

Licensing Committee

Wednesday, 21st January, 2015

MEETING OF LICENSING COMMITTEE

- Members present: Councillor Ekin (Chairman)
Aldermen McCoubrey and Rodgers;
Councillors Attwood, M. E. Campbell, Clarke,
Groves, Hussey, Hutchinson, Magee, McCarthy,
Mullan, Ó Donnghaile Reynolds and Spence.
- In attendance: Mrs. S. Toland, Lead Operations Officer/Head of
Environmental Health;
Mr. T. Martin, Head of Building Control;
Ms. N. Largey, Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apology

An apology was reported on behalf of Councillor Cunningham.

Minutes

The minutes of the meeting of 17th December were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 5th January, 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 reported.

Invitation to Address the Licensing Committee

The Committee was reminded that, at its meeting on 17th December, it had agreed that Mr. Stephen McGowan, one of Scotland's leading legal practitioners on alcohol, gambling and civic licensing matters be invited to attend its monthly meeting in February in order to provide information on the acclaimed Scottish licensing model.

The Committee agreed, in view of the changes being proposed by the Department for Social Department to the licensing system in Northern Ireland, that all Members of the current and the Shadow Councils be invited to the meeting.

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**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF
THE POWERS DELEGATED TO IT BY THE COUNCIL AT ITS MEETING ON
1st MAY, 2007 IN ACCORDANCE WITH STANDING ORDER 46**

Licences Issued under Delegated Authority

The Committee noted a list of licensing applications which had been granted under the Council's Scheme of Delegation.

**Application for the Renewal of a Seven-day Annual Entertainments Licence –
Dundela Football and Social Club, Wilgar Street**

The Head of Building Control informed the Committee that an application had been received for the renewal of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises. He explained that, under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Committee, in considering an application for the grant, renewal or transfer of an Entertainments Licence, must have regard to any convictions of the applicant relating to an offence under the Order which had occurred within a five-year period immediately preceding the date on which the application had been made.

He reported that a representative of the Club had, on 23rd July, 2013, been convicted at the Belfast Magistrates Court of an offence under the Order. The offence had related to an inspection of the premises whilst entertainment had been taking place which had found them to be overcrowded, there had been no means of counting and recording the number of patrons and an emergency exit had been obstructed. A fine of £400 and costs of £69 had been imposed.

He reminded the Committee that, at its meeting on 19th February, 2014, it had, having been advised of the conviction, renewed the Entertainments Licence, on the basis that the Building Control Service had been satisfied with the measures which had since been put in place to prevent further breaches. He pointed out that, during the past year, one inspection of the club had been undertaken whilst entertainment was being provided. That had revealed a number of minor issues, which had been resolved immediately. Officers had since met with the management of the club to review fire safety procedures and were satisfied that patrons could be evacuated safely from the premises in the event of an emergency. He confirmed that no written representation had been received in relation to the application and that the Police Service of Northern Ireland had offered no objection. In addition, the Council's Environmental Protection Unit had confirmed that, over the past year, it had not received any complaints regarding noise or other nuisance in relation to the premises.

The Committee agreed, in its capacity as Licensing Authority, to grant a renewal of a Seven-day Annual Entertainments Licence in respect of Dundela Football and Social Club, Wilgar Street.

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**Application for the Grant of a Seven-day Annual Outdoor Entertainments Licence
– Filthy McNasty’s, 41-45 Dublin Road**

The Committee was reminded that, at its meeting on 21st September, 2011, it had agreed that, in future, all applications for Outdoor Entertainments Licences be placed before it for consideration. Accordingly, the Head of Building Control submitted for the Committee’s consideration an application which had been received in respect of Filthy McNasty’s, 41-45 Dublin Road. He explained that the premises held currently an Indoor Entertainments Licence and that the licensee was now proposing to offer entertainment in the car park immediately to the rear of the building. Under the terms of the Outdoor Entertainments Licence, entertainment would be required to cease at 11.00 p.m. and could only run beyond that time if approved in advance by the Licensing Committee.

He confirmed that no written representation had been received in relation to the application and that the Police Service of Northern Ireland had offered no objection. Should the application be granted, the Police Service, together with the Northern Ireland Fire and Rescue Service and other partner agencies, would be invited to attend pre-event meetings and would work with the Council’s Building Control Service and Environmental Protection Unit and event organisers to ensure that all requirements were met.

The Committee was advised that Mr. P. Langsford, the applicant, together with Ms. S. Egerton, Marketing Manager, were in attendance in order to provide information on the proposal and they were welcomed to the meeting.

Mr. Langsford informed the Members that he had secured a one-year lease of the car park to the rear of Filthy McNasty’s and had obtained approval from the landlord to hold events therein. He explained that the business had grown steadily over the years and that the proposal to utilise the adjacent car park represented an opportunity for further expansion.

He confirmed that entertainment would be provided primarily by live bands, with disc jockeys being used on occasions. In terms of the capacity of the car park, he stated that it could potentially accommodate up to 2,000 patrons, however, that number would be dependent upon the nature of the acts and, ultimately, the approval of the Building Control Service. He pointed out that the management of the premises would work closely with the Council, the Police Service of Northern Ireland and other agencies to ensure that they were satisfied with the arrangements which were being put in place to ensure the successful delivery of events. For example, a security firm would be employed to oversee the dispersal of patrons from the car park area and door supervisors would ensure that the capacity inside Filthy McNasty’s, as stipulated within the venue’s Indoor Entertainments Licence, would not be exceeded. Letters would be forwarded also to local residents advising them of proposed events and management would work with them in order to address any concerns.

Ms. Egerton outlined the nature of the acts which Filthy McNasty’s would be seeking to attract and pointed out that hotels in Belfast and the local economy in general would benefit as a result. She highlighted the fact that Filthy McNasty’s was a keen supporter of the work of the Downes Syndrome Association and that it had organised a number of events and other activities to raise funds for the Association. Discussions

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would take place with the Association around the continuation of that fundraising in 2015.

In response to a number of questions from the Members, Mr. Langsford confirmed that he would envisage that no more than twenty events would take place within the car park over the course of the year and that he would have no objection to the Committee limiting the Outdoor Entertainments Licence to that number. He added that it was possible that he might seek to run some events beyond the standard finishing time of 11.00 p.m. and accepted that that would necessitate for each event the submission of an application to the Building Control Service and approval by the Licensing Committee.

Ms. Egerton and Mr. Langsford were thanked by the Chairman and they left the meeting.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant a Seven-day Annual Outdoor Entertainments Licence in respect of Filthy McNasty's, 41-45 Dublin Road, with entertainment being permitted to take place till 11.00 p.m. on up to a maximum of twenty occasions over the term of the Licence and to the following conditions being attached:

- (i) maximum numbers will be agreed at the discretion of the Building Control Service and will vary depending upon individual event set up proposals;
- (ii) prior to any event taking place the promoters are required to demonstrate evidence of early consultation and have in place a robust system of dealing with any complaints, which has been agreed in advance with the Council;
- (iii) any requests to provide entertainment later than 11.00 p.m. must be considered by the Licensing Committee and, therefore, must be made at least 3 months in advance of the proposed event; and
- (iv) should an application to provide entertainment beyond 11.00 p.m. be granted and the Council then receive a significant number of complaints regarding noise or the complaint is of such significant impact, authority is granted to the Lead Operations Officer/Head of Environmental Health, in consultation with the Town Solicitor, to reduce the finishing time for any subsequent nights of the event, in which case the promoter will be required to make contingency arrangements.

**Application for the Grant of a Temporary Street Trading Licence –
Lower Garfield Street**

The Committee was advised that Section 14 of the Street Trading Act (Northern Ireland) 2001 permitted the Council to issue a Temporary Street Trading Licence for special events, such as fairs and festivals, where a full-term Licence may not be

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appropriate and to attach to it any conditions which it might deem necessary. Such a Licence could not, however, be granted for a period exceeding seven days and no more than five could be granted to a person in any year.

The Head of Building Control reported that an application for the grant of a Temporary Street Trading Licence had been received from Mr. B. McGeown, the licensee of Aether and Echo, 1-3 Garfield Street. The applicant was proposing to sell, between the hours of 8 p.m. and 11 p.m. on Friday, 27th February, food, alcoholic and non-alcoholic beverages from outside his premises, as part of a music event which he was organising. However, in order to enable him to apply to the Petty Sessions Court for an Occasional Liquor Licence, he required from the Council a Temporary Street Trading Licence. He explained that the event would necessitate the erection of a stage outside Aether and Echo, which would face into Lower Garfield Street in order to avoid creating a distraction for drivers in nearby Lower North Street. The applicant would be seeking from Transport NI the necessary consent to place the stage and crowd barriers on Lower Garfield Street and had confirmed that pedestrian access between that street and others nearby would be maintained at all times. The Head of Building Control added that the views of Belfast City Centre Management, the Police Service of Northern Ireland and Transport NI had been sought as part of the application process and that no issues had been raised by them.

He reported further that Mr. McGeown had, earlier that day, requested that the Committee give consideration also to granting the Temporary Street Trading Licence for the night of Saturday, 28th February, between the hours of 8 p.m. and 11 p.m., and had indicated that he might wish to hold further events throughout the year. The Head of Building Control pointed out that an additional consultation exercise would be required to be undertaken for that night, as would be the case for any further applications submitted by the licensee. He suggested that the Committee might wish to obtain from Mr. McGeown clarification around his request and any other issues arising from the application. The Committee agreed that that would be beneficial and Mr. B. McGeown was admitted to the meeting.

Mr. McGeown informed the Committee that the events which he was proposing to hold outside his premises would bring much-needed vibrancy to the Lower Garfield Street area of the City. He explained that the music event which was planned for 27th February would bring to a close in Northern Ireland the 'Guinness Amplify' series of events, which had replaced the annual 'Arthur's Day' within the licensed trade. He explained that his request to include the night of Saturday, 28th February within his application had been due to the fact that the stage would not be dismantled until after that weekend, which presented him with an opportunity to offer additional entertainment. He added that he had engaged fully with the Council, the Police Service of Northern Ireland and other agencies and that that process would continue in the lead up to and during the events.

Mr. McGeown thanked the Committee and retired from the meeting.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant to Mr. B. McGeown a Temporary Street Trading Licence permitting him to sell on Friday, 27th February, between the hours of 8.00 p.m. and 11.00 p.m., food, alcohol and

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non-alcoholic beverages outside Aether and Echo, 1-3 Lower Garfield Street. The Committee agreed also that, should no objections be received as a result of the consultation exercise in relation to Saturday, 28th February, authority be granted to the Lead Operations Officer/Health of Environmental Health to extend the Licence to cover that night.

**Competing Applications for the Grant of a Stationary Street
Trading Licence – Boucher Crescent**

The Committee was advised that competing applications had been received from three persons wishing to trade from a vacant designated site in Boucher Crescent. The Head of Building Control reviewed the applications, one of which had been submitted by Mr. C. Heggan, who had applied to sell, from a hot food trailer measuring 4 metres by 2.15 metres, hot food and non-alcoholic beverages from Monday to Saturday between the hours of 7.00 a.m. and 4.00 p.m. He explained that the applicant's food business was registered currently by Lisburn City Council and that it had been awarded a 5* rating under the Northern Ireland Food Hygiene Rating Scheme. Mr. Heggan had, since June, 2014, been licensed to trade from a designated site in Apollo Road and had indicated that, should his current application be successful, he would vacate that site. The Head of Building Control pointed out that Council officers had found that the applicant had, on two occasions, breached the conditions of his Stationary Street Trading Licence by leaving his trailer on that site once trading had ceased. Mr. Heggan had been advised of the breaches and, whilst no further action was being considered, officers would continue to monitor his adherence to the Street Trading legislation.

He reported that the second applicant, namely, Mr. S. Johnston, was seeking to sell, from a hot dog cart measuring 1.5 metres by 1.5 metres, hot food and non-alcoholic beverages on a Monday, Tuesday and Saturday between the hours of 10.00 a.m. and 5.00 p.m. and on a Wednesday, Thursday and Friday from 10.00 a.m. till 9.00 p.m. He confirmed that the applicant had never held a Street Trading Licence within Belfast and, given that he was only in the process of applying to have his food business registered by the Council, had not as yet attained a rating under the Food Hygiene Rating Scheme.

He informed the Members that the third application had been submitted by Mr. K. McWilliams, whose food business was registered currently by Newtownabbey Borough Council and had been given a 5* food hygiene rating. Mr. McWilliams was seeking to sell, from a hot food trailer measuring 5.5 metres by 2.15 metres, hot food and non-alcoholic beverages on a Monday, Tuesday, Wednesday and Saturday between the hours of 7.00 a.m. and 3.30 p.m. and on a Thursday and Friday from 7.00 a.m. till 7.30 p.m. It was pointed out that the applicant had held previously a Stationary Street Trading Licence for a designated site in Dargan Crescent, however, he had cancelled that Licence after a period of one month due to a lack of trade.

The Committee was informed that the three applicants were in attendance in order to outline their proposals for the site and Mr. C. Heggan was admitted firstly to the meeting.

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Mr. Heggan informed the Members that he had worked within the catering sector in Northern Ireland for the past twenty-five years and that his business had attained a 5* hygiene rating from Lisburn City Council, in whose area he resided and where his hot food trailer was stored when not in use. He displayed a unique range of foods which he offered for sale and pointed out that they were sourced from specialist suppliers. In addition, biodegradable, as opposed to polystyrene or plastic, food containers and cutlery were used in the business, appropriate waste bins were provided and all litter was removed from the site at the end of each day. He explained that he worked on the trailer on a full-time basis and that he employed a part-time chef. However, should his application be successful, it would be his intention to employ two additional staff, who would each receive training on all aspects of food hygiene. He concluded by assuring the Committee that his hot food trailer would be removed from the site at the end of each day.

Mr. Heggan thanked the Committee for receiving him and he retired from the meeting.

Mr. Johnston, who was then admitted to the meeting, explained that he was proposing to sell hot dogs and similar food products from a cart which was similar in style to those found in New York and which would be environmentally friendly in that it did not generate fumes or grease. He pointed out that market research had revealed that those products, which would be prepared in advance, would be likely to prove popular for customers. He added that he was in the process of registering his food business with the appropriate council and, having thanked the Committee, he left the meeting.

Mr. K. McWilliams, the third applicant, was thereupon welcomed to the meeting.

He reported that his food business possessed a 5* food hygiene rating from Newtownabbey Borough Council and that he had provided catering for a number of events and private functions within Belfast. His trailer was based upon the theme of an American diner and he confirmed that, should his application be successful, it was his intention to offer to customers a wide range of fresh foods, such as bagels and sandwiches. He concluded by stating that the site where he would be trading would be kept free of litter at all times and that he would ensure that his trailer would be removed once trading had ended.

The Chairman thanked Mr. McWilliams for his contribution and he retired from the meeting.

After a lengthy discussion, it was

Moved by Councillor Hussey,
Seconded by Alderman Rodgers,

That the Committee, in its capacity as Licensing Authority, agrees, on the basis that he currently holds a Stationary Street Trading Licence in Belfast and is, therefore, an established and experienced trader, that it is minded to grant to Mr. C. Heggan a Stationary Street Trading Licence

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permitting him to sell hot food and non-alcoholic beverages from Monday to Saturday between the hours of 7.00 a.m. and 4.00 p.m. in Boucher Crescent, at a site which has been designated previously for the sale of those commodities, subject to:

- (i) the applicant providing all necessary documentation; and
- (ii) the receipt of the appropriate licensing fees.

Amendment

Moved by Councillor McCarthy,
Seconded by Councillor Mullan,

That the Committee, in its capacity as Licensing Authority, agrees, in view of the fact that he does not hold a Stationary Street Trading Licence currently and that, when trading previously at a designated site on Falcon Road, he had operated in accordance with the conditions of his Licence, that it is minded to grant to Mr. K. McWilliams a Stationary Street Trading Licence permitting him to sell hot food and non-alcoholic beverages on a Monday, Tuesday, Wednesday and Saturday between the hours of 7.00 a.m. and 3.30 p.m. and on a Thursday and Friday from 7.00 a.m. till 7.30 p.m., in Boucher Crescent, at a site which has been designated previously for the sale of those commodities, subject to:

- (i) the applicant providing all necessary documentation; and
- (ii) the receipt of the appropriate licensing fees.

On a vote by show of hands eight Members voted for the amendment and four against and it was accordingly declared carried.

The amendment was thereupon put to the meeting as the substantive motion when eight Members voted for and four against and it was accordingly declared carried.

As a consequence of the decision to grant the Licence to Mr. McWilliams and the fact that there was only one designated site available, the Committee agreed that it was minded to refuse the applications which had been submitted by Mr. C. Heggan and Mr. S. Johnston, on the grounds set out in Sections 9(1) (a) (i) and (iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which they wished to trade was unsuitable and that there were sufficient traders trading at that location in the articles, things or services in which they wished to trade.

The Head of Building Control informed the Members that the unsuccessful applicants would be advised that, in accordance with Section 12 (2)(b) of the Street Trading Act (Northern Ireland) 2001, they would be permitted to make written representation to the Council within twenty-one days from the date of notice.

Chairman