

Licensing Committee

Wednesday, 19th June, 2024

MEETING OF THE LICENSING COMMITTEE

HELD IN THE LAVERY ROOM

Members present: Alderman Rodgers (Chairperson);
Aldermen McCullough;
Councillors Abernethy, Anglin, Bradley,
T. Brooks, P. Donnelly, Doran,
D. Douglas, Kelly, F. McAteer,
McCabe, McCann, McCusker, McDowell,
McKay, McKeown, Ó Néill and Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Manager;
Mr. D. McCamphill, Lead Building Control Surveyor
Mr. C. McLaughlin, Solicitor (Regulatory and Planning); and
Mrs. L. McLornan, Democratic Services Officer.

Apologies

No apologies were reported.

Minutes

The minutes of the meeting of 17th April, 2024 were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council, at its meeting on 7th May, 2024, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor McCabe declared an interest in the item “Féile an Phobail 2024”, in that she was its Development Manager, and she therefore left the room for the item and did not participate in the discussion or vote.

Item Raised in Advance by a Member

Street Closures - Councillor McKeown to raise

At the request of Councillor McKeown, the Committee agreed to receive a briefing from officers on Street Closures at its next meeting.

Delegated Matters

**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN
PURSUANCE OF THE POWERS DELEGATED TO IT UNDER
STANDING ORDER 37(d)**

**Féile an Phobail 2024 - Request to operate at
Falls Park beyond the permitted hours**

(Councillor McCabe, having declared an interest in this item, left the meeting at this point in proceedings.)

At the request of a number of Members, the Committee agreed to bring this item forward in the agenda.

The Building Control Manager presented the following report to the Committee:

“1.0 Purpose of Report or Summary of main Issues

1.1 To consider a request from the organisers of Féile an Phobail to permit the planned entertainment to run beyond 11.00 pm on up to 7 nights during the festival event within Falls Park, running from Thursday 1 August to Sunday 11 August 2024.

2.0 Recommendations

2.1 Taking into account the information presented and any representations received you are required to consider the request to extend the hours of entertainment and, subject to all technical requirements being met, either:

- 1. Agree that all 7 of the events should be permitted to take place beyond the standard hours of licence to 1.00 am; or**
- 2. Agree that only on specified nights will entertainment be permitted to take place beyond the standard hours of licence to 1.00am and that the other requested nights be permitted to take place to an earlier specified extended hour; or**
- 3. Refuse to extend all of the hours as requested.**

3.0 Main report

Key Issues

3.1 Members are advised that a 7-Day Annual Outdoor Entertainments Licence and a 7-Day Annual Indoor Licence for a Marquee has been granted for Falls Park and both have been used to hold events in the past, primarily for this event. The Licences are held by the City and Neighbourhood

Services Department and are transferred to the organisers for the duration of their event.

- 3.2 The days and standard hours during which entertainment may be provided both outdoors and in a marquee are Monday to Sunday from 11.30 am to 11.00 pm.
- 3.3 In addition, the following Special Conditions are attached to both the Marquee and Outdoor Entertainments Licences:
- Maximum numbers will be agreed at the discretion of the Building Control Service and will vary depending upon individual concert set up proposals.
 - 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.
 - Any requests to provide entertainment later than 11.00 pm must be considered by the Licensing Committee and therefore must be made at least 3 months in advance of the proposed event.
 - Should an application to provide entertainment beyond 11.00 pm 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 Director of Planning and Building Control, in consultation with the City 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.
- 3.4 The applicant has indicated that outdoor music events are scheduled for Friday 2nd, Saturday 3rd and Sunday 4th August, in conjunction with consecutive nights on Thursday 8th, Friday 9th, Saturday 10th and Sunday 11th August and has requested to operate beyond 11.00 pm on these seven nights. However, the applicant has indicated that it is intended only to operate to 1.00am for the diversionary dance music event on the Thursday 8th August 2024.
- 3.5 It is a Standard Condition of the Outdoor Entertainments Licence that all requests to operate beyond the permitted hours of entertainment must be considered by the Licensing Committee.

- 3.6 As this is not an application to vary the terms of the Outdoor licence, but a request for Council's permission to extend the hours under an existing Licence Condition, there is no requirement for public advertisement in this case.
- 3.7 Members are reminded that in 2023 the Committee agreed to grant the organisers permission to operate on 6 nights of the event beyond the standard hours of 11.00 pm to 1.00 am and on all these nights entertainment did continue beyond 11.00 pm.
- 3.8 A Location Map is attached as Appendix 1

Rationale for additional hours

- 3.9 The event has been running for over 30 years as a community festival and has grown from being a 2-3 day to a full 10-11 day festival, offering a mix of arts and cultural events including music concerts, comedy, tours and walks, debates and discussions, exhibitions / visual arts, theatre, youth and community and sporting events.
- 3.10 In recent years the event organisers have consolidated the entertainment events at Falls Park to 6 nights. This decision was motivated by a desire to limit disruption to the community in close proximity to Falls Park.
- 3.11 The applicant has indicated that it is intended that entertainment will go on no later than 1am for the event on Thursday 8 August, due to the diversionary nature of the event. We await confirmation on actual finish time of the other six events for which extension beyond standard hours have been requested.
- 3.12 An explanatory letter provided by the applicant is attached as Appendix 2 and a representative from Feile has been invited to attend your meeting.

PSNI

- 3.13 The PSNI have been contacted by the Service in relation to the event, however, a response has not yet been received. We will update Committee on their views at your meeting.
- 3.14 In the absence of any police response, should Members be minded to approve the extended hours requested, this should be subject to a satisfactory response being received from the PSNI on the matter.

Health, safety and welfare issues

- 3.15 Officers have engaged with the event organisers and colleagues in City & Neighbourhood Services in relation to the festival and will participate in the multi-agency meeting to be held in advance of the event with the event organisers.
- 3.16 An Event Management Plan in support of the event has been received and is being evaluated by the Service and shared with other colleagues.
- 3.17 Officers from the Service have carried out during performance inspections at previous events organised by Féile an Phobail and found that the organisers have adhered to the health, safety and welfare management requirements during that time.

Noise issues

- 3.18 A significant consideration for Environmental Protection Unit (EPU) will be the proposal to provide outdoor entertainment after 11.00 pm. Members are reminded that the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 gives councils additional powers in relation to entertainment noise after 11.00 pm.
- 3.19 EPU received around 120 noise complaints regarding the festival in 2023. This was an increase from the festival in 2022 when 58 noise complaints were received. Many complaints related to the entertainment being permitted after 11.00pm during the working week.
- 3.20 Complaints received during the course of the festival were brought to the attention of the event organisers and following conclusion of the festival a detailed summary of all noise complaints was provided for their consideration. No formal action was undertaken by EPU in respect of the noise complaints received.
- 3.21 Whilst the Service sought to arrange a post-event meeting with the applicant to discuss the event this did not take place.
- 3.22 In their letter to Committee Féile has committed, alongside local political and community representatives, to conduct a number of community consultations around this year's events in the park, specifically engaging with local residents and addressing any issues or concerns.

- 3.23 They also anticipate that entertainment will go to 1.00am on one occasion only, the diversionary event on Thursday 8th August 2024.
- 3.24 The event organisers will again be required to engage with an acoustic consultant to document a noise mitigation strategy for each night of entertainment. The purpose of the strategy will be to demonstrate that noise from the event will not cause unreasonable disturbance to commercial and residential premises. Once received by the Service this strategy will be provided to EPU for appraisal.
- 3.25 The noise mitigation strategy will be discussed at the pre - event multi-agency meeting. Last year the sound consultant did not have a site presence on the nights of entertainment to carry out sound testing, and this would be a beneficial mitigation this year.
- 3.26 The organisers will also be required to produce a suitable residents pre-notification letter containing a nominated event organiser contact that residents may refer concerns or make complaints to. The extent of the letter's distribution, which will take place prior to the event will be agreed with the event organiser by the Service in consultation with EPU officers.
- 3.27 The event organisers will be reminded of the standard licence condition that receipt of significant complaints may lead to further late nights being curtailed. However, it can be impracticable during the festival to curtail further nights at short notice as complaints are not all received on the nights that are the subject of the complaint and a full picture does not emerge until all complaints are collated, by which time the events can be concluded.
- 3.28 Members may therefore wish to consider if it is appropriate to set an earlier time limit such as midnight for some of the events this year.

Financial and Resource Implications

- 3.29 None. Officers will carry out inspections at the events which will be catered for within existing Service budgets.

Equality and Good Relations Implications/Rural Needs Assessment

- 3.30 There are no issues associated with this report.”

A Member stated that there had been complaints from residents last year in the Highfield and Springmartin areas and asked whether those complainants would be consulted in regards to the events taking place in August 2024. She also pointed out that the number of complaints from the year before had doubled, and that that was concerning. She also highlighted that one of the proposed nights for late-night entertainment was a weeknight and that some people would have to get up early for work the next morning. She advised that, last year, some residents in the Village area had reported a disturbance at 2am after a Féile an Phobail event, and that the PSNI had been made aware of it. She stated that she was interested to know the PSNI response to the proposal of the late night events.

In response, the Building Control Manager confirmed that there had been a significant rise in the number of complaints made than the previous year. He outlined that, depending on the atmospheric conditions of the night, noise could travel in certain directions more than others and that was something that could be looked at by an acoustic consultant to see what mitigations could be made in terms of, perhaps, stage orientation and through monitoring. He confirmed that most of the complaints received regarding last year's events related to the cumulative impact of events running past 11pm throughout the week.

The Chairperson welcomed Mr. K. Gamble, Director of Féile an Phobail, to the meeting.

A Member stated that she had attended a post-event meeting with the promoter of the recent Bruce Springsteen concert and that she had felt that it had been useful. She suggested that it could be conditional that the applicant should engage in a post-event meeting.

A further Member queried why the promoter was seeking a late finish time when the usual finish time for all concerts was 11pm.

The applicant stated that he would be more than happy to engage in a post-event meeting. He also confirmed that they engaged widely in a pre-event consultation with the local community and with local Councillors and that he would be happy to engage with any Councillors or areas which had raised concerns in the past or who may have had concerns with the events for this year.

He stated that they had engaged with the PSNI regularly and that they were due to meet with them again soon, including a wider meeting with all the statutory services. He stated that the PSNI had a copy of their event plan and their safety plan and that they had raised no issues with them in regards to last year's events or this year's plans.

In response to the Member's question as to why they were seeking an extension of entertainment past 11pm, Mr. Gamble stated that, originally, it had been for the diversionary nights of 8th and 9th August, where traditionally bonfires would have been lit in Nationalist and Republican areas. He stated that Féile an Phobail had engaged with community representatives, political representatives, statutory agencies and the young people involved to come up with diversionary activity to prevent antisocial behaviour.

He explained that there were some young people who would have left the park at around 10pm and returned to the areas where bonfires were being lit. He outlined that, with further engagement with those young people and with the Council, safety officers, the PSNI and local community representatives, Féile an Phobail had decided to apply for additional evenings of late night entertainment, in order to try and curb that anti-social behaviour further.

He advised the Committee that, over the past two years, the PSNI and the Head of the Fire Service had confirmed that there were no call outs to attend bonfires on those evenings throughout the city, and that that was largely due to the alternative activity that the festival offered.

In response to a Member's query as to whether those who had made complaints last year about the event would be issued with notification letters, the Building Control Manager explained that those areas were further away than the usual notification area. He confirmed that the letter would be distributed as widely as possible and that they would work with their colleagues in the Environmental Protection Unit to determine what distance was appropriate. A further Member suggested that individual Members could highlight the late nights of entertainment to their constituents on their social media pages.

Moved by Councillor McCann,
Seconded by Councillor Bradley and

Resolved – that the Committee agrees that all 7 of the events (taking place on 2nd, 3rd, 4th, 8th, 9th, 10th, 11th August, 2024) be permitted to take place beyond the standard hours of licence to 1.00am, subject to:

- a satisfactory response being received from the PSNI in respect of the additional hours;
- an acoustic consultant being on site at each of those nights;
- a post-event meeting being held with the applicant; and
- that houses within a certain proximity, working with the Environmental Protection Unit (EPU) to determine what is appropriate, are given advanced warning of the late night events.

Houses in Multiple Occupation (HMO) Licenses Issued Under Delegated Authority

(Councillor McCabe returned to the meeting at this point in proceedings)

The Committee noted a list of applications which had been approved under the Council's Scheme of Delegation during April and May 2024.

Licenses Issued Under Delegated Authority

The Committee noted a list of applications for licences which had, since its last meeting, been approved under the Council's Scheme of Delegation.

Application for a New Licence to operate a House of Multiple Occupation for 49 Atlantic Avenue

The Houses in Multiple Occupation (HMO) Manager presented the details of the application to the Committee.

The Committee was advised that the property had had the benefit of an HMO licence issued by the Housing Executive, which had expired on 13th June, 2022. Reminder letters had been sent to the licence holder on 19th January, 2022, and 18th May, 2022, informing them of the need to renew the HMO licence before the expiry of the existing licence. On 19th May, 2022, an HMO licence application was received to renew the licence. The NIHMO Unit ceased to consider the application as the owner had failed to comply with Regulation 2 of the Houses in Multiple Occupation (Notice of Application) Regulations (Northern Ireland) 2019, which required them within seven days of submitting the application, they must have published information of the application in one or more newspapers circulating in the locality of the HMO and have provided a copy to the NIHMO Unit. A reminder to do so had been sent to the applicant.

The Members were advised that, on 10th August, 2022, an incomplete application for a Temporary Exemption Notice "TEN" was received and subsequently refused. A subsequent TEN application was received and approved, with an extension, but that had expired on 25th January 2023.

On 5th December, 2022, an HMO licence application was received from the owner, which was rejected on 15th December, 2022 for breach of planning control. A further licence application was received on 12th December, 2023.

The HMO Manager outlined that, pursuant to the 2016 Act, the Council could only grant a licence if it was satisfied that:

- a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control;
- b) the owner, and any managing agent of it, were fit and proper persons;
- c) the proposed management arrangements were satisfactory;
- d) the granting of the licence would not result in overprovision of HMOs in the locality;
- e) the living accommodation was fit for human habitation and—
 - i. was suitable for occupation as an HMO by the number of persons to be specified in the licence, or
 - ii. could be made so suitable by including conditions in the licence.

The Committee was advised that, as it was a new application, the Council's Planning Service was consulted. It had confirmed that a Certificate of Lawful Existing Use of Development "CLEUD" was granted on 3rd February, 2023.

It was reported that the NIHMO Unit had consulted with the Environmental Protection Unit in relation to daytime noise; the Public Health and Housing Unit in relation to rubbish accumulation/filthy premises; and the Enforcement Unit in relation to litter and waste and all had confirmed that there had been no relevant enforcement action required in respect of any of the issues in the HMO in the last 5 years.

The applicant had confirmed that they had not been convicted of any relevant offences under the 2016 Act.

For the purpose of Section 12(2) of the 2016 Act, the Council had determined the locality of the accommodation as being Housing Management Area (HMA) "2/02 Atlantic" as defined in the document Council's Local Development Plan Strategy, which was formally adopted on 2nd May, 2023. It was reported that Legal Services had advised that there was a clear requirement in section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence would not result in overprovision.

The officers had had regard to:

- a) the number and capacity of licensed HMOs in the locality; and
- b) the need for housing accommodation in the locality and the extent to which HMO accommodation was required to meet that need.

To inform the Council in its consideration of the above provisions, the Council had taken account of the 2023 Strategy given that "Nurturing sustainable and balanced communities was a fundamental aim of the LDP's housing policies." In particular, the Council had considered Policy HOU10, which stated:

"Within designated HMAs, planning permission will only be granted for Houses in Multiple Occupation (HMOs) and/or flats/apartments where the total number of HMOs and flats/apartments combined would not as a result exceed 20% of all dwelling units within an HMA."

The Committee was advised that, on the date of assessment, 28th May 2024, 60% of all dwelling units in policy area HMA 2/02 Atlantic were made up of HMOs and flats/apartments, which in turn exceeded the 20% development limit as set out in Policy HOU10. There were 2 (1%) licensed HMOs with a capacity of 10 persons in that HMA.

It was outlined that there were a total of 161 dwelling units in HMA 2/02. The Committee was advised that the fact that the use of the property as an HMO was permitted for planning purposes was a relevant consideration in determining whether the granting of the licence would result in overprovision.

The Houses in Multiple Occupation Manager reminded the Committee that there was a need for intensive forms of housing and, to meet that demand, HMOs were an important component of the housing provision. HMOs, alongside other accommodation options within the private rented sector, played an important role in meeting the housing needs of people who were single, who had temporary employment, students, low income households and, more recently, migrant workers and asylum seekers.

The Houses in Multiple Occupation Manager explained that, in assessing the number and capacity of licensed HMOs, as well as the need for HMO accommodation in the locality, officers could not be satisfied that the granting of the HMO licence would not result in overprovision of HMO accommodation in the locality of the accommodation for the purpose of section 8(2)(d) of the 2016 Act.

The Committee was advised that no objections had been received in relation to the application. It was also reported that the accommodation had been inspected by a technical officer from the NIHMO service, on 26th February, 2024, during which it was established that the rear return bedroom window was below the minimum 6.5m² requirement.

On 29th May, 2024, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, officers had issued a Notice of Proposed Decision to the Applicant advising that it was proposing to refuse the licence on the grounds of overprovision. The Members were advised that a response had not been received from the applicant.

The Chairperson welcomed Mr. and Mrs. Carragher, applicants, to the meeting. Together they outlined that while they had initially let the property out through a letting agent that they had now taken it over personally. They explained that they had spent a lot of money on the HMO fees. They also outlined that they had not been warned about the overprovision criteria but that they felt that the demand for HMO accommodation was in the area.

Moved by Councillor Doran,
Seconded by Councillor Bradley and

Resolved – that the Committee agrees to refuse the application as, in accordance with Section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, it was satisfied that the granting of the HMO licence would result in overprovision of HMO accommodation in the locality of the accommodation, as determined under section 8(2)(d) of the Act.

Chairperson