

Agenda



Delegated Decisions - Cabinet Member for Licensing and Regulation

Date: Tuesday, 23 November 2021

Time: Time Not Specified

Venue:

To: Councillors Councillor R Truman

Item	Wards Affected
1 <u>Newport City Council Council's Pavement Café Licensing Policy</u> (Pages 3 - 42)	

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Date of Issue: Date Not Specified

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Report

Cabinet Members for Licensing & Regulation

Part 1

Date: 24 November 2021

Subject Pavement Café Licensing Policy-Consultation

Purpose The Cabinet Member for Licensing & Regulation is asked to consider and agree to public consultation on the revised Pavement Café Policy.

Author Alastair Dearling Licensing Manager

Ward City Wide

Summary Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life, and interest to an area. Newport City Council supports and encourages the provision of pavement cafes in the city as they can help maximise the use of public spaces, aid the local economy, and add to the facilities offered to people who visit, live, and work in Newport. Also, in light of the Covid pandemic, outside areas have become essential for many businesses, who have indicated they wish to continue the use of outside areas post Covid.

Tables and chairs placed on the highway without permission can be illegal as they could amount to an obstruction. However, permission to use the highway for pavement cafes may be granted the Council under Section 115E of the Highways Act 1980. The Current Pavement Café Policy was revised back on 5 April 2017 it is felt than minor variations are required within the Policy to make it more flexible for businesses and particularly those that operate within the Night Time economy, this flexibility is important considering the ongoing city centre redevelopment.

Proposal To Approve Public Consultation of the proposed amendments of Pavement Café Policy.

Action by Head of Law and Regulation

Timetable Immediate

This report was prepared after consultation with:

- Head of Law & Regulation
- Head of Finance
- Head of People and Business Change

Signed

Background

Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life, and interest to an area. Newport City Council supports and encourages the provision of pavement cafes in the city as they can help maximise the use of public spaces, aid the local economy, and add to the facilities offered to people who visit, live, and work in Newport.

Tables and chairs placed on the highway without permission can be illegal as they could amount to an obstruction. However, permission to use the highway for pavement cafes may be granted the Council under Section 115E of the Highways Act 1980.

Accordingly, whilst the Council wishes to encourage pavement cafes, it is important that they are properly located and managed. This is to ensure they meet the standards expected in Newport and neither obstruct the highway nor create a hazard for pedestrians, especially for blind, partially sighted and other disabled people.

The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops and pedestrian crossings. Pedestrians' needs must be paramount. The expanse of the pavement café must not conflict with any access or dropped crossings that are required for free passage of normal road users. Barriers and tapping rails should be positioned and maintained to the satisfaction of Newport City Council and should be totally removed outside the permitted hours of operation of the café, restaurant or bar.

The pavement café is normally expected to be in an area directly in front of and be visible from the existing premises. Emergency exit routes, including those of adjacent buildings, should not be obstructed by the pavement café and emergency service vehicles must have access along all streets at all times, even in pedestrianised streets.

In general, all parts of the highway may be used for Pavement Cafés, assuming all safety and non-obstruction requirements are met. The exceptions are:

- Any carriageway or 'shared use surface'
- Any highway verge
- Where width of the pavement makes it impractical.
- Where authorised street furniture makes it impossible

Although the existing Pavement Café Licensing Policy has worked very well, the Covid 19 pandemic demonstrated the further importance of outside areas. This has led to the conclusion minor changes are required to the current policy to enhance and compliment the ongoing city centre redevelopment; particularly in relation to the growth in the night time economy and events taking place within the city.

A copy of the draft policy can be found in Appendix A of this report with the minor changes highlighted in **Red**.

A summary of the changes to the Policy are as follows:

- Premises would be permitted to advertise alcoholic products on café barriers, although there remains a prohibition on the advertising of drinks promotions (for example 5 shots for £10). Any advertising of alcoholic products will be required to be approved by the Licensing Authority. Many other the cities in the UK now allow for alcoholic products to be advertised

including Cardiff and Bristol. It is known that café barriers will often be subsidised by a brewery. This reduces purchase and maintenance costs for local businesses.



- The city centre demographics are changing with an increase number of hybrid venues. The draft policy proposes to reflect these types of venues. It allows a business to have multiple plans for their café area. For example, a public house may only wish for small area during the day though may wish to expand its café area at night to facilitate an increase in customers or queuing and smoking areas.
- The hours of operation in the draft policy proposes more flexibility. This is quite pertinent for those premises operating under the Licensing Act 2003 within the city centre. Under the current policy (pre Covid), furniture was required to be removed at 23:00 hours. This can be difficult as many premises lack storage space and when the venues are open will find 'packing up' difficult. Under the draft policy, furniture on licenced premises will be required to be removed at either closing time of the premises or no later than 4:00am. It is vital that both furniture and barriers are removed to ensure efficient cleaning of the streets and roads by Newport City Council. These allowances will allow premises to utilise the outside areas for longer hours. During the Covid period they have done this responsibly, and this allows café culture vibrancy to flourish until early in the morning.
- Amplified live music and recorded music will be permitted in pavement areas though only if approved by the licensing authority. Newport has seen an increase of cultural events taking place within the city centre. Examples include, World Record Day, the Car Club Festival and the Food Festival. When such events take place, under the draft Policy, it would be permissible to hold live and recorded music in the pavement café areas to complement the cultural events.
- Further, in line with Home Office best practice, the Pavement License Holder will need to ensure that the management team of the business to which the pavement license is attached; register and successfully complete the nationally recognised counter terrorism training product referred to as ACT E Learning within 10 days of the notification of the grant of the Pavement License OR can demonstrate that the ACT E Learning product has successfully been completed within the preceding 12 months and that all staff employed by OR at the premises complete the ACT E Learning within a reasonable period not exceeding 3 months from the notification of the grant of the Pavement License.(Act E Learning certificates are provided on successful on-line completion). The course is free and available online <https://ct.highfieldlearning.com>
- Clearly business that operate beyond 23:30/00:00 hours will have slightly different operational needs to a typical quite local pub. Such differences will be reflected on the conditions attached to café pavement licence. As such premises wishing to operate pavement café areas after 23:30 hours will be required to comply with further conditions so as to promote the fundamentals of the Licensing Act 2003.

Financial Summary (Capital and Revenue)

There are no costs or financial implications relating to this proposal. Any fees regarding Pavement café licence would be detailed in a separate report to the Cabinet Member.

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs (Income)	0	0	0	0	
Net Costs (Savings)	0	0	0	0	
Net Impact on Budget	0	0	0	0	

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
The minor changes will have little risk, though longer hours may cause noise issues for local residence or other local business	L	L	The policy is structured in a way that issues arise regarding Noise the Pavement café licence hours can be reduced or in fact the Licence revoked.	Licensing Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

Ensuring that this work is completed as required will support the following Council Policies and Strategies:

The proposed minor changes to the policy has clear links to the aims and objectives of Newport City Council's Corporate Plan (relevant themes are "Resilient communities" Vibrate Newport and Safer Newport).

The proposals also demonstrate that the service area is acting in accordance with the "Be Courageous" value outlined in the Corporate Plan: the proposal is ambitious in order to try and improve the situation for the local community.

Ensuring Newport's citizens have better experiences when using their city centre or communities helps the council improve the lives of residents and helps enhance culture and creativity. (Key elements to the Council's Mission within the Corporate Plan)

Options Available and considered

Options 1

To approve the proposed Public Consultation on the revised Pavement Café Policy.

Options 2

Not to approve the proposed public consultation on the revised Pavement Café Policy.

Preferred Option and Why

Options 1

To approve the proposed Public Consultation on the revised Pavement Café Policy.

Comments of Chief Financial Officer

There are no costs or financial implications relating to this proposal. Any fees regarding Pavement café licence would be detailed in a separate report to the Cabinet Member.

Comments of Monitoring Officer

The proposed Pavement Café Licensing Policy is in accordance with the Council's legal powers under section 115E of the Highways Act 1980. The delegated power to grant and approve these licenses has now been transferred to the Head of Law and Regulation, following amendments to the officer scheme of delegation recommended by Democratic Services Committee, on the basis that this regulatory function is similar in nature to the street trading consents that are administered by the Licensing Section. The Council has the power to grant licences to place tables and chairs on the adopted highway, subject to the consent of the frontages, and to attach conditions to the licences which regulate the operation and use of these pavement café areas. The Council also has the power to charge reasonable fees and charges for the grant of these pavement licences, to reflect the cost to the Council of issuing and regulating the licences. The proposed fees and charges being recommended in the policy are considered to be reasonable and a true reflection of these costs. As with the determination of all discretionary licences, the Council has to act reasonably and consistently. Therefore, the proposed policy sets out a clear framework and criteria for the grant of these licences and standard conditions to regulate their use. The draft policy has been subject to consultation and the only adverse comments relate to issues of highway safety and smoking, which are regulated anyway by the unobstructed space criteria and smoking regulations contained or referred to in the licence conditions. The policy is also consistent with the Council's sustainable well-being objectives in relation to the creation of an economic, safe and viable City Centre and should assist with the bid to achieve Purple Flag status.

Comments of Head of People and Business Change

The report takes account of equalities issues and the need to ensure that all pedestrians and particularly those with a disability can maintain their normal path where feasible. The Well-being of Future Generations (Wales) Act 2015 sustainable development principle has been considered in the formulation of the proposal (details below). In particular a two-month public consultation was undertaken to inform the proposed policy. There are no staffing issues arising directly from this report.

Comments of Elected Members

Councillor M Al-Nuaimi:

I agree fully that the Council needs a Pavement Café Licensing Policy to regulate the deployment of and use of outside areas for sitting, drinking and eating. Well designed and managed outside spaces for alfresco eating and drinking can add to the attraction of the city centre, increase footfall and add to the safe feeling for visitors and shoppers. The value of the Al fresco spaces proved to be very valuable during the Covid-19 pandemic and partial lockdowns.

It's vital however that pavement cafes are run and managed so that while preserving the joy and fun for their customers, they do not become a nuisance for neighbouring establishments and residents. Rowdy and noisy behaviour must not be allowed to affect the amenities of other people and especially businesses and residents

Also there should be a regime of cleanliness and the proper dealing with waste, generated by the alfresco eating and drinking activities. Tables and chairs need to be cleaned up, immediately after use and ready for reuse. There's nothing worse than used cups, saucers, glasses and plates left on tables for longer times.

With above comments taken into consideration, I support option 1 to go to consultation.

Scrutiny Committees

N/A.

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

A Fairness & Equality Impact Assessment is attached to the report.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Consultation

A 4 week public consultation will take place regarding the revised minor changes to the Pavement Café Policy, the draft policy will be sent to all current licence holders, responsible authorities, Business Improvement Team (BIT) and will be placed in public domain via Council Web site and relevant social media channels

Background Papers

N/A

Appendices

Appendix 1 - FEIA

Appendix 2 - Final Consultation Report

Dated: 11 November 2021

Appendix A Fairness & Equality Impact Assessment.

Fairness and Equalities Impact Assessment (FEIA)

This is an integrated Impact Assessment which aims to ensure Newport City Council makes decisions which are fair, take account of relevant evidence, and seek to secure the best outcomes for our communities. **An FEIA should be used to inform the first steps of decision-making, at concept stage, not when a decision is already made, or at the point when it cannot be influenced.** This impact assessment considers our legislative responsibilities under:

- The Equality Act (2010), including the Socio-economic Duty
- The Wellbeing of Future Generations (Wales) Act (2015)
- The Welsh Language (Wales) Measure (2011)

The FEIA process is not intended to prevent decisions being made, but to ensure we have considered their potential impact. An FEIA also helps us to focus on how we can reduce any negative impacts, and provides us with evidence that we have met our legal duties.

For support to complete your FEIA, please contact the [Connected Communities Team](#)

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What do we mean by Fairness?

The Newport Fairness Commission is an independent body which advises the council on the best use of resources and powers to achieve the fairest outcomes for local people. The Fairness Commission has established four **Principles of Fairness** which should be considered as part of any decisions that the council make – the questions below are useful to reflect on before you start your FEIA.

Equity	Are people being treated in a consistent way, whilst acknowledging their differences (for example, need, barriers to accessing services)?
	Will the gap between those with more, and those with less be reduced?
	Have the interests of different groups affected (including minority or disadvantaged communities) been taken into account?
Priority	Have the needs of the most disadvantaged and vulnerable across the city been given priority?
	Have you considered possible indirect consequences for minority/disadvantaged communities when other priorities are directing decisions?
Inclusion	Will the voices of all those affected by your decision be heard?
	Are people able to participate in and shape a service, as well as receiving it?
	Have you considered the impact of your decision on the relationship between communities, and the spaces they share?
Communication	Are decisions being made transparently and consistently?
	How will decisions be communicated to people who are affected in a clear way, with the opportunity for feedback?

Part 1: Identification

Name of person completing the FEIA	Alastair Dearling
Role of person completing the FEIA	Licensing Manager
Date of completion	22/9/21
Head of Service who has approved this FEIA	Gareth Price

1. What is being assessed? *(Please double click on the relevant box(es) (X) and select 'checked' as appropriate)*

- X New or revised policies, practices or procedures (which modify service delivery or employment practices)
- Service review or re-organisation proposals which affect the community and/or staff
- Efficiency or saving proposals
- Setting budget allocations for new financial year and strategic financial planning
- Decisions affecting service users, employees or the wider community including (de)commissioning or revising services
- New project proposals affecting staff, communities or access to the built environment
- Public events
- Local implementation of National Strategy/Plans/Legislation
- Strategic directive and intent, including those developed at Regional Partnership Boards and Public Service Boards
- Medium to long term plans (for example, corporate plans, development plans, service delivery and improvement plans)
- Setting objectives (for example, well-being objectives, equality objectives, Welsh language strategy)
- Major procurement and commissioning decisions
- Decisions that affect the ability (including external partners) to offer Welsh language opportunities and services
- Other *please explain in the box below:*

2. Please describe the overall aims, objectives and intended outcomes of your decision

Minor Amendments to Newport City Council Café Pavement Policy:

In light of recent Covid 19 pandemic it has clearly highlighted the importance of outdoor seating for bars, café, restaurants etc. specifically Within the city centre where premises have utilised parts of the highway whilst the roads since the roads have remained closed.

Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality colour, life and interest to an area. Newport City Council supports and encourages the provision of pavement cafes in the city as they Can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live, and work in Newport.

As stipulated above the Covid pandemic has brought to the forefront the importance of outside pavement café and outside areas have become essential for many business, with many businesses indicating that they wish to continue the use of outside areas post Covid.

Tables and chairs placed on the highway without permission can be illegal as they could amount to an obstruction. However, permission to use the Highway for pavement cafes may be granted the Council under Section 115E of the Highways Act 1980. The Current Pavement Café Policy was revised back on the 5th April 2017 it is felt than minor variations are required within the Policy to make the policy more flexible for businesses specifically the Night Time economy, this flexibility is required in light of City Centre redevelopment and recovery from Covid 19.

3. Who are the main stakeholders who may be impacted by your decision and what data do you hold on them? Consider communities of place (people who live in the same geographic area) and communities of interest (people who share particular characteristics but may live in different geographic areas). Stakeholders may include residents, local businesses, community groups, staff or partners.

- Local Businesses / Premises that currently hold licenses or wish to in future hold licenses
- Local residence that live near to License Premises within the City Centre.
- To consult with our Lead on Equality and diversity, we that visually impaired people throughout the country are facing barriers by some of the measures taking place through social distancing requirements and in Newport we want to make sure our new Policy has as little negative impact on disabled people as possible.
- It is proposed that consultation takes place with all those you current hold a Café Pavement licence alongside a public consultation for a 6 week period/. The Public/Licence Holders users will be invited to make comment of the proposed minor changes and whether they support the changes to the Policy.
- The consultation was publicised using the Council's website, social media channels, direct emails to licence holders. Responsible Authorities including Highway Department, Environmental Health (Noise Team) Planning Gwent Police will also be consulted. We hoped to gain the views of Licence holders, business and local residence.

Part 2: Engagement

When completing this section, you need to consider whether you have sufficient information about the views and experiences of people who your decision will impact upon. If you don't, you may need to undertake a period of engagement/consultation before continuing. An FEIA is a live document, so can be updated with consultation findings, and amended as needed during the decision-making process.

The council has a duty to consult and engage with people who may experience inequalities as a result of your decision. This includes people **who share Protected Characteristics** (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and people who **have lived experience of socio-economic disadvantage**. The council's Youth Promise also requires us to ensure **all young people in Newport are listened to and included in decisions affecting them**.

The council also has a duty to ensure that any consultation is available bilingually (in Welsh as well as English), and you may like to consider any other community languages that are spoken by people who may be impacted by your decision. Below are some questions that should be included in any public consultation relating to a decision which may impact on the use of Welsh language in Newport:

1. Do you believe that the proposed decision/policy will have a positive or negative effect on opportunities to use the Welsh language?
2. If you think it will have a negative effect, what steps could we take to lessen or remove this and improve positive effects?
3. Do you believe that the proposed decision/policy will treat the Welsh language less favourably than the English language?

1. How have you engaged with people who may be affected by your decision (the stakeholders you have identified)?

The Purpose of the report is to go out for public consultation to engage

2. What do you know about the views or experiences of people who may be affected by your decision?

Part 3: Assessment

This section requires you to assess the potential impact of your decision on a range of groups who may experience specific disadvantages. Your assessment should be supported by evidence – either from your own engagement/consultation, similar or previous engagement, what you already know about the people who access your service, or from local and national sources of information.

Useful documents which set out information about how communities are impacted by inequalities include [EHRC – Is Wales Fairer?](#) and the council’s [COVID-19 Community Impact Assessment](#). Your decision may have both positive and negative impacts – if this is the case, please place a cross in both boxes.

1. Impact on people that share Protected Characteristics

[Protected Characteristics](#) are defined under the Equality Act 2010, and describe groups of people who are protected from discrimination, either in the workplace, or through the provision of goods and services. The council must consider how decisions may impact on people differently because of a protected characteristic, and how any negative impact could be reduced. National guidance on assessing equality impacts and the Public Sector Equality Duty can be found [here](#). You can also access further advice and examples of positive and negative impacts [here](#).

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Protected characteristic	Impact:			<p>Provide further details about the nature of the impact in the sections below, considering the Public Sector Equality Duty that the council has to:</p> <ol style="list-style-type: none"> Promote equal opportunity across different groups Promote community cohesion Help eliminate unlawful discrimination/ harassment/ victimisation
	Positive	Negative	Neither	
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>We know that people of all ages can get very lonely and during Covid 19 people who met regularly for drinks and meals were unable to do this – now hospitality is open, street cafes will give more options for people to share meals again with their friends and families whilst still social distancing. We know that older people are more at risk of Covid 19 and so it’s really important that any establishment is Covid 19 safe and fully risk assessed.</i></p>
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>We know that during Covid 19 disabled people have been negatively impacted by many social distancing measures. The Government asked local councils to look at streamlining their license procedures for street cafes, but we have tried to make sure that we don’t make access worse for disabled people and so have written in access requirements in the Policy. In some cases, access has improved for disabled people as the café may be up steps and now it’s on the level outside with waiter service.</i></p>

Protected characteristic	Impact:			<p>Provide further details about the nature of the impact in the sections below, considering the Public Sector Equality Duty that the council has to:</p> <ol style="list-style-type: none"> 1. Promote equal opportunity across different groups 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation
	Positive	Negative	Neither	
Gender Reassignment/Transgender	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	. All premises that are given a license have to comply with the Equality Act and if we find any that are not then we will investigate and remove the license if necessary.
Marriage or civil partnership	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>All premises that are given a license have to comply with the Equality Act and if we find any that are not then we will investigate and remove the license if necessary</i>
Pregnancy or maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All premises that are given a license have to comply with the Equality Act and if we find any that are not then we will investigate and remove the license if necessary – for example refusing to allow a woman to breast feed her baby. We know that some street cafes can get in the way for pushchair route
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	‘All premises that are given a license have to comply with the Equality Act and if we find any that are not then we will investigate and remove the license if necessary We know that Black, Asian and Minority Ethnic communities face a higher risk from Covid 19 and so it’s very important that any establishment is Covid 19 safe – all establishments have to complete risk assessments in line with Government guidance
Religion or Belief or non-belief	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	. All premises that are given a license have to comply with the Equality Act and if we find any that are not then we will investigate and remove the license if necessary
Sex	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All premises that are given a license have to comply with the Equality Act and if we find any that are not then we will investigate and remove the license if necessary.
Sexual Orientation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>All premises that are given a license have to comply with the Equality Act and if we find any that are not then we will investigate and remove the license if necessary</i>

2. Impact on Welsh Language

The Welsh Language (Wales) Measure specifies that for all policy decisions, the council must consider the effects (both positive and negative) on the Welsh language. For further guidance on Welsh language considerations see [here](#).

	Impact:			
	Positive	Negative	Neither	
Welsh Language	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

1. Please describe how you have ensured your engagement has considered the view of Welsh speakers in Newport.

This strategy will be available to members of the public in Welsh. The public have been able to contribute to the development of the strategy, and will be to future developments of the strategy, through the medium of Welsh.

3. The Sustainable Development Principle

The Well-being of Future Generations Act puts in place a sustainable development principle which helps organisations consider the impact they could have on people living in Wales in the future, and ensure they are focused on tackling long-term challenges. Below, consider how your decision promotes, advances, or contradicts the [5 ways of working](#) which underpin the sustainable development principle. You can access further guidance on considering the sustainable development principle [here](#).

<p>Long term</p> 	<p><i>The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.</i></p>	<p>This strategy acknowledges the changing demographics of the City and heightened the need for outdoor space due to Covid 19.</p> <p>The Policy looks to balance the short term requirements of outside pavement café due to Covid but also the long term strategy for businesses to create a vibrant city culture including a café culture.</p>
<p>Prevention</p> 	<p><i>Putting resources into preventing problems occurring or getting worse</i></p>	<p>The Policy builds on the current Policy that has been in place since 2017, we continue to support, listen and work with the interested parties and businesses.</p>
<p>Integration</p> 	<p><i>Considering how the public body's well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies.</i></p>	<p>To provide consistency for bodies and individuals who work with licensing or apply of a licence.</p>
<p>Collaboration</p> 	<p><i>Working together to deliver objectives.</i></p>	<p>A key element of this action plan contained within the strategy is the commitment to work in partnership with licence premises, café etc alongside the public, private and voluntary sector across Newport in order to make better of outside space to ensure for a safe vibrant city</p>
<p>Involvement</p> 	<p><i>Involving those with an interest and seeking their view - ensuring that those people reflect the diversity of the area.</i></p>	<p>Discussions, Engagement and 4 week consultation will take place with not only business, local residents but especially for those who use the city centre.</p>

4. Socio-economic Duty

The [Socio-economic Duty](#) is set out in the Equality Act 2010, and requires the council, when making strategic decisions, to pay due regard to the need to reduce the inequalities of outcome that result from socio-economic disadvantage. Inequalities of outcome are felt most acutely in areas such as health, education, work, living standards, justice and personal security, and participation.

A 'strategic decision' is defined by Welsh Government as a decision **which affects how the council fulfils its statutory purpose over a significant period of time and does not include routine 'day to day' decisions.** Strategic decisions include:

- Corporate plans
- Setting wellbeing, equality and other strategic objectives
- Changes to, or development of public services
- Strategic financial planning
- Strategic policy development

If you do not think your decision meets this definition, and you do not plan on carrying out a Socio-economic Duty Assessment in this section, please provide your rationale below. Any decision which is presented to a Cabinet Member, at Cabinet or Council will be viewed as a strategic decision.

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If your decision does meet the definition, please consider the impact of your decision on the socio-economically disadvantaged groups, and areas of inequality that may arise from socio-economic disadvantage contained in the matrix below. The groups listed are not exhaustive and you should consider any additional groups relevant to your decision who may experience socio-economic disadvantage in the following ways:

- **Low Income/Income Poverty** - cannot afford to maintain regular payments such as bills, food, clothing, transport etc.
- **Low and/or no Wealth** - enough money to meet basic living costs and pay bills but have no savings to deal with any unexpected spends and no provisions for the future
- **Material Deprivation** - unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, hobbies etc.)
- **Area Deprivation** - where you live (rural areas), where you work (accessibility of public transport)
- **Socio-economic Background** – for example, parents' education, employment and income

Indicate a positive or negative impact, or both where they apply, and the severity of this impact by coding the sections of the grid based on the below. *If there is no/neutral impact, please leave blank.*

Negative Impact		Positive Impact	
N1	Negative impact – mild	P1	Positive impact – mild
N2	Negative impact – moderate	P2	Positive impact – moderate
N3	Negative impact – significant	P3	Positive impact – significant
N4	Potential for negative impact (but unsure)	P4	Potential for positive impact (but unsure)

Areas of inequality that may arise from socio-economic disadvantage – definitions

Education :The capability to be knowledgeable, to understand and reason, and to have the skills and opportunity to participate in the labour market and in society

Work: The capability to work in just and favourable conditions, to have the value of your work recognised, even if unpaid, to not be prevented from working and to be free from slavery, forced labour and other forms of exploitation

Living Standards: The capability to enjoy a comfortable standard of living, in appropriate housing, with independence and security, and to be cared for and supported when necessary.

Justice, Personal Security and Community Safety: The capability to avoid premature mortality, live in security, and knowing you will be protected and treated fairly by the law

Health: The capability to be healthy, physically and mentally, being free in matters of sexual relationships and reproduction, and having autonomy over care and treatment and being cared for in the final stages of your life

Participation: The capability to participate in decision making and in communities, access services, know your privacy will be respected, and express yourself

Groups	Areas of inequality						
	Living Standards	Work	Health	Education	Justice and community safety	Participation	Physical Environment
Children living in poverty							
Low income households without dependent children							
Unemployed young people							
Long term unemployed							
Homeless households							
Refugees, migrants and asylum seekers							
Deprived neighbourhoods - WIMD rank in 10% most deprived LSOA							
People on Universal Credit / income related benefits							
Adults with no qualifications or low qualifications							

People living in low quality housing or in Houses of Multiple Occupation							
--	--	--	--	--	--	--	--

1. What evidence do you have about socioeconomic disadvantage and inequalities of outcome in relation to this decision?

Please expand on the information provided in the matrix, giving reasons for your assessment of both positive and negative impacts. You may like to consider your experience of current service delivery, recent engagement or consultation or any national/local research relevant to your policy decision.

For any positive impacts, please indicate the [Wellbeing Goal](#) and/or [Wellbeing Objective](#) that this contributes to as set out in the previous section.

2. Please describe how you have ensured your engagement has considered the views of people living in Newport who are affected by socio-economic disadvantage.

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3. Does this decision contribute to a cumulative impact?

A. *Consider your decision in the wider context of your service area and the organisation. Is this part of, or does it contribute to, a series of decisions that have negative impacts for the same groups of people, or the same area of Newport (e.g. withdrawal of multiple services).*

B. *Consider whether your decision has a cumulative impact because of intersectionality – i.e. have you identified impacts on people that share Protected Characteristics who will be further disadvantaged by socio-economic impacts.*

Part 3: Actions and Outcomes

Considering any negative impacts that you have identified, indicate below how you will reduce these, and how you will monitor potential impact. Further guidance on how to complete your action plan can be found [here](#).

IMPACT ON PEOPLE THAT SHARE PROTECTED CHARACTERISTICS			
Summary of impact	Action to reduce negative impact	How this impact will be monitored	Owner

IMPACT ON WELSH LANGUAGE			
Summary of impact	Action to reduce negative impact	How this impact will be monitored	Owner
SOCIO-ECONOMIC IMPACTS			
Summary of impact	Action to reduce negative impact	How this impact will be monitored	Owner
SUSTAINABLE DEVELOPMENT PRINCIPLE			
Summary of impact	Action to reduce negative impact	How this impact will be monitored	Owner

Once your FEIA is complete, please forward to nccequality@newport.gov.uk



Newport City Council Council's Pavement Café Licensing Policy.



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1. Introduction

Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life, and interest to an area. Newport City Council supports and encourages the provision of pavement cafes in the city as they can help maximise the use of public spaces, aid the local economy, and add to the facilities offered to people who visit, live, and work in Newport.

Tables and chairs placed on the highway without permission can be illegal as they could amount to an obstruction. However, permission to use the highway for pavement cafes may be granted the Council under Section 115E of the Highways Act 1980.

Accordingly, whilst the Council wishes to encourage pavement cafes, it is important that they are properly located and managed. This is to ensure they meet the standards expected in Newport and neither obstruct the highway nor create a hazard for pedestrians, especially for blind, partially sighted and other disabled people.

The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops and pedestrian crossings. Pedestrians' needs must be paramount. The expanse of the pavement café must not conflict with any access or dropped crossings that are required for free passage of normal road users. Barriers and tapping rails should be positioned and maintained to the satisfaction of Newport City Council and should be totally removed outside the permitted hours of operation of the café, restaurant or bar.

The pavement café is normally expected to be in an area directly in front of and be visible from the existing premises. Emergency exit routes, including those of adjacent buildings, should not be obstructed by the pavement café and emergency service vehicles must have access along all streets at all times, even in pedestrianised streets.

In general, all parts of the highway may be used for Pavement Cafés, assuming all safety and non-obstruction requirements are met. The exceptions are:

- Any carriageway or 'shared use surface'
- Any highway verge
- Where width of the pavement makes it impractical.
- Where authorised street furniture makes it impossible

Licences will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the tables and chairs, or from customers visiting or leaving the licensed area, or
- Where there are concerns over the recorded level of personal injury accidents in the locality where the tables and chairs will be sited, or
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes, or
- There is a conflict with Traffic Orders, such as waiting restrictions, or
- The site obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use, or
- The tables and chairs obstruct the safe passage of users of the footway or carriageway, or
- The area to be licensed interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the licence holder, staff and customers to park in a safe manner, or
- The trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- The existing toilet and washing facilities are not adequate to accommodate an increased number of customers using the pavement café, or
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage and collection of all refuse associated with their business or
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage of all tables and chairs off the highway without impeding any access or egress from the premises.

In considering the above matters, the standard guidance will be that a licence will only be issued if an unimpeded pedestrian route can be maintained at all times. The route shall ensure that all pedestrians and particularly those with a disability can maintain their normal path where feasible. All applications will be considered on their own merits.

Pavement café licences will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises.

The Council will carry out periodic inspections to make sure that all the terms and conditions of the licence are being observed.

A pre-licensing visit will be made to each premise upon receipt of an application for the grant, renewal or variation of a pavement café licence, to discuss the application process, the proposed operation of the cafe etc. to provide advice and information to the applicant.

Once the pavement café licence has been issued, a further visit will be made to the premises to review the practical day-to-day operation of the café. An additional visit may also be undertaken to ensure the premises is meeting licence conditions.

2. Legal Framework and Controls

Permissions to use the highway for pavement cafes are granted by the issue of licences by the Council as the Highway Authority under Section 115E of the Highways Act 1980. Tables and chairs placed on the highway without permission are an illegal obstruction and the Council will take enforcement action in such cases. A fine of up to £1,000 can be levied by a Magistrates' Court for committing an offence of obstructing the highway.

Granting a licence to operate a pavement café does not imply an exclusive right to the area. The operator of the café should be aware that the Council reserves the right to gain access to the café area for cleaning, repairing and maintaining the highway or street furniture. Other statutory organisations may also require access for maintenance and repair of their equipment. The Council therefore reserves the right to suspend the licence temporarily if, for any reason, it becomes necessary.

If it appears to a council that a person to whom they have granted a permission under Section 115E above, has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.

If a person who is served a notice and fails to comply with the notice, the Council has the power to take whatever steps are necessary themselves.

Where the Council has incurred expenses in the exercise of the power, then those expenses, together with interest at a reasonable rate, may be recovered by the Council from the Licence holder.

Under the terms of the Highways Act 1980, the Council cannot grant permission unless it obtains the express consent of interested frontages that may be materially affected by the proposal.

(Section 115A(7) of the 1980 Act states that "frontagers" means: "the owners and occupiers of any premises adjoining the part of the highway on, in or over which facilities for recreation or refreshment or both, have been, are being or would be provided.")

For express consent to be required, the frontage would have to be affected by the placing of the structure etc. between his own frontage and the highway, rather than a structure adjacent to his own frontage.

The Pavement Café must operate in accordance with the conditions of the licence. Any breach of the conditions may lead to action by the Licensing Section to revoke or refuse a licence in the future.

The Council will not permit any wheeled refuse containers, beer kegs, bottle crates on or adjacent to the pavement café area.

The barriers, table, chairs, and layout shall be as agreed by the Council and conform to the plan at all times.

The Licence holder shall make no claims or charge against the Council in the event of the street furniture being lost, stolen or damaged in any way from whatever cause except where the same is attributable to negligence of the part of the Council or any of its officers.

If for whatever period or reason a public liability insurance policy is not in force, the Council shall be deemed to have withdrawn this Licence for the period during which the said policy is not in force and the licence holder may be held liable for obstruction of the highway and prosecution under Section 137 of the Act.

The licence holder shall not cause or undertake any alterations to the highway surface.

The licence holder shall not assign, sub-let or part with his interest or possession of a licence.

The Council may suspend or terminate a licence if any of the conditions of the licence are breached.

The licence does not take precedence over Police powers to preserve public order.

3. Private Land

This policy relates only to pavement cafés on a public highway. Cafes on private land are not covered by this policy. However, although a pavement cafe on private land may not need a licence, it may require planning permission if the structures and fittings are not of a temporary nature.

Land that might to be private may in fact have become part of the highway if the public have enjoyed access over it for at least twenty years or if the Council has formally adopted the land. Before proceeding, it would be wise to check with Council Planning Services to establish if planning permission is necessary.

4. Right of Access

Authorised Officers of the Council and Police Officers shall have access to a pavement café at all reasonable times.

5. Advertising

Advertising of alcoholic products is **permitted, though** drink promotions are not to be advertised on any barriers neither are price listing of any alcoholic products. Any advertising of alcoholic products or changes of advertising must be approved by the Authority, despite a Café Licence being issued.

Smoking products including Vaping or their manufacturers will not be permitted on the barriers or furniture within the Pavement Café area.

6. Designing the Pavement Cafe

The size and layout of the proposed Pavement Café will be dependent upon the characteristics of the site outside of the premises particularly the space available taking into account the needs of other users and it is not appropriate for this Policy to set a standard size for the Pavement Café.

Plans will need to be submitted with an application and shall be drawn to scale and must include:

- An up-to-date location plan (1:1250 scale) showing the outline of the premises and the proposed location of the street café;
- Site layout plan (1:100 or 1:50 scale) showing the proposed boundary, kerb and building lines, enclosure barriers, points of access, table and seating layout, location of parasols, heaters etc. ,

The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities.

The Pavement Café should:

- occupy an area directly in front of the Applicant's premises;
- be visible from these premises; and
- Not extend beyond the width of its frontage (unless in exceptional circumstances and granted by Licensing Authority, for example **Covid regulations**).

Emergency routes from adjacent buildings and the Applicant's premises should not be obstructed by the Pavement Café. If the emergency services object to the proposal on safety grounds, it is very likely that the Council will refuse it.

The city centre demographics are changing with an increase number of hybrid venues. The same premises may operate in slightly different models dependent upon the time of the day or the day of the week. The premises may wish to use its Café Licence in different ways. Therefore, the applicant may submit multiple plans to reflect such changes. No charge will be made for variations.

7. Minimum Unobstructed Space Criteria

On a normal street, there must remain at least 2.0 metres of unobstructed space between the carriageway and the front of the pavement cafe to allow pedestrians to pass by safely.

Each case will be judged on its merits and the unobstructed space will be set between 2.0 and 2.75 metres according to the frequency of pedestrian usage and other relevant parameters. This requirement may however be waived by the Council in certain locations but ultimately, the decision will be made on safety grounds.

8. Lighting

The Applicant for a pavement café licence should, if intending to open beyond dusk, carefully consider the level of lighting in the proposed pavement café area. Whilst street lighting may be perfectly adequate for a public highway, it may need supplementing to allow the pavement café to operate safely. Any additional lighting equipment and supply must be specified in the application to enable its impact upon the highway to be considered.

9. Tables and Chairs shall be:

Of a neutral colour scheme e.g. chrome, brushed aluminium, black, brown, beige, grey or white, with natural or neutral stained timber or wicker detailing.

The Council reserves the right to reject applications where inappropriate furniture is proposed. So, it is advisable to discuss furniture proposals with the Licensing Section before any furniture is purchased. Full details of proposed furniture will be required upon submission of the application, including metric dimensions and material and a photo or drawing. When choosing furniture regard needs to be had of the highway surface on which it will stand uneven or sloping surfaces may require

more sturdy styles of furniture and tables and chairs with narrow or thin legs may cause damage to certain paving, hours of proposed furniture, accompanied with photographs or drawings.

10. Parasols

If an applicant intends to use parasols, their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

Parasols, when opened, should be safely secured and contained entirely within the boundaries of the street café to ensure they do not cause an obstruction or present a danger to any user of the street café or any other users of the highway.

The design and colour of parasols will not be restricted to a particular type but they should be made of high quality materials and fabric and be of a uniform design and colour. Garden style umbrellas are not acceptable. The base of the parasol must not cause a trip hazard in the street café area.

The only advertising permitted on parasols is the name of the café/ business or **alcohol / food / beverage brand**. Such advertising must not be too dominant and should not detract from the appearance of the building and its setting, especially in conservation areas. Parasols advertising tobacco will not be allowed.

Canopies, awnings, blinds etc. which are to be attached to the building may require advertisement consent or planning permission. Advice should be sought from Newport City Council Planning Services. See the contacts section at the end of this guide.

11. Space Heaters

If an applicant intends to use space heaters their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout.

In considering an application, the City Council will have regard to the inherent safety of the equipment, its location, storage of Liquid Petroleum Gas cylinders, maintenance and training arrangements.

Applicants will be required to submit a formal risk assessment as required by the Management of Health and Safety at Work Regulations 1999 in support of the application. This should be carried out by a competent person (someone who has

knowledge of the law, British Standards, and Health and Safety Executive Codes of Practice and Guidance).

The City Council will consider the adequacy of the risk assessment which must:

- Identify the hazards e.g. fire, explosion, burns, impact from falling equipment / cylinders
- Decide who may be harmed and how
- Evaluate the risks and decide whether proposed precautions will be adequate or whether more could be done.
- Record findings
- Review assessment and revise if necessary

12. Barriers

Barriers or other means of enclosure are required in order to ease/ guide pedestrian movement, guide the visually impaired, protect users of the facility and mark the boundary of the licensed area.

The agreed street cafe boundaries shown on the plan that will be attached to the licence if successful must be adhered to at all times. The boundaries are required to be enclosed by either barriers or planters. These must be portable.

It is essential that the means of enclosure is fit for purpose and suitable for the terrain in which that the pavement café operates. Should the Council deem barriers unsafe, we may ask that the tables and chairs to be removed until suitable barriers are provided. The means of enclosure must:

- Be stable and sturdy for all weather conditions the pavement café will operate in, including windy conditions: additional weights may be necessary to ensure barriers remain stable and secure;
- Not contain protruding parts;
- Have a tapping rail along the bottom of the barrier that visually impaired pedestrians can use to navigate around the street café using a stick;
 - Hoops or post and chain type barriers and low-level objects will not be acceptable.
 - **Barriers must not be permanently fixed to the ground where this is public highway unless approved by Newport City Council.**

13. Example of Good Practice



Examples of furniture not permitted



14. Managing the street café, Entertainment, Insurance.

A vibrant, safe, clean and well managed day and night economy can go a long way to boosting the local economy through attracting visitors and stimulating a hive of culture and creative activity in the local community.

Evidence suggests that cities and town centres with lively streets and people moving around in them make people feel safe.

Clearly, outside areas and entertainment contribute to providing a vibrant atmosphere within the city.

However, entertainment taking place outside an enclosed premises can cause nuisance to local residents and neighbouring businesses including other licenced premises. It is for this reason that any permitted entertainment taking place in pavement café areas is required to be controlled.

Such controls will balance the vibrancy desired and the potential for such enterprises to become a cause of nuisance, particularly in relation to noise levels.

As such the noise levels emitted from café areas entertainment will be required to be set as background levels (see licence conditions). Licensing Officers will be available to meet licence holders to ensure appropriate levels are set.

There are occasions, particularly during organised cultural events within the city centre, when live or recorded music within café pavement seated areas, would be an enhancement to the event and be expected by visitors and residents. And the noise emitted would be expected to be above background levels. On such occasions, the Licensing Authority would authorise the activity in writing and may also require a separate Temporary Event Notice, under the Licensing Act 2003. In these circumstances, premises could go beyond background levels and have live bands, entertainment, and louder recorded music.

The licensee will be required to indemnify the Council against all actions, demands, costs, charges or expenses arising from using the highway under the permission granted. The Council will, therefore, require the licensee to take out third party public liability insurance.

15. Operation

Hours of operation will be determined on the merits of each application. However, the following maximum hours will apply; the licensing hours for street furniture will only be granted between the hours of 08:00 hours until **23:30 hours**.

There is an exception for limited locations within the city centre. If the premises is located on Cambrian Road, High Street, Market Street, Bridge Street AND is licenced under the Licensing Act 2003. The maximum to be granted will be from 10:30 hours until 02:00 hours. To trade past 23:30 hours the premises will be required to meet a number of "late" night conditions.

No alcohol or food should be served or taken into outside area (with the exception of soft drinks and water) after either 23:30 hours or 02:00 hours (for an excepted city centre location).

After 23:30 or 02:00 hours (for an excepted city centre location) the outside area can be continued to be used by the premises as a smoking area or queuing area only until either the premises closes or no later than 04:00 hours. After 04:00 hours no customers should be present in the outside areas other than for egress from inside premises.

The Licensing Authority can on occasions given written temporary permission to premises to operate outside the above hours in the interest of an event, for example midnight market, international sporting event etc.

Licences are granted for a maximum of one year and are renewable.

A copy of the licence and plan must be kept on the premises at all times and be available for inspection. When the area of a street/pavement café has been agreed, a definitive plan of the area showing the boundaries and the dimensions will be attached to, and form part of, the licence.

It should be noted the maximum hours quoted above maybe required to be reduced or tailored to suit the environment of the area and clearly should not cause significant noise nuisance or anti-social behaviour to local residents.

16. Fees

The administration fee for processing a street café licence application is £175.50 and covers the administrative and legal costs incurred in the preparation and issuing of the licence.

Upon approval of the licence, the balance of the fee will be required which covers the monitoring and enforcement and is based upon the number of chairs and tables and hours of use.

Capacity of Outside Area.	Fee*
Capacity under 35 persons	£64.50
Capacity 36 to 95 persons	£99.50
Capacity 95 to 155 persons	£175.50
155+ persons	£216.50
If the Premises wishes to simply operate an "Smoking Area"	£58.50
Change of name on licence or duplicate licence.	£29

*This fee will be subject to an annual review and may increase, (where statutory social distances are in place the lowest fee will be required to be paid and application fee waived)

17. Granting of a licence

Under the terms of the Highways Act 1980, the Council is required to advertise applications for street café licences for not less than 28 days by posting notices in the vicinity of the proposed street cafe. These notices set out details of the proposals and invite representations to be made by people who may be affected. If no objections are raised, the Licence will be granted within 5 working days, if an objection is raised, the delegated Service Manager will be required to determine the application within 20 working days.

18. CONDITIONS FOR PAVEMENT CAFÉ LICENCES.

Please note that these conditions are not an exhaustive list, and each application will be considered on its own merits and bespoke conditions may be attached where deemed appropriate.

1. The maximum permitted hours of operation as stated on the attached licence shall not be exceeded without prior permission from the Council.
2. A copy of the licence and pavement café layout must remain at the premises and must be produced to any authorised officer on request.
3. Food or non-alcoholic drinks must be available at all times when the pavement café is open (unless simple used as a smoking area.)
4. Posts, barriers tables and chairs shall not be placed upon the highway before the commencement of operational hours and shall be removed entirely before the end of the operational hours **unless written consent has been obtained by the Licensing Authority or Council**. The area shall be left clean and tidy and free of any rubbish. Where consent has been obtained to leave items on the highway the premises is responsible to ensure the area including the road surface is cleaned.
5. Furniture stored within the premises should not at any time block a fire exit.
6. The advertising of cigarettes or smoking products is prohibited
7. Barriers and parasols can advertise the name of the business or with permission from the authority to advertise a brand for example a beer company.
8. The café area must be supervised at all times whilst it is operational.
9. **No amplified live or recorded music shall be played within any part of the Pavement Café*. Though acoustic musician(s) with no amplification at all will be permitted between the hours of Midday till 21:30 hours. (though cannot cause Public or Statutory nuisance to local residents or businesses) TV screens can be located within the Outside areas but the level of noise from TV should be set at Background Levels. Background recorded music can also be played in the outside areas thought the Licensing hours.**
*** unless written approval has been obtained from the Licensing Authority or a Temporary event notice has been approved.**
10. Emergency routes from adjacent buildings and the applicant's premises shall not be obstructed by the pavement café.
11. The licence holder shall not cause or permit any alterations to the highway surface.
12. The licence holder shall not assign, sub-let or part with his interest or possession of a licence.
13. If requested by a police officer or an authorised officer of the Council, all items shall be removed from the highway. These items shall remain off the highway for as long as is required.

14. The licence holder shall be responsible for the conduct of people, both patrons and employees, within the pavement café area.
15. Patrons shall not be permitted to remove food, drinks, crockery or any cutlery from the pavement café.
16. All furniture shall be of high quality constructed of wood or metal and approved by the Council.
17. Parasols, when opened must not overhang the boundary of the pavement café and must remain closed in periods of high winds.
18. Permitted receptacles to be used within the pavement café are:-

Glasses made of toughened or tempered safety glass

Glasses made of polycarbonate or plastic

Paper Cups

China cups, saucers and plates

19. The use of barbecues, rotisseries, ice cream machines, or any other equipment for the preparation and / or sale of food for consumption on or off the premises will not be permitted within the pavement café area **unless approved by the Licensing Authority to facilitate an organised event in the City Centre for example a food or music festival. Mobile bars, bottle bars are permitted within the outside area though premises will be required to include the area within the Premises Licence plans under the provisions of the Licensing Act 2003.**
20. The entire pavement café (apart from entrances) shall be enclosed in its entirety with a suitable barrier, the design and dimensions of which must be agreed, in writing, by the Council. Space will be required for circulation and access within the enclosed area in addition to that for tables and equipment.
21. All activity associated with the pavement café shall be contained within the boundary including tables, chairs and other permitted equipment.
22. The agreed boundary and layout of the pavement café as defined by the plan attached to the Licence shall not be altered without the express permission of the Council.
23. Barriers must not be permanently fixed to the ground on a public highway **(unless approved by Newport City Council)**
24. A minimum distance of 2.0 metres between the edge of the pavement café and the edge of any adjacent carriageway or vehicle route shall be maintained.
25. The licence holder shall keep the area within the boundaries clean and litter free at all times Any litter that escapes from the inside of the licensed area to the outside of the area shall be collected by the licence holder.
26. The licence holder shall provide Public Liability insurance cover for the pavement café and shall indemnify the Council against all claims in respect of injury, damage or loss arising out of the granting of permission, (eg damage to the highway or highway furniture) If for whatever period or reason a public

liability insurance policy is not in force, the Council shall be deemed to have withdrawn this Licence for the period during which the said policy is not in force and the licence holder may be held liable for obstruction of the highway and prosecution under Section 137 of the Act.

27. The pavement license holder will need to ensure that the management team of the business to which the pavement license is attached; register and successfully complete the nationally recognised counter terrorism training product referred to as ACT E Learning within 10 days of the notification of the grant of the Pavement License OR can demonstrate that the ACT E Learning product has successfully been completed within the preceding 12 months and that all staff employed by OR at the premises complete the ACT E Learning within a reasonable period not exceeding 3 months from the notification of the grant of the Pavement License.(Act E Learning certificates are provided on successful on-line completion). To log on and register for ACT E Learning, visit <https://ct.highfieldelearning.com>
28. Where repair or maintenance of the pavement/highway is to be undertaken, Newport City Council will not be liable for any loss of trade and/or income whilst repair/maintenance is carried out. The Licence Holder/s must allow the Council reasonable access for such works.
29. Where gas heaters are used, the connections, including the regulator, hose & clips must be fit for purpose and checked on a regular basis and not be exposed in such a way that they are a trip hazard.
30. Customers using the Pavement Café will be required to be seated at a table and the Seated area should not be utilised as a vertical drinking area, where over 25% of the area is utilised as standing area this will be deemed as a vertical drinking area.
31. All drinking vessels shall be polycarbonate, Plastic, Paper at request of Gwent Police Licensing Team in light of any higher risk events taking place within the city for example football games or street festivals.

“Late” Night Conditions after 23:30 hours

In addition to the above conditions the following Conditions will be attached to premises operating the outside area after 23:30 hours, other than the use of a smoking area.

32. The Pavement License holder will need to ensure that existing CCTV systems are correctly working and cover the pavement cafe areas and are compliant

with the Data Protection Act 1998, Information Commissioners requirements and any other local CCTV Code of Conduct produced by the Police or Local Authority. Imagery must be retained for at least 28 days and images produced to a Police Officer or Local Authority Enforcement Officer upon reasonable request. Faults which render the CCTV system or parts of it inoperable should normally be rectified within 24 hours.

33. The pavement license holder will need to ensure that all SIA Door Staff utilised at the premises has undertaken ACT E Learning and holds Act E Learning certificate. Training must be undertaken every 2 years. To log on and register for ACT E Learning, visit <https://ct.highfieldelearning.com>
34. No Glassware including bottles should be in the outside area after 00:00 hours. Provision to decanter drinks in glass to plastic, paper or polycarbonate should be made available to customers wishing to use the outside area after 00:00 hours.
35. The outside cannot be utilised as a vertical drinking area tables and chairs must remain in the outside area till 02:00 hours for customers to utilise.
36. The Outside area should be monitored by staff at all times, SIA door Staff must be present from 20:30 hours on Friday, Saturday and Bank Holiday Sundays if the premises is intending to operate the outside area after 23:30 hours.
37. All SIA Door staff must be from a ACS (Approved Contractor Scheme) company.(within 6 months of the introduction of the policy)
38. Door staff should be located at the entrance of the outside areas from 20:30 hours on Friday, Saturday or Bank Holiday Sunday till close. Door staff are required to where either a high vis jacket, vest or high vis arm License Badge Holder clearly on display.
39. No alcoholic drinks are permitted in the outside area after 02:00 hours, though the areas can be utilised as a smoking areas and customers are permitted to take non-alcoholic drinks and food into the areas till 04:00 hours.
40. Safe Capacity limits must be monitored both within the outside areas and inside the premises.

19. Revocation / Review / Vary Conditions / Reduction of Hours Granting of a licence.

Premises that fail to comply with the above conditions could ultimately see a Pavement Café Licence revoked. Though where issues do arise the Licensing Authority will clearly engage with the Licence Holder to try and resolve any issues caused by the Pavement Café Licence. This may result in the Licensing Authority looking to adding further conditions to the pavement café licence or reducing the capacity, licensing hours or to re configure the Pavement Café Licence area. If a Licence is revoked a partial refund will be issued by the Authority for the outstanding Months that have not be utilised by the Licence Holder. There is no statutory appeal processes to contest a revoked Licence, though the Officer/Authority decision can be reviewed via the Council Corporate Complaints Procedure.

