

Licensing Committee

Wednesday, 18th March, 2015

MEETING OF LICENSING COMMITTEE

Members present: Alderman Ekin (Chairman); and
Councillors Attwood, M. E. Campbell,
Clarke, Hussey, Mullan and Ó Donnghaile.

In attendance: Mrs. S. Toland, Lead Operations Officer/
Head of Environmental Health;
Mr. T. Martin, Head of Building Control;
Mr. C. Campbell, Divisional Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies were reported on behalf of Aldermen McCoubrey and Rodgers and Councillors Groves, Hutchinson, Magee, McCarthy and Spence.

Minutes

The minutes of the meeting of 18th February were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 2nd March, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declaration of Interest

Councillor Ó Donnghaile declared an interest in relation to Item 2(b), Consideration of Designating Resolutions for Street Trading Sites, in that he had met with the person who had applied to have the Designating Resolution for the site in Lombard Street varied to allow for the sale of additional commodities and left the meeting whilst the matter was under consideration.

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.

Consideration of Designating Resolutions for Street Trading Sites

The Committee considered the undernoted report:

“1 Relevant Background Information

- 1.1 An important feature of the licensing provisions in the Street Trading Act (NI) 2001 is the power of a district council to designate 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 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 The Act sets down the procedures which must be followed in considering a designating resolution or reviewing such resolution in relation to any street, including the types of trading which may or may not take place in that street. The main steps the Council must undertake may be summarised as follows:
 - a) give public notice of the proposed resolution;**
 - b) consult with the Police and the Department of Regional Development and other persons it considers appropriate;**
 - c) consider any representations relating to the proposed resolution which it has received;**
 - d) after the Council has considered those representations it may, if it thinks fit, pass the designating resolution;**
 - e) publish notice of the outcome for 2 consecutive weeks in 2 or more newspapers, giving not less than 28 days between the date of the publication and the date set out by the Council when the resolution will come into effect.****
- 1.5 The Committee has previously considered a number of locations and determined their appropriateness for**

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designation. There are currently 60 streets or parts of streets designated as being suitable for stationary street trading in Belfast.

2 Key Issues

2.1 New Streets or Part Thereof

Designation applications or expressions of interest have been received for the creation of new designated sites at streets at various locations throughout the City as listed below.

2.2

	Location	Commodity
1	Ormeau Avenue outside Ormeau Baths (size of site – 6m x 2.5m)	Hot and cold non alcoholic beverages, confectionery and cold food or similar commodities.
2	Hillview Road; site situated on the left hand side of the road approximately 70m from the Hillview retail park entrance heading in the direction of the Oldpark Road (size of site – 6m x 2.5m)	Hot and cold non alcoholic beverages, confectionery and cold food or similar commodities.
3	Cliftonville Road in lay-by opposite numbers 95 to 99 (size of site – 6m x 2.5m)	Hot and cold non alcoholic beverages, confectionery and cold food or similar commodities

2.3 The Committee is reminded that it previously agreed not to designate the Ormeau Avenue site at Ormeau Baths as suitable for street trading purposes at your meetings of 9th December, 2008 and 22nd January, 2014.

2.4 Officers are not aware of any change in circumstances to the Ormeau Avenue site at Ormeau Baths since the Committee made its decision and Officers have advised the applicants of the previous Committee decisions, however, the application was still submitted.

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2.5 The Committee should consider if you wish to include 1 (above) in the proposed designation.

2.6 Variation of Commodities and Services to be Provided

The Act allows the Council to vary a Designating Resolution in relation to the part of the street where trading is permitted, this includes consideration of the commodities or services which can be offered at that location. The procedures that must be followed for varying a Designating Resolution are the same as those for making the Designation in the first place.

Two licensed street traders have asked for the Council to consider the variation of the commodities and services which are allowed to be offered at the sites where they are already licensed.

	Location	Current Commodity	Proposed Variation
1	Lombard Street at junction with Rosemary Street beside flower planter	Commodity to be determined but excluding food and beverage products of any nature	Varied to allow for ice cream, crepes and hot and cold non alcoholic beverages.
2	Castle Junction Kiosk	Hot and cold non alcoholic beverages, confectionery, ice cream and cold food or similar commodities including the sale of theatre and event tickets	Varied to allow for bus tour tickets.

2.8 The Committee is reminded that it considered a variation to the commodities for the Castle Junction Kiosk at your meeting of 18th February, 2012 and had agreed to the sale of theatre and event tickets on condition that no bus tour tickets were offered for sale.

2.9 The Committee is further reminded that at your meeting of 16th April, 2014, when considering a similar request to allow for the sale of bus tour tickets for Castle Place (opposite Donegall Arcade), you agreed to defer consideration of the application pending the outcome of a review which had been commissioned by the Development Department into sightseeing coach provision in the City.

2.10 Rescinding of Designation

2.11 The Committee is reminded that at its meeting on 16th April 2014, you also considered varying the commodities at the previously designated site at Donegall Square North (at front of City Hall close to its junction with Donegall Square West). Following the comments which were received during the consultation and also due to the fact that the site was unlicensed since November 2013, Members asked that consideration should be given to rescinding the Designating Resolution for this site. Committee are therefore asked to include the commencement of the process to rescind the designation of this site.

2.12 Process

2.13 Permission is sought to allow the publication of the statutory 28-day notice of the proposed resolution and to commence consultation with statutory bodies and other persons who may have an interest in the proposal.

2.14 The Committee should consider if you wish to include the previously refused designations in the proposed resolution, namely:

- Ormeau Avenue at Ormeau Baths for night time trade
- Castle Junction Kiosk variation of commodities.

Members are advised that there is no right of appeal in the Act should you decide not to proceed with the designation process in respect of these two sites; other than by way of Judicial Review. Both sites were properly considered previously by the Council and officers are not aware of any changes in circumstances at either location.

In respect of the other sites, none of which have been proposed before, legal advice previously has been that the Council should consider them after undertaking consultation with statutory bodies and other persons who may have an interest in the proposals, before making a decision on whether to designate them or refuse the designation.

Further reports will be brought to the Committee at a later date detailing the outcome of the process of consultation. At that stage, Members will be able to decide on the variation of designating resolutions or the designation of the streets along with any restriction on the commodity to be sold and

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any recommendations about the restriction on the times of trading.

3 Resource Implications

3.1 Financial

The cost of the legal notices is included in current revenue budgets.

3.2 Human Resources

Administration of Street Trading Designation applications and the process of consultation are included in current budgetary estimates.

3.3 Asset and Other Implications

None

4 Equality and Good Relations Considerations

4.1 There are no equality or good relations issues.

5 Recommendation

5.1 The Committee is requested to approve and authorise the list of streets or parts thereof including any amendments for publication and the commencement of consultation with statutory bodies and other persons who may have an interest in the proposals.”

After discussion, the Committee:

- i. granted approval to initiate a designation process in relation to those parts of the Cliftonville and Hillview Roads, as identified within paragraph 2.2 of the report, together with the list of proposed commodities;
- ii. granted approval to initiate a process to vary the Designating Resolution for the site in Lombard Street, at its junction with Rosemary Street, to allow for the sale of ice cream, crepes and hot and cold non-alcoholic beverages;
- iii. granted approval to initiate a process to rescind the Designating Resolution for the site in Donegall Square North, at the front of the City Hall, close to its junction with Donegall Square West;

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- iv. agreed to defer consideration of the application to vary the Designating Resolution for the Castle Junction Kiosk, pending the outcome of the review which had been commissioned by the Development Department into sightseeing coach provision in the City;
- v. agreed to refuse the application for the designation of the site in Ormeau Avenue, outside the Ormeau Baths, on the grounds that the circumstances which had led to it being refused by the Committee on 9th December, 2008 and 22nd January, 2014 had remained unchanged; and
- vi. agreed that discussions take place with the Council's Legal Services Section to identify, if appropriate, a suitable length of time which must expire before an application can be submitted for the designation of a site where the circumstances which had led to it being refused previously by the Committee had remained unchanged.

The Committee noted that the process referred to at points i) to iii) above would involve the publication of a statutory twenty-eight day notice and consultation with Statutory Bodies and other interested parties and that it would, in due course, receive an update on the outcome of that process.

**Competing Stationary Street Trading Licence Applications –
Boucher Crescent**

The Head of Building Control reminded the Committee that, at its meeting on 21st January, it had considered three separate applications for the grant of a Stationary Street Trading Licence for a vacant designated site in Boucher Crescent. The Committee, having considered the representations made in respect of the applications, had agreed that it was minded to grant the Licence to Mr. K. McWilliams, for a period of one year, 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.

As a consequence of that decision, the Committee had agreed that it was minded to refuse the applications which had been submitted by the other applicants, namely, 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, 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 reported that the unsuccessful applicants had been advised that, as required under Section 12(2)(b) of the Street Trading Act (Northern

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Ireland) 2001, they would be permitted to make written representation to the Council within twenty-one days of being notified of the Committee's decision. He confirmed that no representation had been received from Mr. Heggan or Mr. Johnston during that time.

Accordingly, the Committee agreed, in its capacity as Licensing Authority, to affirm its decision of 21st January to grant to Mr. K. McWilliams, for a period of one year, 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., at a designated site in Boucher Crescent, subject to his compliance with the aforementioned conditions relating to the provision of the required documentation and the payment of the Licence fee.

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 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.

**Application for the Renewal of a Stationary Street Trading Licence –
Duncrue Crescent**

The Committee agreed to defer consideration of an application for the renewal of a Stationary Street Trading Licence for a designated site in Duncrue Crescent to enable the applicant to attend a future meeting in order to provide clarification around his submission.

**Application for Extended Hours – Cathedral Quarter Arts Festival,
Custom House Square**

The Head of Building Control informed the Committee that an application had been received from the organisers of the Cathedral Quarter Arts Festival to hold a nine-day music event from 1st till 9th May within a marquee in Custom House Square. The Festival had been taking place for the past sixteen years and offered patrons a wide range of comedy, drama, literature and music events at several venues across the City. He explained that the Custom House Square was managed currently by the Department for Social Development and that it held a Seven-day Annual Outdoor Entertainments Licence and a Seven-day Annual Marquee Entertainments Licence for the venue. Those were transferred to promoters for the duration of their events.

He pointed out that, under the terms of the Marquee Entertainments Licence, entertainment was permitted to take place from Monday to Sunday between 11:30 a.m. and 11.00 p.m. The organisers had requested that the Committee give consideration to permitting entertainment to run until midnight on five nights of the Festival, namely, Friday 1st, Saturday 2nd, Sunday 3rd, Friday 8th and Saturday 9th May. That request had been made on the basis that the additional hour would enable local support acts to be added to the event programme and would provide patrons with sufficient time to avail of local restaurants before attending events. He

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added that, since the Committee report had been drafted, the organisers had booked an additional night's entertainment on 30th April, however, that would cease at 11.00 p.m., in line with the terms of the current Entertainments Licence.

He reported that officers of the Building Control Service had, in previous years, undertaken inspections of the venue whilst entertainment had been taking place and had had no issues regarding health, safety and welfare management. In terms of this year's Festival, he confirmed that officers of the Building Control Service and the Environmental Protection Unit were working with the organisers to ensure that all technical and noise issues were complied with. The organisers would, in accordance with the conditions attached to the Entertainments Licence, write to local residents advising them of the programme of events and their desire to provide entertainment beyond 11.00 p.m. on the aforementioned five nights. He added that the Police Service of Northern Ireland had offered no objection to the application.

After discussion, the Committee agreed, in its capacity as Licensing Authority, that the standard hours on the Seven-day Annual Marquee Entertainments Licence for Custom House Square be extended to enable entertainment to take place till midnight on Friday 1st, Saturday 2nd, Sunday 3rd, Friday 8th, and Saturday 9th May, 2015, as part of the Cathedral Arts Festival, subject to all technical requirements being met to the satisfaction of Council officers and with the following conditions remaining on the Licence:

- i. should the Council receive a significant number of complaints regarding noise or the complaint is of such significant impact, authority is granted to the Director of Health and Environmental Services, 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; and
- ii. all letters forwarded by promoters to residents must advise that, should they have objections or concerns regarding an event providing entertainment beyond 11.00 p.m., they should contact the Building Control Service.

**Application for the Variation of a Seven-day Annual Entertainments Licence –
King's Hall Pavilion, King's Hall Complex**

The Head of Building Control informed the Committee that an application had been received for the variation of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises, based upon the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind. He explained that the premises were licensed currently to provide entertainment within the main Exhibition Space, which had a maximum capacity of 3,652 patrons, from Monday to Saturday from 11.30 a.m. to 1.00 a.m. the following morning and on a Sunday between the hours of 12.30 p.m. and midnight. The applicant now wished to extend the hours during which entertainment would be offered from Monday to Saturday until 1.30 a.m., with a view to facilitating events such as the 'Waterloo Ball' fundraising event which was due to take place on the evening of Saturday, 23rd May. He pointed

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out that, should the Committee grant the application, as submitted, it would permit events to take place till 1.30 a.m. on each night throughout the year and that it was his understanding that the applicant was seeking the variation only for specific nights. He suggested that the Committee might wish to obtain from the applicant clarification around the number of nights being sought and seek to ensure that the rights of residents in neighbouring properties were protected, whilst not detracting from the applicant's request.

The Committee agreed that it would be beneficial to hear from the applicant and Ms. T. Morrissey, Financial and Commercial Director, was admitted to the meeting.

Ms. Morrissey provided a brief overview of the application and, having confirmed that she would be content for the variation to be granted to cover only the 'Waterloo Ball' on Saturday, 23rd May, she left the meeting.

The Head of Building Control pointed out that no written representations had been received in respect of the application and that the Police Service of Northern Ireland had not objected. The Council's Environmental Protection Unit had advised that it had, over the past twelve months, received only one noise-related complaint, following which the licensee had been provided with advice on noise minimisation. He confirmed that an officer of the Building Control Service had, as part of last year's renewal process, met with the management of the venue to review their processes and procedures and had found that the terms and conditions of the Entertainments Licence were being adhered to.

Accordingly, the Committee agreed, in its capacity as Licensing Authority, to grant a variation of a Seven-day Annual Entertainments Licence in respect of the King's Hall Pavilion, King's Hall Complex, to enable entertainment to take place till 1.30 a.m. on Saturday, 23rd May.

**Application for the Grant of a Seven-day Annual Outdoor
Entertainments Licence – Villa, 2-6 Dunbar Street**

The Committee deferred consideration of the above-mentioned application to enable further information to be obtained around the lease agreement between the applicant and the Department for Social Development for the use of the proposed area outside Villa and to allow for the submission to the Council's Environmental Protection Unit of further acoustic information.

**Application for the Renewal of a Seven-day Annual Entertainments Licence –
Teach Na Monagh, 2a Monagh Grove**

The Committee was advised that an application had been received for the renewal of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises. The Head of Building Control 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 the Order which had occurred with the five-year period immediately preceding the date on which the application had been made.

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He reported that the applicant had, on 29th January, 2013, been convicted at the Belfast Magistrates Court of three offences under the aforementioned Order. Those had related to an inspection of the premises by officers from the Building Control Service whilst entertainment had been taking place which had found that a final exit had been locked to the rear of the premises, a designated emergency escape route had been partially obstructed and the log book which was used to demonstrate that the appropriate pre-event safety checks had been carried out had not been available. As a result, a fine of £800 and costs of £66 had been imposed. He reminded the Committee that, at its meetings on 20th February, 2013 and 16th April, 2014, it had, upon being advised of the breaches and the fact that the premises were now being managed satisfactorily, agreed to renew the Entertainments Licence.

In terms of the current application, he explained that no written representations had been received and that the Police Service of Northern Ireland had offered no objection. In addition, no further issues had been identified by the Building Control Service regarding the operation of the premises.

Accordingly, the Committee agreed, in its capacity as Licensing Authority, to grant a renewal of a Seven-day Annual Entertainments Licence in respect of Teach Na Monagh, 2a Monagh Drive.

Last Meeting of the Licensing Committee

It was pointed out that it was the final meeting of the Committee prior to the implementation on 1st April of Local Government Reform.

The Chairman thanked those Elected Members and officers who had, over the years, contributed to the success of the Licensing Committee.

Chairman