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FAO Ms. Laura Hills and Mr. Ian Harper
Belfast City Council
Place and Economy Department
Cecil Ward Building
4-10 Linenhall Street
Belfast
BT2 8BP

(By Email)

1st July 2025

Dear Sir/Madam,

Our Client: Mr. Daniel Smith

In the Matter of an Application pursuant to the Street Trading Act (Northern Ireland) 2001

We refer to our above-named client ("the Applicant") who has passed your recent correspondence to our office dated 13th June 2025.

The correspondence confirms that Mr. Smith's application for a Stationary Street Trading Licence at Duncrue Link was refused. As per Section 12(2) of the 2001 Act, Mr. Smith was notified of his right to make representations in relation to this decision. We make these representations below on our client's behalf:

Street Trading Act (Northern Ireland) 2001

As per your correspondence dated 13th June 2025, the Council will of course be aware that the relevant legislation is the Street Trading Act (Northern Ireland) 2001. The council decision to refuse Mr. Smith's application was pursuant to Section 9(i) and (iv) of the Act, namely that the location at which the Applicant wishes to trade as a stationary trader is unsuitable and 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.

Representations

It would appear on our instructions that the refusal automatically flows from the grant of a separate licence to a Ms. Victoria Kemp, i.e. that no specific concern arises in relation to our client's application, which appears to have been made

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entirely properly. In essence, the nature of the decision appears to be that the granting of a licence to Ms. Kemp therefore automatically leads to the refusal for Mr. Smith on foot of Section 9. It should also be noted that refusals pursuant to Section 9 are discretionary grounds as opposed to mandatory grounds envisaged in Section 8 of the Act.

In short, the Council have exercised their discretion to refuse Mr. Smith's application, given that another licence has been issued.

We have had sight of "*Appendix 2 – Overview comments regarding competing licence applications*" which sets out the council comments in relation to both applications. We note that Miss Kemp applied on 20th January 2025, and Mr. Smith applied on 3rd March 2025.

We have not had sight of any reasons for the decision to issue the licence to Ms. Kemp and not to our client – our client understands that it may therefore simply be a case of the Council opting to grant a licence on a 'first-come first-served' basis, albeit this is not confirmed in writing.

To assist with these representations, it may therefore be helpful for the Council to be aware of the following:

- We are instructed that, as per the application, Firth's Foods has been based at Duncrue Link for nearly 40 years. The van in question provided by our client in his application has been there for 10+ years.
- The previous owner Mr. Brian Firth had operated the business during that time. However, in late 2024, Mr. Firth's father passed away. Mr. Firth's wife has sadly suffered from Dementia, and this bereavement meant that Mr. Firth then had to give up the business in order to take care of his wife.
- It was in those circumstances that the licence lapsed, and our client then agreed to take over the business and apply for a new licence.
- There is an existing member of staff who has worked there for a number of years, and essentially our client proposes to simply continue the business in the same responsible fashion as the previous licence holder.
- It is also understood that Ms. Kemp's father operates a food stand some 2 streets away, and this new application is for another food stand. Although the application in this instance was made by Ms. Victoria Kemp, our





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instructions are that the presentation itself was made by Ms. Kemp's father who operates the other existing site.

- Furthermore, our client's instructions are that when the decision was made to grant a licence in favour of Ms. Kemp (as opposed to our client), one reason given for this was that there was an existing hygiene rating in favour of Ms. Kemp. Clearly from our client's perspective, we have outlined the circumstances above as to why our client did not have an existing hygiene rating. It is understood that Mr. Firth consistently had a hygiene rating of 5, and therefore our client's clear intention would be to maintain this positive rating, especially given that the staff and features of the business would remain the same.
- The difficulty arising appears to be that there does not seem to be a particularly detailed scoring matrix in terms of applications, and indeed the Act itself nor the Guide to the Street Trading Act (Northern Ireland) 2001 do not provide any further detailed guidance about what considerations should be given when deciding whether competing licence applications should be granted.

However, the fundamental point on behalf of our clients 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 has lapsed have led to the loss of the business. This may be regarded as particularly unfair, given that the competing application already has a similar business only 2 streets away, with a concern on behalf of our client about a degree of monopolisation, in circumstances where an existing business had already been present for many years.

For that reason, our client would respectfully ask for a reconsideration of this decision.

Section 13(c) of the Act permits a person aggrieved by a decision of a council to refuse an application for a licence to appeal to a Court of summary jurisdiction by notice under Part VII of the Magistrates Courts (Northern Ireland) Order 1981.

While this option remains open to our client, it is hoped that these representations will assist the Council in reconsidering the decision under challenge in this instance. In that respect, our client would wish to make these representations first, and await any fresh decision by the council, before pursuing the issue of an appeal pursuant to Section 13.

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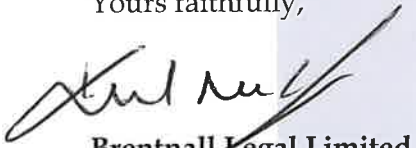




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Many thanks in advance, and we look forward to hearing from you.

Yours faithfully,



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