

**City of York Council**  
**Equalities Impact Assessment**

**Who is submitting the proposal?**

|   |  |                     |                          |
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| <b>Directorate:</b>                                       | Place  |                     |                          |
| <b>Service Area:</b>                                      | Transport  |                     |                          |
| <b>Name of the proposal :</b>                             | Review of pavement café licensing process and guidance   |                     |                          |
| <b>Lead officer:</b>                                      | Helene Vergereau, Head of Highway Access and Development |                     |                          |
| <b>Date assessment completed:</b>                         | XXXXXX   |                     |                          |
| <b>Names of those who contributed to the assessment :</b> |  |                     |                          |
| <b>Name</b>   | <b>Job title</b>   | <b>Organisation</b> | <b>Area of expertise</b> |
| Helene Vergereau  | Head of Highway Access and Development                   | CYC                 | Transport and highways   |
| Darren Hobson   | Traffic Management Team Leader                           | CYC                 | Transport and highways   |
| Annemarie Howarth   | Traffic Projects Officer                                 | CYC                 | Transport and highways   |
| Others to be listed here                                  |  |                     |                          |
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## Step 1 – Aims and intended outcomes

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| 1.1 | <b>What is the purpose of the proposal?</b><br>Please explain your proposal in Plain English avoiding acronyms and jargon.   |
|     | <p>The proposal is to review the Council’s pavement café licensing process and guidance following the commencement of the pavement licensing provisions laid out in the Levelling Up and Regeneration Act 2023. The recommended options are:</p> <ul style="list-style-type: none"><li>• To note the legislative changes and the changes to the fees approved by Full Council in February 2024</li><li>• To recommend the following changes to the local guidance to the Licensing Committee:<ul style="list-style-type: none"><li>○ Continue to implement the local guidance where a minimum available width of 1.5m is generally required on footways (with an exception for level surface streets in the footstreets area, where cafes can be licensed to occupy the full width of a footway during pedestrianised hours);</li><li>○ Applications to be treated as new licence applications (£500) where there is a different licence holder, different premises and/or different terms;</li><li>○ Update the guidance to state that where internal seating is provided, toilets should be available for customers. Exceptions can be made for premises which serve drinks and food as take away premises, without internal seating and without the ability to provide customer toilets.</li></ul></li></ul> <p>The report considers options to regularise pavement cafes and other furniture and stalls operating on privately maintained highways as the Levelling Up and Regeneration Act 2023 implements a permanent change to the licensing regime.</p> <p>The report also acknowledges and considers options to address the concerns raised by a petition titled “Support Outdoor Dining in York”, which was presented to Full Council on 21 March 2024. The recommended option is to note the concerns raised by the petition but decline the request to reinstate pavement cafes on the corridors where Blue Badge vehicular access is permitted as this would conflict with Blue Badge holders’ access requirements.</p> |

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| <b>1.2</b> | <b>Are there any external considerations?</b> (Legislation/government directive/codes of practice etc.)  |
|            | <p>Levelling Up and Regeneration Act 2023, Business and Planning Act 2020, Part 7A of the Highways Act 1980; Equality Act 2010</p> <p>Pavement licences: guidance published by the Department for Levelling Up, Housing &amp; Communities (available here: <a href="http://www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance">www.gov.uk/government/publications/pavement-licences-guidance/pavement-licences-guidance</a>)</p> <p>Inclusive mobility: making transport accessible for passengers and pedestrians, by the Department for Transport (available here: <a href="http://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians">www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians</a>)</p> <p>BS 8300-1:2018 Design of an accessible and inclusive built environment</p> <p>Protect Duty - draft Terrorism (Protection of Premises) Bill</p> |
| <b>1.3</b> | <b>Who are the stakeholders and what are their interests?</b>  |
|            | <p>All highway users (residents and visitors), including people with protected characteristics</p> <p>Blue Badge holders accessing the city centre with a vehicle</p> <p>Hospitality businesses which hold a pavement café licence or may apply in the future (including those which have been using privately maintained highway areas without a licence historically), their staff and customers (including people with protected characteristics)</p> <p>Businesses and residents in areas where pavement café licences are issued</p>  |
| <b>1.4</b> | <b>What results/outcomes do we want to achieve and for whom?</b> This section should explain what outcomes you want to achieve for service users, staff and/or the wider community. Demonstrate how the proposal links to the Council Plan (2023-27) and other corporate strategies and plans.   |

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|  | <p>The proposals aim to implement the changes to pavement café licensing brought by the new legislation and update the local pavement café licensing guidance and process. The report also aims to regularise furniture and similar uses in privately maintained highway areas as many of them have not been licensed historically.</p> <p>The proposals relate to the Council Plan for 2023-27 commitments, specifically:</p> <p>a) Equalities and Human Rights, which states <i>“We will create opportunities for all, providing equal opportunity and balancing the human rights of everyone to ensure residents and visitors alike can benefit from the city and its strengths”</i>; and</p> <p>b) Health, which states: <i>“We will improve health and wellbeing and reduce health inequalities, taking a Health in All Policies approach, with good education, jobs, travel, housing, better access to health and social care services and environmental sustainability. We will achieve better outcomes by targeting areas of deprivation, aiming to level opportunity across the city”</i>.</p> <p>They also relate to the Council’s “My City Centre Strategy” (2021-2031) which aims to <i>“support outdoor eating and café culture in the city centre”</i> (objective 3C) and to <i>“improve accessibility through a wide range of measures including more dropped kerbs, improved surfaces and seating and better facilities for disabled people”</i> (objective 6D).</p> |
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## Step 2 – Gathering the information and feedback

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| <b>2.1</b> | <b>What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights?</b> Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc. |  |
|            | <b>Source of data/supporting evidence</b>  | <b>Reason for using</b>  |
|            | Feedback received through the existing licensing process   | The team licensing pavement cafes has received considerable amounts of feedback from a wide range of people since the temporary licensing regime was first put in place in 2020. This includes feedback from people with protected characteristics or groups representing such |

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|  | <p>communities as well as feedback from businesses and other stakeholders. This feedback has been used to inform the proposals.</p>   |
| <p>Consultation feedback gathered by CYC and consultants in 2022-24</p>  | <p>The most recent consultation on this subject has been carried out by consultants Mima who were appointed as independent access consultants by the Council to carry out a series of workshops in March and May 2024 for York residents and city centre businesses. The aim of the research was to:</p> <ul style="list-style-type: none"> <li>a) Understand what short-term improvements could be made to improve city centre access;</li> <li>b) Review the process to reinstate Blue Badge holder access in the city centre and provide recommendations for improvement;</li> <li>c) Identify longer term options to make the city centre more accessible.</li> </ul> <p>Additional consultation feedback has been considered including: the Blue Badge Postcard Survey, results from the online Blue Badge access consultation Phase 1 and Phase 2, and data from the Local Transport Strategy consultation.</p> |
| <p>Evidence gathered by the access consultants for the last review of the local licensing guidance and process (the consultant’s report was published for the Executive decision session on 22 November 2022 – see Annex A).</p> | <p>In 2022, the consultants undertook a site visit and organised two panel discussions with disabled people, which informed their recommendations.</p>  |
| <p>Surveys and traffic data (where available)</p>  | <p>Provides data on usage level, reasons for access, etc</p>  |

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| 2.1   | <p><b>What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights?</b> Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc.</p>  |
|   | <ul style="list-style-type: none"> <li>• Footstreets and Blue Badge Parking Survey 2020 (<a href="https://data.yorkopendata.org/dataset/footstreets-and-blue-badge-parking-survey-2020">https://data.yorkopendata.org/dataset/footstreets-and-blue-badge-parking-survey-2020</a>)</li> <li>• Blue Badge access consultation Phase 1 (<a href="http://www.data.gov.uk/dataset/46baba66-b35a-428a-95b4-be3ef8c4e6d2/blue-badge-access-consultation-phase-1">www.data.gov.uk/dataset/46baba66-b35a-428a-95b4-be3ef8c4e6d2/blue-badge-access-consultation-phase-1</a>)</li> <li>• Blue Badge City Centre Access Points Usage (<a href="http://www.data.gov.uk/dataset/ff581ba6-3a8f-43b2-ba37-cf4eca818791/blue-badge-city-centre-access-points-usage">www.data.gov.uk/dataset/ff581ba6-3a8f-43b2-ba37-cf4eca818791/blue-badge-city-centre-access-points-usage</a>)</li> </ul> |
| Research papers, published evidence and news items on the impact of cafes and street furniture on accessibility | <p>Research and evidence available online, including publications such as:</p> <ul style="list-style-type: none"> <li>• “Who put that there! The barriers to blind and partially sighted people getting out and about”, RNIB</li> <li>• “Evaluating the impact of the introduction of pavement café licensing on the mobility of disabled people and older people in Northern Ireland”, IMTAC</li> <li>• UK Disability Survey research report, June 2021</li> <li>• The path to inclusive footways, Sustrans and Transport for All, commissioned by the LGA, February 2024</li> <li>• Disabled Citizens’ Inquiry, Sustrans, February 2023</li> </ul>   |
| My City Centre consultation   | <p>A wide-ranging consultation and engagement exercise was carried out to develop the vision. Information available here: <a href="http://www.york.gov.uk/city-centre-york-6/city-centre-yorkyouve-told-us-far">www.york.gov.uk/city-centre-york-6/city-centre-yorkyouve-told-us-far</a> and reports published with the 18/11/2021 Executive decision to adopt the “My City Centre Strategic Vision”, for example, Annex 4, page 29</p>  |

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| <b>2.1</b> | <b>What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights?</b> Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc. |
|            | <a href="https://democracy.york.gov.uk/ieDecisionDetails.aspx?AllId=60466">https://democracy.york.gov.uk/ieDecisionDetails.aspx?AllId=60466</a>  |

### Step 3 – Gaps in data and knowledge

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| 3.1   | <b>What are the main gaps in information and understanding of the impact of your proposal? Please indicate how any gaps will be dealt with.</b> |   |
| <b>Gaps in data or knowledge</b>  |   | <b>Action to deal with this</b>   |
| Numbers and locations of cafes and other uses in privately maintained highway areas |   | Some areas have already been identified but others will be identified by CYC teams as the implementation progresses. Impacts to be reviewed when additional areas are identified. |

### Step 4 – Analysing the impacts or effects.

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| 4.1 | <b>Please consider what the evidence tells you about the likely impact (positive or negative) on people sharing a protected characteristic, i.e. how significant could the impacts be if we did not make any adjustments?</b> Remember the duty is also positive – so please identify where the proposal offers opportunities to promote equality and/or foster good relations. |
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| <b>Equality Groups and Human Rights</b> | <b>Key Findings/Impacts</b>   | <b>Positive (+)<br/>Negative (-)<br/>Neutral (0)</b>                      | <b>High (H)<br/>Medium (M)<br/>Low (L)</b> |
|---|---|---|--|
| <b>Age</b>                              | Impacts identified for older people are similar to those described under the Disability category below. This is because older people are more likely to live with one or more health condition or illness reducing their ability to carry out day-to-day activities.<br>For children, the impacts identified are similar to those identified under the Disability category below, when considering access for small children and their carers using | Mainly positive impacts identified<br>Limited negative impacts identified | Medium                                     |



| Equality Groups and Human Rights | Key Findings/Impacts  | Positive (+)<br>Negative (-)<br>Neutral (0)                               | High (H)<br>Medium (M)<br>Low (L) |
|----------------------------------|---|---|-----------------------------------|
|                                  | prams and/or pushchairs (where dropped kerbs or raised crossing are required or preferred).   |   |                                   |
| <b>Disability</b>                | <p><b>Changes to consultation period from 7 days to 14 days</b> – This is a legislative change requiring the local guidance to be updated. This change should have a positive impact for disabled people and groups representing them as it will give more time for individuals and groups to raise concerns with or object to pavement café licence applications.</p> <p><b>Continued application of the 1.5m available width rule on footways</b> (except for level surface streets in the footstreets area, where cafes can be licensed to occupy the full width of a footway during pedestrianised hours) - This had generally been identified as a sufficient minimum width to enable disabled people to use the footways whilst providing some space for pavement cafes through the consultation and consultant’s recommendation when the local guidance was last updated (documents are available here, under item 48: <a href="https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&amp;MId=13292">https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&amp;MId=13292</a>).</p> <p>Feedback from disabled people on the provision of pavement cafés presents a range of views. Some disabled people or groups express the view that footways should be clear of all furniture, whilst others support café licensing where a minimum of 1.5m remains available for people to get past. Some disabled people also identify some benefits from</p> | Mainly positive impacts identified<br>Limited negative impacts identified | Medium                            |

| Equality Groups and Human Rights | Key Findings/Impacts  | Positive (+)<br>Negative (-)<br>Neutral (0) | High (H)<br>Medium (M)<br>Low (L) |
|----------------------------------|---|---|-----------------------------------|
|                                  | <p>pavement cafes for those who prefer to sit outside or want to eat/drink at a venue which would otherwise have been inaccessible to them (for example for historic buildings with stepped access which are quite common in York).<br/>When the footstreets are busy, wheelchair and mobility aid users may be delayed on their journey as they may have to wait to get past a licensed area where the available width of the footway is reduced to 1.5m.</p> <p><b>Clarification of permitted furniture and changes to enforcement</b> – These are legislative changes requiring the local guidance to be updated. These changes should have a positive impact for disabled people as this clarifies that A-boards are not included in the list of furniture which can be licensed through this regime. A-boards are often identified as a significant obstacle by disabled people and groups representing them. The changes to Council enforcement powers should also have a positive impact for disabled people in principle although they will be difficult to use in practice so compliance will probably not improve because of the additional powers provided through the legislation.</p> <p><b>Regularising pavement cafes, stalls, and similar uses on privately maintained highways</b> – This will result in permitted furniture, stalls (and other similar obstructions) being licensed only if they meet the conditions set by local</p> |   |                                   |

| Equality Groups and Human Rights | Key Findings/Impacts  | Positive (+)<br>Negative (-)<br>Neutral (0) | High (H)<br>Medium (M)<br>Low (L) |
|----------------------------------|---|---|-----------------------------------|
|                                  | <p>and national guidance. This includes a minimum 1.5m corridor available on footways, barriers set up correctly and with a tapping rial, etc. This should have a positive impact for disabled people. It is possible that some businesses which currently use outdoor highway areas may not be able to continue to do so if they cannot gain a licence. In some cases, this might have a negative impact on some disabled customers who may not be able to gain access to the premises (for example due to stepped access) but were able to access the goods/services sold when furniture or stalls were provided outside.</p> <p><b>Response to the petition titled “Support Outdoor Dining in York”</b> – The recommended option is to decline the request to reinstate pavement cafes on the corridors where Blue Badge vehicular access is permitted as this would conflict with Blue Badge holders’ access requirements. This option has a positive impact on Blue Badge holder’s access to the city centre as it ensures that areas which are wide enough for vehicles carrying Blue Badge holders to park on double yellow lines (or in marked bays where available) remain available for parking during the day. This enables Blue Badge holder vehicles to park as close as possible to the city centre and the shops and services that they are accessing.</p> |   |                                   |

| <b>Equality Groups and Human Rights</b> | <b>Key Findings/Impacts</b>  | <b>Positive (+)<br/>Negative (-)<br/>Neutral (0)</b>                      | <b>High (H)<br/>Medium (M)<br/>Low (L)</b> |
|---|--|---|--|
|   | For disabled people who enjoyed using the pavement cafes in the locations where these have now been removed, this option has a negative impact as these customers may not be able to access these hospitality businesses any longer and do not have the option of seating outside.   |   |  |
| <b>Gender</b>                           | No differential impact identified.   |   |  |
| <b>Gender Reassignment</b>              | No differential impact identified.   |   |  |
| <b>Marriage and civil partnership</b>   | No differential impact identified.   |   |  |
| <b>Pregnancy and maternity</b>          | Impacts identified for pregnancy and maternity are similar to those described under the Disability category above. This is because health conditions reducing the ability to carry out day-to-day activities are more likely to arise during pregnancy and parents of young children are more likely to be using prams and pushchairs. | Mainly positive impacts identified<br>Limited negative impacts identified | Medium                                     |
| <b>Race</b>                             | No differential impact identified.   |   |  |
| <b>Religion and belief</b>              | No differential impact identified.   |   |  |
| <b>Sexual orientation</b>               | No differential impact identified.   |   |  |

| Equality Groups and Human Rights   | Key Findings/Impacts   | Positive (+)<br>Negative (-)<br>Neutral (0)                               | High (H)<br>Medium (M)<br>Low (L) |
|--|--|---|-----------------------------------|
| <b>Other Socio-economic groups including :</b>   | <b>Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?</b>   |   |                                   |
| <b>Carer</b>   | Impacts identified for carers are similar to those described under the Disability category above.  | Mainly positive impacts identified<br>Limited negative impacts identified | Medium                            |
| <b>Low income groups</b>   | No differential impact identified.   |   |                                   |
| <b>Veterans, Armed Forces Community</b>  | No differential impact identified.   |   |                                   |
| <b>Other</b>   | No differential impact identified.   |   |                                   |
| <b>Impact on human rights:</b>   |  |   |                                   |
| Article 8: Respect for your private and family life & Article 14: Protection from discrimination | Private life includes a right to participate in essential economic, social, cultural and leisure activities.<br>The feedback received from disabled groups shows that although some people have been able to use the outdoor space provided by pavement cafes as it has provided a safer and more accessible way to access hospitality venues in | Mainly positive impacts identified<br>Limited negative                    | Medium                            |

| Equality Groups and Human Rights | Key Findings/Impacts  | Positive (+)<br>Negative (-)<br>Neutral (0) | High (H)<br>Medium (M)<br>Low (L) |
|----------------------------------|---|---|-----------------------------------|
|                                  | <p>some cases, others have found that pavement cafes have made it more difficult for them to participate in essential activities due to the need to navigate around the licensed areas.</p> <p>Article 14 requires that all of the rights and freedoms set out in the Act must be protected and applied without discrimination.</p> <p>As stated above, the recommended options set out in the main report aim to mitigate these impacts by retaining a 1.5m corridor on footways (with the exception of pedestrianised streets with level access), update the guidance due to the change in legislation and decline the request to reinstate pavement cafes on the corridors where Blue Badge vehicular access is permitted as this would conflict with Blue Badge holders' access requirements.</p> | impacts identified                          |                                   |

**Use the following guidance to inform your responses:**

Indicate:

- Where you think that the proposal could have a POSITIVE impact on any of the equality groups like promoting equality and equal opportunities or improving relations within equality groups
- Where you think that the proposal could have a NEGATIVE impact on any of the equality groups, i.e. it could disadvantage them

- Where you think that this proposal has a NEUTRAL effect on any of the equality groups listed below i.e. it has no effect currently on equality groups.

It is important to remember that a proposal may be highly relevant to one aspect of equality and not relevant to another.

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| <p><b>High impact</b><br/>(The proposal or process is very equality relevant)</p>       | <p>There is significant potential for or evidence of adverse impact<br/>The proposal is institution wide or public facing<br/>The proposal has consequences for or affects significant numbers of people<br/>The proposal has the potential to make a significant contribution to promoting equality and the exercise of human rights.</p>      |
| <p><b>Medium impact</b><br/>(The proposal or process is somewhat equality relevant)</p> | <p>There is some evidence to suggest potential for or evidence of adverse impact<br/>The proposal is institution wide or across services, but mainly internal<br/>The proposal has consequences for or affects some people<br/>The proposal has the potential to make a contribution to promoting equality and the exercise of human rights</p> |
| <p><b>Low impact</b><br/>(The proposal or process might be equality relevant)</p>       | <p>There is little evidence to suggest that the proposal could result in adverse impact<br/>The proposal operates in a limited way<br/>The proposal has consequences for or affects few people<br/>The proposal may have the potential to contribute to promoting equality and the exercise of human rights</p>                                 |



## Step 5 - Mitigating adverse impacts and maximising positive impacts

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| 5.1  | <b>Based on your findings, explain ways you plan to mitigate any unlawful prohibited conduct or unwanted adverse impact. Where positive impacts have been identified, what is been done to optimise opportunities to advance equality or foster good relations?</b> |
| The changes to the pavement café local guidance will be published on the CYC website where all the rules about pavement cafes are set out, the process is explained and drawings are provided to show businesses how to set up their pavement café area. |   |

## Step 6 – Recommendations and conclusions of the assessment

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| 6.1   | <b>Having considered the potential or actual impacts you should be in a position to make an informed judgement on what should be done. In all cases, document your reasoning that justifies your decision. There are four main options you can take:</b> |
| - <b>No major change to the proposal</b> – the EIA demonstrates the proposal is robust. There is no potential for unlawful discrimination or adverse impact and you have taken all opportunities to advance equality and foster good relations, subject to continuing monitor and review. |  |

- **Adjust the proposal** – the EIA identifies potential problems or missed opportunities. This involves taking steps to remove any barriers, to better advance quality or to foster good relations.
- **Continue with the proposal** (despite the potential for adverse impact) – you should clearly set out the justifications for doing this and how you believe the decision is compatible with our obligations under the duty
- **Stop and remove the proposal** – if there are adverse effects that are not justified and cannot be mitigated, you should consider stopping the proposal altogether. If a proposal leads to unlawful discrimination it should be removed or changed.

**Important:** If there are any adverse impacts you cannot mitigate, please provide a compelling reason in the justification column.

| <b>Option selected</b>                 | <b>Conclusions/justification</b>   |
|--|--|
| <b>No major change to the proposal</b> | <p>This assessment has identified that the recommended options should have some positive impacts on people with the following protected characteristics: Age (older people and young children), Disability, Pregnancy and maternity, and Carers. It has also identified some positive impacts on the following human rights: Article 8: Respect for your private and family life &amp; Article 14: Protection from discrimination.</p> <p>Limited negative impacts were identified when considering the availability of pavement cafes (where they have been removed to enable Blue Badge vehicular access and parking) and the fact that some disabled people have stated that the cafes provided improved access/options for them. This needs to be balanced against the requirements for Blue Badge holder vehicular access to the city centre.</p> <p>Limited negative impacts were also identified as the minimum available width of 1.5m on footway will result in some people (including people using wheelchairs</p> |

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|  | or mobility aids) having to wait to get past some pavement café areas, especially at busy times. The recommended options however aim to mitigate some of the negative impacts of pavement cafes whilst enabling the development of the café culture described in the Council’s “My City Centre Vision” where appropriate. |
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## Step 7 – Summary of agreed actions resulting from the assessment

| <b>7.1 What action, by whom, will be undertaken as a result of the impact assessment.</b>  |   |                           |                  |
|--|---|---------------------------|------------------|
| <b>Impact/issue</b>  | <b>Action to be taken</b>   | <b>Person responsible</b> | <b>Timescale</b> |
| Access for people with the following protected characteristics: Age (older people and young children), Disability, Pregnancy and maternity, and Carers | As per recommended options in the main report<br>Changes to the licensing guidance and process to be presented to the Licensing Committee | Michael Howard            | 2024             |

## Step 8 - Monitor, review and improve

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| <b>8. 1</b> | <b>How will the impact of your proposal be monitored and improved upon going forward?</b> Consider how will you identify the impact of activities on protected characteristics and other marginalised groups going forward? How will any learning and enhancements be capitalised on and embedded? |
|             | Feedback and information received through the licensing process will continue to be used to inform decisions.  |