

# Public Document Pack

**Democratic Services Section  
Legal and Civic Services Department  
Belfast City Council  
City Hall  
Belfast  
BT1 5GS**



**Belfast  
City Council**

17th November, 2020

## **MEETING OF LICENSING COMMITTEE**

Dear Alderman/Councillor,

The above-named Committee will meet via Microsoft Teams on Wednesday, 18th November, 2020 at 5.00 pm, for the transaction of the business noted below.

You are requested to attend.

Yours faithfully,

SUZANNE WYLIE

Chief Executive

### **AGENDA:**

#### **2. Delegated Matters**

- (b) Designation of New Street Trading Sites **[Amendment to include an additional proposed site '65-69 Dublin Road']** (Pages 1 - 4)

#### **3. Non-Delegated Matters**

- (a) Amendment of the Scheme of Delegation to delegate authority to determine some renewal applications with objections (Pages 5 - 6)





<b>Subject:</b>	Designation of new Street Trading Sites
<b>Date:</b>	18 November 2020
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, ext. 2435
<b>Contact Officer:</b>	James Cunningham, Regulatory Services Manager, ext. 3375

<b>Restricted Reports</b>	
<b>Is this report restricted?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

<b>Call-in</b>	
<b>Is the decision eligible for Call-in?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
<b>1.1</b>	An important feature of the licensing provisions in the Street Trading Act (NI) 2001 is the power of a district council 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.
<b>1.2</b>	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.
<b>1.3</b>	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.

<b>2.0</b>	<b>Recommendations</b>																
<b>2.1</b>	The Committee is required to consider the applications that have been received for the creation of new designated sites outlined in paragraph 3.3. Subject to any amendments you may have, 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 proposals.																
<b>3.0</b>	<b>Main report</b>																
<b>3.1</b>	<p><b><u>Key Issues</u></b></p> <p>The Act sets down the procedures which must be followed in considering a designating resolution, 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:</p> <ol style="list-style-type: none"> <li>a) Give public notice of the proposed resolution;</li> <li>b) Consult with the PSNI and the Department for Infrastructure and other persons it considers appropriate;</li> <li>c) Consider any representations relating to the proposed resolution which it has received;</li> <li>d) After the Council has considered those representations it may, if it thinks fit, pass the designating resolution;</li> <li>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.</li> </ol> <p><b>3.2</b> A further report will be brought before the Committee at a future meeting detailing the outcome of the process of consultation. At that stage, Members will be able to determine the designation of the street along with any restriction on the commodity to be sold and any recommendations regarding the restriction on the times of trading.</p> <p><b>3.3 Proposed Sites</b></p> <table border="1" data-bbox="272 1290 1469 1975"> <thead> <tr> <th data-bbox="272 1290 874 1328"><b>Location</b></th> <th data-bbox="874 1290 1469 1328"><b>Proposed Commodities/Services</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="272 1328 874 1397">Castle Place, adjacent to the existing kiosk.</td> <td data-bbox="874 1328 1469 1397">Commodities to be determined, but excluding the sale of hot food.</td> </tr> <tr> <td data-bbox="272 1397 874 1498">12 Lockview Road at Belfast Boat Club.</td> <td data-bbox="874 1397 1469 1498">Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.</td> </tr> <tr> <td data-bbox="272 1498 874 1599">565 Upper Newtownards Road. On private forecourt.</td> <td data-bbox="874 1498 1469 1599">Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.</td> </tr> <tr> <td data-bbox="272 1599 874 1700">Comber Greenway at North Road bridge</td> <td data-bbox="874 1599 1469 1700">Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.</td> </tr> <tr> <td data-bbox="272 1700 874 1769">King Street, second parking bay moving away from Castle Court.</td> <td data-bbox="874 1700 1469 1769">Hot and cold food and non-alcoholic beverages (night time).</td> </tr> <tr> <td data-bbox="272 1769 874 1870">Corner of North Road and Upper Newtownards Road. On land adjacent to Cyprus Avenue restaurant.</td> <td data-bbox="874 1769 1469 1870">Hot and cold food and non-alcoholic beverages (night time).</td> </tr> <tr> <td data-bbox="272 1870 874 1975">65-69 Dublin Road. On private forecourt</td> <td data-bbox="874 1870 1469 1975">Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.</td> </tr> </tbody> </table>	<b>Location</b>	<b>Proposed Commodities/Services</b>	Castle Place, adjacent to the existing kiosk.	Commodities to be determined, but excluding the sale of hot food.	12 Lockview Road at Belfast Boat Club.	Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.	565 Upper Newtownards Road. On private forecourt.	Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.	Comber Greenway at North Road bridge	Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.	King Street, second parking bay moving away from Castle Court.	Hot and cold food and non-alcoholic beverages (night time).	Corner of North Road and Upper Newtownards Road. On land adjacent to Cyprus Avenue restaurant.	Hot and cold food and non-alcoholic beverages (night time).	65-69 Dublin Road. On private forecourt	Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.
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	123 Miltown Road, car park at Shaw's Bridge Sports Association	Hot and cold food and non-alcoholic beverages
<b>3.4</b>	<p><b><u>Financial and Resource Implications</u></b></p> <p>The cost of all notices is included in current revenue budgets.</p> <p><b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b></p>	
<b>3.5</b>	<p>There are no issues associated with this report.</p>	
<b>4.0</b>	<b>Appendices – Documents Attached</b>	
	None	

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<b>Subject:</b>	<b>Amendment of the Scheme of Delegation to delegate authority to determine some renewal applications with objections</b>
<b>Date:</b>	18 <sup>th</sup> November 2020
<b>Reporting Officer:</b>	Nora Largey, Divisional Solicitor, Ext. 6049
<b>Contact Officer:</b>	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

<b>Is this report restricted?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Is the decision eligible for Call-in?</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
1.1	To consider amendment of the Scheme of Delegation in respect of applications for renewal of a licence for the use of premises as a House in Multiple Occupation (HMO).
<b>2.0</b>	<b>Recommendations</b>
2.1	<p>Taking into account the information presented Committee is asked to consider whether it wishes to amend the Scheme of Delegation to:</p> <ul style="list-style-type: none"> <li>(i) Allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the objection relates to overprovision, either directly or indirectly; and</li> <li>(ii) Allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the issues raised are general in nature and not specific to the relevant property, applicant or managing agent.</li> </ul>
2.2	Amending the Scheme of Delegation does not fall within the delegated authority of Committee and must therefore be ratified by Council.

3.0	<b>Main report</b>
	<p data-bbox="256 226 416 255"><b><u>Key Issues</u></b></p> <p data-bbox="165 293 1471 389">3.1 Members will be aware that Section 20 of the Houses in Multiple Occupation Act (NI) 2016 states that the power to refuse an application on the grounds of overprovision or breach of planning control do not apply to renewal applications.</p> <p data-bbox="165 427 1471 555">3.2 Paragraph 3.6.27 of the Scheme of Delegation permits officers to exercising all powers in relation to the grant (but not refusal) of HMO licences, except in certain circumstances. One of those exceptions is where material objections are received. This means that where a material objection has been received the application must be referred to Committee.</p> <p data-bbox="165 593 1471 790">3.3 Council continues to receive objections in relation to renewal applications which raise general issues about overprovision or raise concerns about other issues in the general area which are not specific to either the property, owner or managing agent of the property. In accordance with the 2016 Act these objections are valid and whilst not dismissing the alleged issues, legal advice has consistently been that refusal of an application on the basis of such an objection would not be sustainable.</p> <p data-bbox="165 828 1471 925">3.4 It is considered that this process is unfair to the applicants and indeed to objectors. It also brings applications to Committee unnecessarily which increases work load for both Committee and officers.</p> <p data-bbox="165 963 1471 1059">3.5 Officers therefore believe it may be appropriate to amend the Scheme of Delegation to allow officers to grant renewal applications licences in circumstances where the nature of the objection relates to overprovision, either directly or indirectly.</p> <p data-bbox="165 1128 1471 1225">3.6 Members may also wish to consider whether to grant delegated authority to officers to grant a renewal application where valid objections have been received but where the issues raised in the objection are not specific to the property in question.</p> <p data-bbox="165 1263 1471 1460">3.7 It is acknowledged that this is less straightforward as issues may arise which should be considered by Committee. In this context however members are reminded that paragraph 1.13 of the Scheme of Delegation states that Chief Officers may refer any delegated matter to Committee in any case. Furthermore, any decision which would otherwise be delegated under the Scheme should be reported to Committee if it is politically contentious, sensitive, significant or if it is otherwise in the public interest to do so.</p> <p data-bbox="256 1534 772 1563"><b><u>Financial and Resource Implications</u></b></p> <p data-bbox="165 1601 341 1630">3.8 None.</p> <p data-bbox="256 1668 842 1697"><b><u>Equality and Good Relations Implications</u></b></p> <p data-bbox="165 1736 1214 1765">3.9 There are no equality or good relations issues associated with this report.</p>
4.0	<b>Appendices – N/A</b>