

Agenda



Penderfyniadau dirprwyedig - Aelod Cabinet dros Gynllunio Strategol, Rheoleiddio a Thai

Dyddiad: Dydd Gwener, 16 Rhagfyr 2022

At: Cynghorwyr: J Clarke

Eitem	Wardiau Dan Sylw
1 <u>Gorchymyn Diogelu Mannau Cyhoeddus Maesglas</u> (Tudalennau 3 - 28)	
2 <u>Polisi Cyngor Dinas Casnewydd</u> (Tudalennau 29 - 48)	
3 <u>Polisi Trwyddedu Caffi Palmant</u> (Tudalennau 49 - 64)	

Person cyswllt: ,

Ffôn:

E-bost:

Dyddiad cyhoeddi: Date Not Specified

Mae'r dudalen hon yn wag yn

Report

Cabinet Member for Strategic Planning, Regulation & Housing

Part 1

Date: 19 December 2022

Subject Maesglas Public Spaces Protection Order

Purpose The Cabinet Member for Strategic Planning, Regulation & Housing is asked to consider and agree to public consultation on the renewal of a Public Spaces Protection Order (PSPO) within the Maesglas area of Newport.

Author Regulatory Services Manager (Environment & Community)

Ward Gaer

Summary A Public Spaces Protection Order (PSPO) is designed to prevent individuals or groups committing antisocial behaviour in a public space where the behaviour is having, or is likely to have, a detrimental effect on the quality of life of those in the locality; and the behaviour is or likely to be persistent or continuing in nature; and be unreasonable.

A PSPO was made in 2018 to cover an area in Maesglas, part of the Gaer electoral ward, in order to respond to antisocial behaviour. This included restricting access to a public path behind the shops situated on Cardiff Road and a number of other appropriate restrictions.

The PSPO was valued by the Police and the community, however in line with the relevant legislation it expired in September 2021. Consideration has been given to the renewal of the PSPO since that time, but progress has been delayed due to the legacy impacts of the Covid-19 pandemic.

This report asks the Cabinet Member to agree that public consultation takes place as to possible measures to be included in the PSPO. Approval of a PSPO is delegated to Full Council. Therefore, following public consultation, a draft PSPO will be finalised and presented to Council for consideration and agreement.

Proposal To approve the planned public consultation on a Public Spaces Protection Order within Maesglas.

Action by: Head of Environment & Public Protection

Timetable: Immediate

This report was prepared after consultation with:

- Head of Law & Standards
- Head of Finance
- Head of People, Policy & Transformation
- Head of Environment & Public Protection
- Community Protection Manager (NCC)

- Gwent Police
- Newport City Homes
- Ward Councillors

Signed

Background

The Antisocial Behaviour, Crime and Policing Act 2014, commenced in October 2014, and introduced the Public Spaces Protection Order (PSPO).

What is a Public Spaces Protection Order?

A PSPO is designed to prevent individuals or groups committing anti-social behaviour in a public space where the behaviour is having, or is likely to have, a detrimental effect on the quality of life of those in the locality; and the behaviour is or likely to be persistent or continuing in nature; and be unreasonable. The power to make an Order rests with local authorities, in consultation with the Police, Police and Crime Commissioner and other relevant bodies who may be impacted upon by the Order.

The Council can make a PSPO on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre. The maximum length of a PSPO is three years, but it can be reviewed at any time.

When making a PSPO, the Council must have particular regard to the rights of freedom of expression and freedom of assembly and association set out in the Human Rights Act 1998.

A PSPO is intended to provide the Council and Police with additional powers to require individuals or groups from refraining from certain actions or to do certain things within specified times and within a clearly specified geographical location, to quote the Act "it can either be a blanket restriction or requirement or can be targeted against certain behaviours by certain groups at certain times".

A PSPO can be enforced by a Police Officer, Police Community Support Officer and delegated Council officers e.g., a Community Safety Warden. It will be appropriate for some types of restrictions to be solely enforced by the Police.

Restrictions

Restrictions and requirements are set by the Local Authority and can be blanket restrictions or requirements or can be targeted towards certain behaviour by certain groups at certain times. They can restrict access to public spaces (including certain types of highway) where that route is being used to commit antisocial behaviour.

A breach of the Order is a criminal offence and can be dealt with through the issuing of a Fixed Penalty Notice of up to £100 (to be fixed locally), or a Level 2 or 3 fine (£500 or £1,000 depending on the specific offence), on prosecution.

Appeals against the making of a PSPO

Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue. Further appeal is available each time the PSPO is varied by the Council.

What restrictions were included in the Maesglas PSPO 2018?

A copy of the 2018 PSPO is included at Appendix A and the restrictions from that Order can be summarised as:

No person in the restricted area shall

1. *Refuse to stop drinking alcohol or to hand over containers (sealed or unsealed) which are believed to contain alcohol, when asked to do so by an authorised officer.*
2. *Behave in a manner that has caused or is likely to cause harassment, alarm or distress to a member of the public and then refuse to disperse from the area when asked to do so by an authorised officer.*
3. *Sell, use or possess intoxicating substances - this does not include alcohol, tobacco products or prescribed medicines. Persons who breach this prohibition must surrender any such substances to an authorised officer when asked to do so.*
4. *Use the path behind the Maesglas shops which has been closed by the gates (unless access is required to the rear of the premises affected).*

The current situation

In accordance with the requirements of the legislation, the 2018 PSPO expired in September 2021. The process to renew the PSPO was not started at or before that date because of the impact of the Covid-19 pandemic, and progress has been hampered since then by Covid-19 legacy impacts on Council service delivery.

Informal consultation with local ward members, Gwent Police and Newport City Homes has indicated that the previous PSPO was successful and that a renewal of the PSPO is necessary to prevent antisocial behaviour significantly impacting on the local community again. The data on antisocial behaviour in the locality for the duration of the previous PSPO is skewed by the Covid-19 restrictions including full public lockdowns. However data and anecdotal feedback from partners available to suggest that antisocial behaviour continues to be a problem in the area. Recent data will be provided in the planned report to Full Council.

As it did in 2018, the Council needs to consider:

- Is there a specific problem caused by particular activities?
- If so, what needs to be done to regulate or control the problem?
- What is the least restrictive way of achieving this?

Consultation

It is proposed that a public consultation be over a 4-week period.

The public and partners will be invited to make comment on whether to keep the previous restrictions, remove any of the previous restrictions, add any new restrictions and whether the previous area covered by the PSPO should be retained or amended.

For the public the consultation will be conducted by writing to all premises within the previous PSPO boundary and inviting the public to complete a survey online, with an option to respond in writing for those that do not wish to use the online survey.

What is the Cabinet Member being asked to do?

1. To approve the consultation plan.
2. To oversee the consultation process to ensure it is robust, and that the outcomes are taken into consideration in drafting an Order for consideration by Council that would have public support. He would be asked to introduce the PSPO to Council.

Approving a new Maesglas PSPO

The results of the consultation will be reviewed and a report and draft PSPO produced for consideration. Final approval will be by Full Council.

Financial Summary

There is no financial impact from this report.

Risks

Risk	Impact of Risk if it occurs (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Council puts in measures that are not supported	H	L	Consultation. Listen to all groups that are affected.	Regulatory Services Manager
Council puts in measures that are disproportionate to the problems experienced and are open to legal challenge	H	M	Ensure the evidence is robust and that the measures that are introduced are balanced against the antisocial behaviour experienced and the right level of restrictions to address it. Take legal advice.	Head of Law and Standards

Links to Council Policies and Priorities

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

Newport's Corporate Plan 2017-2022, "Building a better Newport" has a key focus – to improve people's lives in all the Council does.

It will also assist the Council to meet its 'wellbeing goals' under the Well-being of Future Generations (Wales) Act 2015; in particular the 'prosperity' goal and "to build cohesive and sustainable communities".

Options Available and considered

- i) To approve the public consultation on a Public Spaces Protection Order within Maesglas.
- ii) Not to approve the public consultation on a Public Spaces Protection Order within Maesglas.

Preferred Option and Why

To approve the public consultation on a Public Spaces Protection Order within Maesglas, using the consultation questions shown in this report. This will allow the Council to consider the views of Partners and the public, make amendments where necessary and progress a report to Full Council.

Comments of Chief Financial Officer

There are no financial implications as a result of this report as it is only seeking permission to begin public consultation on issuing a PSPO for Maesglas.

Comments of Monitoring Officer

The Council has a statutory power under the Anti-Social Behaviour, Crime and Policing Act 2014 to make Public Spaces Protection Orders in order to prevent types of anti-social behaviour which have, or are likely to have, a detrimental effect on the quality of life of those in the locality and the behaviour is or is likely to be persistent or continuing in nature. The nature and extent of the PSPO must be reasonable having regard to the type of behaviour and its impact on the public. In accordance with the legislation and the statutory guidance, the Council is required to consult with the Police, the Police and Crime Commissioner and specific community groups, and to have regard to any observations made before deciding whether or not to introduce any PSPO. However, because of the impact of the proposed PSPO within the Maesglas area, it is suggested that a wider public engagement exercise should also be undertaken. It is recommended that the Cabinet Member agrees to this public consultation and that the responses are considered before any further recommendation is made to Council regarding the PSPO.

When considering the need for any PSPO, the Council must act reasonably and, in particular, it must have regard to the Human Rights Act 1998. However, the rights and freedoms set out in the Articles to the Human Rights Act are qualified rights and can lawfully be restricted or limited where this is a necessary and proportionate means of achieving a legitimate aim, including public safety and the prevention of crime and disorder. It is a question of balancing rights and freedoms of individuals against the needs of the wider community. Therefore, the Council has to take a balanced decision regarding the need for a gating order restricting public access to the path at the rear of the shops and the other proposed restrictions and their impact on the freedoms and rights of individuals. Any order must be a reasonable and proportionate means of preventing or reducing the detrimental impact of any specific type of anti-social behaviour within the Maesglas area.

Public support for a particular measure is not, of itself, sufficient grounds to make a PSPO. The Council needs to be satisfied that the proposed controls are justified because of a specific problem and a need to control the anti-social behaviour in order to protect the public. The Council also has to be satisfied that the extent of the controls or prohibitions is reasonable and that there are no alternatives, and less restrictive ways, of regulating the problems. There is a statutory right of appeal to the High Court within 6 weeks if a PSPO is considered to be unreasonable.

The previous PSPO expired in 2021 and, therefore, it is necessary to reconsider whether a replacement Order is required. Informal feed-back from the Police, ward councillors and Newport City Homes has suggested that the previous PSPO was successful in controlling anti-social behaviour in this area and that there is a continuing need for a replacement order on the same terms. However, because of the time lapse since the original PSPO was made, then further evidence is now required to justify the continuation of the gating order and the other controls.

Comments of Head of People, Policy & Transformation

The report notes that the previous PSPO has been well received by residents, is valued by the Police and was effective in reducing crime and anti-social behaviour. The report seeks to consult with local stakeholders on the renewal of an Order, the specific restrictions and the area covered. Involvement and the support and ownership of residents, in terms of a PSPO, is considered to be vital in improving community safety and addressing 'what matters most' to local people. Following

consultation, the draft Order will be reviewed before Full Council decide on its implementation. A Fairness and Equalities Impact Assessment has been undertaken, which will also be reviewed following the consultation period.

There are no direct human resource implications.

Comments of Executive Members

Councillor Batrouni:

I wholeheartedly support this decision. Hardworking and law-abiding citizens in the Maesglas area need to be shown that the local authority understands the issues they face and is willing to utilise its powers to protect the public spaces in the area. Residents have the right to walk around their local area and not feel intimidated by anyone.

Scrutiny Committees

No consultation with Scrutiny Committees has been undertaken.

Equalities Impact Assessment and the Equalities Act 2010

An Equalities Impact Assessment has been completed and is included at Appendix C.

Children and Families (Wales) Measure

The proposals set out in this report are not relevant to the aims of the Children and Families (Wales) Measure.

Wellbeing of Future Generations (Wales) Act 2015

The proposals set out in the report to be consulted on would contribute to a number of the Well-being Goals set out in the Wellbeing of Future Generations (Wales) Act 2015. Relevant goals are "A more equal Wales", "A Wales of cohesive communities", "A Wales of vibrant culture and thriving Welsh language". The proposals would contribute by helping to prevent problems of antisocial behaviour blighting the area, which would help to build a cohesive and sustainable community.

Crime and Disorder Act 1998

A PSPO aims to reduce Crime and Disorder and the renewal of an Order has been requested in part by the Police.

Consultation

Not applicable at this stage

Background Papers

Home Office Guidance on PSPOs

List of Appendices

Appendix A

Maesglas PSPO 2018

Appendix B

Draft public consultation questionnaire questions

Appendix C

Fairness & Equalities Impact Assessment (FEIA)

Dated: 9 December 2022

Appendix A – Copy of the Maesglas PSPO 2018

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

SECTION 59

PUBLIC SPACES PROTECTION ORDER 2018

MAESGLAS, NEWPORT

NEWPORT CITY COUNCIL in exercise of its powers under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) hereby makes this Order, being satisfied on reasonable grounds that activities in a public space, namely in the MAESGLAS area of Newport, have had or are likely to have a detrimental effect on the quality of life of those in the locality and that these activities involved various anti-social behaviours. Further, Newport City Council believes that the effect, or likely effect, of the said activities is, or is likely to be, persistent or continuing in nature, such as to make the activities unreasonable and justifies the restrictions imposed by this Order:-

1. This Order shall come into operation on _____ 2018 and shall have effect for a period of 3 years thereafter, unless extended by further Orders under the Council’s statutory powers.
2. This Order relates to the public place in the City of Newport as shown edged in red on the Plan annexed to this Order (“the Restricted Area”) commonly referred to as “MAESGLAS”.

PROHIBITIONS:-

3. No person shall within the Restricted Area refuse to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by an authorised officer to prevent public nuisance or disorder.
4. No person shall behave (either individually or in a group) in a manner that causes or is likely to cause harassment, alarm or distress to a member of the public; persons who breach this prohibition shall, when ordered to do so by an authorised person, disperse immediately or by such time as may be specified and in a manner as may be specified by the said authorised person and failure to do so is a further breach of this Order.
5. No person shall within the Restricted Area:
 - a. Ingest, inhale, inject, smoke, possess or otherwise use intoxicating substances.
 - b. Sell or supply intoxicating substances.

- c. Intoxicating substances (commonly referred to as “legal highs”) is given the following definition: substances with the capacity to stimulate or depress the central nervous system (does not include alcohol).
 - d. Exemptions shall apply in cases where the substances are used for valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes (tobacco) or vaporisers or are food stuffs (to include drinks) regulated by food health and safety legislation.
 - e. Persons who breach this prohibition shall surrender any such intoxicating substance in his/her possession when asked to do so by an authorised officer in the Restricted Area.
6. No person shall, except as provided in Articles (6c) and (6d) below, use the public right of way over the public place as shown coloured in blue on the Plan annexed to this Order hereafter referred to as (“the Restricted Area 2”); namely part of a lane that runs directly behind the shops located on Cardiff Road known locally as the “Maesglas shops”.
- a. Gates may be installed, operated and maintained at each end by Newport City Council.
 - b. Any person using the gates referred to in Article (6a) to gain access to or from the Restricted Area 2 shall ensure that the gates are closed and locked immediately after they are used.
 - c. The restriction in Article (6) of this Order shall not apply to any person who occupies premises adjoining or adjacent to the Restricted Area 2.
 - d. The restrictions in Articles (6) and (6b) of this Order shall not apply to any Police, Ambulance or Fire Service personnel acting in pursuance of statutory powers or duties or to any statutory undertakers, gas, electricity, water or communications provider requiring access to their apparatus situated in the Restricted Area 2.
 - e. The alternative route for pedestrians is as shown hatched in xxxx on the Plan annexed to this Order.
 - f. No waste or household item shall be deposited, stored or discarded in the Restricted Area 2. This restriction shall not apply to any wheeled bin or other approved receptacle for the storage of waste where the Council has given written consent for the wheeled bin or approved receptacle to be stored in the Restricted Area 2.

FIXED PENALTY NOTICES AND OFFENCES:-

- 7. It is an offence for a person without reasonable excuse to engage in any activity that is prohibited by this Order.
- 8. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a Level 2 fine (currently £500) or to a Fixed Penalty Notice up to £100.

9. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a Level 3 fine (currently £1000) or to a Fixed Penalty Notice up to £100.

APPEALS:-

10. If any interested person wishes to question the validity of this Order on the grounds that the Council had no power to make it or that any requirement of the Act has not been complied with in relation to this Order, he or she may apply to the High Court within 6 weeks from the

date on which this Order is made.

Dated:

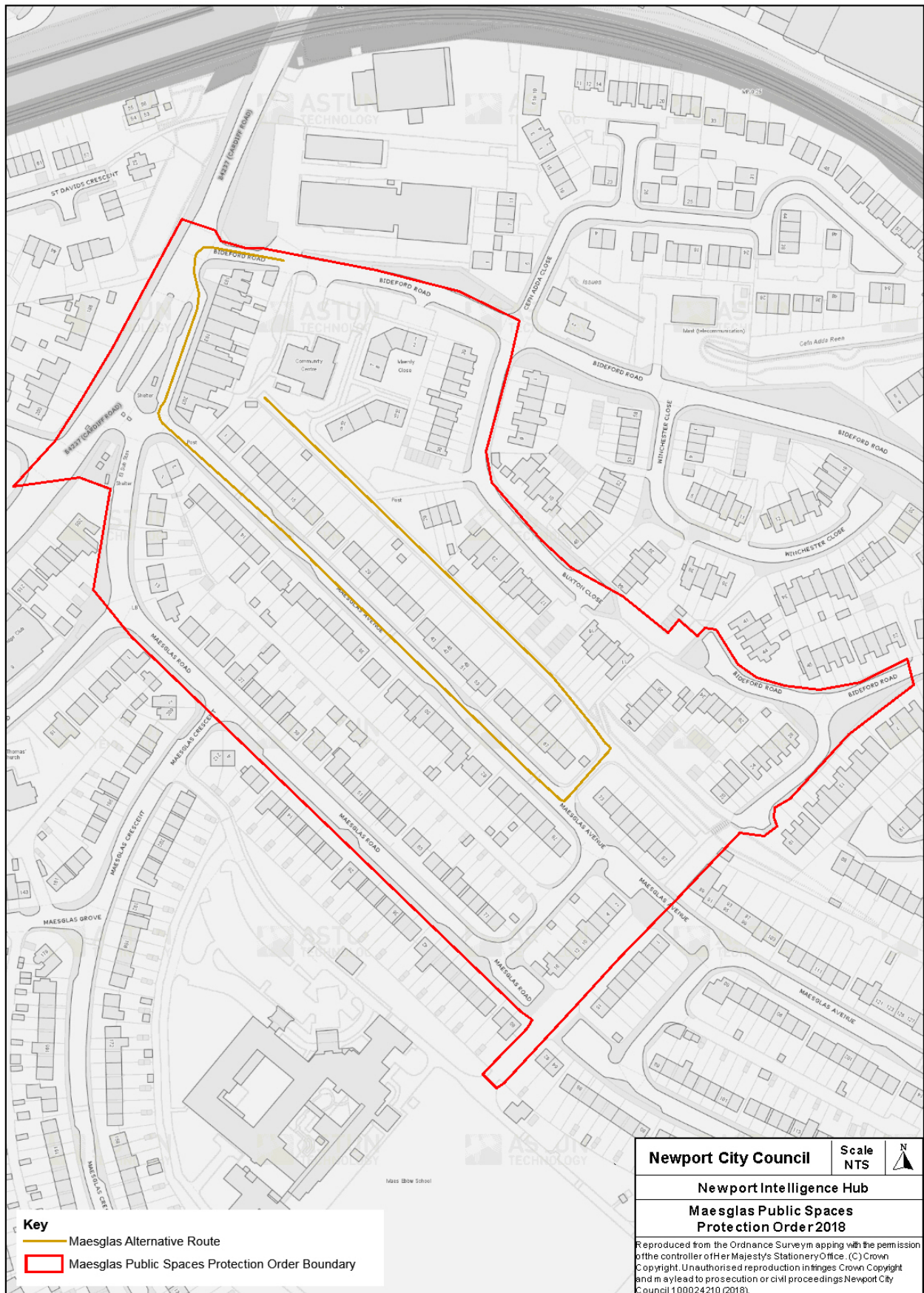
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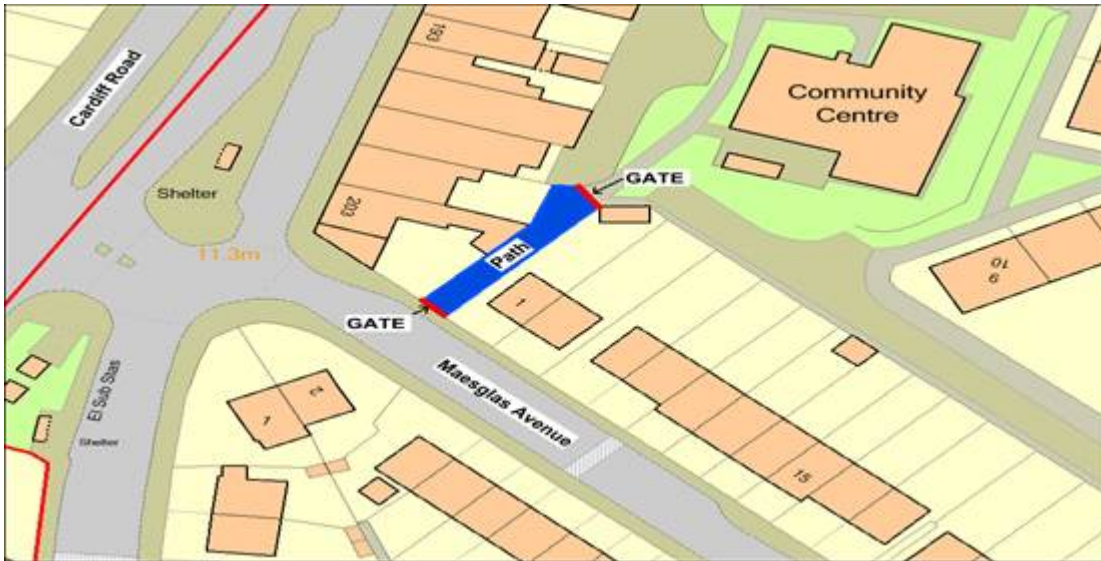
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Restricted Area



Restricted Area 2



Appendix B – Draft public consultation questionnaire questions

1. Have you experienced Anti-Social Behaviour in Maesglas in the past 12 months?
 - a. What type of Anti-Social Behaviour?
2. It is proposed that the restrictions in the 2018 Public Spaces Protection Order are renewed. Please select if you agree or disagree with each restriction being included in a new Order. If you disagree, please state your reasons.
Each of the proposed restrictions is then described as set out earlier in the report.
3. Have you been affected by or witnessed Anti-Social Behaviour recently that would be affected by the proposed restrictions? *(Each proposed restriction listed).*
4. Is there anything else you would like to see included in the Order?
5. The map below shows the boundary of the area covered by the previous PSPO (shown by the red line). It is proposed to keep the area the same for the new Order. Do you think this proposed area includes the correct streets and areas? If not, do you think the area should be bigger? (please specify which additional streets or areas should be included) or smaller? (please tell us which streets/areas should be excluded). Please give reasons for your answer.

Appendix C

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](#)

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	Jonathan Keen
Role of person completing the FEIA	Service Manager
Date of completion	7/11/22
Head of Service who has approved this FEIA	Silvia Gonzalez-Lopez

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

- 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

To gain Cabinet Member approval for a public consultation exercise on the renewal of a Public Spaces Protection Order

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.

The main stakeholders who may be impacted by this decision include:

- All usual residents and businesses in Maesglas (Gaer Electoral Ward)
- Elected Members for Gaer
- Gwent Police
- Newport City Homes

At this pre-consultation stage, Ward Members, Gwent Police and Newport City Homes are all expressing the view that anti-social behaviour has started to become a problem again post-Covid, and that renewal of the PSPO is required.

The previous PSPO had a marked impact on anti-social behaviour in the relevant area and in particular the closure of the path significantly improved the wellbeing of residents in nearby properties on Maesglas Avenue according to partners. Prior to the previous PSPO, anti-social behaviour perpetrated by individuals used the path to congregate and to leave the scene after causing problems in the streets nearby.

The Community Wellbeing Profile 2021 for the South West Community area (which includes Gaer Ward, and in particular the Lower Super Output Area (LSOA) of 'Gaer 5') shows that Gaer 5 ranked in the top 10% most deprived areas in Wales for the Community Safety domain. Gaer 5 was one of the 2 LSOA's with the highest numbers of incidents of violence and sexual offences from August 2018 to July 2021. For the same period, 230 of the 950 anti-social behaviour incidents recorded for the Gaer ward were in Gaer 5 LSOA. 287 of the 1,471 records of 'all other police recorded crime' for the Gaer ward were in Gaer 5 LSOA.

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?

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

Not applicable at this stage – this is pre-consultation and seeking to start the process of consultation

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

At this pre-consultation stage, Ward Members, Gwent Police and Newport City Homes are all expressing the view that anti-social behaviour has started to become a problem again post-Covid, and that renewal of the PSPO is required.

We also know that the majority of the feedback on the 2018 PSPO was positive.

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:			Provide further details about the nature of the impact in the sections below, considering the Public Sector Equality Duty that the council has to: <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	
Age	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.
Disability	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.
Gender Reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.

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	
Marriage or civil partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.
Pregnancy or maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.
Religion or Belief or non-belief	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.
Sex	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.
Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact people who share this protected characteristic.

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"/>	There is no evidence to suggest that the proposal to consult will positively or negatively impact the Welsh Language or compliance to Welsh Language Standards

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1. Please describe how you have ensured your engagement has considered the view of Welsh speakers in Newport and the impact of your decision on the Welsh language.



Public consultation will be conducted in accordance with Welsh Language Standards. All consultation supporting documents, information and surveys will be available equally in Welsh, either through our website, social media or upon request of paper/alternative formats. In addition, public consultation will be advertised bilingually, and participants will be allowed to participate in either Welsh or English.

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](#).

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<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>The maximum duration of a Public Spaces Protection Order is 3 years but it could be renewed if appropriate. The aim of the proposals is to reduce ASB in the area and it is hoped that this would have a long term benefit to the community.</p>
<p>Prevention</p> 	<p><i>Putting resources into preventing problems occurring or getting worse</i></p>	<p>A Public Spaces Protection Order cannot address the roots causes of why some youths cause ASB in this area, but the Community Safety team works closely with partners who complete such work such as Education, the Youth Service etc. Reducing ASB does help reduce future occurrences of ASB.</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>The proposal is to consult on a Public Spaces Protection Order (PSPO) which has been designed to have a positive impact on the following Well-being goals:</p> <p>Well-being Goals</p> <ul style="list-style-type: none"> • A prosperous Wales – the PSPO would reduce ASB in the area. ASB can impact on the education of children and on the success of businesses. • A healthier Wales – the PSPO would reduce ASB which would help improve the mental well-being of the community that would otherwise be affected. • A Wales of cohesive communities – the PSPO would help to protect the local community and make it more viable and safe. <p>The information included above shows that there would be a positive impact on Newport City Council's Well-being Goals, as set out below:</p> <ul style="list-style-type: none"> • To improve skills, educational outcomes and employment

		<p>opportunities</p> <ul style="list-style-type: none"> • To promote economic growth and regeneration whilst protecting the environment • To enable people to be healthy, independent and resilient • To build cohesive and sustainable communities
<p>Collaboration</p> 	<p><i>Working together to deliver objectives.</i></p>	<p>Only the Council can make a Public Spaces Protection Order, however it would provide the Police and the Community Safety Warden Service with additional/alternative powers with which to address ASB in the area. The Community Safety team will continue to work together with the Police and other agencies/partners to address ASB. The Police and Newport City Homes have requested that the PSPO be renewed and the proposed consultation is in response to that request.</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>The proposed consultation will seek the views of all residents and businesses in the proposed PSPO area.</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.

The proposal to conduct public consultation does not meet the definition of a 'strategic decision'.

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?

N/A

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.

N/A

3. Does this decision contribute to a cumulative impact?

N/A

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Part 3: Actions and Outcomes

Considering any negative impacts that you have identified, indicate below how you will reduce these, increase the potential for positive impacts, and how you will monitor those impacts. 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 / opportunities	How this impact will be	Owner

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



Report

Cabinet Member for Strategic Planning, Regulation and Housing

THIS IS FOR MEMBER CONSULTATION PURPOSES – RESPONSES BY 5 JANUARY 2023

Part 1

Date: 23 December 2022

Subject Pavement Café Licensing Policy

Purpose To approve a Pavement Café Licensing Policy which allows businesses to apply to the Council for a licence to place tables and chairs on the highway

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, during the Covid pandemic, outside areas became essential for many businesses. These businesses 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 on 5 April 2017. It is now felt that 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 the Pavement Café Licensing Policy

Action by Head of Environment and Public Protection

Timetable Immediate

This report was prepared after consultation with:

- Head of Environment and Public Protection
- Head of Finance
- Head of People, Policy and Transformation
- Head of Law and Standards

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 B 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 cities in the UK now allow for alcoholic products to be advertised in such a managed way, 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 increased 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 and 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 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. But clearly events should not have a detrimental effect on other business or residence specifically regarding noise.
- 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 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.

Specifically business operating after 23:30hrs may also have a greater impact on local areas specifically regarding noise. Section 19 of the Policy entitled "Revocation / Review / Vary Conditions / Reduction of Hours Granting of a licence" will allow the authority to address any pavement Café areas that may causing issues within the local vicinity including noise.

- **Consultation**

Public consultation took place between 29 November 2021 and 29 December 2021. Representations from the consultation can be found in Appendix B of this report. As part of the consultation, Licensing Officers hand delivered copies of the draft policy to all relevant businesses (34, including pubs, café and food outlets) within the City Centre and explained its contents. 34 businesses were visited within the City Centre: these included pubs, cafés and food outlets that potentially could benefit from such a policy. It was also presented to the City Centre Pubwatch group and advertised on the Council web site.

Financial Summary (Capital and Revenue)

There will be a slight improvement to the budget position because of the changes. These are reflected in the Financial Summary table below. 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	(£1,495)	If the changes proposed existed for 2021/22 the additional income would have been £1,495
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 have 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 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

Option 1

To approve the proposed Pavement Café Policy.

Option 2

Not to approve the proposed Pavement Café Policy.

Preferred Option and Why

Option 1

To approve the proposed Pavement Café Policy due to the benefits described for visitors and business.

Comments of Chief Financial Officer

Approval of the proposed policy will have no adverse financial impact as all costs will be met from existing budgets. Associated fees related to this activity will be agreed annually as part of the Council's regular review and agreement of its fees and charges.

Comments of Monitoring Officer

The proposed action is in accordance with the Council's statutory powers under section 115E of the Highways Act 1980, to grant licences for tables and chairs on the highway for the purposes of hospitality. The Council also has the power under section 115F of the Act to impose such conditions for the grant of these licences as it thinks fit and to charge reasonable fees for the grant of the permission. The Council is also able to seek indemnities from the businesses in relation to any claims arising out of the operation of the pavement licences, and these indemnities are included in the policy and the licence conditions. The proposed Pavement Café licensing policy is intended to provide a fair and consistent framework for the grant of these discretionary highway licences, to ensure that the seating areas are managed and operated properly and safely. The previous policy has worked well, but some amendments are now required to reflect changes in operating practice and to enhance the experience for customers. The proposed amendments have been the subject of consultation with key stakeholders, including City Centre businesses and Pubwatch, and no objections or adverse representations have been received. There should be no adverse impact of the policy changes in relation to the Council's public sector equality and socio-economic duties, as evidenced in the attached FEIA. The Council has taken into account its duties under the Crime and Disorder Act, and provisions have been included within the policy and licence conditions to address security and counter-terrorism training for door staff. The licensing of tables and chairs on the highway is consistent with the Council's strategic aims and objectives in terms of Purple Flag status, developing the night time economy and improving the vibrancy of the City Centre. It is also an integral part of the Council's strategic Covid-recovery plans. Therefore, it is open to the Cabinet Member to approve the changes in policy as the basis for regulating the grant of these licences. The highways licences under Section 115E only deal with the placing of tables and chairs within designated seating areas and operators would need to consider whether they require separate licences for the sale of alcohol and the playing of live or recorded music outside their premises. There was a temporary automatic extension for all licensed premises during the Covid-restrictions to allow off-licence sales of alcohol in these outside seating areas but that is due to expire in September 2022. Therefore, there may be a requirement for licensed premises to seek a licence extension when the temporary extension expires. In addition, although some live or recorded music is permitted within licensed premises, there may be a need for an additional licence for outdoor entertainment.

Comments of Head of People and Business Change

Pavement cafes are an increasingly important part of the 'Newport offer' making a contribution to the vibrancy of city, increasing capacity and making use of public space. However it remains vital that they are properly located and managed and regulated. The proposed revision to the licensing policy aims to

balance flexibility for businesses with community safety and public health considerations. The policy has been subject to stakeholder consultation and a Fairness and Equality Impact Assessment has been undertaken.

There are no direct human resources implications in this report.

Scrutiny Committees

No consultation with Scrutiny Committees has been undertaken.

Fairness and Equality Impact Assessment:

A Fairness & Equality Impact Assessment is attached to the report in Appendix A

Public consultation took place regarding the revised minor changes to the Pavement Café Policy, the draft policy was sent to all current licence holders, responsible authorities, Newport NOW and was placed in the public domain via the Council Web site and relevant social media channels.

Background Papers

N/A

Dated: 23 December 2022

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 consolation 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)?

Public consultation took place between 29 November 2021 and 29 December 2021. Representations from the consultation can be found in Appendix B of this report. As part of the consultation, Licensing Officers hand delivered copies of the draft policy to all relevant businesses (34, including pubs, café and food outlets) within the City Centre and explained its contents. 34 businesses were visited within the City Centre: these included pubs, cafés and food outlets that potentially could benefit from such a policy. It was also presented to the City Centre Pub watch group and advertised on the Council web site. No representations were received though the policy has not changed significantly when temporary measures were put into place due to Covid.

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

No representations were received via the consultation. It's also important to stipulate that any new application or variations will be treated on its merit and all new applications will be required to undertake a full public consultation in line with the Act. As such members of the public, businesses and responsible authorities can make objection to applications that may directly affect them. Also there a "review" process in section 19 of the policy meaning if there are issues associated with the pavement café the licence can ultimately be revoked.

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. This proposal will benefit older groups such as those with limited mobility, dementia and visual impairment which are more prevalent among older people by maintaining a safe environment within city centre with areas that are free from obstruction as well as improved access to cafés and other facilities. Clearly Some businesses may extend the boundary of their pavement café beyond that agreed within the terms of the licence and this may reduce the width of unobstructed pavement making access difficult. As such Regular inspection and monitoring of the pavement cafes against the agreed licence will be undertaken and enforcement action considered if appropriate. Reports from the public will also be investigated and followed up where appropriate.</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"> Promote equal opportunity across different groups Promote community cohesion Help eliminate unlawful discrimination/ harassment/ victimisation
	Positive	Negative	Neither	
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. This proposal will also benefit disabled groups such as those with limited mobility, learning difficulties and visual impairment by maintaining a safe environment within city centre with areas that are free from obstruction as well as improved access to cafés and other facilities. Once again Some businesses may extend the boundary of their pavement café beyond that agreed within the terms of the licence and this may reduce the width of unobstructed pavement making access difficult. Though Regular inspection and monitoring of the pavement cafes against the agreed licence will be undertaken and enforcement action considered if appropriate. Reports from the public will also be investigated and followed up where appropriate.</i></p>
Gender Reassignment/Transgender	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>. 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.</p>
Marriage or civil partnership	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><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></p>
Pregnancy or maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>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. This proposal will benefit expectant mums and new parents with prams and pushchairs by maintaining a safe environment within city with areas that are free from obstruction as well as improved access to cafés and other facilities where they can rest and get refreshments if needed.</p>
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>'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</p>

Protected characteristic	Impact:			Provide further details about the nature of the impact in the sections below, considering the Public Sector Equality Duty that the council has to:
	Positive	Negative	Neither	
				<p>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</p>
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"/>	

	Impact:			
	Positive	Negative	Neither	




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](#).

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<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>The policy aims to set out a longer-term objective in supporting economic development of town centres whilst in the short-term ensuring that the safety of all users of the highway are properly considered as part of the annual application process.</p> <p>The policy will support future enforcement action required to remove illegal and dangerous café areas. The highway has a duty to protect all users of the highway and the application process ensures that every pavement café area does not restrict or present a danger to the public. The criteria take in to account the needs of all users.</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</i></p>	<p>To provide consistency for bodies and individuals who work with licensing or apply of a licence.</p>

		<i>objectives, or on the objectives of other public bodies.</i>	
Collaboration		<i>Working together to deliver objectives.</i>	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.
Involvement		<i>Involving those with an interest and seeking their view - ensuring that those people reflect the diversity of the area.</i>	Discussions, Engagement and 4 week consultation will take place with not only business, local residents but especially for those who use the city centre.

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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The proposals aim to support local businesses and job opportunities which will offer a positive benefit to the community from a social-economic perspective.

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.

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.*

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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 cafés 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 cafés may be granted by the Council under Section 115E of the Highways Act 1980.

Accordingly, whilst the Council wishes to encourage pavement cafés, it is important that they are properly located and managed. This is to ensure they meet the standards expected in Newport and they do not obstruct the highway or 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 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 cafés, 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 café 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 pavement 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 cafés 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 pavement café should be aware that the Council reserves the right to gain access to the pavement 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 "frontages" 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. Pavement cafés on private land are not covered by this policy. However, although a pavement café 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, although alcoholic** 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 pavement café licence being issued.

Legislation and the policy will not permit the advertising of tobacco and smoking products, which includes vaping products, and this includes adverting the

manufacturers or brands associated with such products on any barriers or furniture within the pavement café area.

6. Designing the Pavement Café

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 pavement 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).

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.

It is noted that the way businesses wish to use a pavement café facility can change at different times and days of each week. As such an applicant may wish to submit multiple plans for different days or different times or certain occasions. **(No charge will be made for alternative layouts).**

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 café 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

Table 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. It is advisable to discuss furniture proposals with Licensing Officers 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 you intend 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 pavement café to ensure they do not cause an obstruction or present a danger to any user of the pavement 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 pavement café area.

The only advertising permitted on parasols is the name of the business or relating to the branding of **alcohol, food, or beverage products**. Such advertising must not be 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 space heaters are intended to be used, 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.

The applicant 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 an 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

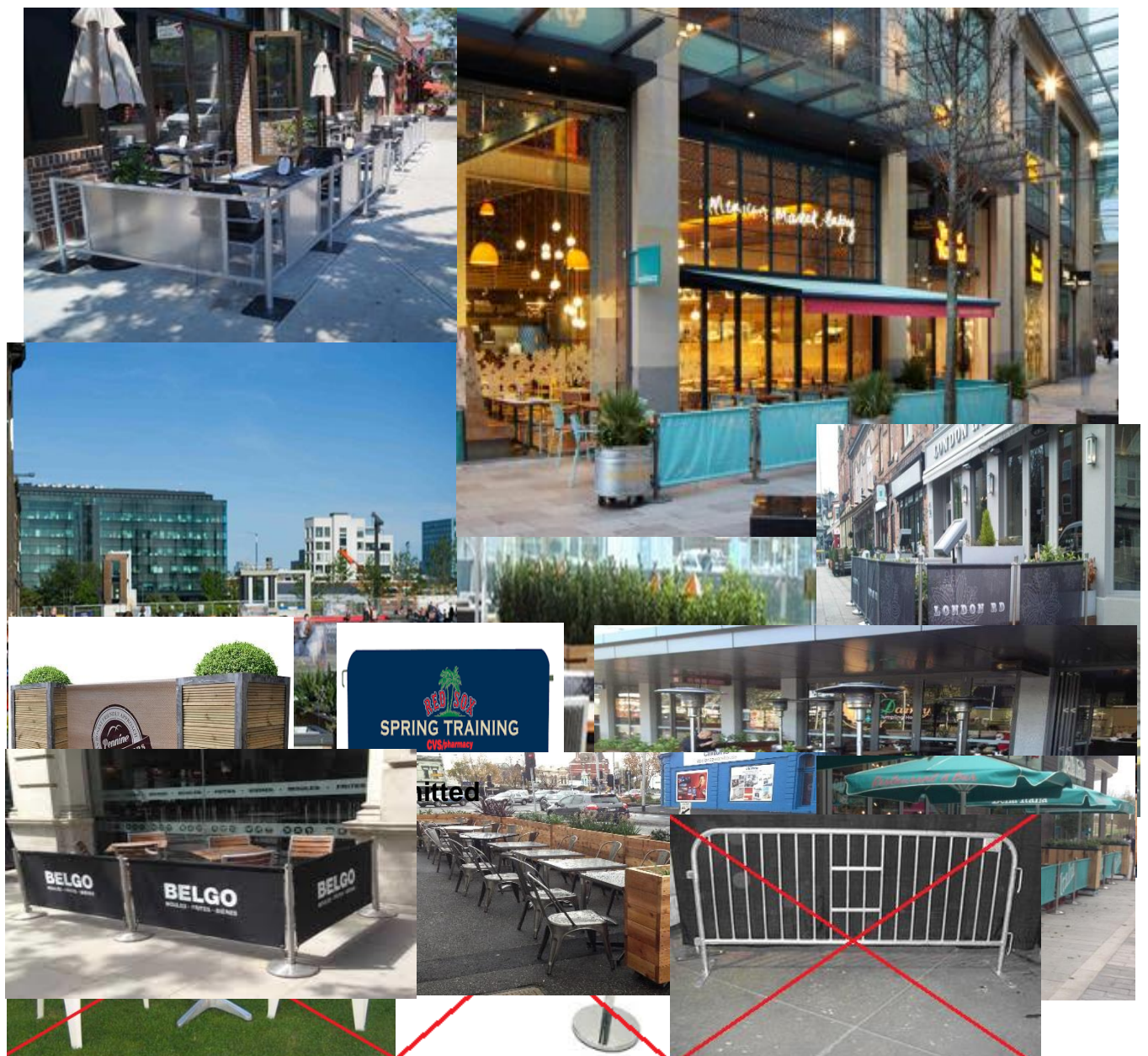
Barriers or other means of enclosure are required in order to ease/guide pedestrian movement, guide the visually impaired, protect users of the facility and mark the boundary of the licensed area.

The agreed pavement café 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, there may be a request for tables and chairs to be removed until suitable barriers are provided. The means of enclosure must:

- Be stable and sturdy for all weather conditions in which the pavement café will operate, 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 pavement 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



14. Managing the pavement café, Entertainment, Insurance.

A vibrant, safe, clean and well managed, day and night-time 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. Outside areas and entertainment contributes to providing a vibrant atmosphere within a city.

There exists the concern that entertainment taking place outside, can cause nuisance to both local residents and neighbouring businesses including other Licence premises. As such any permitted entertainment taking place in pavement café areas is required to be controlled, so to provide a vibrant atmosphere but not one that would cause nuisance to the city centre or create a culture of licence premises competing with themselves regarding noise levels. As such pavement café areas entertainment will be required to be set as background levels (see Licence Conditions). Licensing Officers will be happy to meet with Licence Holders to ensure appropriate levels are set.

On occasions organised events take place within the city centre, and such events would expected to involve live and recorded music in the pavement café seated areas beyond background levels. If such an event occurs, the Licensing Authority will make a consideration. Authorisation may be possible by Licensing Officers. This would be made in writing to the business. In such situations, the event may reach the threshold requiring a Temporary Event Notice under the Licensing Act 2003, this is possible in circumstances where background noise levels are exceeded, possibly where there are 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 application merits; although the following maximum hours will apply;

The standard licensing hours for street furniture will only be granted between the hours of 08:00hrs until a 23:30hrs.

For key city centre locations (Cambrian Road, High Street, Market Street, and Bridge Street) and for premises licensed under the Licensing Act 2003, the maximum to be granted will be from 10:30am until 02:00hrs. It should be noted, to trade later than 23:30hrs, the premises will be required to meet several "Late-night Conditions". No Alcohol or food should be served or taken into outside area (other soft drinks and water) after either 23:30hrs or 02:00hrs. After 23:30 or 02:00hrs the outside area can

be continued to be used by the premises as a smoking area or queuing areas only until either the premises closes or no later than 04:00hrs. After 04:00hrs no customers should be present in the outside areas other than for egress from inside premises.

The Licensing Authority can on occasion give 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 years and are renewable.

A copy of the Licence and plan must be always kept on the premises and be available for inspection. When the area of a 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 hours above the maximum hours maybe required to be reduced or tailored to the environment of the area and should not cause significant noise nuisance or anti-social behaviour to local residents.

16. Fees

The full cost for a pavement café licence involves both an administration fee and an approved licence fee.

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

Upon successful application, the **approved licence fee** will be required in addition to the administration fee. This 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" or queuing 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 distance is 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 pavement café licences for not less than 28 days by posting notices in the vicinity of the proposed pavement café. 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 simply 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 pavement 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 (unless written approval has been obtained from the licensing authority or a temporary event notice has been approved). Acoustic musician(s) or entertainment with no amplification will be permitted between the hours of Midday and 21:30hrs. However, such music or entertainment 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 TVs should be set at background levels. Background recorded music can also be played in the outside areas throughout the licensing hours.**
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 café license holder will need to ensure the management team of the business to which the pavement café 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.highfieldlearning.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 23:30hrs
In addition to the above conditions the following Conditions will be attached to premises operating the outside area after 23:30hrs, other than the use of a smoking area.
32. The pavement café license holder will need to ensure that existing CCTV systems are correctly working and cover the pavement café 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 café 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.highfieldlearning.com>
34. The outside area cannot be utilised as a vertical drinking area and tables and chairs must remain in the outside area until 02:00hrs for customers to utilise.
35. The outside area should be monitored by staff at all times, SIA door Staff must be present from 20:30hrs on Friday, Saturday and Bank Holiday Sundays if the premises is intending to operate the outside area after 23:30hrs.
36. All SIA Door staff must be from an ACS (Approved Contractor Scheme) company. (For those premises that do not meet this requirement, there will be a period of 6-months from the introduction of this policy to meet the requirement).
37. Door staff should be located at the entrance of the outside areas from 20:30hrs on Friday, Saturday, or Bank Holiday Sunday till close. Door staff are required to

where either a high visibility jacket, vest, or high visibility arm License Badge Holder clearly on display.

38. No alcoholic drinks are permitted in the outside area after 02:00hrs, although the areas can be utilised as a smoking areas and customers are permitted to take non-alcoholic drinks and food into the areas until 04:00hrs.
39. 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 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 reconfigure 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 are no statutory appeal processes to contest a revoked licence, although the officer/authority decision can be reviewed via the Council Corporate Complaints Procedure.