

MEETING	COUNCIL
DATE	20 th OCTOBER 2011
TITLE	AUTHORISATION OF CAFE AMENITIES IN THE HIGHWAY
PURPOSE	TO CONSIDER THE COUNCIL'S CURRENT PROCEDURES FOR CHARGING A FEE TO LICENSE THE PROVISION OF CAFÉ FACILITIES ON THE HIGHWAY
REPORT BY	ALED DAVIES – HEAD OF REGULATORY DEPARTMENT
PORTFOLIO LEADER	COUNCILLOR W GARETH ROBERTS, SENIOR PORTFOLIO LEADER - ENVIRONMENT

1. Background

- 1.1 Under the Highways Act 1980, Gwynedd Council as Highway Authority has a statutory duty to abate any nuisance and to remove any unlawful obstructions interfering with the free passage and enjoyment of the highway. Pavement café facilities placed on the highway without authority or licence is deemed to be an obstruction and therefore an offence under various provisions of the Act.

2. Policy – Café Pavement Facilities

- 2.1 In June 2006, the Authority resolved to implement a policy of granting licences to provide cafe facilities on the pavement cafés. This approach allows the Authority to regulate and control the placement of tables and chairs on the highway in accordance with its statutory duty. The licensing scheme aims to achieve a balance between safeguarding the rights of the public to the use and enjoyment of the highway whilst at the same time, allowing businesses to operate facilities which support local employment, improve visual amenities and viability of town centres.
- 2.2 There is a widespread stakeholder support for the policy with representations made by access groups that facilities must be licensed and measures taken to mitigate the extent of obstruction caused by café pavement facilities.

3. Licensing Approach

- 3.1 Section 115E of the Highways Act allows the Council to authorise and licence cafe facilities on the highway. However, the procedure is complex and requires extensive consultation including the approval of adjacent frontages. This places a significant administrative and inspection burden on the local highway authority, which is further exacerbated by a reluctance from many businesses to apply for pavement licences.

4. Licensing Costs

- 4.1 The current scale of fees involves a charge of £30.00 per annum for each table placed on the highway. There is no charge made for applications which are refused and there has been no increase in fees since 2006. The average annual cost of a licence in Gwynedd is £100.00 for 2011/2012. The annual income received from the licensing process is around £2,000. When the scheme is rolled out across the whole of Gwynedd the income is estimated to be around £4,500 per annum.
- 4.2 The fee should therefore be considered as a contribution towards the running cost of licensing scheme and in most cases does not cover the administration and inspection costs associated with issuing the licence.

5. Current Licensing Situation

- 5.1 Currently, there are 27 licensed sites operating throughout Gwynedd with a further 3 sites under consideration and subject to consultation procedures. A further 11 sites have not responded to letters inviting applications for consent and therefore subject to enforcement.
- 5.2 In order to comply with its statutory duties, the Council's Regulatory Department has issued several enforcement notices with a number of cases now being considered for prosecution due to unlawful obstruction of the highway in accordance with the Council policy for removal of unlicensed facilities.
- 5.3 The current situation with respect to licensed sites is shown in Schedule A.

Section 115 (Tables & Chairs) – April 2011 to April 2012**Status of Applications, Active Licensed Sites, Awaiting Response and Refused Applications****Arfon – Total Number of Sites 29**

Currently Licensed (15)	Expired License (4)	Application in progress License Pending (3)	Licensed Refused (1)	Possible enforcement action pending, awaiting response (6)
<i>The Old Glan Bangor</i>	<i>Fu's Cantonese Caernarfon</i>	<i>Crumbs Salad Bar Bangor</i>	<i>Patrick's Bar Bangor</i>	<i>2 premises in Caernarfon</i>
<i>Black Boy Inn Caernarfon</i>	<i>Subway Caernarfon</i>	<i>Babs Gwyn Caernarfon</i>		<i>4 premises in Bangor</i>
<i>Café Maes Site 1 Caernarfon</i>	<i>Melys Ice Cream Parlour Caernarfon</i>	<i>Y Tebot Bach Caernarfon</i>		
<i>The Castle Hotel Caernarfon</i>	<i>The White Lion Bangor</i>			
<i>Café Maes Site 2 Caernarfon</i>				
<i>Y Pantry Cymraeg Caernarfon</i>				
<i>Medi Caernarfon</i>				
<i>Calley's Café Caernarfon</i>				
<i>Costa Coffee Bangor</i>				
<i>Morgan Lloyd Vaults Caernarfon</i>				
<i>Every Day Caernarfon</i>				
<i>The Honour Caernarfon</i>				
<i>The Palace Vaults Caernarfon</i>				
<i>The Hole in the Wall Caernarfon</i>				
<i>Y Garddfon (Y Felinheli)</i>				

Dwyfor – Total Number of Sites 12

Currently Licensed (8)	Expired License (0)	Application in progress License Pending (0)	License Refused (1)	Possible enforcement action pending, awaiting response (3)
<i>Nana's Piri Piri Pwllheli</i>			<i>Bistro Cuisine Pwllheli</i>	<i>1 premises in Porthmadog</i>
<i>Portmeirion Porthmadog</i>				<i>2 premises in Pwllheli</i>
<i>Royal Madoc Hotel Tremadog</i>				
<i>Cadwalader's Porthmadog</i>				
<i>Cadwalader's Pwllheli</i>				
<i>The Mitre Hotel Pwllheli</i>				
<i>The Grapevine Bistro Porthmadog</i>				
<i>Y Bwtri Pwllheli</i>				

Meirionnydd – Total Number of Sites 6

Currently Licensed (4)	Expired License (0)	Application in progress License Pending (0)	License Refused (0)	Possible enforcement action pending, awaiting response (2)
<i>Tal-Y-Don Hotel Barmouth</i>				<i>2 premises in Abermaw</i>
<i>The Captain's Table Barmouth</i>				
<i>The Old Tea Rooms Barmouth</i>				
<i>Browns Barmouth</i>				