



<b>Subject:</b>	<b>Final decision on competing Stationary Street Trading Licence applications for Duncrue Link 50ft from the junction with Duncrue Road, for which appeal received.</b>
<b>Date:</b>	20 August 2025
<b>Reporting Officer:</b>	Kate Bentley, Director of Planning & Building Control, ext. 2300
<b>Contact Officer:</b>	Laura Hillis, Principal Building Control Surveyor, Ext. 2469

**Restricted Reports**

**Is this report restricted?**

**Yes**

☐

**No**

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**Please indicate the description, as listed in Schedule 6, of the exempt information by virtue of which the council has deemed this report restricted.**

**Insert number**

☐

1. Information relating to any individual
2. Information likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the council holding that information)
4. Information in connection with any labour relations matter
5. Information in relation to which a claim to legal professional privilege could be maintained
6. Information showing that the council proposes to (a) to give a notice imposing restrictions on a person; or (b) to make an order or direction
7. Information on any action in relation to the prevention, investigation or prosecution of crime

**If Yes, when will the report become unrestricted?**

**After Committee Decision**

**After Council Decision**

**Sometime in the future**

**Never**


**Call-in**

**Is the decision eligible for Call-in?**

**Yes**

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**No**

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<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
1.1	Members are reminded that, at your meeting of 21 May 2025, you considered two separate Street Trading Licence Applications from Ms Vanessa Kemp and Mr Daniel Smith to trade at the designated site in Duncrue Link 50ft from the junction with Duncrue Road.
1.2	After hearing from the applicants and considering the applications, the Committee agreed that it was minded to grant Ms Kemp a Stationary Street Trading Licence to sell hot food and non-alcoholic beverages from a catering van Monday to Friday from 7.00am to 5.00pm. One of the reasons given for that decision was that, in line with previous decisions, the street trading licence should be awarded to the application received first.
1.3	The result of that decision means that the single Designated Street Trading Site is taken and as such there is no suitable location for the other applicant and also now sufficient traders trading in the street, in the articles, things or services in which the successful applicant wanted to trade.
1.4	As a consequence, the Committee agreed that you were minded to refuse the application submitted by Mr Smith.
1.5	A copy of the report and minutes from that meeting is attached as Appendix 1.
1.6	Mr Smith has submitted a written representation to appeal your decision, which Committee must now consider, before arriving at your final decision on the competing street trading applications for this designated site.
<b>2.0</b>	<b>Recommendations</b>
2.1	Members must agree either to: <ul style="list-style-type: none"> <li>1. Uphold the initial decision of the 21 May 2025 and grant the licence to Miss Vanessa Kemp and refuse the other application, or</li> <li>2. Amend its decision of 21 May 2025.</li> </ul>
2.2	If Members uphold the initial decision and grant the licence to Ms Kemp, refusing to grant the licence to Mr Smith, Mr Smith has a right of appeal to the Magistrates Court against the refusal.
2.3	On granting a Licence, Members may attach any reasonable Conditions to it, if they so decide. The Licence would only be granted on a 1-year basis, as is normal for applications from traders that have previously not held a street trading licence in Belfast.
2.4	If Members amend their decision of 21 May 2025, the Committee should give the grounds for so doing and, as the Committee will be making new minded-to decisions concerning the applications, a date for a special meeting must be arranged to hear from the relevant applicant again before making the final decision.
<b>3.0</b>	<b>Main Report</b>
	<b><u>Key Issues</u></b>

3.1	As a consequence of agreeing that you were minded to grant the Stationary Street Trading Licence to Ms Kemp, the Committee agreed that it was minded to refuse the application which had been submitted by Mr Smith.
3.2	That decision was 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 he wished to trade was unsuitable and that there were sufficient traders trading at that location in the articles, things or services in which he wished to trade.
3.3	Mr Smith has submitted a written appeal against your decision through his solicitors, Brentnall Legal Limited, a copy of which is attached as Appendix 2.
3.3	<p>Mr Smith's solicitor outlines that:</p> <ul style="list-style-type: none"> <li>• The Council has no specific concern in relation to Mr Smith's application which was made entirely properly,</li> <li>• That refusal under Section 9 of the Street Trading Act (NI) 2001 are discretionary grounds as opposed to mandatory grounds</li> <li>• That the Council have exercised their discretion to refuse Mr Smith's application, given another licence has been issued.</li> <li>• Noted that Miss Kemp applied on 20 January 2025 and Mr Smith applied on 3 March 2025, and they have not had sight of any reasons for the decision and their client understands that it may therefore simply be the case of the Council opting to grant the licence on a 'first-come first served basis'.</li> </ul>
3.4	<p>They consider that it may be helpful for the Council to be aware that:</p> <ul style="list-style-type: none"> <li>• Firth's Foods has been based at Duncrue Link for nearly 40 years and the van in Mr Smith's application has been there for over 10 years.</li> <li>• The previous owner Mr Brian Firth had to give up the business for personal reasons in late 2024, and due to these circumstances, the street trading licence lapsed. Mr Smith agreed to take over the business and apply for a new street trading licence.</li> <li>• There is an existing member of staff who has worked there for a number of years, and essentially Mr Smith proposes to simply continue the business in the same responsible fashion as the previous licence holder.</li> <li>• When the decision was made to grant the licence in favour of Miss Kemp, as opposed to Mr Smith, one reason given was that there was an existing hygiene rating in favour of Ms Kemp.</li> <li>• Mr Smith did not have a hygiene rating for reasons of the circumstances outlined, however Mr Firth consistently had a hygiene rating of 5, and Mr Smith's clear intention would be to maintain this rating, especially given the staff and features of the business would remain the same.</li> <li>• Ms Kemp's father operates a food stand some 2 streets away and while the application was made by Ms Kemp, the presentation was made by Ms Kemp's father, giving a concern about a degree of monopolisation, in circumstances where an existing business has already been present for many years.</li> </ul>
3.5	Mr Smith's solicitor outlines that the difficulty arising appears to be that there does not seem to be a particularly detailed scoring mechanism and that neither the Act or the guide to the Act provide any detailed guidance about what considerations should be given when deciding whether competing applications should be granted.

3.6	Mr Smith's solicitor concludes that the fundamental point on behalf of their client is that basic fairness should dictate that the previous business should be allowed to continue, and that effectively the sad circumstances in which the licence have lapsed have led to the loss of this business.
4.0	<p><b><u>Financial &amp; Resource Implications</u></b></p> <p>If the Committee grants a Licence, the Stationary Street Trading Licence fee is as follows:</p> <ul style="list-style-type: none"> <li>• Application Fee of £150, and a Licence fee, for Monday to Friday, of £800 per annum.</li> </ul>
5.0	<p><b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b></p> <p>There are no issues associated with this report.</p>
6.0	<p><b>Appendices – Documents Attached</b></p> <ul style="list-style-type: none"> <li>• Appendix 1 –Minutes and Report from 21 May 2025 Committee Meeting.</li> <li>• Appendix 2 – Mr Smith's Written Representation</li> <li>• Appendix 3 – Street Trading Licensing Policy</li> </ul>