

Licensing Committee

Wednesday, 14th December, 2022

Review of Pavement Café Licence – City Picnic, Fountain Street

The Chairperson informed the Committee that the Review of Pavement Café Licence – City Picnic, Fountain Street (Item 2d) and Review of Pavement Café Licence – Voodoo, Fountain Street (2e) would be heard together. It was reported that Mr. D. McFarlane, Divisional Roads Manager, and Mr. G. Lawther, Development Control Manager, were in attendance on behalf of DfI-Roads, as were Mr. A. McAnerney, the Licensee, and his business partner Mr G. Gregg.

The Building Control Manager reminded the Committee that, at its meeting on 16th November, it had considered the review of 2 Temporary Pavement Café Licences in Fountain Street.

DfI-Roads had notified the Council that, in its view, the Temporary Pavement Cafés needed to be removed or relocated to facilitate the safe movement of traffic in Fountain Street, following its reopening to vehicular traffic. The Committee, after hearing from DfI-Roads and representatives from City Picnic and Voodoo (the licensees), had deferred making any decision to enable further information to be obtained.

At the meeting in November, the Committee had asked for more information from DfI-Roads, which would provide an analysis of road safety in the area, to enable it to properly consider the request to revoke the pavement café licences. The Committee had also asked for confirmation from DfI-Roads on whether Castle Street (portion between Fountain Street and Castle Junction) would remain pedestrianised.

In response to these queries DfI Roads had commented as follows:

“The Department’s view on the café licences for both Voodoo and City Picnic is that they present a danger to vulnerable road users especially pedestrians. This is because they are both placed across a section of Fountain Street that would, ordinarily, be open to two-way traffic. This section of road leads into another section, behind the bollards on Fountain Street, that is pedestrianised save for 6 pm to 11 am. The Cafés obstruct this part of the road. This has led to a number of loading vehicles being forced to reverse to exit both Fountain Street and Castle Street, whereas previously they could have driven through this section. Vehicles, which cannot perform a ‘u-turn’ on Castle Street can only leave the street by reversing through the traffic light-controlled junction at Queens Street. The Department is concerned that the reversing that the structures require vehicles to undertake could cause a danger to vulnerable road users, such as pedestrians and cyclists, as well as other mechanically propelled road traffic. Additionally, the cafes’ structures block access to a car park that is incorporated into the Norwich Union Building, do not facilitate cyclists and may not address specific issues encountered by disabled drivers.

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Due to the foregoing, the Department would urge the Council to not renew the licences on Fountain Street.

If the Council does not agree with the Department on this question, the Department would then request the structure and associated café furniture would not be in place between the hours of 6 pm and 11 am to mirror the times when Fountain Street pedestrianised zone is open to loading traffic. This will allow the free flow of traffic for loading vehicles, important to other businesses in the area, and reduce the risk for vulnerable road users.

The Department would ask that, in making its decision, the Council fully considers the impacts on disabled people and cyclists and is informed by a public safety risk assessment that fully considers all the safety issues associated with the pavement café license applications.

In relation to your query about traffic volumes, I can confirm that the Department does not have either vehicle or pedestrian counts for the periods before or after the closure.

In relation to the pedestrianisation of Castle Street, in front of City Picnic, I can confirm that the Department has currently restricted all vehicles from using Castle Street between Royal Avenue to Fountain Street with the exception of cyclists under the powers conferred on it by Article 7 of the Road Traffic Regulations (Northern Ireland) Order 1997. This restriction will last until 1 April 2024 however this can be superseded or changed if it becomes necessary.

As a final point the Department notes from the legislation that the structures should be capable of being taken away within 20 minutes and urge the Council to ensure that any licence that it grants ensures that the permitted structures can be taken down within that timeframe”.

The Building Control Manager advised that officers had engaged with DfI-Roads in relation to its comments and requested that a public safety risk assessment be provided in support of its representation, however, this had not been carried out by the Department. He further advised that City Picnic had submitted an application for a new location in Castle Street with which DfI-Roads was generally content. The public notice period for objections had expired and officers were awaiting comments from the PSNI in relation to the new location which would determine the outcome of the temporary licence application in Castle Street.

From a political perspective, a Member relayed frustration in relation to how the matter had been dealt with by DfI and asked what the Committee could do to support the businesses over the Christmas period.

A Member, acting as a representative for the area, referred to the unreasonable and unfair pressure which had initially been put on the businesses to remove the street furniture before the Council had considered the issue. The Member criticised DfI's vehicle-first approach to the city centre despite the Council having made it clear it wanted

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to see transformation. In the absence of the Stormont Assembly, the Member stated that DfI were ignoring the biggest democratic, elected body in the region and the mandate the Members had been given. He agreed that peoples' safety should be paramount but did not accept that this could only be achieved by reopening the street to traffic. The Member asked the Committee to continue to enable the businesses to continue operating outdoors; and invited senior DfI officials to address the Committee on what steps they were taking to enable more pavement licences to be granted in the city centre, and what plans it had for more pedestrianised zones which would provide for cafes, street markets and entertainment in line with the expressed will of the Council.

The Chairperson referred to the public safety risk assessment and asked why DfI-Roads had not carried out the assessment given it was the expert in road safety. The Chairperson invited DfI-Roads to respond.

In response, Mr. D. McFarlane, Divisional Roads Manager reported that DfI-Roads had been working closely with the Council on a range of measures throughout the city centre including on the issue around active travel and public transport. He continued that there was a lot happening and there was still a lot to happen under the remit of the Climate Change Act. In terms of these 2 pavement café licences, he advised that DfI-Roads had been acting as consultees to provide a roads input in relation to roads safety which was effectively what had been done. He stated that the pavement café opportunity had been a temporary measure as a result of the Primark fire which had closed the road, however, the road had been reopened creating road safety issues. Mr. McFarlane reiterated DfI-Road's concerns and assessment of public risk referred to in its response. In relation to the public safety risk assessment, he stated that the Council might wish to get an independent view of the risks given that some of the Members had not accepted DfI's analysis.

The Chairperson welcomed Mr. A. McAnerney and Mr. G. Gregg from City Picnic and invited them to make their representation.

Mr. Gregg advised that he and Mr. McAnerney were extremely fearful as he expected that in 6 months the business would be asked to move to allow for the area to be opened up to buses. He stressed that times were tough for the business and that it was a sad indictment of what was going on in Belfast. He stated that businesses needed this help. He continued that the reversing of cars and deliveries had been going on in the area for 8 years.

Mr. D. McFarlane, Divisional Roads Manager was invited to respond to the points raised by Mr. G. Gregg. He referred to the climate crisis and the model shift from the private car to public transport and active travel. He stated that there were no plans for buses in the area, however, he couldn't provide certainty but there was a need to be cognisant of the climate challenge. He disagreed with Mr. Gregg's statement about the 8-years and reiterated DfI-Road's concerns around road safety.

The Committee agreed to defer the review of the Pavement Café Licence until the application for the new location in Castle Street was complete. In addition, Members requested representatives from DfI Roads be invited to attend the Committee to outline

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their plans for the development of the city centre and for officers to ascertain what plans Translink had for the area.



Subject:	Review of Pavement Café Licence – City Picnic, Fountain Street
Date:	14th December, 2022
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext 2435
Contact Officer:	James Cunningham, Senior Licensing Officer, ext 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	The Committee is reminded that, at its meeting on 16th November, it considered the review of two Temporary Pavement Café Licences in Fountain Street.
1.2	DfI-Roads had notified the Council that, in its view, the Temporary Pavement Cafés needed to be removed or relocated to facilitate the safe movement of traffic in Fountain Street, following its reopening to vehicular traffic.
1.3	The Committee, after hearing from DfI-Roads and representatives from City Picnic and Voodoo (the licensees), deferred making any decision to enable further information to be obtained.
1.4	A copy of the report and the minutes of the meeting of 16 November are attached as Appendix 1.

2.0	Recommendations
2.1	Taking into account the information presented and the representations received Members are asked to consider the request from DfI Roads Service to revoke the Temporary Pavement Café Licence.
2.2	If the Committee is minded to accede to the DfI request to revoke a Licence, the licensee must be informed that the Committee is minded to do so and in accordance with the Licensing of Pavement Cafés Act (Northern Ireland) 2014 be permitted to make representation regarding the revocation to the Council, with such representations to be made not less than 21 days from the date of notice.
2.3	As a consequence, the actual decision to revoke the Licence will be considered at a meeting of the Committee on a later date. There is a right of appeal to the Magistrate's Court against the revocation of a licence.
3.0	Main Report
3.1	At the meeting in November, the Committee asked for more information from DfI-Roads, which provided an analysis of road safety in the area, to enable it to properly consider the request to revoke the pavement café licences.
3.2	The Committee also asked for confirmation from DfI-Roads on whether Castle Street (portion between Fountain Street and Castle Junction) would remain pedestrianised.
3.3	<p>In response to these queries DfI Roads has commented as follows:</p> <p><i>The Department's view on the café licences for both Voodoo and City Picnic is that they present a danger to vulnerable road users especially pedestrians. This is because they are both placed across a section of Fountain Street that would, ordinarily, be open to two-way traffic. This section of road leads into another section, behind the bollards on Fountain Street, that is pedestrianised save for 6 pm to 11 am. The Cafés obstruct this part of the road. This has led to a number of loading vehicles being forced to reverse to exit both Fountain Street and Castle Street, whereas previously they could have driven through this section. Vehicles, which cannot perform a 'u-turn' on Castle Street can only leave the street by reversing through the traffic light-controlled junction at Queens Street. The Department is concerned that the reversing that the structures require vehicles to undertake could cause a danger to vulnerable road users, such as pedestrians and cyclists, as well as other mechanically propelled road traffic. Additionally, the cafes' structures block access to a car park that is incorporated into the Norwich Union Building, do not facilitate cyclists and may not address specific issues encountered by disabled drivers.</i></p> <p><i>Due to the foregoing, the Department would urge the Council to not renew the licences on Fountain Street.</i></p> <p><i>If the Council does not agree with the Department on this question, the Department would then request the structure and associated café furniture would not be in place between the hours of 6 pm and 11 am to mirror the times when Fountain Street pedestrianised zone is open to loading traffic. This will allow the free flow of traffic for loading vehicles, important to other businesses in the area, and reduce the risk for vulnerable road users.</i></p>

	<p><i>The Department would ask that, in making its decision, the Council fully considers the impacts on disabled people and cyclists and is informed by a public safety risk assessment that fully considers all the safety issues associated with the pavement café license applications.</i></p> <p><i>In relation to your query about traffic volumes, I can confirm that the Department does not have either vehicle or pedestrian counts for the periods before or after the closure.</i></p> <p><i>In relation to the pedestrianisation of Castle Street, in front of City Picnic, I can confirm that the Department has currently restricted all vehicles from using Castle Street between Royal Avenue to Fountain Street with the exception of cyclists under the powers conferred on it by Article 7 of the Road Traffic Regulations (Northern Ireland) Order 1997. This restriction will last until 1 April 2024 however this can be superseded or changed if it becomes necessary.</i></p> <p><i>As a final point the Department notes from the legislation that the structures should be capable of being taken away within 20 minutes and urge the Council to ensure that any licence that it grants ensures that the permitted structures can be taken down within that timeframe.</i></p>
3.4	Officers are engaging with DfI Roads in relation to these comments and will provide a verbal update at your meeting if required.
3.5	A representative from DfI Roads will be available at your meeting should Members wish to seek any further clarification on these matters.
	<u>City Picnic</u>
3.6	As previously reported, Mr. Arthur McAnerney is the licensee for the Temporary Pavement Café Licence associated with City Picnic, Unit 5 McAuley House, 2-6 Castle Street. The current pavement café is located in the middle of Fountain Street close to the junction with Castle Street.
3.7	Mr. McAnerney has submitted a new application for a Temporary Pavement Café in Castle Street in the remaining closed portion between the junction of Fountain Street and Castle Junction.
3.8	DfI Roads has examined drawings provided in relation to the alternative site for City Picnic's pavement café on Castle Street and is generally content. The Department has asked that the Council ensures that furniture is erected in accordance with the drawings as any deviation from this may impede the passage of pedestrians and cyclists.
3.9	At the time of writing this report, a licence cannot be issued as the statutory period within which representations to the application may be made has not yet expired.
3.10	Mr. McAnerney has been invited to the meeting, should Members wish to seek any further information about the application.
	<u>Financial and Resource Implications</u>
3.11	None.
	<u>Equality and Good Relations Implications/Rural Needs Assessment</u>
3.12	There are no issues associated with this report.

4.0	Documents Attached
	Minutes of the previous meeting and reports pack