

DRAFT

ENTERPRISE, PLANNING AND INFRASTRUCTURE COMMITTEE

9 NOVEMBER, 2010

MOTION BY COUNCILLOR JOHN WEST – PAVEMENT CAFÉS - EPI/10/195

With reference to article 16 of the minute of the meeting of the Council of 19 May, 2010, the Committee had before it a report by the Director of Enterprise, Planning and Infrastructure in response to the following notice of motion submitted by Councillor John West:-

“In order to promote the café culture, the Council should organise a meeting with representatives of the restaurant and café trade, planning, licensing and road officials with a view to identifying and removing barriers for successful pavement seating.”

The report advised that the Council supported and encouraged the provision of pavement cafés in the city as they made a positive contribution by adding vitality, colour, life and interest to the streetscene. However, it also highlighted that whilst the provision of street cafés was encouraged, it was important that they were properly administered and managed to ensure that they met the high standards expected in the city. In particular they should not obstruct the footway or create a hazard for pedestrians especially for blind, partially sighted and other disabled people and they should also be attractive areas to sit in. To assist in making decisions for granting permissions for chairs and tables, outside premises on the public highway a Pavement Cafés Design Guide was developed and approved by the Council.

In terms of the Pavement Cafés Design Guide, it was highlighted that prior to operating a pavement café the document identified two permissions that were required by the Council which appeared to be the main barriers identified by the trade, namely:- (1) planning approval, and (2) road permit.

Firstly, in terms of planning approval, it was advised that a pavement café required planning approval under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 Part 4 – Temporary Buildings and Uses (Class 15). The Planning Service interpreted this part of the order as planning permission was required for any of the following aspects in relation to a pavement café:-

- (a) pavement cafés which comprise furniture which was permanent or not readily moveable;
- (b) pavement cafés which were in operation for more than twenty-eight days in total in any calendar year; and
- (c) pavement cafés which were stand alone activities and not associated with existing premises if in use for more than twenty-eight days in total in any calendar year.

Planning permission was not required if the café was on private land which already had permission for the use. The cost of a planning application at present was £319 and there was an additional cost of £60 for an advert if the premises were licensed. Enquiries to other local authorities indicated that there was no consistent approach but the Planning Service maintained that the Council were unable to waive the requirement for planning and/or the application fee as this was national legislation and the Council were legally obliged to continue with the procedure.

Secondly, in relation to the road permit, it was advised that it was necessary to obtain the approval of the Road Authority for placing of tables and chairs on the public footway. This was to ensure that the lay-out of the tables and chairs did not cause an obstruction to pedestrians in accordance with Section 59 of the Roads (Scotland) Act. At present the cost of obtaining a road permit was £150 annual administration fee plus £25 per chair paid annually. It was estimated that an average application should take approximately four to five hours to progress including a site visit and as such there was a cost implication to the Council of approximately £100 in salaries.

The report provided a detailed overview of the comments received following consultation on this matter and also of other issues which had arisen from the current policy. A copy of the Council's Pavement Cafés on the Public Footway policy was appended to the report.

The report recommended:-

that the Committee note the contents of this report and if considered necessary to instruct officers to review the policy document for the placing of tables and chairs on the public footway.

The Committee resolved:-

- (i) **to modify the annual road permit administration fee from £150 to £100 for up to 24 chairs; to refer this matter to the Finance and Resources Committee for approval, and that otherwise the policy and charges remain;**
- (ii) to request officers to review and refresh the wording of the current policy in terms of plain English and conciseness; and
- (iii) to request officers to write to the Scottish Government to advise that although the Committee was aware of forthcoming consultation in this regard they wished, at this time, to request that the Scottish Government consider reducing the existing administrative requirements for pavement cafés in terms of planning.