

MEETING	DWYFOR AREA COMMITTEE – SERVICES
DATE	26th March 2012
TITLE	Café Pavement Facilities – Market Square, Pwllheli
PURPOSE	To consider appeal against Council’s refusal to grant consent
RECOMMENDATION	It is recommended that the Council reluctantly refuses consent and the appeal dismissed.
REPORT BY	Aled Davies – Head of Regulatory Department
PORTFOLIO LEADER	Councillor W. Gareth Roberts, Senior Portfolio Leader – Environment

1. Introduction

- 1.1 Members will recall that a decision was made at the Committee Meeting of 19th September 2011 to defer an appeal on behalf of Cuisine to Eat In Bistro, 4 Market Square, Pwllheli against the Council’s decision to refuse permission for a pavement licence to place café facilities on the public highway. The proposed site for tables and chairs is located outside Rodney Adams Antiques and adjacent to N^o 4 Market Square, Pwllheli.
- 1.2 It was resolved that the decision on the appeal should be held in abeyance with officers requested to discuss the matter further with the objector to ascertain the possibility of reaching a compromise settlement which would allow the Council to grant permission. It was also agreed that a further legal interpretation of the relevant legislation and regulations would be provided.

2. Section 115 Highways Act 1980 – Legal Interpretation and Framework

- 2.1 In January 2012, the Head of Democracy and Legal Department received legal opinion from Leading Counsel which establishes principles for the granting of licences to place pavement café facilities on the highway. This instruction is consistent with the advice provided by the Council’s own Legal Department to the extent that:-

The powers to grant permission for pavement cafe facilities, in relation to any income producing activity, is affectively vetoed by the provisions that owners and occupiers of adjoining premises must give their consent.

3. Discussions with Pwllheli Town Council

- 3.1 Following the Committee Meeting of 19th September 2011 discussions took place between senior officers of the Council and Pwllheli Town Council to establish whether consideration could be given leading to the withdrawal of the objection. No such undertaking could be agreed, and the Town Council has subsequently confirmed its objection to the proposal.

3.2 It should also be noted that to allow the proposal would be contrary to the Gwynedd Council's own policy and approval criteria, the contents of which is consistent with the legal opinion provided above.

4. **3 Market Square, Pwllheli**

4.1 It was also resolved that officers would consider the possibility of recommending approval for an alternative café pavement site to be located outside N^o 3 Market Square, Pwllheli, subject to receiving written consent of the relevant owner.

4.2 Despite the support shown by the Council, the site location and available space is restrictive to the extent that the provision of café pavement facilities would not be possible or practical. As the proposed site is located immediately outside and opposite Rodney Adams Antiques, from a legal prospective, permission could still not be given without the consent of the Town Council.

5. **Recommendation**

5.1 It is recommended that the Council reluctantly refuses consent and the appeal dismissed.