned to:

Environmental Services Department
 Licensing Section
 Riada House
 14 Charles Street
 Ballymoney
 BT53 6DZ

Telephone: 028 2766 0200

If you require any assistance in completing your application, please contact the Licensing Section at the above offices.

Checklist

- Application form** – signed and dated.
- Location plan** – to a scale of 1:1250 showing sufficient area around the proposed pavement café to enable consideration of all related issues.
- Site plan** – to a scale of not less than 1:100 showing access points, building lines, boundaries, kerbs, table and chair arrangement, bins, lighting, trees, other items.
- Details of the furniture** – including photographs/manufacturers details.
- Risk Assessments**
- Fee**
- Public Liability Insurance**
- Planning Permission** – if appropriate
- Notice of Application Fixed to Premises**



Licensing of Pavement Cafes Act (Northern Ireland)
2014

PUBLIC NOTICE

APPLICATION FOR A PAVEMENT CAFÉ LICENCE

NOTICE IS HEREBY GIVEN THAT

Name of applicant: _____

Address of applicant: _____

has applied to Causeway Coast and Glens Borough Council for a Pavement Café Licence at

Name and address of premises: _____

Any objection relating to the application should be made within 28 days of the date of this Notice. The objection should be addressed to Causeway Coast and Glens Borough Council Licensing Section Riada House 14 Charles Street Ballymoney BT53 6DZ.

Any objection must be in writing and must specify the grounds of the objection, the name and address of the person making it and must be signed by them or their agent.

It should be noted that where an objection is made after the 28 day time period referred to, but before a final decision is taken on the application, it is appropriate for the Council to consider it, if there is sufficient reason why the objection was not made within the stated time period.

Applicant's Signature: _____

Date: _____

This site notice must be displayed for the whole of the period of 28 days in a prominent place at or near the premises so that it can be conveniently read by the public.

I _____ (*applicant*) hereby certify that for a period of at

least 28 days ending on _____, I displayed this site notice in a prominent

place at or near the premises so that it could conveniently be read by the public.

Applicant's Signature: _____

Date: _____

On completion of 28 days notice please return this form to:

Causeway Coast and Glens Borough Council Licensing Section, Riada House, 14 Charles Street, Ballymoney, BT53

6DZ

Examples of Pavement Cafés



