



CABINET – 28TH OCTOBER 2020

SUBJECT: “STREET CAFÉ” LICENCES

REPORT BY: INTERIM CORPORATE DIRECTOR OF COMMUNITIES

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1. PURPOSE OF REPORT

- 1.1 To update Cabinet on changes required to the process for the granting of “street café” licences and to seek Cabinet approval to implement those changes.

2. SUMMARY

- 2.1 Many businesses within the County Borough have faced significant challenges as a result of Covid-19 and the lockdown requirements that have resulted. This includes many town centre businesses and particularly the town centre hospitality sector.
- 2.2 All Local Authorities in Wales have been encouraged by Welsh Government to support such businesses in their efforts to recover from the Covid-19 economic damage and in doing so to reduce any bureaucracy and/or ensure a degree of flexibility in stimulating and maintaining a trading environment and re-purposing space to allow this to happen. In doing so CCBC has positively encouraged a “street café” approach and has assisted with some physical interventions in certain town centres.
- 2.3 Caerphilly County Borough Council supports and encourages the provision of street cafes in the town centres, as they make a positive contribution by adding vitality, colour, life and interest to the street scene. 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 the Borough. Creating a “street café” culture can also assist in the longer term re-purposing of town centres as they strive to survive in tough economic conditions and pressure from the move to online shopping.
- 2.4 Whilst the provision of street cafes is encouraged, it is important that they are properly administered and managed to ensure that they meet the high standards expected in the town centres. They should not obstruct the highway or create a hazard for pedestrians, especially for blind, partially sighted and other disabled people.
- 2.5 The process for seeking and obtaining permission to trade on the footway within the County Borough is no longer fit for purpose i.e. it is a lengthy, bureaucratic process that does not offer the flexibility demanded by modern town centres that need to react to changing economic climates.

- 2.6 This report therefore seeks to “modernise” this process via the introduction of a new process for cafes looking to trade on the highway. This revised process would cover the use of café trading space on the footway and will be in addition to the Council street trading policy which covers all other aspects of trading on the footway.

3. RECOMMENDATIONS

- 3.1 That Cabinet notes the need to “modernise” the process for providing permission to trade on the highway.
- 3.2 That Cabinet agrees:-
- i). A “modernisation” of the street cafe licence process and delegates Authority to the Interim Corporate Director (Communities) in consultation with the relevant Cabinet member and Head of Legal Services to finalise the application documentation and accompanying guidance notes.
 - ii). To waive any fees associated with trading externally until 30th September 2021 (subject to further review) to allow businesses time to recover from Covid-19 and to take advantage of the 2021 spring and summer period.
 - iii). To adopt the alternative process outlined in 5.5 for the initial 28 day consultation period.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To support local town centres in a very challenging economic climate.

5. THE REPORT

- 5.1 As stated above the current process for obtaining the relevant licence in accordance with the Highways Act is somewhat bureaucratic and lengthy and involves up front fees.
- 5.2 In Wales, the rules regarding the placement of tables and chairs on roads and pavements remain the same as we currently operate under Section 115E of the Highways Act, where proprietors may apply to the Local Authority for a licence to place tables and chairs on the highway and the Local Authority may grant a licence for such period and with such conditions as it considers suitable. CCBC’s guidance document sets out the conditions which the Council would at present be likely to apply.
- 5.3 As to conditions, the Council’s powers are broad and the legislation in essence states that the Council can impose such conditions on the grant of a licence as it considers fit. As a minimum the Council will consider imposing conditions around operation hours, the type of activities which may be carried on (e.g. the service of food and drink for customers seated at tables, and maybe prohibiting the sale of alcohol only or “vertical drinking), the requirement for businesses to have Public Liability insurance to indemnify the Council against any claim arising from the use of the highway by the café in question and conditions aimed at preventing negative effects for local residents, such as ensuring that the footway remains clear and the clearing

of litter/provision of bins etc. These detailed matters will be included in new guidance for applicant.

- 5.4 There are 2 key issues that hinder flexibility and can be counter productive to supporting businesses to recover from the Covid influenced economic downturn when opportunities arise. These include the up-front fees and the 28 day consultation period after an application has been made.
- 5.5 In terms of consultation, where there is a proposal to place furniture on the street, the Local Authority is required to publish a notice of this and state a period for representations to be made, which must not be less than 28 days. The Local Authority must not grant the permission until it has considered all representations, which means that there is no completely lawful means of avoiding the 28 day notice period. Swansea Council has developed a “workaround” to this, by granting a form of permission which they refer to as a Memorandum of Agreement/Understanding rather than a licence immediately and stating that it will be revoked if any valid objection is received within the 28 days. Clearly, there is some risk that the Council could be challenged if it adopted this approach but officers consider that this is a manageable risk with the supporting business benefits outweighing the risks of challenge. It is therefore suggested that the Authority adopts the process employed by Swansea Council as described above for the 28 day consultation period.
- 5.6 It is therefore the view of officers that the waiving of fees for a designated period of time (to allow cafes to take advantage of the next spring and summer period) combined with the approach outlined above in respect of the 28 day consultation period should be adopted as part of the drive to support our town centre businesses.

6. ASSUMPTIONS

- 6.1 The report has assumed that the challenging economic climate for town centre businesses will last into 2021 (and possibly beyond).

7. LINKS TO RELEVANT COUNCIL POLICIES

- 7.1 The report links to a number of corporate well-being objectives, namely.
- Objective 2 – Enabling employment.
 - Objective 4 – Promote a modern integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment.
 - Objective 5 –Creating a County Borough that supports a healthy lifestyle in accordance with the sustainable development principle within the Wellbeing of Future Generations (Wales) Act 2015.
 - Objective 5 – Support citizens to remain independent and improve their well being.

8. WELL-BEING OF FUTURE GENERATIONS

- 8.1 Economic Recovery contributes to the Well-being objectives as set out above. It is consistent with the five ways of working as defined within the sustainable

development principle in the Act and it is aimed at improving the economic, environmental, social and cultural well-being and recovery of the area.

- 8.2 As such it aligns with the following well-being goals:
- A Prosperous Wales – Providing more jobs and housing in the area will create more wealth for the local population.
 - A Resilient Wales – Providing additional and more diverse employment will make the area more resilient to external economic factors.
 - A Wales of Cohesive Communities – providing local employment and more diverse will help to stabilise and develop local communities and prevent outmigration.
- 8.3 The report recommendations are consistent with the five ways of working as defined within the sustainable development principle in the Act. The five ways of working of the sustainable development principle, listed in the Act are:
- Long Term – The importance of balancing short-term needs with the need to safeguard the ability of future generations to meet their long-term needs;
 - Prevention - How acting to prevent problems getting worse, may help public bodies meet their objectives;
 - Integration – Considering how the public body’s well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies;
 - Collaboration – Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives;
 - Involvement – The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.

9. EQUALITIES IMPLICATIONS

- 9.1 The revised policy and applicant guidance will provide for an Equalities Impact Assessment to be considered in relation to the granting of each individual application for the use of the pedestrian footway for “street café” purposes.

10. FINANCIAL IMPLICATIONS

- 10.1 The annual income from the granting of pavement licences is negligible (circa £200 per annum) and there are consequently no significant financial implications that result from the waiving of fees for the period up to 30th September 2021.

11. PERSONNEL IMPLICATIONS

- 11.1 There are no personnel implications associated with this report.

12. CONSULTATIONS

- 12.1 The report reflects the views of the consultees listed below.

13. STATUTORY POWER

13.1 Highways Act 1980
Local Government Acts

13.2 This is a Cabinet function.

Author: Mark S Williams, Interim Corporate Director of Communities

Consultees: Councillor Sean Morgan, Cabinet Member for Economy & Enterprise
Councillor John Ridgewell, Cabinet Member for Environment & Infrastructure
Robert Tranter, Head of Legal Services and Monitoring Officer
Stephen Harris, Interim Head of Business Improvement Services & S.151
Officer
Marcus Lloyd, Head of Infrastructure
Rhian Kyte, Head of Regeneration and Planning
Allan Dallimore, Regeneration Service Manager
Paul Hudson, Business Enterprise Renewal Team Leader
Mike Wallbank, Senior Solicitor

Background Papers:

- Caerphilly CBC "Street Trading Policy" updated September 2018.