

Licensing Committee

Wednesday, 13th December, 2023

MEETING OF THE LICENSING COMMITTEE

HELD IN THE LAVERY ROOM AND REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor McKeown (Chairperson);
Aldermen McCoubrey, McCullough and Rodgers;
Councillors Anglin, Bradley, Collins,
P. Donnelly, Doran, D. Douglas,
Gormley, Lyons, Murray, F. McAteer,
McCabe, McCann, Ó Néill and Smyth.

In attendance: Ms. N. Largey, City Solicitor/Director of Legal and
Civic Services;
Ms. K. Bentley, Director of Planning and Building Control;
Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Manager; and
Mrs. L. McLornan, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported from Councillor McMullan.

Minutes

The minutes of the meeting of 15th November were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council, at its meeting on 4th December, 2023, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were recorded.

Delegated Matters

THE COMMITTEE DEALT WITH THE FOLLOWING THREE ITEMS IN PURSUANCE OF THE POWERS DELEGATED TO IT UNDER STANDING ORDER 37(d)

Licences Issued Under Delegated Authority

The Committee noted a list of applications for licences which had, since its last meeting, been approved under the Council's Scheme of Delegation.

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HMO Licences Issued Under Delegated Authority

The Committee noted a list of applications which had been approved under the Council's Scheme of Delegation during November 2023.

**Application for a New Licence to operate a House
of Multiple Occupation for 179 Dunluce Avenue, BT9 7AX**

The Committee was apprised of the details of the application. The Houses in Multiple Occupation Manager explained that the property had had the benefit of an HMO licence issued by the Housing Executive in the name of the of the previous owner and was scheduled to expire on 23rd March, 2021. From 14th February, 2020 the owner of the accommodation was recorded by land registry as being Mr. E. O'Hara and, in accordance with section 28(2) of the Houses in Multiple Occupation Act, the existing licence ceased to have effect on the date the ownership transferred.

On 4th August, 2023 an HMO licence application was received from the owner of the accommodation. The Committee was advised that, had the new owner applied for a licence before the change of ownership had taken place, the licence which was already in effect in respect of the HMO would have been treated as being held by the new owner, until such times as their application had been determined.

The Houses in Multiple Occupation Manager outlined that, pursuant to the 2016 Act, the Council could only grant a licence if it was satisfied that:

- a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control;
- b) the owner, and any managing agent of it, were fit and proper persons;
- c) the proposed management arrangements were satisfactory;
- d) the granting of the licence would not result in overprovision of HMOs in the locality;
- e) the living accommodation was fit for human habitation and—
 - i. was suitable for occupation as an HMO by the number of persons to be specified in the licence, or
 - ii. could be made so suitable by including conditions in the licence.

The Committee was advised that, as it was a new application, the Council's Planning Service was consulted. It had confirmed that a Certificate of Lawful Existing Use or Development ("CLEUD") was granted on 16th May, 2023.

It was reported that the NIHMO Unit had consulted with the Environmental Protection Unit in relation to nighttime and daytime noise; the Public Health and Housing Unit in relation to rubbish accumulation/filthy premises; and the Enforcement Unit in relation to litter and waste and all had confirmed that there had been no relevant enforcement action required in respect of any of the issues in the HMO in the last 5 years. The HMO Manager referred the Committee to details of other enforcement action which had taken place, which was detailed in Appendix 3 of the report.

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For the purpose of Section 12(2) of the 2016 Act, the Council had determined the locality of the accommodation as being Housing Management Area (HMA) "2/21 Ulsterville" as defined in the document Council's Local Development Plan Strategy, which was formally adopted on 2nd May, 2023. It was reported that Legal Services had advised that there was a clear requirement in section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence would not result in overprovision.

The officers had had regard to:

- a) the number and capacity of licensed HMOs in the locality; and
- b) the need for housing accommodation in the locality and the extent to which HMO accommodation was required to meet that need.

To inform the Council in its consideration of the above provisions, the Council had taken account of the 2023 Strategy given that "Nurturing sustainable and balanced communities was a fundamental aim of the LDP's housing policies." In particular, the Council had considered Policy HOU10, which stated:

"Within designated HMAs, planning permission will only be granted for Houses in Multiple Occupation (HMOs) and/or flats/apartments where the total number of HMOs and flats/apartments combined would not as a result exceed 20% of all dwelling units within an HMA."

The Committee was advised that, on the date of assessment, 17th November, 2023, 68% of all dwelling units in policy area "HMA 2/21 Ulsterville" were made up of HMOs and flats/apartments, which in turn exceeded the 20% development limit as set out in Policy HOU10. There were 247 (20.5%) licensed HMOs with a capacity of 1078 persons in that HMA.

It was outlined that there were a total of 1210 dwelling units in "HMA 2/21 Ulsterville". The Committee was advised that the fact that the use of the property as an HMO was permitted for planning purposes was a relevant consideration in determining whether the granting of the licence would result in overprovision.

The Houses in Multiple Occupation Manager reminded the Committee that there was a need for intensive forms of housing and, to meet that demand, HMOs were an important component of the housing provision. HMOs, alongside other accommodation options within the private rented sector, played an important role in meeting the housing needs of people who were single, who had temporary employment, students, low income households and, more recently, migrant workers and asylum seekers.

The Committee was advised that, on 17th November, 2023 out of 64 premises available for rent within the BT9 area on PropertyNews.com there were 3 licensed HMOs which, from the information presented on the website, represented 9 bed spaces. The HMO Manager advised the Committee that anecdotal evidence from previous conversations with HMO managing agents suggested that there was currently a lack of HMO accommodation available in that locality.

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On 7th December, 2022, Ulster University Director of Campus Life advised the Council's City Growth and Regeneration Committee that there was an "increase in competition for HMOs particularly from NIHE, Immigration Services and statutory agencies and there were increasing accommodation issues across the housing sector which required a holistic view and should include the consideration of international students, families and graduates looking for professional accommodation."

However, QUB Director of Student Plus had confirmed that the current trend indicated a significant move of students to purpose-built student accommodation blocks. She had advised the Members that there were 7,000 purpose built managed student accommodation (PBMSA) rooms in the City, the majority having been built since 2018, and approximately 5,000 in the city centre.

It was reported that November 2022 monitoring information produced by the Council's Planning Service for PBMSA indicated that 2154 bedspaces were currently under construction with 646 bedspaces becoming operational in September 2023.

Therefore, with the continued expansion of the PBMSA sector and students transitioning from private rentals to PBMSAs, it was too early to tell whether the increased competition from non-students for HMOs was a temporary problem which could be managed by the contraction in students residing in existing HMO accommodation within the locality, or evidence of an emerging long-term supply issue.

The Houses in Multiple Occupation Manager explained that, in assessing the number and capacity of licensed HMOs, as well as the need for HMO accommodation in the locality, officers could not be satisfied that the granting of the HMO licence would not result in overprovision of HMO accommodation in the locality of the accommodation for the purpose of section 8(2)(d) of the 2016 Act.

The Committee was advised that no objections had been received in relation to the application. It was also reported that the accommodation had been certified as complying with the physical standards for an HMO for three persons by a technical officer from the NIHMO service, on 11th October, 2023.

On 17th November, 2023, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, officers had issued a Notice of Proposed Decision to the Applicant advising that it was proposing to refuse the licence on the grounds of overprovision. The Members were advised that a response had not been received from the applicant.

The Chairperson welcomed Mr. P. MacDermott, the applicant's legal representative, to the meeting. He outlined that:

- the property had had the benefit of an HMO registration until 23rd March, 2021, under the previous NIHE scheme, which had been granted prior to the new legislation which came into effect in April 2019;
- the applicant had purchased the property in February 2020, unaware of the new legislation and the fact that the transfer terminated the HMO licence;

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- when the applicant became aware of the legislation, he applied to the Council for a licence;
- the property had the benefit of a CLEUD;
- as of 17th November, 2023, of the 64 properties available for rent within BT9 on that date, only three were licensed HMOs;
- it was quite clear that there was a major need for HMO accommodation within the area, as the Council had acknowledged;
- a lack of HMOs in the area was leading to a major housing crisis; and
- surely the purpose of the 2019 legislation was to stop new HMO licences being granted and that the property in question had been a licensed HMO within the old scheme and, in the interest of fairness, that the application should therefore be granted.

In response to a Member's question, the HMO Manager explained that new figures regarding Purpose Built Managed Student Accommodation (PBMSA) had been released since the report had been written. The Committee was advised that the information illustrated that there continued to be an expansion of PBMSA across the City, with over 2000 bed spaces currently under construction, with an operational date of September 2024. He advised that there appeared to be a shift towards students moving into PBMSA rather than in HMOs. It was reported that officers felt that, while there was certainly a demand for HMOs across the city, the demand for HMOs could be met in other localities, thereby not increasing the burden on the local community in the Ulsterville HMA. He added that it was important for the Members to note that there was also a high demand for private rented sector homes as well as social housing within the area.

After discussion, it was

Moved by Councillor Murray,
Seconded by Alderman McCullough and

Resolved – that the Committee agrees to refuse the application as, in accordance with Section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, it was satisfied that the granting of the HMO licence would result in overprovision of HMO accommodation in the locality of the accommodation, as determined under section 8(2)(d) of the Act.

Non-Delegated Matters

Pavement Café Licensing

The Building Control Manager presented the following report to the Committee:

“1.0 Purpose of Report or Summary of main Issues

- 1.1 At your meeting in September 2023 Members, in principle, agreed to the introduction of a permanent Pavement Café licensing scheme from 1 January 2024 with a transition and implementation period of 3 months.**

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1.2 Members had asked that Officers engage with various stakeholders regarding the prospect of implementing a permanent pavement café licensing scheme and that persons operating unlicensed pavement cafes would be surveyed to ascertain why they had not applied for a temporary licence.

1.3 This report provides a summary of the responses received from the consultation exercise and seeks your direction upon the implementation of a permanent licensing scheme.

2.0 **Recommendations**

2.1 Based on the information provided in this report about the consultation work that has been undertaken Members are asked to agree to:

- 1.** Proceeding with the implementation of a permanent Pavement café Licensing scheme from 1 January 2024;
- 2.** A 3-month transition period to enable existing licensees to move to the permanent scheme by 31 March 2024;
- 3.** Introducing the application fees agreed at your meeting in December 2016;
- 4.** A review of the current fees being undertaken and presented to Committee for consideration in due course;
- 5.** The 5-year licence term remaining as agreed at your meeting in December 2016;
- 6.** The standard hours of operation for Pavement Cafes being set as 7.00 am to 11.00 pm and, where individual circumstances dictate that these hours are deemed unsuitable, that authority is delegated to the Director of Planning and Building Control to either extend or restrict the standard times of 7.00 am to 11.00 pm as appropriate.

2.2 Members are advised that the Licensing Committee does not have delegated powers in relation to policy decisions concerning licensing matters and as such your recommendation will be subject to ratification by Council.

3.0 **Background**

3.1 Members are reminded that the Council, in June 2020, introduced a temporary process for considering pavement café applications to assist the hospitality sector during recovery following the Covid-19 pandemic lockdown.

3.2 On 5 September 2023 a workshop was held for Members to discuss pavement café licensing and the future of the temporary scheme. Some key outcomes of that workshop were that:

- **Members were generally of the view that Pavement Cafes were a positive addition to the City.**
- **Proper regulation and proportionate enforcement would be an important aspect of any permanent scheme to ensure a fair approach for all those wishing to benefit from a Pavement Café licence.**
- **Consultation on progressing with a permanent scheme should be undertaken with key stakeholders.**
- **There should be clear and straightforward procedures for applicants.**
- **Clarity on how we can progress to a permanent scheme should be provided for Members before a decision can be made on any future scheme.**

3.3 At your meeting in September 2023 the Committee agreed, in principle, to the introduction of a permanent Pavement Café licensing scheme from 1 January 2024 with a transition and implementation period of 3 months to allow existing licensed businesses to continue to operate until the grant of their permanent licence is determined and after which temporary licences will no longer be valid.

3.4 In addition, the temporary scheme was extended until the 31 December 2023 to enable consultation work with all stakeholders to be completed and for the findings of that consultation to be reported to Committee for consideration before making a final decision in relation to the future of Pavement Café licensing.

4.0 Key Issues

Pavement Café Consultation

4.1 Members are advised that we have engaged with a wide range of stakeholders regarding the Temporary Pavement Café Licensing scheme and the proposal to implement a permanent licensing scheme.

4.2 This has been done through a variety of mediums including a YourSay Belfast on-line public consultation, email correspondence, an in-person survey with businesses that had not applied for a licence, workshops with representatives of people with disabilities (a number of Members attended one

of these workshops) as well as workshops with the business and hospitality community, DfI Roads and DfC.

- 4.3 A full synopsis of the consultation feedback is included as appendix 1 to this report. A summary of the key findings is outlined below:

YourSay consultation

- 4.4 A YourSay consultation to obtain views on the merits of Pavement Café Licensing was carried out. The consultation ran for 8 weeks from 29th September to 30th November 2023.
- 4.5 The YourSay public consultation received a total of 256 responses and a further 27 current temporary licence holders responded to the Licensee consultation.

1. YourSay public consultation

- 4.6 The majority of respondents indicated that they have been recent customers of a pavement café in the city, with almost 59% visiting one in the last month. The most popular locations for visiting pavement cafes are in the city centre (66%) followed by South Belfast (23.8%).
- 4.7 There is general agreement that pavement cafes are of benefit to customers and are a positive addition to Belfast.
- 4.8 In terms of negative experiences of pavement cafes, respondents identified that some pavement café areas are too large and obstructed access or footfall to an adjacent business. They also identified that pavement café furniture is not being removed from the street at night or when the business is closed causing obstruction to vehicles.
- 4.9 There was also strong support (85.4%) for proper regulation to reduce any negative impacts.
- 4.10 Most importantly 88% of the public consultees were in support of a permanent pavement café licensing scheme for Belfast.

2. YourSay licensee consultation

- 4.11 The YourSay targeted consultation with temporary Pavement café licence holders received a total of 27 responses.
- 4.12 The majority (72%) of those with a temporary licence found the application process to be straightforward.

- 4.13 The majority of respondents (51.9%) said the fees previously agreed by Committee wouldn't stop them applying.
- 4.14 Going forward, the consultees were overwhelmingly in support of a permanent pavement café licensing scheme for Belfast (88.5%). Comments from consultees indicate that a permanent scheme would enhance their businesses, encourage them to invest more, provide clear operating parameters, increase vibrancy and give Belfast a European feel with a café culture.

Feedback from Section 75 and disability umbrella group meetings

- 4.45
- Generally, people were supportive of pavement cafes and they are seen as a positive addition to the city.
 - For people that still feel vulnerable to covid, etc. they feel more comfortable in outdoor spaces.
 - Some cafes create a tripping hazard and some businesses have taken over pedestrian areas to the extent that sometimes people are being forced onto the road.
 - Pavement Cafes should not take over car parking spaces – accessible car parking needs retained.
 - Barriers surrounding pavement cafés can sometimes confine the space making it more difficult for some people using a rollator or wheelchair.
 - Conversely, it is recognised that barriers around cafes are important for those with sight issues.
 - Good regulation/monitoring and enforcement is required.
 - Voices of disabled people must be heard – the disabled (purple) £ is worth as much as anyone else's.
 - City needs to be safe for disabled people to go the places they want to.
- 4.16 Following the workshop Guide Dogs Northern Ireland provided their views on the proposed scheme. Guide dogs provides services that support the independence of people with sight loss as well as campaigning and giving advice to government on creating an inclusive and accessible built environment. A copy of their letter is included as appendix 2.
- 4.17 Guide Dogs Northern Ireland expressed how reducing obstacles on pavements and street clutter is important to improving the quality of life of people with sight loss and raised concern at a possible rapid expansion of licences for

pavement furniture, with streets becoming inaccessible if large areas of pavements are occupied by new furniture.

4.18 They asked specifically that:

- 1) the application consultation process be made accessible.
- 2) it be a requirement for all pavement café furniture to be separated from the pavement by a barrier.
- 3) a minimum pavement width of 2m (reducing to 1.5 m when not feasible) be required.
- 4) the Council would investigate concerns around accessibility and that a licence should be revoked if the pavement is not sufficiently accessible.

4.19 To reassure Members our guidance document for temporary pavement cafes contains a minimum pavement width of 2 metres clearance with a reduction of 1.5m in constrained environments. It further 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. The guidance is being reviewed and updated for the permanent scheme.

4.20 Members will be aware that there is a separate agenda item on pavement café licence conditions. In that report we have suggested a condition to deal with keeping routes along pavements clear and taking into account the needs of disabled people.

Hospitality / business umbrella group workshop

4.21

- Very supportive of a permanent scheme for Pavement Cafes and also very supportive of Parklets (and more pedestrianisation in City) with regulation/enforcement.
- Requirement to be able to remove furniture in 20 minutes is seen as a problem which makes aspiring to a good quality enclosure and furniture difficult.
- Better quality plans were not seen as an issue.
- The fees set previously were not viewed as unreasonable and it was suggested that this could increase if you were getting more space. Although size should not be related to available indoor space.
- It was accepted that some existing Pavement Cafes are too large and will need to reduce in size for a permanent scheme.

- **Cleansing issues – agreed that should be condition of licence that they need to keep it clean.**
- **There was concern that a minimum requirement of 2m clear footpath should be set for accessibility in all cases, as lesser width may be acceptable depending on location.**

4.22 Following the workshop the Federation of Small Businesses (FSB) provided their views on the proposed implementation of the scheme in January 2024. A copy of their letter is included as appendix 3.

4.23 Whilst they fully understand the need for updated, permanent arrangements the FSB have expressed concerns that the process appears to be rushed and incomplete. They have asked that the Council consider:

- 1) Extending the current temporary scheme to allow for adequate stakeholder engagement with the consultation.**
- 2) Re-consult stakeholders on the full draft pavement licensing scheme once the recommendations from stakeholders have been taken into account and/or the draft has been brought to the Licensing Committee for discussion.**
- 3) Ensure all licensed and unlicensed pavement café operators have been contacted, and allow at least a 6 month transition period from the date a new scheme is properly consulted upon, agreed and has been fully communicated with respective premises.**

4.24 Officers believe that the Council has undertaken extensive consultation as outlined in this report. Two of the responding organisations welcomed the level and range of stakeholder engagement undertaken as part of this consultation process. We have visited over 60 unlicensed operators to discuss the licensing scheme as part of our consultation and this engagement will continue with both licensed and unlicensed operators. Officers are also looking at further ways to engage with businesses following the introduction of a permanent scheme to assist and support them.

Dfl Roads engagement workshop

4.25

- **Pavement café culture and making spaces people-centric is something Dfl support but public safety/road safety/pedestrian safety is paramount.**
- **Pedestrian numbers in city centre are likely to increase over time. Proposals in the Eastern Transport Plan will**

give space back to active travel, less parking spaces, more space for pedestrians.

- Each application needs be assessed individually on its own merits – need to consider levels of footfall on footway etc.
- The existing BCC guidance has been working satisfactorily for temporary scheme but DfI would hope to get agreed NI wide guidance screened and published.
- DfI favoured shorter licence period than 5 years, to help deal with changing road/footpath landscape, but realised this may mean licensees would make less investment etc.
- Council processes needed to revoke or vary PC Licences to cater for changing streetscape
- Street furniture (benches/cycle stands) need to be standalone and outside of pavement café areas.
- DfI keen that pavement café furniture is removed outside operation hours, and that these hours should reflect the need to have furniture removed to facilitate unloading/loading hours for those in pedestrianised areas with restricted access for vehicles e.g. removed at night until 11am the next morning – if loading/unloading allowed until 11am.

Survey of business who did not apply for a Licence

- 4.26 At your meeting in September Members had expressed concern about the number of unlicensed pavement cafes and asked that we consult with those businesses which had not applied for licences under the temporary scheme, to determine if there were specific reasons or barriers which they had encountered.
- 4.27 A Licensing Officer conducted an in-person survey around the city, visiting 61 businesses that currently operate an unlicensed pavement café to follow up on this request.
- 4.28 The overwhelming reason (69%) given for not applying was that they were unaware of the licensing scheme.
- 4.29 However, feed-back provided was generally positive and the majority of businesses welcomed the permanent scheme and confirmed they would apply.
- 4.30 Most felt that the original fee agreed by the Council was reasonable and others commented that the introduction of the permanent scheme would give them assurance, by obtaining

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a licence that would be valid for a number of years, to invest in their pavement cafe.

- 4.31 The results of the consultation exercises demonstrate there is clear agreement that there should be a permanent Pavement Café licensing scheme.
- 4.32 Taking into consideration the range of feedback that has been received as a result of the consultation Committee is now asked to consider if a permanent Pavement Café licensing scheme should now be implemented on 1 January 2024 and, if so, that this will be subject to the transitional arrangements as outlined below.

Proposed Transitional Arrangements

- 4.33 It is considered necessary to have a transition and implementation period of 3 months for the introduction of a Permanent Pavement Café Licensing scheme. During the implementation period those with an existing temporary licence will be required to apply for a licence under the permanent scheme but may continue to operate their pavement café until their new application is determined.
- 4.34 The implementation period will also allow the Council time to process grant applications for permanent applications and for relevant statutory and public consultations to be undertaken.
- 4.35 A cut-off date for transitional arrangements to enable a move to a permanent Pavement Café Licence scheme is 31 March 2024. Thereafter any temporary licences will no longer be valid and any that have not made an application for a Licence will be subject to routine enforcement procedures.
- 4.36 Bearing in mind the comments of the FSB, if Members are minded to introduce a permanent scheme, you may wish to consider a longer transition period than 3 months.

Fees

- 4.37 At your meeting in December 2016 the Committee, after considering a number of options, agreed the fees that should be charged for a Pavement Café Licence and determined a grant application fee of £225.00 with an annual licence fee of £55.00 for the ensuing 4 years. (No annual licence fee is charged in the first year). In addition, it was agreed that the fee for an application for the variation of a licence and also for the renewal of a licence would be £112.50.

- 4.38** Whilst the legislation allows the Council to set fees at full cost recovery levels Members decided to set a significantly reduced fee, equating to around 25p per day for a 5-year licence.
- 4.39** Given the circumstances under which the temporary scheme was introduced, the Council waived any fees associated with a Pavement Café application.
- 4.40** As a result of the YourSay public consultation the majority of consultees felt that the cost of administering the pavement café licence process should be met by Café owners or operators (74.4%) rather than coming from within existing council budgets (25.6%).
- 4.41** Also, through our stakeholder engagement it is apparent that businesses were not opposed to paying a fee. At the business workshop, the Federation of Small Businesses commented that paying a fee or bigger fee shouldn't be a problem for businesses, as they will carry out a cost benefit analysis to ascertain if its financially viable for their business.
- 4.42** Committee is asked to agree that the fees set in 2016 be implemented for the permanent scheme as there is scope within the Pavement Cafes Act for councils to ensure the cost of administering pavement cafes is not a rate borne activity. As these fees were set 7 years ago it is suggested that a review of fees be undertaken so that inflationary uplift and the costs of the operation of the scheme and associated enforcement activity can be assessed.

Duration of Licences

- 4.43** It was previously determined by Council in 2017 that Pavement Café licences will be granted for a period of 5 years.
- 4.44** When asked about a licence period of 5 years, 52.2% of the public felt that was about right; 26.3% felt it was too long; and 6.7% thought it was too short. 77.8% of current licensees felt that a 5-year licence was about right whilst 11.1% felt it was too short a period.
- 4.45** Comments received on the licence duration indicate that business would be happy to invest in quality furniture knowing the licence was for 5 years. Other comments felt that the nature of the industry and the need to capture changes mean a shorter licence period would be more appropriate.

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- 4.46 Dfl Roads are concerned about the Council issuing a 5-year licence favouring a shorter licence period to help deal with changes to the road/footpath landscape.**
- 4.47 Officers believe there are sufficient powers contained within the Licensing of Pavement Cafés Act (Northern Ireland) 2014 that should any part of the public area become, or is going to become, unsuitable for that purpose to revoke a licence.**
- 4.48 Members are asked to determine if the 5-year licence term should be retained.**

Licence Conditions

- 4.49 At your meeting in December 2016, the Committee, agreed Standard Licence Conditions which would be applied to pavement cafés.**
- 4.50 The majority of those conditions have proven appropriate, however there is scope to clarify and augment some of those Conditions, particularly in relation to street cleanliness issues and issues around removing and storing pavement café furniture.**
- 4.51 A separate report will follow at this meeting to discuss this matter.**

Licence hours of operation

- 4.52 At your meeting in December 2020, the Committee, agreed that the standard hours for which a Temporary Pavement Café Licence may be permitted to operate would be set as 7.00 am to 11.00 pm, and authority was delegated to the Director of Planning and Building Control to grant any application for a pavement café licence to trade earlier or later than the standard times of 7.00 am to 11.00 pm.**
- 4.53 The consultation exercise has highlighted issues around loading and unloading of vehicles making deliveries and that the times of operation of a pavement café should be set to minimise disruption of deliveries to business premises.**
- 4.54 For clarity for any applicant for a permanent Pavement Café Licence Members are asked to agree that the standard hours of operation are set as 7.00 am to 11.00 pm. Where individual circumstances dictate that these hours are deemed unsuitable it is suggested that authority is delegated to the Director of Planning and Building Control to either extend or restrict the standard times of 7.00 am to 11.00 pm as appropriate.**

Guidance documentation

- 4.55 The Council produced a guidance document to help business owners to prepare an application for a Temporary Pavement Café Licence during the Covid 19 pandemic. That guidance document was based on guidelines prepared by the Department for Communities when they brought in the Licensing of Pavement Cafés Act (NI) 2014.
- 4.56 In addition, the Licensing Forum Northern Ireland produced a 'Guidance for Applicants' document to assist those intending to make an application for a pavement café licence.
- 4.57 Our guidance was equality screened with reviews in 2020 and 2021 for the temporary scheme.
- 4.58 Arising from the consultation exercise some suggested amendments to our guidance have been made by the Inclusive Mobility and Transport Advisory Committee (Imtac). Imtac is a committee of disabled people and older people. Its role is to advise Government and others in Northern Ireland on issues that affect the mobility of Deaf people, disabled people and older people.
- 4.59 A copy of the Imtac letter is included as appendix 4 to this report.
- 4.60 Officers understand that DfI Roads are to finalise the technical guidance which the Council was seeking to base our own guidance upon at the time that the legislation was introduced in 2016. Any technical changes highlighted in this regional guidance will be reflected in our guidance.
- 4.61 As previously stated, our guidance document for pavement cafes is being reviewed and updated for the permanent scheme. Suggested changes from Imtac and others will be considered and incorporated where possible. In doing so we must strike a balance in addressing concerns raised through the consultation exercise as it highlighted differing and competing needs, not just from applicants but also in feedback from disability groups.
- 4.62 Officers will undertake additional engagement with interested parties to consider their views further and to develop our guidance. In addition, we will monitor the rollout and implementation of the scheme and, where necessary, guidance can be amended further if necessary.

5.0 Financial and Resource Implications

5.1 The grant application fee for a 5-year pavement café licence is £225.00 with an annual licence fee of £55.00 for the subsequent 4 years. If the fees are waived there will be a total lost income over 5 years of at least £41,830 on the basis of applications granted at present. Given that this only represents about 40% of the total number of pavement cafes in the City should a scheme be implemented the loss in income to the Council would be considerably higher.

6.0 Equality or Good Relations Implications/Rural Needs Assessment

6.1 The Building Control Service has consulted with a range of stakeholders on various aspects of pavement café licensing over the last number of years. This included a formal consultation with potential pavement café operators on the proposed fees for a pavement café licence application in 2016. In June 2020 the Council introduced the temporary process for pavement café licence applications, with no associated fee, to help businesses recover during Covid-19. The temporary scheme underwent a screening process in 2020 and it was reviewed in 2021.

6.2 Prior to the current public consultation, an equality screening process and rural needs assessment were undertaken. Views were sought on the information contained in these draft documents and these will be updated accordingly based on the feedback obtained through the consultation and engagement process prior to progressing to a permanent scheme.”

The Analysis of Consultation responses can be found [here](#).

The Building Control Manager stated that officers would continue to engage with disability groups to ensure that the guidance document was up to date and fit for purpose.

A number of Members thanked the officers for their hard work in respect of drawing up the permanent Licensing Scheme.

A Member stated that his colleague had recently received correspondence from Guide Dogs NI and Imtac, raising concerns with the report and specifically that Guide Dogs NI had felt that their response had been misrepresented within it. He suggested that the Committee should defer consideration of the report until the issues raised by both organisations had been addressed.

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The Building Control Manager reminded the Members that the responses from both organisations had been included within the papers.

The City Solicitor stated that she was surprised to hear that the organisations felt that their views had been misrepresented, as officers had been working closely with them, and their input had been invaluable in drawing up the terms of the scheme.

The Building Control Manager reiterated that officers had engaged extensively with those organisations and that officers would continue to do so, to ensure that their needs were accounted for.

The Director of Planning and Building Control advised the Committee that any such issues could be addressed within the guidance document, which was yet to be produced. She stated that, therefore, the Committee could consider the officers' recommendations regarding the implementation of the permanent scheme, with a view to ensuring that any relevant issues raised by consultees in the meantime were addressed through the guidance.

During discussion of the officers' recommendations, the Members agreed that a four month transition period, to enable licensees to move to the permanent scheme, would put less pressure on businesses.

The Committee subsequently agreed, 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 regarding the Pavement Café Scheme, 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, to:

1. Proceed with the implementation of a permanent Pavement café Licensing scheme from 1st January 2024;
2. A four month transition period to enable existing licensees to move to the permanent scheme by 30th April, 2024;
3. Introduce the application fees agreed at the Licensing Committee meeting of 14th December, 2016;
4. A review of the current fees being undertaken and presented to the Committee for consideration in due course;
5. The 5-year licence term remaining as agreed on 14th December, 2016; and
6. The standard hours of operation for Pavement cafés being set as 7.00 am to 11.00 pm and, where individual circumstances dictate that these hours are deemed unsuitable, that authority is delegated to the Director of Planning and Building Control to either extend or restrict the standard times of 7.00 am to 11.00 pm as appropriate.

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**Consideration of Standard Conditions to be
attached to Pavement Cafe Licences**

The Committee agreed to defer consideration of the report until January 2024.

Chairperson