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| Subject: | To consider the renewal of a Stationary Street Trading Licence |
| Date: | 14 August 2019 |
| Reporting Officer: | Stephen Hewitt, Building Control Manager, ext. 2435 |
| Contact Officer: | James Cunningham, Regulatory Services Manager, ext 3375 |

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| Restricted Reports | |
| Is this report restricted? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| If Yes, when will the report become unrestricted? | |
| After Committee Decision | <input type="checkbox"/> |
| After Council Decision | <input type="checkbox"/> |
| Some time in the future | <input type="checkbox"/> |
| Never | <input type="checkbox"/> |

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

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| 1.0 | Purpose of Report or Summary of main Issues |
| 1.1 | To consider refusing the renewal of the Stationary Street Trading Licence held by Mr Joseph Kerr for continued non-payment of Licence fees and failure to use the Street Trading Licence to a reasonable extent. |
| 1.2 | At your meeting on 10 April 2019 Committee agreed to use your discretionary power to refuse to renew Mr Kerr's Stationary Street Trading Licence which allows him to trade in Fountain Lane (45ft from its junction with Donegall Place). |
| 2.0 | Recommendations |
| 2.1 | Taking into account the information presented and, after considering Mr Kerr's representation, you are required to make a decision to either: 1. Confirm your decision of 10 April 2019 and refuse the renewal of the Stationary Street Trading Licence, or |

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| <p>2.2</p> <p>2.3</p> | <p>2. Rescind your decision of 10 April 2019 and decide not to refuse the renewal of the Stationary Street Trading Licence.</p> <p>If Committee decides not to refuse the renewal of Licence, Members are asked to consider making it a requirement that the Licence will only be granted if Mr Kerr pays his Licence fee of £1,250 in full for the year and that any subsequent Licence must be renewed annually and the licence fee paid in full. That is in addition to paying off the debt on this Licence.</p> <p>If the Licence is refused, Mr Kerr may appeal the Council's decision within 21 days of notification of that decision to the Magistrates' Court. If an appeal is lodged the Licensee may continue to operate under the terms of the existing licence until such times as the Court make a determination in relation to the appeal.</p> |
| <p>3.0</p> | <p>Main report</p> |
| <p>3.1</p> <p>3.2</p> | <p><u>Key Issues</u></p> <p>Legislative background</p> <p>The Street Trading Act (NI) 2001 places a statutory obligation on the Council to grant an application for a Street Trading Licence unless there are sufficient grounds to refuse it.</p> <p>Section 9 (1) of the Act sets out discretionary grounds under which a district council may refuse an application. These are as follows:</p> <p>a. That –</p> <ul style="list-style-type: none"> i. The location at which the applicant wishes to trade as a stationary trader is unsuitable; ii. The space in the designated street in which the applicant wishes to trade as a stationary trader is inadequate for the applicant to do so without causing undue interference or inconvenience to persons or vehicles using the street; iii. The area or areas of the district in which the applicant wishes to trade as a mobile trader are unsuitable for the applicant to do so without causing undue interference or inconvenience to persons or vehicles in the area or areas; iv. There are sufficient traders trading in the street, or at premises adjoining it, in the articles, things or services in which the applicant wishes to trade; v. The nature of the articles, things or services in which the applicant wishes to trade is such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area in which the applicant wishes to trade; <p>b. That the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;</p> <p>c. That the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;</p> <p>d. That the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;</p> |

- e. That the applicant has at any time been granted a street trading licence by the council, which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to the council in respect of the licence;
- f. That the applicant has failed to provide the particulars required by the council to deal with the application;
- g. That the applicant has failed to provide or identify suitable or adequate arrangements for storing any articles, things or receptacles in or with which he proposes to trade.

Application background

- 3.3 Mr Joseph Kerr has applied to renew his Stationary Street Trading Licence, which allows him to trade in Fountain Lane (45ft from its junction with Donegall Place) selling confectionery, toys, clothing accessories, Halloween accessories, gift-wrap, souvenirs and tour tickets including bus tours. The Licence permits trading from Monday to Sunday from 08.00hrs to 22.00hrs.
- 3.4 Committee is reminded that Mr Kerr has a long history of non-payment of Licence fees. The Licensing Committee previously reconsidered the Licences held by Mr Kerr, for sites at Fountain Lane and Fountain Street, for the non-payment of the Licence fees at their meeting on the 19 March 2014, 17 October 2018 and 12 December 2018.
- 3.5 At your meeting on 10 April 2019, you agreed to use your discretionary power to refuse to renew Mr Kerr's Stationary Street Trading Licence. However, the Act requires that he be afforded the opportunity to make representation relating to the proposal, which must be considered by Committee, before a final decision is made on the application.
- 3.6 Mr Kerr was notified of the Committee decision and invited to make representation but to date, no representation has been received and no payments have been made.
- 3.7 At your meeting in October 2018 the Committee revoked the other Stationary Street Licence Mr Kerr held for Fountain Street for the non-payment of fees.
- 3.8 At your meeting in December 2018, Committee considered representation from Mr Kerr regarding his Licence for Fountain Lane and how he was going to address his outstanding debt and future Licence fee payments.
- 3.9 Mr Kerr informed the Committee that he had set up a direct debit with the Council's Central Transactions Unit to pay the Licence fee and the arrears accrued from non-payment of fees and that he would be willing to enter into a formal agreement with the Council to pay the remaining arrears.
- 3.10 The Committee agreed not to revoke Mr Kerr's Street Trading Licence for Fountain Lane on condition that Mr Kerr met with officers and entered into a formal agreement to pay the outstanding monies and the monthly licence fees.
- 3.11 Following the December Committee meeting, officers met with Mr Kerr on 27 December 2018 when he again promised to make payments and agreed to sign a formal agreement. However, Mr Kerr has not returned the signed agreement and, as such, no agreement is in place.
- 3.12 Mr Kerr has not paid his Licence fees since 4 December 2018 and is not engaging with us at all to settle his debt despite numerous efforts we have made to contact him. Mr Kerr currently owes the Council £3098.34.

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| <p>3.13</p> <p>3.14</p> <p>3.15</p> <p>3.16</p> <p>3.17</p> | <p>Members may wish to note Mr Kerr only trades sporadically. Mr Kerr trades without any other Licence infringements.</p> <p>Mr Kerr has been invited to attend today's meeting should Members wish to hear from him.</p> <p><u>Financial and Resource Implications</u></p> <p>If this Licence is refused there is sufficient interest in this site that it is expected it will be filled within a short time.</p> <p>The Service will work with Central Transactions Unit and Legal Services to take steps to ensure any outstanding debt will be recovered.</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>There are no issues associated with this report.</p> |
| <p>4.0</p> | <p>Appendices – Documents Attached</p> |
| | <p>None</p> |