

**Review of Pavement Café Licence –
City Picnic, Fountain Street**

**Review of Pavement Café Licence –
Voodoo, Fountain Street**

(The Committee agreed to consider these two items simultaneously.)

(Mr. S. Dolan, Senior Development Manager, City Regeneration and Development Unit, attended in connection with these items.)

The Committee was reminded that, at its meetings on 16th November and 14th December, it had considered a request from DfI Roads Service for the removal or relocation of two Temporary Pavement Cafés situated in the middle of Fountain Street, close to its junction with Castle Street, being operated as part of the City Picnic and Voodoo businesses. The request had been made with the aim of facilitating the safe movement of vehicular traffic in the street, following its reopening after the Primark fire. The Committee had agreed to defer the request to enable further information to be obtained from the Department for Infrastructure on its plans for the development of the City centre, for Council officers to determine Translink's intentions for the area and for new applications to relocate to adjacent locations to be determined.

The Building Control Manager reported that a pavement café licence had since been granted under delegated authority to the owner of City Picnic for the remaining closed portion between the junction of Fountain Street and Castle Junction and to the owner of Voodoo for another location in Fountain Street, beside Norwich Union House. No objections had been received from DfI Roads or the Police Service of Northern Ireland or through the public notice process for either application and the licences had been issued.

He went on to point out that matters relating to transport planning and policy in the City were dealt with by the Council's City Regeneration Team, via the City Growth and Regeneration Committee. He explained that the Department for Infrastructure was currently developing the Belfast Metropolitan Transport Plan, in line with the Northern Ireland Executive's commitments under the Climate Action Plan. The initial stage would focus upon the City centre and strategic public transportation connections and involve a modelling exercise to identify options for shaping the Department's future plans for the City centre in terms of transportation requirements. It would, in due course, present its findings to the City Growth and Regeneration Committee.

He added that Translink was also due to attend a future meeting of the aforementioned Committee to outline its transportation plans for the City. However, this would also be dependent on the outworking's of the Transport Plan modelling exercise and subsequent recommendations. It would, he suggested, be beneficial for the Members of the Licensing Committee to attend the meeting of the City Growth and Regeneration Committee at which the Department for Infrastructure and Translink would be making their presentations.

The Building Control Manager concluded by recommending that the Committee consider the request from DfI Roads Service to revoke the Temporary Pavement Café Licences in Fountain Street which had been granted originally to City Picnic and Voodoo. Should the Committee accede to that request, the Council would be required to inform each licensee of the grounds for revoking their licence and provide them with at least twenty-one days from the date of notification in which to make representation. There was also scope within the legislation for the Council to revoke a licence without providing notification. The Committee could, based upon the representations made by DfI Roads Service, consider if it was in the public interest to do so without giving twenty-one days' notice.

It was reported that Mr. A. McAnerney, the owner of City Picnic, was again in attendance and the Committee agreed that it would be beneficial to seek his views on the Department's request to revoke his original pavement café licence and on his current location.

Mr. McAnerney stated that it was his understanding that Castle Street would re-open to through traffic in the medium term and that he had received no assurances to the contrary. He pointed out that City Picnic and Voodoo had worked together to create a unique pavement café offering at their original locations in Fountain Street and confirmed that, given the uncertainty around the future of Castle Street, he remained opposed to the revocation of that licence.

Mr. D. McFarlane, who was attending on behalf of the Department for Infrastructure, referred to a number of initiatives being undertaken currently to enhance the City centre, including A Bolder Vision, Belfast Streets Ahead and the 5Cs Public Realm Project. He referred also to the overriding Belfast Metropolitan Transportation Plan which, in order to achieve its objectives, could see a radical change in coming years to roads/streets in the City centre in order to make cycling, walking and public transport more accessible. He added that the plans for Castle Street and Castle Place were as yet unclear in the context of the overall Transportation Plan.

The Senior Development Manager reiterated the points which had been made by the Building Control Manager and Mr. McFarlane around the various initiatives being undertaken to enhance the City centre. He confirmed that Council officers would be meeting with their counterparts in other agencies as that work developed and that Members would be informed of any relevant presentations to be made by the Department for Infrastructure and Translink to the City Growth and Regeneration Committee.

In response to issues which had been raised by a number of Members around any measures which could be put in place to ensure the safety of pedestrians in Fountain Street, Mr. McFarlane confirmed this could only be achieved by closing it to all traffic, which would create significant difficulties for those trying to service local businesses. He added that the street had been designed to facilitate the circular movement of traffic, thereby eliminating the need to undertake turning manoeuvres and to be pedestrianised during those set times when deliveries were not being made.

The Chairperson thanked Mr. McAnerney and Mr. McFarlane for their contribution.

After discussion, the Committee agreed to again defer consideration of the request from the Department for Infrastructure to revoke the original Temporary Pavement Cafés for City Picnic and Voodoo to enable the incoming Committee to undertake a site visit to the Castle Street/Fountain Street area to familiarise itself with all of the relevant issues. It agreed also that the owners of those businesses and representatives of the Department for Infrastructure be invited to attend.



Subject:	Review of Pavement Café Licence – City Picnic, Fountain Street
Date:	12th April, 2023
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 meetings in November and December 2022, 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 agreed to defer the review of the City Picnic Pavement Café Licence until the application for the new location in Castle Street had been completed.
1.4	In addition, the Committee requested that representatives from DfI Roads be invited to attend the Committee to outline their plans for the development of the city centre and for officers to ascertain what plans Translink had for the area.

1.5	A copy of the report and the minutes of 16th November and 14th December are attached.
2.0	Recommendations
2.1	Taking into account the information presented and the representations received, the Committee is asked to consider the request from DfI Roads Service to revoke the Temporary Pavement Café Licence.
2.2	If the Committee is minded to agree 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 Committee meeting in December, Members had asked for representatives from DfI Roads to be invited to attend the Committee to outline their plans for the development of the city centre and for officers to ascertain what plans Translink had for the area.
3.2	The Committee is reminded that matters pertaining to transport planning and policy in the City is dealt with by the Council's City Regeneration team via the Council's City Growth and Regeneration Committee.
3.3	DfI is currently developing the Belfast Metropolitan Transport Plan (BMTP), in line with the Executive Commitments under the Climate Action Plan. The initial stage of this work will concentrate on Belfast City Centre and strategic public transportation connections and will involve modelling of options to recommend the optimum network for the city centre transportation requirements to deliver on the Department's Climate Action Plan commitments. This work will form a major element of the Department's future plans for the city centre. This work remains in progress however DfI have committed to engage with the Council on the emerging findings of the BMTP modelling and it is expected that this will be reported through the CG and R Committee.
3.4	Translink is also due to attend the Council's City Growth and Regeneration Committee, at a date to be confirmed, to outline transportation plans for the City, however this will also be dependent on the outworking's of the BMTP modelling exercise and subsequent recommendations. If Members are in agreement, to avoid the need for duplication, arrangements can be made for Members of the Licensing Committee to attend the City Growth and Regeneration Committee and hear of these plans.
3.5	A representative from DfI Roads has been invited to your meeting to outline their plans for the development of the city centre.

	<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 licence is for a site in the middle of Fountain Street, close to the junction with Castle Street. This has now been removed and relocated to Castle Street.
3.7	Mr. McAnerney had 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	The Committee is reminded that it agreed to defer the review of the City Picnic Pavement Café Licence until the application for the new location in Castle Street had been completed.
3.9	Following statutory consultation, no objections were received from either DfI Roads or the PSNI and there were no objections arising from the public notice of the application. Therefore, a Temporary Pavement Café Licence has now been granted to Mr. Arthur McAnerney for Castle Street, under delegated authority.
3.10	The Committee should now consider the request to initiate the revocation of City Picnic's Pavement Café Licence in the middle of Fountain Street.
	Notification of Revocation
3.11	Should the Committee decide to revoke the licence, the Council is required to notify the licensee of its intention, stating the grounds for doing so and that representations may be made by the licence holder.
3.12	The Council must provide the licensee with at least 21 days from the date of notification to make representation unless it considers that there are particular circumstances which are in the public interest that make it necessary to consider a shorter period.
3.13	However, there is scope in the Act that the Council may decide to revoke a pavement café licence even though no notification has been given. Based on the DfI-Roads representations and the granting of new Licence for Castle Street, the Committee may therefore consider if it is in the 'public interest' to revoke, the licence without giving 21 days' notice. Members are reminded that this matter has now been deferred twice.
3.14	Before deciding whether to revoke the licence the council must take into account any representations made by the licence holder within the period.
	<u>Financial and Resource Implications</u>
3.15	None.
	<u>Equality and Good Relations Implications/Rural Needs Assessment</u>
3.16	There are no issues associated with this report.
4.0	Documents Attached
	Appendix 1 – Minute and Committee report of 14th December, 2022
	Appendix 2 – Minute and Committee report of 16th November, 2022

**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.

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

**Licensing Committee,
Wednesday, 14th December, 2022**

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 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

**Licensing Committee,
Wednesday, 14th December, 2022**

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 Dfl-Roads had not carried out the assessment given it was the expert in road safety. The Chairperson invited Dfl-Roads to respond.

In response, Mr. D. McFarlane, Divisional Roads Manager reported that Dfl-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 Dfl-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 Dfl-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 Dfl'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 Dfl-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 Dfl Roads be invited to attend the Committee to outline 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 16th November are in the attached Appendix.

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>

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.

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.

City Picnic

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.

Financial and Resource Implications

3.11 None.

Equality and Good Relations Implications/Rural Needs Assessment

3.12 There are no issues associated with this report.

4.0	Documents Attached
	Minutes of the previous meeting and reports pack

**Review of Pavement Café Licence –
City Picnic, Fountain Street**

The Building Control Manager provided an overview of the review of the Pavement Café Licence and requested that the Members consider representations from DfI-Roads in relation to City Picnic's temporary Pavement Café Licence which had been impacted by the re-opening of Fountain Street at its junction with Castle Street.

The Committee was reminded that the Council, in June 2020, decided to introduce a temporary process for considering pavement café applications to assist the hospitality sector during the pandemic. The temporary Pavement Café Licensing Scheme was extended by the Council in September 2022 and would expire on 30th September 2023.

City Picnic restaurant had been granted a temporary Pavement Café Licence in Fountain Street, close to the junction with Castle Street. When this licence was granted this portion of Fountain Street was closed to vehicular traffic. DfI-Roads had advised the licensee that pavement café space may be available on Castle Street in the portion that would remain closed to traffic and that they would also consider any other proposals for alternative locations to which the café could be relocated.

Council Officers had met with the licensee for City Picnic and had advised him to engage with DfI-Roads about potential options for relocation of his pavement cafe and that revised site plans based on these discussions should then be submitted to the Council for formal consultation with DfI-Roads thereafter.

Mr. Arthur McAnerney the licensee for the Temporary Pavement Café Licence had submitted new plans for the relocation to Castle Street in the remaining closed portion between the junction of Fountain Street and Castle Junction. Mr McAnerney was engaging with DfI and Building Control staff to ensure that all documentation and technical information was in place.

The Building Control Manager advised that should the Committee decide to revoke the licence, the Council was required to notify the licensee of its intention, stating the grounds for doing so and that representations may be made by the licence holder.

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 Chairman invited DfI to deliver their representation.

Mr. McFarlane provided the Committee with a timeline from 2017 and referred to the situation caused by the Primark fire which had turned Fountain Street into a temporary cul-de-sac. He also referred to the temporary Pavement Café Licence Scheme which arose out of the Covid-19 pandemic in which DfI had been a consultee. He advised that City Picnic and Voodoo had been granted applications on the basis that they were operating not in the middle of public road but on a temporary cul-de-sac. Therefore, DfI had worked with the Council and the 2 applications had been approved based on the fact that they were temporary, and when Primark reopened it would revert back to being a public road. Mr. McFarlane informed the Committee that he was not aware of any other pavement café in Belfast being located on a public road. He stated

that unknown to Dfl the temporary licences were extended by the Council in September this year. He added that when Primark opened on 1st November the hoarding had been removed and the road reverted back to being a live public road. At this point, Council and Dfl met with City Picnic and Voodoo. He explained that Dfl were in a position to offer an alternative arrangement to City Picnic whereby they could move the pavement café to Castle Street. Mr McFarlane stated that it was his understanding that there had been no formal application made for this but Dfl were content to work with City Picnic on the matter. He explained that the issue arising from the pavement cafés not relocating would introduce the need for service vehicles servicing Fountain Street to reverse which would create a significant probability of a serious accident occurring and Dfl could not accept that risk.

A Member asked Dfl if any other businesses in the area had complained in relation to deliveries. Mr. McFarlane replied that there had been no other complaints and reiterated that the current arrangement was dangerous and it was a safety issue caused by the blocking of a public road. Another Member asked if the reverting of this arrangement was to facilitate Primark alone. Mr McFarlane stated that it was a case of returning the road network to pre-Primark fire arrangements. In response to a question from a Member as to which businesses were being serviced by the deliveries, Mr. McFarlane could not confirm but stated he had observed 9 vehicles reversing in one day. He provided details of previous servicing arrangements for deliveries whereby there was no need for vehicles to reverse in that part of Fountain Street. He stated that access to the Norwich Union car park was proving difficult too because of the location of the pavement cafés.

A Member asked Mr. McFarlane if there was vehicular access from Fountain Street to Wellington Place. He confirmed that traffic can reverse from that area as it was wider and was an open public road. Another Member asked if there was data available in relation to increased traffic for the Council to examine. Mr. McFarlane reiterated the fact that large vehicles were reversing in Fountain Street and Dfl would not accept the risk.

A Member voiced concerns in relation to the reversing of the reported 9 vehicles in Fountain Street given the level of footfall in the area and would like to hear the views from other traders in the area before any decision was reached. Mr. McFarlane referred to vacant shop frontages at Norwich Union House which could provide a solution and maintain the safe passage of vehicles.

A Member expressed empathy with City Picnic and Voodoo and recognised the complex situation and asked who would be liable if a pedestrian was hit by a reversing vehicle. The Member referred to stakeholder conversations to date and asked if the objective of the conversations was to find a solution that suited all whilst keeping pedestrians safe. Mr. Lawther responded that good progress had been made to date and reiterated that from a Dfl perspective the current Pavement Café Licence arrangement in Fountain Street would never have been acceptable albeit the road was temporarily closed and formalised by Dfl to facilitate it, and that Fountain Street now had no need to be closed.

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

Mr. Gregg welcomed the opportunity to put City Picnic's case across and informed the Committee that the process had been started to move the pavement café from Fountain Street to Castle Street given it was pedestrianised and would bring vibrancy to that area. He stated that they had been coerced and put under pressure to move to Castle Street. Mr. Gregg referred to Dfl's position of reverting to the original road network and added that the world had changed over the last 4 years since the Primark fire and the pandemic in terms of looking at pedestrianisation and the vibrancy of the city specifically in relation to Fountain Street. Although he agreed with the safety issues, Mr. Gregg questioned the need to revert to the original road network and suggested arriving at a solution that fits all such as a one-way system. He explained that before the Primark fire he had claimed 6 times for ripped awnings caused by reversing lorries. He referred to the access to the Norwich Union carpark and expressed his concerns about the safety of the building. Mr. Gregg informed the Committee that he would welcome further consultation with Dfl and described the matter as a 'knee jerk' reaction to get the road open quickly.

A Member referred to her recent engagement with City Picnic, Voodoo, Dfl and with Council Officers as it was of great concern. The Member expressed frustration as to how the matter had been handled by Dfl and described how the Department's approach had been unreasonable. The Member asked the Committee to look favourably on City Picnic's new licence application when it came forward as the business needed certainty.

Another Member stated she didn't agree with the licence being revoked as the pavement café had created vibrancy in the area which had helped the business and in turn boosted the economy. The Member stated that if properly managed, the pavement café and the servicing arrangements could operate together safely and agreed with other speakers that there should be more conversations to find an alternative plan.

The Chair stated he agreed with the sentiment of all the speakers and asked City Picnic if they were content to move to Castle Street. Mr. Gregg confirmed he was content to move but needed certainty in relation to whether or not Castle Street would remain pedestrianised or not. Discussion ensued in relation to pedestrianisation, finding a safe and holistic solution and to 'build back better'. A Member referred to the thousands of students that were now in the area which had created a moving population so there was a need to think differently in a more innovative and creative way.

A Member raised the matter of liability which had not been answered. The Interim City Solicitor/Director of Legal and Civic Services confirmed that ultimately liability would be with the driver.

A Member referred to the Council's vision for the city and noted the frustration with DfI in this regard. The Member asked if the matter was deferred would the responsibility lie with DfI to look at the safety of pedestrians in that area. Mr. McFarlane replied that it had been looked at and DfI had made the Council aware of the risk and the only safe option was to provide circular movement for vehicles. Mr. Lawther advised that DfI had started to consider the larger picture of pedestrianisation in the city and there was a commitment to discuss this further. He reiterated that his concern was that Fountain Street was a public road and the pavement café licence was sat on a public road and it was not for the Council to decide whether it was closed or not.

The Committee agreed to defer the review of the Pavement Café Licence to enable all stakeholders to discuss the matter further to find a solution and mutual consensus.



Subject:	Review of Pavement Café Licence – City Picnic, Fountain Street
Date:	16th November, 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	To consider representations from DfI-Roads in relation to City Picnic’s Temporary Pavement Café Licence, which is impacted by the re-opening of Fountain Street, at its junction with Castle Street.

2.0	Recommendations
2.1	Taking into account the information presented and the representations received, the Committee is asked to consider the request from DfI Roads Service to revoke the Temporary Pavement Café Licence.
2.2	If the Committee is minded to agree to the DfI request to revoke the Licence, the licensee must be informed to that effect 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
	<p data-bbox="272 389 743 423"><u>Representations from DfI - Roads</u></p> <p data-bbox="165 459 1471 624">3.1 DfI-Roads has notified the Council that, with Primark re-opening and the hoarding being removed from around the building, it intends to return the road network to pre-Primark fire arrangements in the area, with the exception being the limitation on Translink buses where control continues to be exercised through the closure of Castle Street to traffic (between Fountain Street and Donegall Place).</p> <p data-bbox="165 660 1302 694">3.2 A map from DfI-Roads showing traffic arrangements is attached at Appendix 1.</p> <p data-bbox="165 730 1471 958">3.3 One of the key reasons for returning to pre-fire arrangements is the servicing arrangements and parking for disabled users both of which were impacted in the vicinity of Fountain Street and Castle Street by the Primark fire and associated closures, which were unavoidable. When the roads were closed, it led to some difficult servicing arrangements, which required the reversing of vehicles. This increase in risk had to be balanced with the public safety risks associated with the Primark building and on balance were considered to be the 'least worst' option at that time.</p> <p data-bbox="165 994 1471 1160">3.4 Returning the road network to pre-Primark fire arrangements will allow servicing vehicles to revert to the safer option of driving forward between Castle Street and Fountain Street as historically was the case. DfI-Roads advises that it would not be considered appropriate to maintain the existing servicing arrangements (reversing vehicles), in the interests of road safety, which is of paramount importance to the Department.</p> <p data-bbox="165 1196 1471 1261">3.5 DfI-Roads has notified the Council that, in its view, City Picnic's Temporary Pavement Café needs to be removed or relocated to facilitate the safe movement of vehicular traffic.</p> <p data-bbox="165 1296 1471 1361">3.6 Representatives from DfI-Roads will be available at your meeting to outline their concerns in relation to road safety.</p> <p data-bbox="272 1397 914 1431"><u>Temporary Pavement Café Licensing Scheme</u></p> <p data-bbox="165 1467 1471 1599">3.7 The Committee is reminded that the Council, in June 2020, decided to introduce a temporary process for considering pavement café applications to assist the hospitality sector during the pandemic. The temporary pavement café licensing scheme was extended by the Council in September 2022 and will expire on 30th September 2023.</p> <p data-bbox="165 1635 1471 1733">3.8 The Council has granted City Picnic restaurant a Temporary Pavement Café Licence in Fountain Street, close to the junction with Castle Street. When this licence was granted this portion of Fountain Street was closed to vehicular traffic.</p> <p data-bbox="165 1769 1471 1868">3.9 DfI-Roads has advised the licensee that pavement café space may be available on Castle Street in the portion that will remain closed to traffic and that they will also consider any other proposals for alternative locations to which the café could be relocated.</p> <p data-bbox="165 1904 1471 1968">3.10 Council officers have met with the licensee for City Picnic and have advised him to engage with DfI-Roads about potential options for relocation of his pavement cafe and that revised</p>

site plans based on these discussions should then be submitted to the Council for formal consultation with DfI-Roads thereafter.

Options available within the scope of the Pavement Café legislation

3.11 The Pavement café legislation allows the Council, if it is satisfied that any part of the public area where the pavement café is permitted is going to become unsuitable for that purpose, or that continuing to place furniture in that area is likely to result in undue interference or inconvenience to persons or vehicles in the vicinity to revoke the licence.

3.12 Alternatively, the Committee may decide that, further to the representations of DfI-Roads, that it is not satisfied that the area where the pavement café is permitted is going to become unsuitable for that purpose or that continuing to place furniture in that area is likely to result in undue interference or inconvenience to persons or vehicles in the vicinity.

3.13 To move the pavement café from its current location requires the licence to be revoked or surrendered and an application made for the new location. This is to protect the integrity of the application process by giving neighbours or regular users of the pavement in the vicinity, an opportunity to comment on the suitability of the revised plan.

Notification of Revocation

3.14 Should the Committee decide to revoke the licence, the Council is required to notify the licensee of its intention, stating the grounds for doing so and that representations may be made by the licence holder.

3.15 The Council must provide the licensee with at least 21 days from the date of notification to make representation unless it considers that there are particular circumstances which are in the public interest that make it necessary to consider a shorter period.

3.16 However, there is scope in the Act that the Council may decide to revoke a pavement café licence even though no notification has been given. Based on the DfI-Roads representations Committee may therefore consider if it is in the 'public interest' to revoke, the licence without giving 21 days notice.

3.17 Before deciding whether to revoke the licence, the Council must take into account any representations made by the licence holder within the period.

City Picnic

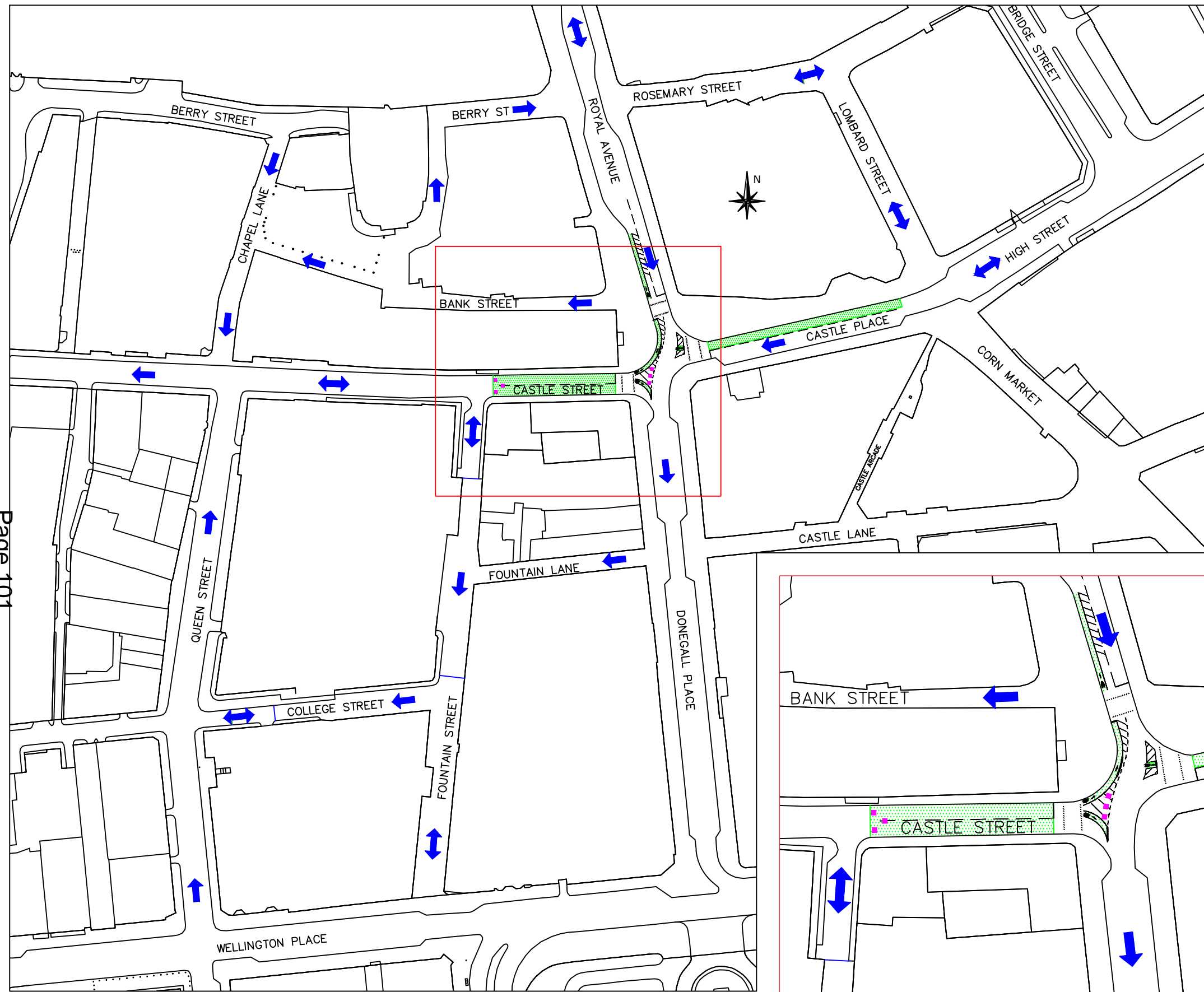
3.18 Mr. Arthur McAnerney is the licensee for the Temporary Pavement Café Licence associated with City Picnic, Unit 5 McAuley House, 2-6 Castle Street, Belfast. The current pavement café is located in the middle of Fountain Street, close to the junction with Castle Street.

3.19 Mr. McAnerney has submitted new plans for the re-location of his Temporary Pavement Café to Castle Street in the remaining closed portion between the junction of Fountain Street and Castle Junction.

3.20 Mr McAnerney is engaging with DfI and Building Control staff to ensure that all documentation and technical information is in place.

3.21 At the time of writing this report, final agreement is not in place regarding the relocation.

3.22	<p><u>Financial and Resource Implications</u></p> <p>None.</p> <p><u>Equality and Good Relations Implications/Rural Needs Assessment</u></p>
3.23	<p>There are no issues associated with this report.</p>
4.0	<p>Documents Attached</p> <p>Appendix 1 – Traffic Map</p> <p>Appendix 2 – Existing Layout Plan</p>



Direction of travel marked... ➡
 Areas for 'cyclists only' marked... 
 Location of planters marked... 

NO.	REVISION	DATE
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Appendix 1

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Project **CITY CENTRE**

Title **DELIVERY ARRANGEMENTS
NOVEMBER 2022**

FILE NO.	DESIGNED	date
DRAWN	CHECKED	date
TRACED	APPROVED	date
Drg. No.	Revision	

Scales

Eastern Division



Annex 7
 Castle Buildings
 Stormont Estate
 Belfast
 BT4 3SQ

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KEY:

-  Covered area in which a Pavement Licence Type 5e is applied for in respect of City Picnic
-  Covered area in which a Pavement Licence Type 5e is being separately applied for in respect of Voodoo