



City of York Council

Pavement Cafes and Licensing Guidance

Mima Accessibility Assessment and Recommendations Report

1. Purpose

As part of the City of York Council's programme to create 'an accessible and inclusive City of York for all', Mima has been commissioned to deliver the City of York's 'Access to the Footstreets Project' across a number of different activities. Within our first workstream, focusing on pavement cafes, Mima was tasked to undertake:

- A site-visit to understand the street typology, infrastructure and locations of pavement cafes. An accessibility assessment to identify current barriers for users with physical, cognitive, sensory, temporary and situational impairments and access requirements.
- A review of the City of York Pavement Licence Guidance against best practice guidance and design standards to identify opportunities for improvement.
- Consultation with lived experience users related to the pavement cafes to help shape Mima's final recommendations to the council.

Further to this, Mima were asked to consider whether the installation of temporary ramps were an appropriate mitigation to a lack of clear width access for disabled people when pavement cafes were in place. This document outlines insights and recommendations that have been collated from these activities.

2. Background

In response to COVID-19, the pavement cafe process was deregulated by the government, with the requirement for planning permission replaced with a more streamlined process.

Pavement café licences are granted by the local authority to allow businesses to place removable furniture in parts of the highway (generally footways and/or carriageways in pedestrianised areas). Businesses that use (or propose to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence to place a pavement cafe in the adopted highway.

Under the deregulated framework, this review focuses on pavement cafés in the city centre. At the time of report creation, and to match with pedestrianised area hours, businesses are allowed to keep street furniture out on the highway between 10:30am - 5:00pm. This does not include quieter areas where adjustments have been made to promote 'access only' such as on 'Fossgate'.

By placing furniture on the highway - such as the public footpath - there are a number of factors for consideration to ensure areas around the café, and the café itself, are accessible.

The current City of York Pavement Licence Guidance is provided by City of York Council to all businesses, outlining the process through which pavement café licences will be issued in compliance with the Business and Planning Act 2020; including design requirements that should be considered to ensure the pavement cafe is accessible.

3. Findings and Recommendations

Outlined below are the findings and recommendations from Mima's accessibility assessment of York city centre and the review of the pavement cafes guidance document. This has been split into two sections according to each task for ease of reading.

Please note that this assessment refers only to the areas in the city centre of York that have pavement cafes in operation. Due to project time and co-production limitations, Mima has recruited and briefly consulted an accessibility working group over a total of two workshops. An anonymised summary of these sessions, as well as a summary of a call with representatives from RNIB who had previously contacted the council surrounding this issue, can be found in the appendix of this document.

York City Centre Pavement Cafes Accessibility Assessment (Site-visit)

Findings

Street Typology, Footpath and Carriageways:

- a. There is a variety of street typology across the city centre and in areas where pavement cafes are in operation. These range from pedestrianised streets with a level surface and no kerbs, to cobbled, uneven historic streets and one-way streets shared with vehicular traffic. This has led to some pavement cafes operating on the footway, and some on the carriageway. Access on carriageways for emergency vehicles has to be retained at all times with a minimum width of 3m, therefore not all pavement cafes can operate on the carriageway due to a lack of available clear width.
- b. Existing footways often do not provide the recommended clear width of 2000mm that would allow two wheelchair users to pass one another (see the Department for Transport's 'Inclusive Mobility' document, Sections 3 and 4) and sometimes the minimum 1500mm clear width required as a turning circle for a wheelchair user, or for a wheelchair user and ambulant person to pass one another, is not present. Whilst understandably part of the historic makeup of the area, this provides an uncertain and stress-inducing experience for mobility aid users across the City of York. Where pavement cafes further narrow and remove clear footway widths in certain areas, this negatively impacts disabled people in particular, leading to grounds for discrimination under the council's

Public Sector Equality Duty. The council must consider this in assessing the impact of pavement cafe installation.

- c. There are narrow, uneven, cambered and badly maintained footways in some places where pavement cafes are in operation. This causes difficulties for wheelchair and mobility scooter users to turn around with ease due to a lack of clear width, and for other users to navigate the streets safely and comfortably. An example of this is on 'Low Petergate'.
- d. The height of footway kerbs across the area where pavement cafes operate are diverse and vary on each road. Some of the dropped kerbs (provided as crossing points, where the kerb should be flush with the carriageway) do not comply with the maximum recommended tolerance height of 6mm.
- e. There is inconsistent provision of dropped kerbs on each road. The recommended interval for a dropped kerb (or other form of level access) is a maximum of every 100m (see the Department for Transport's 'Inclusive Mobility' document, Section 4). In previous public reports, it is noted that the council has committed to the installation of additional dropped kerbs and crossings.
- f. On Fossgate, pavement cafes are permitted to be set-up using the full width of the footway on only one side of the road, with the available corridor switching sides as required. This promotes positive access for users who are able to easily navigate between footways, but proves difficult and dangerous for those with mobility equipment and those with visual impairments, in particular. This set-up removes the ability for the latter group to be able to 'shoreline', or utilise consistent building perimeters and pavement edges for navigation purposes. It also often results in indoor access to venues themselves not being addressed, and users not being able to enter shops, bars and restaurants due to obstructing pavement cafes on the same side of the footway, and a lack of dropped kerbs onto the footway outside premises entrances.

Accessibility Reasonable Adjustment Measures:

- g. The majority of businesses provided barriers to corner off their pavement cafe, supported by tapping rails. However, there were many that did not meet the council's current design guidance for the barriers: in some cases not providing enough barriers and leaving the seating area exposed; in other cases not providing a tapping rail at the bottom of the barrier and at the correct height, or leaving barrier sheeting unanchored.

- h. We identified two businesses that provide 'premises works ramps' in front of their business. One of the ramps provided was clearly visible with good colour contrast to identify it and had been provided by the business itself, rather than the council. The other ramp was not clearly identifiable. It is important to note that ramps will not always provide reasonable access to users who require them due to steeper gradients caused from existing high kerbs, and that ramps can cause their own accessibility issues due to a lack of colour contrast for visually impaired users, and a lack of anchoring, width or strength for wheelchair, powerchair or mobility scooter users.
- i. The majority of pavement cafes provided seats that were not inclusively designed, for example lacking armrests and colour contrast, or of heights that would be inaccessible to some. Whilst amending this is the responsibility of businesses themselves, council guidance and best practice examples would be beneficial.

York City Centre Pavement Cafes Accessibility Assessment (Site-visit)

Recommendations to Improve Guidance

1. Ensure a minimum of 1500mm (1.5m) clear width is provided on Footways

In order to align with government guidance, the Department for Transport's 'Inclusive Mobility' guidance (2022), and to fundamentally provide disabled users with equitable experiences in the city centre, the council's updated guidance should ensure that the requirement to provide 1500mm (1.5m) clear width on footways is upheld when a pavement cafe licence is granted and a premises installed.

In instances where both footway and carriageway provide level surface, it would be deemed acceptable for the pavement cafe to be installed on the footway, providing:

- pavement cafes are in keeping with pedestrianised hours so that 1500mm clear width is continuously maintained and available;
- pavement cafe design provides adequate colour contrast, and barriers have correct tapping rail provision to allow safe and effective navigation for visually impaired users;
- Carriageway navigation does not result in a lesser experience for disabled users (a cobbled carriageway, for example, would create great difficulty for some).

2. Provide clear Design Guidance of Pavement Cafes to suit varied situations and environments

The newly deregulated approach to pavement cafe guidance does not cover every eventuality surrounding pavement cafe design and installation. This is particularly apparent in a historic city like York. One size won't fit all and therefore businesses need

an understanding of how to comply with accessibility requirements specific to their environment and the street they operate in.

This guidance should align with current government guidance and should have design requirements for differing pavement cafe situations, including:

- design guidance for pavement cafes operating in carriageways;
- design guidance for pavement cafes operating in pedestrianised areas;
- design guidance for pavement cafes operating on the footway;
- design guidance for pavement cafes on a corner.

Following such guidance, a practical decision-making process flow diagram and/or a template of best practice for the specific design of their premises, would enable businesses to expand or retrofit more inclusively, should pavement cafes continue to be in York's future landscape. The baseline requirements within each scenario should be particularly clear, to prevent a lack of compliance in the event of uncertainty.

These design requirements, regardless of the individual pavement cafe situation, should be supported by 'in use' guidance, as advised by the accessibility working group. It may be for example, that certain cafes comply with design guidance, but their pavement cafe becomes obstructive when in use due to a lack of consideration for table and chair placement, or similar.

- 3. Provide Advice and Support on 'How to set-up your pavement cafe barriers'** with supporting imagery in the guidance to portray both good and bad practice with empathy-building commentary and/or a captioned video on why this will be impactful on users. This could also provide an opportunity to share financial insights with businesses by utilising the Purple Pound (the spending power of disabled people and their households), and to develop an understanding and appreciation of the negative impact of an incorrectly designed and installed pavement cafe that does not comply with relevant guidance and/or promotes in-use 'spread'.

We also recommend that the City of York Council provides an initial consultation with businesses who have newly received their pavement cafe licence to test whether design guidance has been met and to further rapport between businesses, the council and customers with protected characteristics (Equality Act, 2010). The monitoring and enforcement of pavement cafe design is as important as the correct set up of these premises.

- 4. Assess and Identify Locations for more Pedestrian Dropped Kerbs and Raised Crossings**

We recommend that the council undertakes, as previously committed, an accessibility audit and wider review of all dropped kerbs and raised crossings on each street in line with guidance to ensure all opportunities to provide these are utilised where possible, and

in particular where pavement cafe licences are in operation. This should be completed as a matter of urgency.

As advised by the accessibility working group, the council should not install cobble stones as, whilst providing an historical aesthetic, these are particularly inaccessible and hazardous. Any tactile flooring provided on dropped kerbs or by raised crossings should follow design and contrasting guidance set out in the Department for Transport's 'Inclusive Mobility' document (2022).

Whilst it is noted that the council are currently trialling ramp provision between the footway and carriageway, it is recognised that temporary ramps can be exclusionary in their nature and cause accessibility issues. By ensuring a minimum provision of 1500mm (1.5m) clear width on footways in which pavement cafes are installed (recommendation 1) and committing to a wider review and installation of dropped kerbs and raised crossings (this recommendation), Mima deem temporary ramps to be unnecessary in most pavement cafe situations.

Ramps into business premises themselves should be the individual responsibility of the cafes, bars and restaurants, but council support with licensing, detailed specifications and similar is strongly recommended.

5. Provide Information on Pavement Cafes to Customers

We recommend ensuring all users have access to practical, digestible information that can help them plan and prepare for their journey into and through the city centre, particularly where pavement cafes are in operation.

This should include information on:

- Operation hours and pedestrian measures for each street
- Locations of all pavement cafes, dropped kerbs and clear width information relating to each footstreet
- Information on inclusive seating and dwell areas, subject to a further study to be undertaken by Mima in the coming months.
- Council accountability for future accessibility measures in areas that are currently difficult for those with varying impairments and access requirements to visit and/or use.

A separate website page with a dedicated accessibility guide to the city centre would be strongly recommended, and users should be able to access this both at home before visiting and when on-the-move. The council should commit to regularly monitoring this information, and updating it a minimum of every quarter.

Pavement Licence Guidance Assessment

The City of York Pavement Licences Guidance provides an overview of the Council's approach to issuing pavement cafe guidance in light of the Business and Planning Act 2020 and associated government guidance.

This guidance document outlines the process that businesses need to undertake to apply for a pavement cafe licence. Included in this guidance are a set of recommended design considerations of the street furniture that should be aligned with in order to meet the requirements to successfully obtain a pavement cafe licence, known as 'Application Requirements'. In summary this includes guidance to:

- Types of street furniture permitted for use, supported by technical guidance
- The public consultation process
- National and local conditions relating to clear route access to the premises
- Enforcement, suspension and termination conditions

Findings

As part of our activity, Mima have undertaken an initial review of the City of York Pavement Licences Guidance and identified the following opportunities for improvement:

- a. Design requirements provided should be clarified and strengthened to reflect current best practice design standards, and to suit the diversity of York's varying street typology.
- b. The consultation process mentioned in the guidance and mandated in the Business and Planning Act has a particularly short timeline and lacks clear direction on the purpose and positive benefits of consultation. It is important for the council to assess this, finding ways to better represent York-specific issues and potential solutions, and allow opportunities for the business and disability communities to engage with one another.
- c. There are currently no definitions and explanations of key terminology throughout the document, ranging from disability and accessibility related terms, through to explanation of legislation and duties.
- d. There are no supporting images throughout the document to help applicants better understand some of the requirements, as an example, for the design of a street furniture item etc.

Recommendations to Improve Guidance

1. Provide accessibility design requirements from best practice design standards

It is recommended that this guidance document includes applicable technical design requirements extracted from best practice design standards and guidance, including those outlined below:

- Inclusive Mobility Department for Transport 2021, Section 3 and Section 4
- PAS 6463:2022 Design for the mind. Neurodiversity and the built environment
- BS 8300-1:2018 Design of an accessible and inclusive built environment

Example: Design Requirements for the set-up of pavement cafe ‘Barriers’

Referencing technical design standards to supplement information in the application guide and facilitate the accessible set-up of a pavement cafe.

In this example, the information provided by City of York Council on barriers reads as follows:

‘Barriers must be placed to enclose the pavement café area. These should be stable and sturdy canvas separator on metal uprights with a tapping rail (no protruding parts, no ropes or chains, high colour contrast preferable), to help with accessibility for visually impaired highway users.’

Extract from, City of York Council, Pavement café Licence process Guidance, Page 7

This information should be supplemented with technical guidance from the **relevant** design standard. In this instance, BS:8300 and Inclusive Mobility would be applied and read as follows:

‘Outdoor refreshment areas should be contained by barriers to all sides, to ensure that moveable furniture does not spread across clear pedestrian routes of a minimum of 1500mm, causing an obstruction.

The feet or base of temporary or permanent barriers should not project into the minimum clear width of any access route. Barriers should incorporate a solid detectable rail or edge not higher than 150 mm above ground level to allow detection for people who are blind or partially sighted using a white cane.

The gap in the barriers which people use to access the refreshment area should be at least 1000 mm wide. Barriers should contrast visually with the background against which they are seen.’

Extract from, BS 8300 1:2018, Section 10.5 and information used from Inclusive Mobility (2022).

Best practice design requirements from relevant standards should be mapped consistently for:

- All furniture items such as ‘counters’, ‘stalls’, ‘barriers’, ‘seating’, and include information on heights, widths, appropriate colour contrast etc.

- National and local conditions for clear routes of access

It is also recommended that a step-by-step chronological guide is provided on the setting up of pavement cafes, in order to provide clarity related to timings, but also the importance of order for utmost access and safety for all (i.e. installing barriers first, not tables and chairs).

2. Provide detailed guidance on the Equality Act, 2010 and reasonable adjustments

It is recommended that the guidance is updated to include a full overview of the Equality Act, 2010, including a list of each protected characteristic, in order to help applicants understand their duties, 'how' and 'why' to implement reasonable adjustments.

3. Provide a glossary and explanation of key terms

It is recommended that a full glossary of terms are provided for all terminology that could be misinterpreted. For example, defining terms such as 'accessibility', 'disability', 'safety', 'tapping rail', 'legible', 'clear width' etc.

This will help applicants better understand and familiarise themselves with the terminology, building their confidence and empathy when implementing accessible pavement cafes and street furniture.

4. Provide detailed guidance on 'how to consult and engage' with the public

It is recommended that a detailed approach on how to engage with the public and lived experience users is shared within the guidance document. This should be supplemented with a list of organisations with disabled or aligned members willing to engage with the consultation process. Whilst the City of York Council is mandated to follow the seven day consultation period and the seven day determination period, one potential solution for more aspirational and equitable consultation would be for the council to host monthly 'drop in' sessions for businesses to engage with various York groups and communities. This could be surrounding the pavement cafe situation and other issues requiring further awareness and collaboration for a positive outcome. This would also support the raising of concerns surrounding existing cafe licences that need to be reviewed.

It is strongly recommended that, if utilised within consultation, lived experience groups and communities are rightfully offered honorariums for their time and expertise.

5. Better explanation as to 'why' accessibility is important, and the positive impact this brings

In order for businesses to better meet the needs of a diverse range of users, it is recommended that each 'Application Requirement' is supported with a commentary on the benefits of designing with accessibility in mind, and the consequences of not doing so. Images that help people to understand 'why' accessibility matters and how

businesses can contribute to improved accessibility within York would also be recommended.

6. Provide differentiated guidance for differentiated circumstances

It is important for each individual business to understand and appreciate what they need to do to increase the accessibility of their environment and services, whether this relates to ensuring their barrier design aligns with current guidance; their need to ensure dropped kerbs remain available with pavement cafe installation; or the fact that they are unable to erect a pavement cafe due to their footway/c carriageway needing to be kept clear. We would recommend that the council creates 'case studies' for each scenario so businesses can easily focus on information relevant to them, and therefore be more likely to comply.

Appendix 1: Accessibility Working Group - Workshop One Summary

Tuesday 25th October, 1-3pm

City of York Council - Accessibility Working Group

Workshop 1: Pavement Cafes

Agenda:

1-1:15pm: Introductions of facilitators and attendees.

1:15-1:30pm: Context provision of current pavement cafes situation and details following site visit (visual and audio presentation).

1:30-2:00pm: Lived experience review, discussion and feedback - current issues regarding pavement cafes, both in and outside of York.

Feedback to focus on the following areas:

- Clear pavement widths
- Accessible dropped kerbs, their availability and placement relating to turning circles and pavement cafes (and mitigations relating to dropped kerbs).
- The correct design of pavement cafe perimeters/barriers
- Pavement cafes within pedestrianised areas
- Pavement cafe locations to ensure ease of avoidance and access in safety

2:00-2:20pm: Solution-focused opportunity - what would the ideal scenarios be for locals and tourists with specific impairments? (Pan-disability focus on mobility, sensory and cognitive access requirements). Ability for attendees to challenge one another and together, come to conclusions that suit most.

2:20-2:50pm: Mima to share their initial, general recommendations with the group, receive feedback and agree a forward direction towards November's meeting.

2:50-3:00pm: wrap up, thanks, and close.

Pavement Cafes and current accessibility issues:

Participants all introduced themselves, their roles and lived experience of disability and other protected characteristics. Those local to York gave context relating to the existing issues surrounding York City Centre and the current pavement cafes situation, including:

- Narrow footways, often not providing the 1500mm clear width, as recommended in the Department for Transport's 'Inclusive Mobility' guidance (2022).
- A lack of access into the city centre for blue badge holders, in particular, due to removal of accessible parking provision and the implementation of pedestrianised hours (currently 10:30am to 5pm, until end of October 2022. Will revert to 8pm from November 2022 due to Christmas shopping demand). For many users, this has meant that daily necessities such as post office and bank access have been inaccessible as they have been shut before blue badge holders have been able to drive there. This issue will be emphasised with later pedestrianised hours.
- Whilst pavement cafes can create a pleasant atmosphere within the city, they exacerbate the difficulty of getting around, especially for wheelchair users, visually impaired people and those with mobility equipment who are having to navigate broken paving stones, high kerbs, narrow footways and regular crowds without the introduction of pavement cafes. This is not a situation specific to York and correct enforcement of appropriate, accessible arrangements have been possible and successful elsewhere in UK towns and cities.
- Several disability groups, representing those with differing impairments, have now joined to create 'Reverse the Ban' - a movement originally set up to challenge the council's decision related to blue badge parking but now commenting on wider York issues related to accessibility. Make it York is another organisation focused on improving issues, particularly as they relate to relationships between disabled people and business owners.
- Pavement cafes in certain areas obstruct the full width of footways, cause danger to locals and visitors alike, and remove potential access to nearby shops and restaurants as dropped kerbs to avoid the cafe and return to the footway, or alternative means of access, are not present.
- Working group members have had to take matters into their own hands, removing pavement cafe barriers that fully obstruct safe access. This leads to altercations with business owners who state that the council have approved a certain measure, or denied an alternative.
- Local members stated that the council does not have a full understanding of their duty under the Equality Act (2010) and their need for 'due regard' to those they are serving.
- Local members stated that York's tourist economy is regularly prioritised over city residents

- Working Group participants asked if pavement cafe set-ups were being regularly and correctly monitored, enforced and reviewed.
- One working group participant suggested that businesses may benefit from some 'in use' guidance, particularly as there have been instances where the design and practical use of pavement cafes have not aligned with one another (relating to, for example, chairs and tables being inside a barrier when not in use, but protruding and causing hazard when in use).
- One working group participant suggested that guidance relating to corner pavement cafes may be useful as some cafes are installed directly as locals and visitors turn corners, not allowing for familiarisation/decompression/ample time to change direction before a hazard is present.
- One working group participant stated that the correct visibility of street furniture is imperative, especially when crowds are present and social distancing is still necessary for many. For visually impaired people (of which there are an estimated 2 million in the UK, and 57 new registers per day), the amount of variables that impair safety is otherwise too great and, due to this, it is estimated that up to 20% of severely sight impaired users have never travelled independently. Economic revival is important, but keeping people safe by making 'sensible, insightful decisions' is an absolute must.

Feedback on Mima's updated guidance recommendations to date:

1. Provide clear Design Guidance of Pavement Cafes to suit varied street typology

Feedback: this is positive but aspirational and requires a level of sophistication - recommendation for the absolute minimum standards to be emphasised to prevent issues with 'scaling down' should businesses be overwhelmed.

Importance of ensuring this guidance is practical, particularly as differing premises may have differing environments and requirements.

Guidance should allow for flexibility with carriageway cafes, should blue badge parking ban be reversed.

2. Provide Advice and Support on 'How to set-up your pavement cafe barriers'

Feedback: recommendation well-received. This could be bolstered by providing a video or similar (with captions, etc) from local users that teaches the importance, and impact, of the correct setting-up of pavement cafes, and the business case with models such as the Purple Pound. This has now been added to Mima's recommendation. However, it was noted in the meeting that there will be a limit to business owner tolerance and the amount of information shared should not overwhelm.

It was noted that it is just as important for pavement cafe design to be monitored and enforced as set-up correctly, and this has been reflected in updated recommendations.

3. Ensure all Businesses provide Ramps (short and longer term solutions)

Mima were asked to consider whether the installation of temporary ramps would be an appropriate mitigation to a lack of clear width access for disabled people when pavement cafes were in place. This issue was discussed during the workshop, with varying levels of positive and negative feedback.

4. Assess and Identify Locations for more Pedestrian Dropped Kerbs

Feedback: there is a clear need for a full review of dropped kerbs within the city centre, and the council should be deterred from installing metal edged kerbs and cobbled stones as, although they maintain an historic aesthetic, they are both inaccessible and dangerous.

5. Provide Information on Pavement Cafes to Users

Feedback: recommendation well-received but deemed particularly aspirational. Participants were concerned that all recommendations need to be practically understood, implemented and utilised to become effective and successful. The distinct need for pre-information for visitors, in particular, was however noted and supported.

Mima's proposed recommendations for the structure and content of the guidance document itself were also well-received by all:

1. Provide accessibility design requirements from best practice design standards
2. Provide detailed guidance on the Equality Act, 2010 and reasonable adjustments
3. Provide a glossary and explanation of key terms
4. Provide detailed guidance on 'how to consult and engage' with the public
5. Better explanation as to 'why' accessibility is important, and the positive impact this brings
6. Provide differentiated guidance for differentiated circumstances

All participants agreed that there is a distinct need for a policy statement surrounding the importance of consultation and engagement, if one is not currently in existence at the council. Participants noted that the discussions held in the workshop supported the need for a dedicated council Access Officer.

Appendix 2: Meeting with RNIB - Summary

Thursday 3rd November, 9-10am

Meeting with RNIB - Summary

Pavement Cafes

RNIB's general stance is that pavement cafes should not exist due to the dangerous impact they can have on blind and partially sighted people, as well as those with other impairments and accessibility requirements. However, the organisation has not suggested to the City of York Council that all pavement cafes should be completely removed, but rather that their design and use should ensure the maintaining of 1500mm clear width on the footways. RNIB representatives stated that it is also important to be practical as some visually impaired people with companions, assistance dogs and canes require more than this.

As York pavement cafe licences expired in September 2022, RNIB asked the City of York Council to not renew pavement cafes that obstructed minimum clear widths on footstreets. RNIB noted that some cafe licences have not been renewed following this period.

RNIB conducted their own site visit to York in which they focused on the Fossgate area, where cafes do obstruct the clear width of the entire footway on one side of the street.

It was noted that the council have a duty to keep highways free of obstruction unless there is a lawful excuse, and that the Business and Planning Act was introduced to provide a framework for lawful excuses during the pandemic and is now to be extended. RNIB were closely involved with this Act, and assisted with the drafting of guidance.

As part of the Act, users must be provided with 'normal access' to premises, so pavement cafes that block this (and provide no alternative) breach the Act. There is also a 'no obstruction' condition, meaning that users must be able to pass along the relevant highway. A breach is also present where this is not possible.

The council also has a duty to eliminate discrimination and foster good relations under the Equality Act and their Public Sector Equality Duty - something that the RNIB does not believe is being achieved with the obstruction issues caused by pavement cafes.

An inconsistent design of pavement cafes, including a lack of barriers, tapping rails and colour contrast and a 'spread' of facility when in use (sometimes throughout the whole width of the footway and into the carriageway itself) has negatively affected blind and partially sighted people's ability to effectively navigate footways, whether they are residents or visitors of York.

Cafes that are 'cluttering' the environment and making navigation difficult when not in use were also discussed, and RNIB representatives questioned why licences have been renewed for the winter months, in particular, when outdoor cafes are rarely utilised at this time of year.

Needing to cross the road several times and effectively 'Zig-zag' throughout Fossgate was noted as incredibly difficult and dangerous for visually impaired people. The RNIB site visit did not find that Fossgate had 'low flow' traffic as the council had advised was the case. RNIB representatives also noted that it was impossible to familiarise themselves with the geography and set-up of the street due to continual crossing, which is naturally a huge part of successful navigation for visually impaired users.

The emotional and psychological impact that a lack of physical access can cause was also noted by RNIB representatives. They stated that it is not unusual for blind and partially sighted users to 'start self-excluding' due to a lack of confidence surrounding successful and safe navigation when out and about. There is a heightened embarrassment of knocking into people, spilling food and drink, and receiving negative attitudinal reactions, particularly if the impairment is not immediately visible. It was also discussed that there can be issues with guide dogs getting distracted or refusing to work if there are obstructions they don't feel they can navigate. When pavement cafe set-ups remove the ability for visually impaired users to shoreline either against the building perimeter or the pavement edge, this also adds difficulty and danger to successful navigation, and RNIB representatives questioned how newly blind and partially sighted people were being trained to use their canes throughout York city centre.

The council's recent trial of ramp provision was also discussed, with RNIB stating they had not been consulted about this or received a reply to their request for further information. RNIB representatives stated that ramp provision does not overcome footway obstruction or their objections, and in fact causes additional visual obstruction, leading to a lack of solution, whether temporary or permanent. It was noted that temporary ramps could be moved or misplaced, and high visual contrast will not be beneficial to blind users.

Discussions were also had regarding the necessary 'review process' for pavement cafe licences and, with the understanding that sudden changes due to the pandemic resulted in a lack of review process, one potential solution to encouraging engagement between affected groups and the ability to challenge licences was suggested by RNIB representatives. They noted that requiring an image of the applied-for cafe layout within business windows, rather than simply text, would enable residents, visitors and councillors to see and be easily able to monitor and enforce what is licensed and what is not. It was noted that text descriptions are difficult to object to if not visual of design and impact is provided. This information (with description and alt text) would also need to be provided online and in an accessible format for blind and partially sighted users.

The meeting came to a close with all parties agreeing that, ultimately, disabled people want to support businesses by being able to access them, and the current pavement cafe situation is preventing this. An accessible solution to the pavement cafe situation would increase footfall and revenue but, in order for that to happen, pavement cafes need to comply with guidance, and be successfully monitored and managed. In effect, a robust policy needs to exist, but so does its regular, strict enforcement.

It was stated by RNIB that there is a current confidence issue surrounding council measurement of the extent to which pavement cafes are supporting businesses financially, particularly as this is no longer a temporary solution.

Appendix 3: Accessibility Working Group - Workshop Two Summary

Monday 7th November, 1-3pm

City of York Council - Accessibility Working Group

Workshop 2: Pavement Cafes

Agenda:

1-1:20pm: Recap of workshop 1 and participant introductions, Mima update on work completed thus far.

1:20-2pm: Review of proposed recommendations to date (both in terms of guidance content and document structure) and allowance for group discussion, acknowledging time was short for this in workshop 1.

2-2:30pm: Wider discussions on solution-focused opportunities with a pan-disability focus relating to the pavement cafe situation - is there anything we've missed or anything else you'd like to see added to the recommendations report?

2:30-2:50pm: Discussions relating to future CYC workstreams and involvement.

2:50-3:00pm: wrap up, thanks, and close.

Workshop Two Overview:

Workshop 2 was recorded, and participant introductions were made.

Context to Workshop 1 was provided for the benefit of one new accessibility working group member, and distinction was made between Workshop 1 as a workshop for discussing problems and issues, and Workshop 2 being a solutions-focused session.

Mima provided an update to the accessibility group members' questioning relating to co-production of the recommendations report. The council's response of a third party authorship preference and agreement of anonymising participant engagement as these participants have

been unable to co-produce guidance and challenge recommendations and conclusions was shared.

Mima shared the agenda for the workshop, and that a discussion had been recently had with RNIB relating to their involvement surrounding the pavement cafes situation.

Feedback on Mima's updated guidance recommendations to date:

1. Provide clear Design Guidance of Pavement Cafes to suit varied situations and environments

Several group members challenged this guidance point as they stated that specific cafe design guidance is already in the government guidance (updated July 2022) and is not currently being complied with, so it is unlikely a duplication of similar copy by the council will suddenly urge businesses to align with this. It was discussed that there should not be a 'reinventing of the wheel' as this takes time and resources and is unlikely to have a differentiating impact to existing government guidance.

However, it was noted that Mima's remit and scope is to recommend changes to council-specific guidance and that government guidance recommends that individual councils create their own specific guidance. Therefore, there has to be a starting point provided relating to pavement cafe design requirements and Mima has retained this recommendation.

It was noted by members that Hull provides enforcement officers that remove licences for cafes that do not comply with guidance - and they had 100% compliance almost overnight. But, as York did not have such strict enforcement initially, there is understandable hostility between businesses who need to earn money, and disability groups, who need and have the right to navigate their local environments.

Members noted that it is clear outdoor dining will be in the future of many towns and cities all over the UK but not to the detriment of access to disabled people, and this has been clearly signalled by the updating of the government guidance.

The 'no obstruction' rule of 1500mm within the government guidance (and within the Department for Transport's 'Inclusive Mobility' guidance) was also discussed, with members being incredibly frustrated that this is regularly ignored by local businesses who set up pavement cafes, and there appears to be little enforcement from the council to change this. Mima has now added this 1500mm clear width recommendation as the first in their report.

Fossgate was mentioned as an area with unacceptable and non-compliant pavement cafe design, as disabled people are put at risk by needing to cross the road several times.

Following this, Mima asked the group if there was anything they'd like to see in the council's own guidance document that goes above and beyond the government guidance. Several members noted that they did not know whether current guidance is currently enforceable, or can be adopted or declined, and were also unsure of Mima's precise remit and were conscious of Mima not overstepping parameters.

Mima commented on the extension and now permanence of the pavement cafes government guidance, arising from the Business and Planning Act 2020. It was discussed that this guidance is enforceable and is currently being breached in places. Mima noted that their remit is to provide a recommendations report relating to the updating of York council's current guidance document relating to pavement cafes, not to provide the council with a historical perspective, or audit of compliance. Mima also noted that, whilst the inclusion of specific cafe design requirements in specific environments within the council guidance will not ensure compliance, there are current gaps in the council's guidance that must be addressed, specifically if businesses are to read and relate to local guidance. One member of the working group also noted that testing of the legalities of the guidance would come under the council's Public Sector Equality Duty and therefore costly judicial review would be required, which few disabled people will have appropriate funding for.

Group members strongly recommended that any opportunities for business 'get out clauses' were removed and the need for baseline requirements were made clear in Mima's recommendations report. Group members had the opportunity to review Mima's suggested wording of the design guidance recommendation, and made recommendations to tighten this copy. For example, removing the term 'encourage', changing the term 'consider' to 'comply', and amending terms such as 'scaling down' to clearer statements explaining the need to prevent a lack of compliance.

One working group member noted that pavement cafes that are installed into the carriageway further remove the opportunity for blue badge holders to park in the carriageway, and that this is currently undergoing legal challenge due to discrimination.

One working group member also discussed the lack of information available on cafe licences to the public, and how this exacerbates a lack of trust in, and honest engagement with, the council.

2. Provide Advice and Support on 'How to set-up your pavement cafe barriers'

Mima read out the above recommendation and related proposed text to the group, giving members an opportunity to agree, challenge and/or make recommendations for amendments. The phrase 'models of disability' was rightly challenged as being both vague and complex, and

Mima made amendments to this, as well as adding a short description for the Purple Pound. The recommendation itself was well-received and noted as 'great and aspirational' by one member. Whilst it was noted that this may be too aspirational for some businesses, particularly with current financial and resourcing pressures, it was agreed that this should not deter from the guidance being written in a way that supports equitable access for disabled people.

One working group member questioned whether businesses would and should be expected to read both the government and York council guidance and whether this will further discourage engagement and compliance due to time and resource. It was generally agreed that, if access to both documents is required, they should align with one another and reinforce, rather than differentiate between, requirements.

The issue of pavement cafe 'spread' was also discussed, alongside a lack of enforcement. This was addressed in Mima's updated recommendation.

3. Ensure all Businesses provide Ramps (short and longer term solutions)

This recommendation caused divide within the group, with some members stating that ramps are simply a temporary measure and inaccessible to many - particularly blind and partially sighted people and powerchair users - in their design and use, and others noting that there are areas in York in which temporary ramps would be particularly helpful to users with certain impairments and access requirements.

One of the main concerns relating to this recommendation was that it allowed for the 'no obstruction rule' and minimum clear width of 1500mm on the footways not to be enforced. Mima amended the terminology surrounding the recommendation to ensure it could not be misinterpreted as such, as a ramp installation recommendation is intended to be an addition to this enforcement, not a replacement for it.

It was discussed that temporary ramps can cause accessibility issues and be exclusionary in their nature and that this should be made apparent in Mima's report. There was understandably a fear from the working group that temporary measures such as ramp installations would soon become a permanent measure with little to no improvement.

To note: Following these discussions and the creation of Mima's primary recommendation in this report to ensure a 1500mm clear width is provided on all footways, this specific recommendation has been removed. It is now noted under recommendation number 4 in the report: 'Assess and Identify Locations for more Pedestrian Dropped Kerbs and Raised Crossings'.

4. Assess and Identify Locations for more Pedestrian Dropped Kerbs

One working group member had a preference to utilise this recommendation and remove the recommendation that comments on the use of temporary ramps. Other members noted that ramp installation would be useful in certain areas of York, particularly as a temporary measure, and therefore did not recommend the abandonment of this recommendation altogether. It was urged that ramps should only be utilised where practicable, and the initial audit of dropped kerbs should be prioritised as a recommendation.

Clarification was provided by the working group relating to the metal edged kerbs and this has been removed from Mima's report.

A working group member noted that recent tactile flooring installed in York is grey and of the incorrect design, rather than contrasting yellow or red - depending on purpose - as stated in Inclusive Mobility guidance (2022). The need for correctly contrasting tactile flooring has been added to Mima's recommendation.

5. Provide Information on Pavement Cafes to Users

This recommendation was generally well-received, although one working group member challenged it as putting the onus of responsibility on disabled people to look up certain information prior to visit. Whilst digital exclusion and emotional labour are hugely important factors that Mima do not want to exaggerate or encourage in any way, it was noted that information related to accessibility that could be viewed in advance would be useful to many, particularly disabled people who are visiting York for the first time or who are unfamiliar with the area. Members supported the need for the council to provide honest information on their accessibility journey, and to be accountable for updates via such information.

It was noted towards the end of the workshop that, due to a lack of co-production within this project and existing issues with continued consultation surrounding the pavement cafes situation, working group members may not support Mima's recommendations when they are presented to council.