

Appendix 2

Licensing Committee

Wednesday, 16th November, 2022

Review of Pavement Café Licence – Voodoo, Fountain Street

The Chairperson welcomed Mr. C. Smyth, Licensee and invited him to make his representation.

Mr. Smyth clarified that despite being granted a second temporary Pavement Café Licence, he was unable to establish the Santeria cocktail bar, 19 Fountain Street as the land was currently being adversely possessed by the owner of 23 Fountain Street who had taken a legal action to prevent the café being put there. He added that if the land had been the property of the owner of 23 Fountain Street, then he shouldn't have been granted a pavement café licence. Mr. Smyth advised that he had informed DfI of this matter to which DfI had declined interest. He informed the Committee that the only pavement café Voodoo had was the one shared with City Picnic in the middle of Fountain Street. He informed the Committee that the ambition for the area was to create vibrancy with limited investment due to the temporary arrangement which had been recognised by the Committee. He highlighted that energy costs were now more of an issue than Rates costs which had resulted in businesses closing. He stated that it was gracious of the Council to extend the temporary pavement café arrangement. He referred to the 4-day notice from DfI to vacate which had led him to seek political and media support which had bought time. He referred to the option of moving alongside Norwich Union House which was a possibility however, the matter of the demolition of Norwich Union House was live. He advised the Committee that he had had discussions with McAleer and Rushe who had informed him that the demolition of Norwich Union House would not take place for about 4 months due to conservation rules.

Mr. Smyth recognised the safety issues caused by reversing vehicles however, he agreed with a Member's point that the situation needed proper management.

A Member asked Mr. Smyth about the proposal of moving Voodoo's pavement café to Castle Street. He replied that the proposal was never to move to Castle Street as it was too detached from the business. Moving it to Castle Street would create security implications due to removing it from the line of sight especially as Voodoo was largely a night-time business and there were drug and alcohol issues in the area.

Another Member asked if this situation would have an impact on jobs and the business especially on the run up to Christmas. Mr. Smyth stated it would have an impact if the pavement café can't be moved and approved and referred to the current difficulty of hiring staff. Mr. Smyth highlighted the visual improvements to the area which had been created by Voodoo and City Picnic.

Mr. McFarlane asked the Council's legal advisors if the pavement café legislation allowed for a café to be placed on what was technically a public road. He reassured

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Mr. Smyth that Dfl would work with him and reminded the Committee it was Dfl that had approached City Picnic in relation to moving to Castle Street. Mr. Lawther added they would continue to work with the licensees to evolve the agreement however, the issue was the occupation of a public road which was open to the public. He asked that these licences be relocated off the public road to a more appropriate space.

The Interim City Solicitor/Director of Legal and Civic Services responded to the issues and criticisms raised by Dfl. She advised that Dfl's decision to re-open the road was in the full knowledge that the pavement café licences would be affected. She referred to the definition of the location for which pavement café licences could be granted; and clarified that pavement café licences may be issued in respect of any public area and was defined by any area the public had access to without payment as of right which includes roads.

A Member expressed that she was glad that the will of the Committee was for deferral and requested more information from Dfl in relation to a proper analysis of road safety in the area.

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 – Voodoo, 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"/>

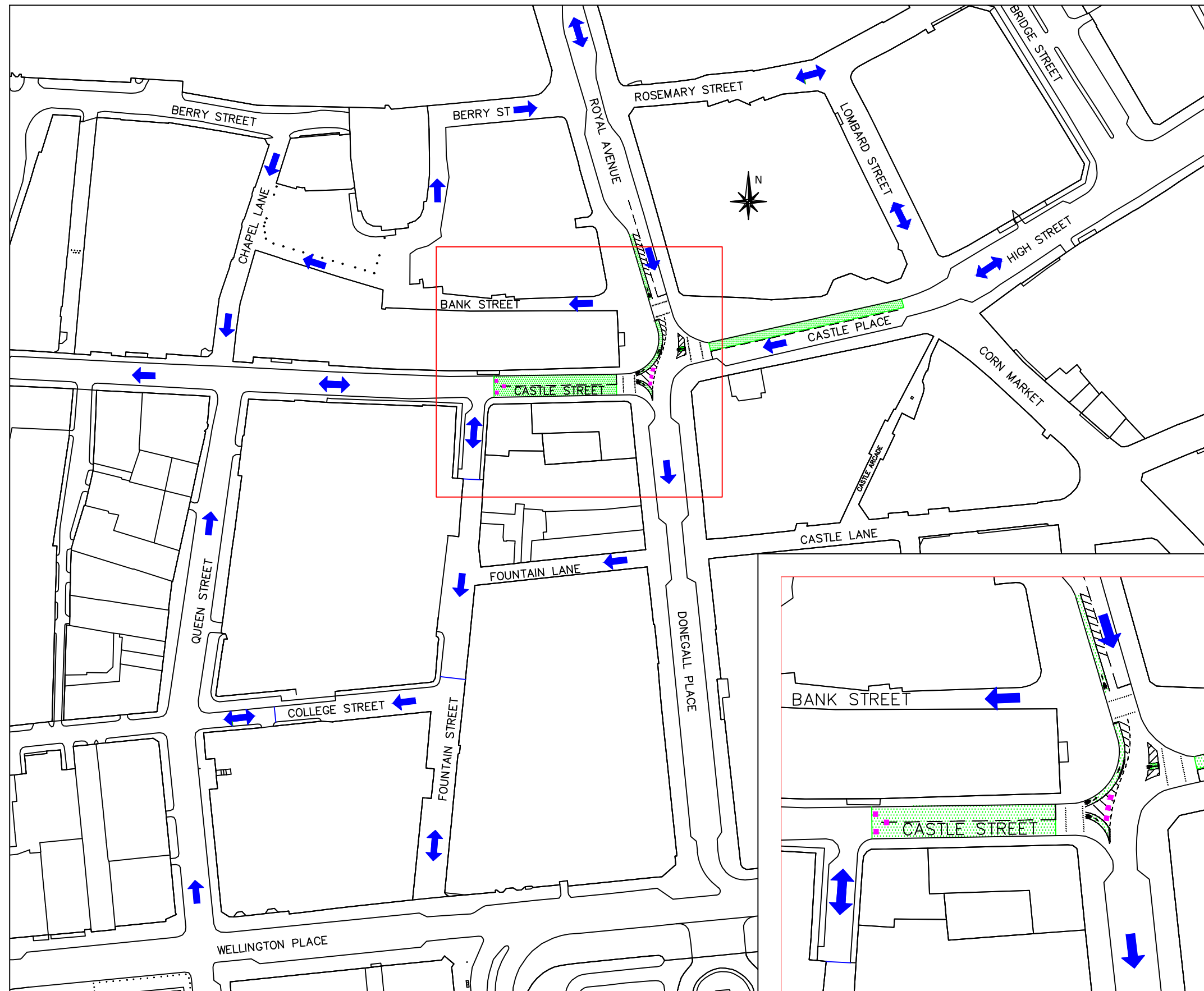
1.0	Purpose of Report/Summary of Main Issues
1.1	To consider representations from DfI-Roads in relation to Voodoo's Temporary Pavement Café Licence, which is impacted by the reopening of Fountain Street at its junction with Castle Street.

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.
2.3	If the Committee is minded to agree to the DfI request to revoke a 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.

2.4	As a consequence, the actual decision to revoke the Licence will be considered at a meeting 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><u>Representations from DfI - Roads</u></p> <p>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>3.2 A map from DfI-Roads showing traffic arrangements is attached at Appendix A.</p> <p>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>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 advise 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>3.5 DfI-Roads has notified the Council that, in its view, Voodoo's Temporary Pavement Café needs to be removed or relocated to facilitate the safe movement of vehicular traffic.</p> <p>3.6 Representatives from DfI-Roads will be available at your meeting to outline their concerns in relation to road safety.</p> <p><u>Temporary Pavement Café Licensing Scheme</u></p> <p>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>3.8 The Council has granted Voodoo 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>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 it will also consider any other proposals for alternative locations to which the café could be relocated.</p> <p>3.10 Council officers have met with the licensee for Voodoo and advised him to engage with DfI-Roads about potential options for relocation of their pavement cafe and that revised site plans</p>

	<p>based on these discussions should then be submitted to the Council for formal consultation with DfI-Roads thereafter.</p> <p><u>Options available within the scope of the Pavement Café Legislation</u></p>
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.
	<p><u>Notification of Revocation</u></p>
3.14	Should the Committee decide to revoke the licence, the Council is required to notify the Licensee of our 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.
	<p><u>Voodoo</u></p>
3.18	Mr. Ciaran Smyth is the Licensee for the Temporary Pavement Café Licence associated with Voodoo, 9-11 Fountain Street, Belfast. The current pavement café is located in the middle of Fountain Street close to the junction with Castle Street and adjacent to the area used by City Picnic.
3.19	The Committee is advised that Mr. Smyth has another Temporary Pavement Café Licence for Santeria, 19 Fountain Street, Belfast. This Licence is not affected by the reopening of Fountain Street.
3.20	Mr. Smyth has been notified of the concerns of DfI-Roads and his response is included at Appendix C. In summary, this states that:

	<ul style="list-style-type: none"> • because of the circumstances which all businesses have been faced with, they have reorientated their offer to make full use of their pavement cafe area and this has been a big help to their business • DfI-Roads is denying the organic growth of the City that local business inspire • he is seeking more time to develop possible alternative plans, and that • he is seeking the Council's help with the development of a satisfactory plan.
3.21	<p>Mr. Smyth and/or his representatives will be available at your meeting to discuss concerns in relation to the relocation of his Pavement Café.</p> <p><u>Financial and Resource Implications</u></p>
3.22	<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	Documents Attached
	<p>Appendix A – Traffic Map</p> <p>Appendix B – Existing Layout Plan</p> <p>Appendix C - Response from the licensee in relation to DfI - Roads</p>



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

NO.	REVISION	DATE
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Appendix A

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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

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