

Licensing Committee

Wednesday, 16th November, 2022

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

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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, Dfl 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

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reiterated that from a DfI perspective the current Pavement Café Licence arrangement in Fountain Street would never have been acceptable albeit the road was temporarily closed and formalised by DfI 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 DfI'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 DfI 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, DfI and with Council Officers as it was of great concern. The Member expressed frustration as to how the matter had been handled by DfI 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.

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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"/>

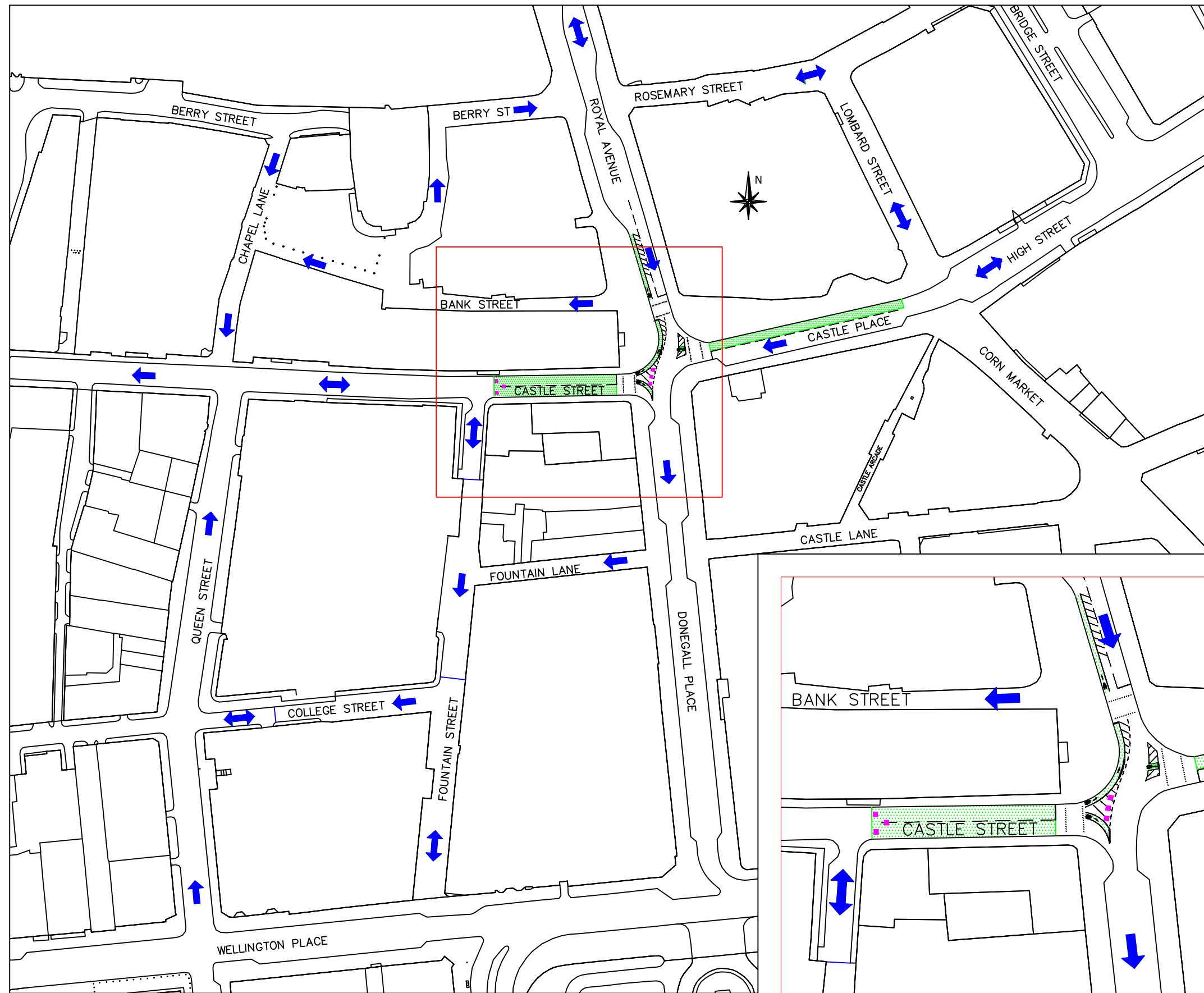
Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

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><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 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>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>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 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>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>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>

	<p>site plans 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 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.
	<p><u>City Picnic</u></p>
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>
3.23	<p><u>Equality and Good Relations Implications/Rural Needs Assessment</u></p> <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>



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**

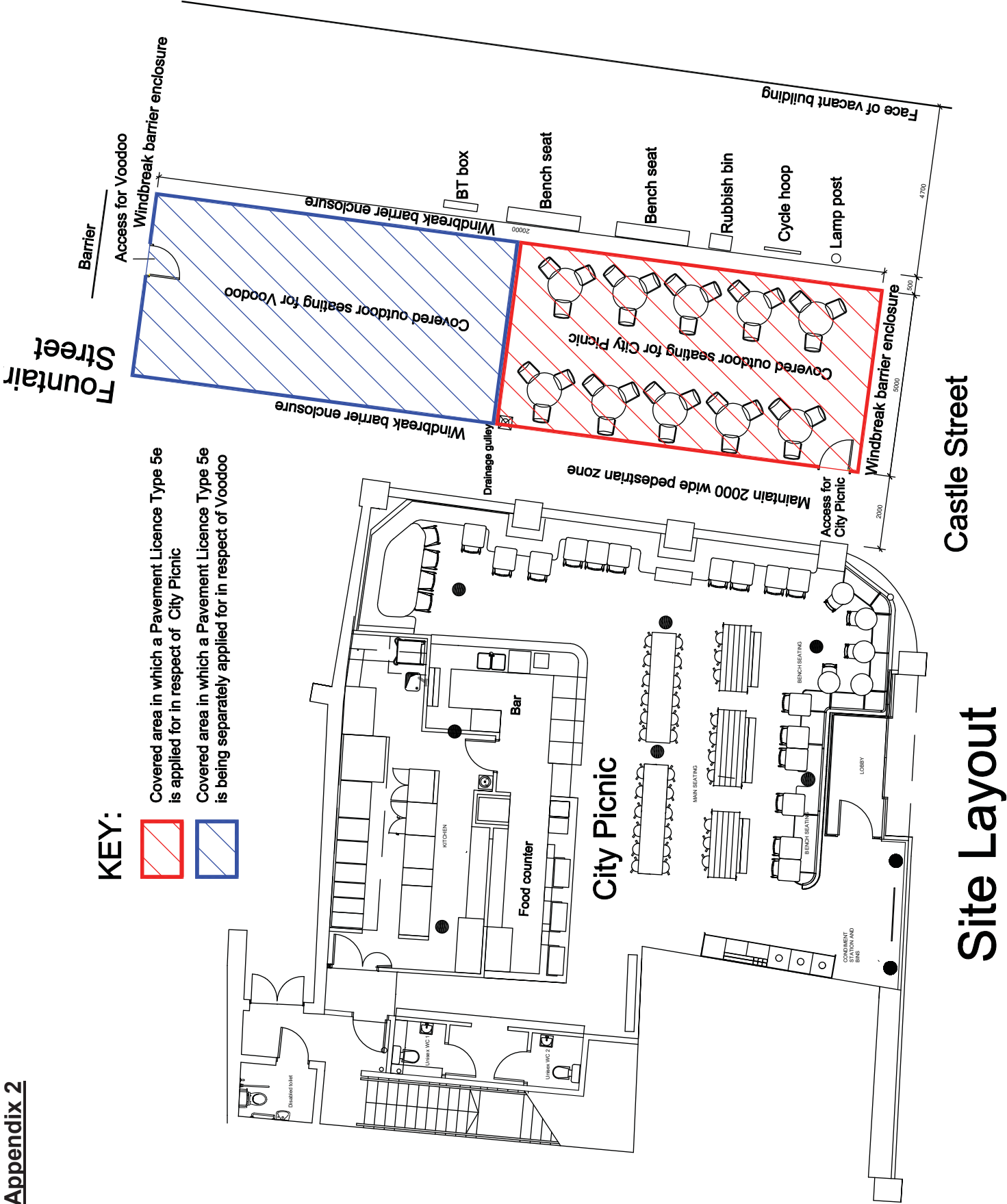
FILE NO.		DESIGNED		date
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TRACED		APPROVED		date
Drg. No.				Revision

Scales

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Castle Street

Site Layout