

Licensing Committee

Wednesday, 17th April, 2024

MEETING OF THE LICENSING COMMITTEE

HELD IN THE LAVERY ROOM

Members present: Councillor McKeown (Chairperson);
Aldermen McCoubrey, McCullough and Rodgers;
Councillors Anglin, Bradley, P. Donnelly, Doran,
D. Douglas, Lyons, Murray, F. McAteer,
McCabe, McCann, McKay,
Ó Néill and Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Manager;
Mr. J. Cunningham, Senior Licensing Officer;
Mr. C. McLaughlin, Solicitor (Regulatory and Planning);
Mrs. L. Toland, Senior Manager (Economy); and
Mrs. L. McLornan, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported from Councillors Collins, McCusker and McMullan.

Minutes

The minutes of the meeting of 20th March, 2024 were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council, at its meeting on 8th April, 2024, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were recorded.

Non-Delegated Matter

Issue Raised in Advance by a Member

Request to receive a delegation re: the new Pavement Cafe Guidelines - Councillor McKeown to raise

The Chairperson advised that he had been contacted by a delegation who wished to present to the Committee regarding the new Pavement Café Guidelines.

The Committee agreed to receive the presentation and welcomed Mr. Neil Hutcheson (Federation of Small Businesses), Mr. Stephen McGorrian (Horatio Group and Hospitality Ulster) and Mr. Damien Corr (Cathedral Quarter BID) to the meeting.

On behalf of the delegation, Mr. Hutcheson outlined that:

- the hospitality and retail industry in NI was dealing with huge cost increases, dampened demand and an inability to raise prices much further due to the ongoing cost of living crisis;
- none of the government support, which was available in England, was available in NI, notably the significant rates discount of 75%;
- businesses really appreciated the support that the Council had given to businesses during the pandemic;
- it was clear that there was a desire for a pavement cafe culture in NI and that everyone was keen to see a permanent and effective scheme, particularly taking into account the needs of disabled groups;
- they appreciated that the existing legislation and draft guidance restricted the Council on how it could operate, however, they did not feel that a best practice consultation process had been followed;
- had best practice been followed, the vast majority of businesses, licensed or unlicensed, would have applied to the permanent scheme and would be successful, thereby demonstrating its success;
- the timeframes had been too short for businesses, it had been carried out at a difficult time of year for them and they had not been able to critique draft wording before it had been implemented;
- some of the concerns which they had raised during the consultation had not been addressed;
- some business owners were concerned regarding liability insurance and how it would operate if an incident occurred when a premises was unlicensed or in breach of its licence;
- there were flaws with the draft guidance from DFI and there had been a lack of engagement between DFI and businesses;
- they were requesting that the Committee grant a further extension of the transition period, for two or three months, so as not to penalise those who had already applied to the permanent scheme, and also to alleviate the insurance issue;
- a more structured engagement with businesses was required with stakeholders, and should include DfC and DFI; and
- the Council would consider highlighting the scheme and providing an incentive to businesses, for example, financial assistance with street furniture.

The Senior Licensing officer thanked the representatives for their presentation. He reminded the Committee that, in June 2020, the Council had agreed to implement a temporary Pavement Café scheme to assist the hospitality sector during the Covid-19 pandemic. The process had been focused on business needs and was always meant to be a temporary process. He reminded the Committee that the scheme had been extended on a number of occasions, with the transition period ending on 30th April, 2024.

He outlined that there had been extensive engagement with a wide range of stakeholders regarding the proposals for the permanent scheme, including disabled groups and FSB, and that officers had met many business owners on site. He reported that officers had a meeting scheduled for next week with Hospitality Ulster in respect of the scheme. He emphasised that the scheme was not about a blanket, “one size fits all” approach.

The Members were advised that two information sessions had been held, in February 2024, and the Council had also used its social media to encourage business owners to apply to the permanent scheme.

The Senior Licensing Officer reported that officers had worked with businesses to assist them with their applications. He explained that the permanent scheme mirrored the temporary scheme in many aspects, however, fees had been introduced and the standard licence conditions had been revised. It was reported that what had been deemed appropriate during the temporary scheme, in terms of the location or size of the pavement café area, would not necessarily fit within the terms of the permanent scheme and that more detail, generally, was required from applicants.

The Members were reminded that the purpose of the permanent scheme was to allow a food and drink business to place temporary furniture in a public area. It was not an extension of a bar or a smoking area.

He outlined that, to date, 40 applications had been received for the permanent scheme, 35% of which were new applicants and 65% were from those who held a temporary licence. The Members were advised that DFI had reported they did not expect to issue a large number of refusals.

The Committee was advised that, while officers would be happy to have further meetings with the BIDs or with FSB, they suggested that there was perhaps more merit in meeting with individual businesses in order to provide advice on their specific queries or concerns.

In response to a Member’s comment, the Building Control Manager confirmed to the Committee that officers would not carry out enforcement action in respect of a business if an application for a permanent licence had been submitted and had not yet been processed.

During discussion, a number of Members stated that the Committee and the Licensing officers had given extensive thought and consideration to the Permanent scheme and that significant consultation had been carried out with a large range of stakeholders. A number of Members added that, while everyone wanted to see a busy, flourishing city centre, there were other competing issues which also had to be taken into account, including accessibility and street cleansing considerations.

Mr. McGorrian stated that he acknowledged that some business owners had gone too far and pushed the limits as part of the temporary scheme.

The Senior Licensing Officer acknowledged that concerns had been raised regarding the “twenty minute rule” within the legislation, which stated that the street furniture within the pavement cafe area should be capable of being moved within twenty minutes.

Mr. McGorrian stated that his issue was not with the logistics of removing the furniture within a certain timeframe but, rather than having to purchase temporary or easily moveable items, such as windbreakers, he would have preferred to invest in more aesthetically pleasing outdoor furniture.

In response to a query raised by the deputation, the Solicitor (Regulatory and Planning) advised the Committee that it would be for the licensee to ensure that they were adequately covered in terms of the hypothetical insurance queries which had been raised. He also clarified that the legislation stated that all furniture had to be “of a temporary nature that could be removed within 20 minutes at the end of the licensed period”.

The Senior Licensing Officer added that, while enforcement officers would not be insisting that businesses moved the furniture strictly within 20 minutes, the intent of the legislation was to ensure that the furniture was of a temporary or moveable nature, for accessibility and street cleansing reasons. He acknowledged, however, that officers would be flexible, where possible, and would continue to listen to individual concerns from businesses.

The Chairperson added that the Committee had been involved in discussions around the scheme for months and that officers had worked tirelessly to take as much as possible on board from numerous stakeholders, with different competing priorities. He stated that, while it was not a perfect piece of legislation, the guidelines were a live document and that peoples lived experience would continue to ensure that changes could and would be made as officers saw fit. He added that the permanent scheme, as it stood, was the best and “least worst” option.

In response to comments made by the deputation, the Senior Manager (Economy) advised the Committee that the “Go Succeed” service was providing financial assistance of up to £4,000 to businesses. She outlined that the assistance was available for wider business support, including issues such as attracting new business or seasonality issues.

After discussion, the Committee:

- noted the concerns which had been raised by the delegation, particularly in relation to the 20 minute rule, and noted that officers would continue to work with applicants regarding any specific issues; and
- noted the potential financial assistance of up to £4,000 which was available to businesses through the Go Succeed service, linked to wider business support around issues such as attracting new business or seasonality issues.

Delegated Matters

**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN
PURSUANCE OF THE POWERS DELEGATED TO IT UNDER
STANDING ORDER 37(d)**

**Houses in Multiple Occupation (HMO)
Licences Issued Under Delegated Authority**

The Committee noted a list of applications which had been approved under the Council's Scheme of Delegation during April 2024.

Licences Issued Under Delegated Authority

The Committee noted a list of applications for licences which had, since its last meeting, been approved under the Council's Scheme of Delegation.

**Consideration of Designating Resolution for
Street Trading Sites at Queen's Quay**

The Committee considered the undernoted report:

“1.0 Purpose of Report or Summary of main Issues

- 1.1 Under the provisions of the Street Trading Act (NI) 2001 a district council has powers to designate and rescind the designation of specific streets or parts of streets as being suitable for street trading. The Act also allows a council to vary a previous designating resolution in relation to the commodities or services to be supplied in specific streets.**
- 1.2 If a street or the commodity to be offered has not been designated under the Act the Council cannot issue a licence for street trading from a stationary position in that street.**
- 1.3 The process of considering and reviewing the designation of streets is therefore an essential part of the legal framework within which the Council is enabled to regulate street trading in the City.**
- 1.4 Committee will recall that, at your meeting of 17 January this year, you granted approval to initiate the statutory process for the designation of 4 sites at Queen's Quay which had been identified as a result of an expression of interest received from Maritime Belfast Trust to allow trade from new sites.**

2.0 Recommendations

2.1 Based on the information presented the Committee is requested to consider the proposal and to:

1. Approve a Designating Resolution to designate the whole street or part of the street (site/s), where it may allocate street trading pitches. The Designating Resolution will include the operational date and may stipulate either:

- Only specified articles, things or services or classes of specified articles, things or services that may be sold or supplied; or
- Specified articles, things or services or classes of specified articles, things or services that are prohibited.

OR

2. Decide not to proceed with any or all of the proposal.

2.2 In addition to making any Designating Resolution, Members may, having considered all comments, record any reasonable conditions that should be applied to a subsequent licence. For example, these may include hours of trade, days of trade, duration of licence, etc.

3.0 Main report

Key Issues

3.1 The designation process involved seeking comments from interested parties, including relevant statutory bodies, through public advertisement and consultation.

3.2 The Street Trading Act (NI) 2001 requires the Council to ensure that each application is fairly and objectively assessed, that all relevant factors are considered and, in doing so, the Council must consult with the:

- a) PSNI, and
- b) Department for Infrastructure - Roads.

3.3 The Council may also consult other persons as it considers appropriate. Such consultees may include local residents, business and commercial premises in the vicinity of the site in respect of which the application has been received.

- 3.4 The purpose of this report is to enable the Committee to consider the proposal in conjunction with the submissions received and make a decision on whether or not to designate the sites proposed.
- 3.5 Where appropriate, the commodities are also considered in addition to a synopsis of the comments received during the consultation period. Copies of all the responses are also attached to this report for your information as Appendix 1 and a location map is included at Appendix 2.

Queen's Quay (4 sites)

- 3.6 Maritime Belfast Trust made the application with the consent of the Department for Communities, who are the landowner. The proposal is for commodities to be later determined in conjunction with Maritime Belfast/ the Department for Communities, however there will be no late-night hot food trading.

Department for Communities (DfC)

- 3.7 The DfC is supportive of the designation of these trading pitches on Queen's Quay but highlight the need for flexibility as to their specific location, as the area remains an important access point and operational area for their River Management Team. The DfC is content to support the application for the trading pitches subject to the flexibility in location being confirmed.
- 3.8 Committee may wish to note that Queen's Quay is being proposed for designation for 4 trading pitches within a defined area. This will allow the final positioning to be decided by the DfC, to meet their operational requirements.
- 3.9 This would be the same approach previously used when the designation of Donegall Quay on the opposite side of the river, which is also managed by DfC, was agreed for 6 sites.

Police Service of Northern Ireland

- 3.10 Police have no objection and acknowledge that no night-time hot food trading sites are being considered.

DFI Roads

- 3.11 The Department have no objection to the proposal as the location is not part of the adopted road network.

Published 28 day Notice

- 3.12 No responses were received as a result of the public notice.
- 3.13 Members are reminded that the designation process is about the principle of a street trading pitch being at the location. Matters regarding the suitability of a particular person, the stall and the ability to manage the site are considered as part of the licensing process.
- 3.14 The person requesting a site to be designated, is merely a ‘trigger’ for the process and they may not be the person who is ultimately granted the Street Trading Licence to operate at the site. Members are reminded that on occasions the Committee has considered multiple competing licence applications for a street trading site.

Financial and Resource Implications

- 3.15 The cost of all notices is included in current revenue budgets.

Equality or Good Relations Implications/Rural Needs Assessment

- 3.16 There are no issues associated with this report.”

The Committee approved a Designating Resolution for street trading pitches at Queen’s Quay.

Application for the Variation of a 7-Day Annual Entertainments Licence for Oh Yeah Music Centre, 15-21 Gordon Street

The Building Control Manager outlined that the days and hours during which entertainment may be provided at the Oh Yeah Music Centre, under the terms of its current Entertainments Licence, were:

Monday – Friday	8:00 am to 1.00am the following morning
Saturday	8:00 am to 2.00am the following morning
Sunday	8:00 am to 12.00 midnight.

He explained that, at present, entertainment was provided in the form of live bands playing from Monday to Sunday inclusive.

The Committee was advised that the licensee had stated that they would like to extend the permitted hours until 2.00am on a Friday night to bring the hours in line with a Saturday night. Some promoters had shown interest in booking the venue on a Friday night until 2.00am. They had also stated that the facility to provide entertainment to 2.00am on a Friday night would only be used occasionally.

Public notice of the application had been placed and no written representations were lodged as a result of the advertisement.

The Police Service of Northern Ireland and the Northern Ireland Fire and Rescue Service had both been consulted in relation to the application and they had both confirmed that they had no objection to the application.

The Members were advised that no noise complaints had been received by the Service in relation to the venue in the past 12 months.

The Committee approved the application for the variation of the 7-Day Annual Entertainments Licence to vary the hours during which entertainment may be provided as follows:

Monday – Thursday	8:00 am to 1.00am the following morning
Friday - Saturday	8:00 am to 2.00am the following morning
Sunday	8:00 am to 12.00 midnight.

Application for the Variation of a 7-Day Annual Entertainments Licence for The Post House, 32-40 Malone Road

The Building Control Manager reminded the Committee that that particular area of the Malone Road was a major centre for nightlife in the city in the 1990s. The three licensed premises located in this area, The Botanic Inn, The Eglantine Inn (which was now The Post House), and the Wellington Park Hotel had, in the past, been subject to objections and complaints which had resulted in a number of Committee and Special Committee meetings. Additionally, decisions of the Council were the subject of appeal by the applicants and heard at Belfast Recorders Court.

The Members were reminded that the normal process for dealing with Entertainments Licence applications which were not the subject of objections was that the licence would be granted, as provided for in the Council's Scheme of Delegation. However, due to previous conditions set by the Council restricting the hours of entertainment for the three licensed premises in this area, the application was being presented to the Committee for its consideration even though no objections had been received.

The Committee was advised that major refurbishment works had been carried out to the premises in 2023 and The Post House now operated as a restaurant/bar where previously, as the Eglantine Inn, it operated as a nightclub.

The days and hours during which entertainment may be provided under the terms of the current Entertainments Licence were:

Monday - Tuesday	11:30 am to 11.00pm
Wednesday - Saturday	11:30 am to 1.00am the following morning, and
Sunday	12:30 pm to 12.00 midnight.

A special condition permitted entertainment to 12.30am on Easter Monday and if Christmas Eve, New Year's Eve, St. Patrick's Day or Halloween fell on a Monday or Tuesday night.

A further condition stipulated that the Licensee was to attend, as required, liaison meetings between the Building Control Service, the Lower Malone Residents' Association and the Police Service of Northern Ireland. However, since the current applicant had taken over the premises there had been no requests from any party to hold such a meeting.

The Committee was advised that the nature of the variation was to extend the hours during which entertainment may be provided on Monday and Tuesday nights to 1.00am the following morning. This would allow the business to stay competitive with other local bars in the area and in the City Centre as they lost any crowd they had on those nights to other local bars after 11pm.

At present entertainment was provided in the form of live bands playing from Thursday to Sunday inclusive. The Members were advised that the entertainment would be in the form of one-piece acoustic acts on those nights.

The Police Service of Northern Ireland and the Northern Ireland Fire and Rescue Service had both been consulted in relation to the application and had confirmed that they had no objection to the application.

No noise complaints had been received by the Service in relation to the venue in the past 12 months.

After discussion, the Committee approved the application for the variation of the 7-Day Annual Entertainments Licence to vary the hours during which entertainment may be provided as follows:

- Monday - Saturday 11:30 am to 1.00am the following morning, and
- Sunday 12:30 pm to 12.00 midnight; and

The Committee also:

- noted that the entertainment provided on Monday and Tuesday nights would be in the form of one-piece acoustic acts and;
- further agreed that officers would facilitate a meeting of the Lower Malone Residents' Association and the new owners of the venue, in order to try and encourage positive relations.

Chairperson