



Subject:	Pavement Café Licensing - further engagement activity
Date:	17 January 2024
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"/>
Some time 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 or Summary of main Issues
1.1	Members will recall that at your meeting in December 2023 you agreed to the implementation of a permanent pavement café licensing scheme, subject to officers continuing to engage with the Inclusive Mobility and Transport Advisory Committee (Imtac), Guide Dogs NI and the Federation of Small Businesses (FSB) NI in relation to concerns which they had raised during the public consultation, in order that the guidance for the scheme would reflect best practice; and that those three organisations would be invited to attend the next meeting, or a Special meeting if necessary, to outline any specific concerns which they had.
1.2	The purpose of this report is to update members on our continuing engagement with these organisations and for Members to hear from them.
2.0	Recommendations

2.1	Committee is asked to note the contents of the report and the continuing engagement officers are undertaking with Imtac, Guide Dogs NI and the Federation of Small Businesses NI.
3.0	Main report
3.1	<p><u>Key Issues</u></p> <p>Since your December meeting, officers met with Guide Dogs NI on 19 December 2023, with Inclusive Mobility and Transport Advisory Committee (IMTAC) on 22 December 2023, and with the Federation of Small Businesses (FSB) NI on 10 January 2024, to discuss the concerns raised in their consultation responses, as well as the proposals for the scheme and guidance in general. These meetings proved beneficial and were productive in increasing mutual understanding and it was agreed that dialogue will continue. A brief overview and topics discussed at those meetings is provided below.</p> <p>Engagement with IMTAC and Guide Dogs NI</p> <p>3.2 Officers provided an update on our guidance document and on proposed Licence Conditions, which should address some of the concerns raised by both organisations, in particular regarding pavement cafes not spreading out to take up more space than approved and to allow for the safe passing of pedestrians. (A report on the Licence Conditions was deferred in December and is a separate agenda item at this meeting)</p> <p>3.3 The proposed new Licence Conditions most relevant to the discussions are:</p> <ul style="list-style-type: none"> • The pavement café area shall not exceed the approved dimensions and shall be clearly demarcated by way of barriers, if required, as per the approved plan attached to the licence. • The Licensee must ensure that clear routes along the footway/highway are maintained, considering the needs of disabled people, and that minimum footway widths and distances required for access by mobility impaired and visually impaired persons (as per the approved plan attached to the licence) are provided at all times when the licence is in operation. <p>Concerns around the guidance</p> <p>3.4 During the meetings both IMTAC and Guide Dogs NI had very similar concerns, mostly around the detail of the guidance, in particular the need to specify a minimum footpath width, which both organisations believe should be fixed at 2m, and the need for pavement cafes to be enclosed by accessible barriers.</p> <p>3.5 In terms of the detail of the Belfast guidance, it was discussed that DfI Roads are currently working and engaging with Councils and representatives of disability groups on a Northern Ireland wide guidance document to assist DfI staff, Councils and stakeholders assess pavement cafes licence applications in relation to highway considerations. The guidance deals primarily with the unobstructed footway widths adjacent to pavement cafés on public pavements to be maintained, the siting of furniture and other equipment associated with the operation of the pavement café, enclosures and lighting.</p> <p>3.6 It is the intention that any finalised technical guidance document produced by DfI will become or be incorporated in the Council's technical guidance.</p> <p>3.7</p>

3.8	Both IMTAC and Guide Dogs NI raised concern about clear footpath widths and want guidance to specify 2m minimum unobstructed width.
3.9	Our Belfast guidance document for temporary pavement cafes contained a minimum pavement width of 2 metres clearance with a reduction of 1.5m in constrained environments.
3.10	It is the intention that this wording be part of the Belfast guidance, until the finalised DfI Roads guidance is available. It was also discussed and agreed that in some areas of high footfall, pedestrianised areas, near bus stops and so on, a minimum of 2m clear pavement width will not be sufficient, and this will be made clear in the Belfast guidance until the finalised DfI Roads guidance is available.
3.11	IMTAC also had a concern that pavement cafes should not obstruct any tactile paving or the approach to it. This was discussed and officers said they had previously raised this with DfI Roads and will be incorporated into Belfast guidance until the finalised DfI Roads guidance is available.
3.12	<p>Both IMTAC and Guide Dogs NI raised a concern that a requirement for pavement cafes to all be fully enclosed by accessible barriers was required, rather than as the guidance currently states “that the licensed area should ideally be enclosed by way of adequate screening, to demarcate the area, to make it distinguishable to other pavement users, and to assist blind and visually impaired pedestrians.” This was discussed, as the public consultation raised varying preferences and requirements in terms of enclosures from people with differing disabilities, and while important for people with visual impairment, for those using wheelchairs or mobility scooters enclosures can impede access. Partial enclosures and ‘book-end’ enclosures where barriers are only required at either end of a pavement café were discussed. Further consideration and discussion will take place about enclosures.</p> <p>Other issues discussed included:</p>
3.13	<ul style="list-style-type: none"> • Guide Dogs NI had expressed a concern that there may be a rapid expansion of pavement café licences and streets will become inaccessible, and that a form of automatic approval may be implemented because of numbers of applications. Officers provided assurance that automatic approval would not occur and is not possible in Northern Ireland, that the statutory process would be followed for each individual application, including public notice period and statutory consultation.
3.14	<ul style="list-style-type: none"> • Raising awareness of proposed pavement cafe locations within the sight impaired community so individuals can make comment or object on a proposal was discussed. Applications are on the Council’s website, as well as a public notice placed on the premises. However, reaching those most impacted is difficult, and will continue to be part of our ongoing dialogue.
3.15	<ul style="list-style-type: none"> • Guide Dogs NI recommended a right to appeal the approval of a pavement café on the grounds of safety or inaccessibility for disabled people and a requirement to investigate concerns around accessibility and revoke the licence if the pavement is not sufficiently accessible. Officers explained that once a licence is issued there is no appeal process in the legislation, however, if a pavement café licensee is found to be breaching licence conditions, proportional enforcement may result in the revocation of the licence. Officers explained that complaints will be investigated, and that the proposed new licence conditions should assist. • How to complain or report an issue about a pavement café online was raised – officers explained that this option has been available online since the introduction of

temporary pavement café licences with a dedicated email address which can be found on the Council's website. It was however noted that it can be hard to find depending on how you search on the website. Corporate communications have since amended the website wording for this, and this facility will be reviewed as part of updates to the pavement café webpages for the permanent scheme, to identify if access to information can be further improved. It was felt that an email address facility was satisfactory to report complaints or issues, and publicising of this is important.

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- IMTAC and Guide Dogs do not oppose or disagree with the proposed transition period, however, they had concerns regarding lack of compliance by existing temporary pavement cafes with new standards during this period and queried enforcement against unlicensed and non-compliant pavement cafes. The Council's graduated approach to enforcement was discussed as well as its powers under pavement café licensing.

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- Other street clutter and obstructions – it was clarified that pavement café licensing can only deal with items such as menu boards for the pavement café which must be contained within the limits of the licensed area as a condition of licence. However, officers have raised the need for DfI Roads to deal with other A boards, etc. to reduce overall street clutter.

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- It was agreed that pre-existing street furniture should not be obstructed by pavement cafes and must always be outside pavement café licensed areas.

Engagement with Federation of Small Businesses (FSB NI)

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Some key points discussed at the meeting of 10 January 2024 were:

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The Federation of Small Businesses had concerns on the timing of the consultation and that the consultation period and the following decision making at the December meeting being too rushed, and that the consultation was carried out during holiday season and the busiest for the hospitality sector, therefore reducing the effectiveness of the consultation.

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They recommended that final proposals for the scheme should be reconsulted on and asked for a 6-month transition period. This was predominantly because they were concerned that many of their members may not be fully aware of present or upcoming requirements regarding pavement café licensing and may be taken by surprise and lose their outdoor seating areas. In addition, they felt that the guidance was being amended 'behind closed doors' by the Council, and that any changes finalised should be provided publicly as clear guidance and consulted on before being implemented. The review of the legislation by the DfC was also raised.

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Officers informed the Federation that all licensees had been contacted following the December meeting of the Licensing Committee and provided with information about the permanent licensing scheme commencing in January 2024 and that there would now be a 4-month implementation period. To increase awareness further we have visited almost 90 unlicensed operators so far to discuss the licensing scheme, and this engagement continues.

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Officers reassured the Federation that the Council will not be requiring existing pavement cafes to cease operating during the transition period (now set at 4 months to the end of April 2024) and that any enforcement would be graduated and proportional going forward, and we intend to work with all businesses as the permanent scheme is implemented.

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<p>3.25</p> <p>3.26</p> <p>3.27</p> <p>3.28</p> <p>3.29</p> <p>3.30</p>	<p>Officers will work with the Federation to disseminate information and look at further ways to engage with businesses following the introduction of a permanent scheme to assist and support them. This includes arranging an information seminar in City Hall on 15 February 2024 for businesses to come along and learn about the pavement café scheme and the requirements for applying. We also invited IMTAC and Guide Dogs NI to speak at this event, both of which were happy to do so, to give a brief overview on the difficulties faced by people with disabilities and the importance of certain design features in relation to pavement cafes and how accessibility benefits all.</p> <p>Alterations to guidance and ongoing engagement around its detail, and the DfI Roads guidance was discussed. The Federation of Small Businesses will remain part of ongoing engagement around the pavement café scheme and guidance.</p> <p>In terms of the DfC review of the legislation referred to by FSB we are not aware that any changes to the pavement café legislation are likely to result from this review.</p> <p>Next steps moving forward</p> <p>Council officers will continue dialogue with Inclusive Mobility and Transport Advisory Committee (IMTAC), Guide Dogs NI and the Federation of Small Businesses (FSB) NI on the detail of the pavement café licensing scheme and guidance and its impact on people with disabilities and on businesses.</p> <p>IMTAC and Guide Dogs NI have both offered to undertake walkabouts in Belfast City Centre with our licensing officers who will be dealing with pavement café applications, to give insight into the needs of people with various disabilities, and officers are grateful for this opportunity and this will be arranged in due course.</p> <p>Council officers are also continuing to engage with DfI Roads and are attending a consultation meeting later this month convened by them concerning their draft Northern Ireland wide guidance.</p> <p>Inclusive Mobility and Transport Advisory Committee (IMTAC), Guide Dogs NI and the Federation of Small Businesses (FSB) NI have been invited to attend your meeting to outline any specific concerns which they had.</p>
<p>4.0</p> <p>4.1</p>	<p><u>Financial and Resource Implications</u></p> <p>None associated with this report.</p>
<p>5.0</p> <p>5.1</p>	<p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>In June 2020, Belfast City Council introduced a temporary process for considering pavement café applications to assist the hospitality sector during the recovery period following the Covid-19 pandemic lockdown. This temporary licensing scheme was subject to an equality screening exercise prior to its introduction and the screening process was reviewed again in 2021. In September 2023, Council agreed that the temporary scheme would expire on 31 December 2023 and a permanent scheme was to be introduced. Following this agreement and prior to the public consultation, a further equality screening process and rural needs assessment were undertaken for the transition to the permanent scheme and associated guidance. These draft documents were consulted on as part of the public consultation process, and issues raised through both the public consultation and targeted engagement sessions in the last quarter of 2023 and the ongoing further consultation process are being explored and will continue to be factored into the review of the scheme, guidance, and draft screening documents as appropriate.</p>