

REPORT TO:		Cabinet	
DATE:		12 February 2020	
PORTFOLIO:		Cllr Joyce Plummer - Resources	
REPORT AUTHOR:		Wendy Redfern, Licensing Manager	
TITLE OF REPORT:		Pavement Cafe Licensing Policy	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	No	Not applicable	
KEY DECISION:	No	If yes, date of publication:	

1. Purpose of Report

- 1.1 The report seeks members' approval of the adoption of the attached Policy and standard conditions for the licensing of pavement cafes under section 115E of the Highways Act 1980

2. Recommendations

- 2.1 That the attached Draft Policy and conditions are approved.

3. Reasons for Recommendations and Background

- 3.1 For members information Schedule 5 of the Local Government (Miscellaneous Provisions) Act 1982 Part 1 inserted, amongst other matters, Section 115 into the highways Act 1980.
- 3.2 Under Section 115E of the Highways Act 1980, a district Council may grant permission for the service, amenities, recreation and refreshment facilities on pedestrianised areas of the highways.
- 3.3 The powers can be used to licence street cafes to enable premises fronting on pedestrian areas to have tables and chairs outside the premises for their customers.
- 3.4 Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life and interest to an area. Hyndburn Borough Council supports and encourages the provision of pavement cafes in the area as they can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live, and work in Hyndburn.

- 3.5 Whilst the Council wishes to encourage pavement cafes, it is important that they are properly located and managed. This is to ensure that they meet the standards we expect in Hyndburn and that they do not obstruct the highway nor create a hazard for pedestrians, especially for blind, partially sighted and other disabled people.
- 3.6 The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops and pedestrian crossings. Pedestrians' needs must be paramount. The expanse of the pavement cafe must not conflict with any access or dropped crossings that are required for free passage of normal road users. Barriers and tapping rails should be positioned and maintained to the satisfaction of Hyndburn Council and should be totally removed outside the permitted hours of operation of the cafe, restaurant or bar.
- 3.7 In order to ensure that Pavement Cafes are run in such a manner so as to enhance the area and not to cause a problem to others using the pedestrianised areas, it is important that a robust policy is in place to deal with the issuing and maintenance of the licences issued under the Highways Act 1980.
- 3.8 The granting of such permissions is similar to the processing of other licensing applications dealt with by the licensing section and, as many of the premises likely to apply under the Highways Act 1980 are likely also to have premises licences issued under the Licensing Act 2003, it seems sensible for them to be dealt with within the same service.
- 3.9 Under Section 115F of the Highways Act 1980, a Council may attach such conditions as they feel fit to a Street Cafe licence. It is thought appropriate that the standard conditions set out in Appendix 1 to the Policy should be approved by this committee.
- 3.10 Based on the predicted time spent on administering and controlling pavement cafes it is proposed that the application fee should be set at £125.
- 3.11 Members are recommended to approve the proposed Policy and standard conditions for pavement cafe licences and to approve the application fee of £125.

4. Alternative Options considered and Reasons for Rejection

4.1 **None**

5. Consultations

5.1 Lancashire County Council Highways department have been informed and have offered no objections to the proposals.

6. Implications

Financial implications (including any future financial commitments for the Council)	None the cost of administering the regime will be covered by the fees.
Legal and Human Rights implications	None
Assessment of risk	No specific risks have been identified
Equality and diversity implications	<p>The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report Cabinet must have regard to the need to:</p> <ul style="list-style-type: none">• eliminate unlawful discrimination, harassment and victimisation; and• advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and• foster good relations between those who share a relevant protected characteristic and those who don't. <p>For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity,</p>

7. Local Government (Access to Information) Act 1985: List of Background Papers

- 7.1 Hynbourn Borough Council - Pavement Cafe Licensing Policy
Conditions attached to a pavement licence
Application for a pavement cafe licence
Customer First Analysis

8. Freedom of Information

- 8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.