

# Licensing Committee

Wednesday, 20th June, 2012

## MEETING OF LICENSING COMMITTEE

Members present: Councillor Ekin (Chairman); and  
Aldermen McCoubrey and Rodgers;  
Councillors Attwood, M. E. Campbell, Convery,  
Cunningham, Groves, Jones, Keenan, Lavery,  
Ó Donnghaile, O'Neill and Spence.

In attendance: Mrs. S. Wylie, Director of Health  
and Environmental Services;  
Mr. T. Martin, Head of Building Control;  
Ms. N. Largey, Solicitor; and  
Miss L. Hillick, Democratic Services Officer.

### **Apologies**

Apologies for inability to attend were reported from Aldermen Smyth and Stalford and Councillors Hussey, L. Patterson and Webb.

### **Minutes**

The minutes of the meeting of 16th May were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st June, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

### **Congratulations**

The Committee extended its congratulations to Alderman Stalford and his wife on the recent birth of their son.

### **Declarations of Interest**

No declarations of interest were reported.

**Non-Delegated Matters**

**Request to Address Committee –  
Police Service of Northern Ireland**

The Committee was advised that the Police Service of Northern Ireland had contacted the Council indicating that it had developed a “traffic light” categorisation system which would be utilised to report violent crimes emanating from licensed premises. That system was based on an award winning model used by Cardiff City Council and that Council had confirmed that the system had been instrumental in assisting it to improve the management and safety associated with its night-time economy. The Police Service had provided the presentation to the members of ‘Pubs of Ulster’ and to a partnership group, which had been led by the Health and Social Services Trust.

The Director explained that the information which could be obtained from the traffic light matrix could form a part of any evidence which the police could present in its objections to applications for the renewal and/or extension of entertainments licenses. Accordingly, she recommended that the Committee agree to receive at a future meeting a presentation from the Police Service of Northern Ireland in this regard.

The Committee adopted the recommendation.

**Appointment to the Institute of Licensing, Northern Ireland Branch**

The Committee noted that the Health and Environmental Services Committee, at its meeting on 6th June, had agreed that, Mr. J. Cunningham, the Regulatory Services Manager, be appointed to the Chair of the Institute of Licensing in Northern Ireland. In addition, the Committee congratulated Mr. Cunningham on his appointment.

**Co-ordination of Fire Safety Enforcement in Premises  
Regulated and Licensed by District Councils**

The Committee considered the undernoted report:

**“1 Relevant Background Information**

- 1.1 At your meeting on 10th August 2010, Members were advised of impending changes that the Department of Health, Social Services and Public Safety (DHSSPS) were intending to make to fire safety regulations for Northern Ireland. The purpose of these changes was to introduce a modern risk based approach to fire safety, simplify compliance and give effect to EU Directives in line with the rest of the UK.**
- 1.2 Prior to the introduction of the Fire and Rescue Services (Northern Ireland) Order 2006, (the 2006 Order), fire safety legislation was fragmented and enforced by a number of different agencies. The enactment of Part III of the 2006 Order and the introduction of the Fire Safety Regulations (Northern Ireland) 2010 (the 2010 Regulations) created a change in fire safety enforcement duties for Northern Ireland Fire and Rescue Service (NIFRS) and for local councils.**

- 1.3 The new fire safety regulations place a duty on employers or owners to carry out a fire risk assessment (FRA) on their premises and to take such fire safety measures as to ensure the safety of persons on the premises from fire in order to satisfy the legislation and the requirements of the licensing authority and NIFRS.
- 1.4 Councils, when issuing an entertainments licence, are required to consider fire safety as part of the conditions of issue and ongoing management of the premises.
- 1.5 The NIFRS Board is responsible for enforcing fire safety duties and NIFRS acts as an enforcing authority on behalf of the Board.
- 1.6 During the consultation process into the proposed changes to fire safety regulations it became apparent that the arrangements, as envisaged, would cause a barrier to the effective performance of district councils in relation to their licensing functions, particularly in the context of licensing places of entertainment, cinemas and premises for the purposes of performing civil marriages and/or civil partnership registrations. This was due to the fact that under the 2006 Order any fire safety terms or conditions that were placed on licences by councils would be void. The only body who could take action in respect of fire safety matters would be the NIFRS.
- 1.7 Members will be aware that officers of the Building Control Service carry out late night during performance inspections of theatres, clubs, bars and other venues to ensure the safety of the public and compliance with the terms and conditions of Entertainments Licences.
- 1.8 Should Licensing Officers no longer have the power to take action in respect of fire safety matters, such as discovering a locked fire exit, without referring the matter to the NIFRS the safety of the public would, in our view, be seriously compromised.
- 1.9 Also, the NIFRS have moved to a system of risk based audits to inspect all premises. It is likely that, based on advice from the NIFRS, they will only audit a licensed premise once in a 3 year period. On the other hand, Licensing Officers will inspect a high risk licensed premise approximately 4 times per year at night time and also carry out an annual renewal inspection during the day. There was concern that these changes would seriously affect the safety and control of these premises.
- 1.10 In light of these concerns negotiations took place through the Northern Ireland Licensing Forum with the NIFRS and the DHSSPS and the changes were delayed by the Assembly Health Committee until the matter was resolved.

- 1.11 As reported at your meeting in August 2010, following these negotiations the Northern Ireland Fire & Rescue Services Board wrote to each Council through NILGA proposing to devolve fire safety enforcement powers under the Fire & Rescue Services (NI) Order 2006 to Council Licensing Officers in respect of premises with an entertainments licence. This, in effect, will permit Licensing Officers to continue with the full range of duties that they currently undertake.
- 1.12 It was also reported at your meeting that, in principle, NILGA supported these proposals. However, it was noted that further work would be necessary to ensure an agreed protocol or Memorandum of Understanding was drafted to facilitate effective working with the Board.

## **2 Key Issues**

- 2.1 Since then the NIFRS has been working with the Northern Ireland Licensing Forum to draft an MOU in relation to the transfer and use of these fire safety powers. They have also produced guidance notes regarding their actual use.
- 2.2 The NIFRS Board has now formally written to the Council requesting that they agree to sign the MOU.

### **Proposed MOU**

- 2.3 The MOU aims to clarify and co-ordinate the roles and responsibilities of the NIFRS and District Council Licensing Officers with respect to fire safety in premises which district councils are responsible for licensing.
- 2.4 A key aim of the MOU is to ensure that no unnecessary burden is placed on businesses or organisations given the need to comply with both the 2006 Order and council licence conditions.
- 2.5 In signing up to the MOU the Council will not be taking on any additional responsibilities as it only covers specific legislation which is currently enforced by district councils namely:-
- The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 – Entertainment licensing
  - The Cinemas (Northern Ireland) Order 1991
  - The Marriage (Northern Ireland) Order 2003
  - The Civil Partnership Act 2004
- 2.6 The NIFRS are statutory consultees with respect to licence applications and they will continue to offer their comments and to carry out joint inspections of premises with Licensing Officers if required.

### Enforcement

- 2.7 Once the MoU is signed the NIFRS Board will delegate enforcement powers to the Council, who will then need to authorise relevant enforcement officers. This will require a certain level of competence on their part and it is proposed that appropriate training, agreed with the NIFRS, will be undertaken by the Council Officers in respect of these powers.
- 2.8 Council Licensing Officers will continue to inspect premises much as they currently do. If they find a breach of fire safety, action will be taken under the 2006 Order. This will include taking informal action and issuing Enforcement, Alteration and Prohibition Notices. Prohibition Notices will most likely only be issued after reference to and the support of the NIFRS and will relate to the most serious of breaches discovered.

### Liaison and Review

- 2.9 It is intended that the MOU, which has been negotiated by the NIFRS with the Licensing Forum, should be agreed after consideration without change given that the NIFRS do not wish to negotiate a separate MoU with each Council if at all possible.
- 2.10 Once the MOU is signed it will be for the Licensing Forum, through consultation with Licensing Officers, to review the document annually and to initiate and agree changes with the NIFRS.
- 2.11 However, the NIFRS and the Council both have the right to terminate the agreement at any time after it has been signed subject to giving the other party 30 days notice.
- 2.12 A copy of the MOU is appended to this report.

### Guidance Notes

- 2.13 To support the MOU and clarify the responsibilities of the NIFRS and Council Officers a number of Guidance Notes have also been written. These deal with applications for the grant, renewal, suspension and resolution of disputes between NIFRS Officers and the Council.

### Licensing function

- 2.14 The Council has a responsibility for the safety of the public, in particular those using our licensed premises at night time. The work to improve their safety and the standard of our licensed premises has resulted in a much safer environment. Any proposal to move to self-regulation in such premises could, in our view, be detrimental to all.

- 2.15 It is the Council's statutory duty to only issue licences to premises that they consider to be safe and our continued ability to have regard to fire safety in such premises is vital to fulfilling that duty.

**Support for the MOU**

- 2.16 Attached as appendices to this report are letters from CEHOG and BCNI; the umbrella bodies for Environmental Health and Building Control in Northern Ireland. Both have endorsed the MOU and expressed their support for the proposals to devolve responsibility for fire safety enforcement powers to District Councils in relation to premises that require a licence.

**3 Resource Implications**

**3.1 Financial Implications**

These functions are at present being carried out by Council Officers and it is not envisaged that accepting these devolved powers will lead to any additional financial burden.

**3.2 Human Resources**

There will be some initial training implications for staff if the new powers are devolved but these will be catered for within existing budget provision.

**Asset and Other Implications**

Should these powers be devolved to Councils there is no expectation that they will lead to any increased level of enforcement action by the Council.

**4 Equality Implications**

- 4.1 There are no equality and good relations issues.

**5 Recommendations**

- 5.1 Members are asked to agree that the Council signs up to the MoU with the Northern Ireland Fire & Rescue Services Board and to accept delegated enforcement powers under Article 13 (1) of the Fire & Rescue Services (NI) Order 2006.

As such matters are not a delegated function of the Licensing Committee, any recommendation will be subject to ratification by Council."

The Committee adopted the recommendation.

**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 delegated authority of the Director of Health and Environmental Services.

**Applications for Stationary Street Trading  
Licences - Donegall Quay**

The Committee considered the undernoted report:

**“1 Relevant Background Information**

- 1.1 At its meeting on 22nd September 2008, having considered all of the representations made, the Committee agreed to designate three sites at Donegall Quay beside the Lagan Lookout building as a place in respect of which it might grant three individual Stationary Street Trading Licences for the sale of commodities including hot and cold food and beverages, confectionery, tourist gifts and other services.**
- 1.2 As the Belfast City Centre Regeneration Directorate of the Department for Social Development are the landowner and the area is also a significant public space, it was agreed that the Council would seek DSD's opinion on street trading licence applications for the sites to ensure they would be willing to give permission to the applicant to use their land for the proposed purpose.**
- 1.3 The Council has now received two separate applications for two of the three sites, both of which comply with the designating resolution for the sites. The details of the applications are outlined below:**

**Site 1**

- 1.4 Mr. George Grimley has applied to sell tour, event and concert tickets, souvenir Tee shirts and caps, at one of the sites in Donegall Quay, from a small trailer unit measuring 3m x 1.5m.**
- 1.5 His proposed hours of operation are as follows:**

**Monday to Saturday from 9.00 a.m. to 9.00 p.m., and  
Sunday from 10.00 a.m. to 9.00 p.m.**

- 1.6 DSD Belfast City Centre Regeneration Directorate has met with Mr. Grimley and agreed in principle that he can trade from one of the sites subject to obtaining a Street Trading Licence.
- 1.7 Mr. Grimley will also have to enter into a licence agreement with DSD for the use of their land.

**Site 2**

- 1.8 Miss Sinead Hyndman has applied to sell cold food, confectionery, hot and cold non alcoholic beverages, tour tickets and postcards at one of the sites in Donegall Quay, from a silver Citroën HY van measuring 4.25m x 2m.
- 1.9 Her proposed hours of operation are as follows:
- Monday to Saturday from 8.00 a.m. to 6.00 p.m., and  
Sunday from 11.00 a.m. to 6.00 p.m.
- 1.10 The size of the stall is larger than a normal City centre street trading pitch which is 3m x 1.5m (4.5sqm) as stated at Section 5.4 of the Stall Design Policy. Members are however advised that Section 5.9 of the Policy allows in any individual case, and for whatever reason, that Committee may decide to grant a design which varies from the agreed Policy and that such a decision would not be taken to have created any kind of precedent in respect of future applications. The Committee has previously granted licences for larger pitch sizes at a number of different locations in the City centre.
- 1.11 There are no objections to the larger stall size.
- 1.12 DSD Belfast City Centre Regeneration Directorate have met with Miss Hyndman and agreed in principle that she can trade from one of the sites subject to obtaining a Street Trading Licence.
- 1.13 Miss Hyndman will also have to enter into a licence agreement with DSD for the use of their land.

**2 Key Issues**

- 2.1 Members are reminded that the normal process for dealing with a Stationary Street Trading Licence application, which is not the subject of objections or competition, is that the Director of Health and Environmental Services will grant the licence as provided for in the Council's Scheme of Delegation.

2.2 However, these applications include the sale of bus tour tickets, and as such it is deemed appropriate for Committee to consider this matter.

2.3 The applicants have been invited to appear before Committee and make a brief presentation and to answer any questions you may have.

### 3 Resource Implications

#### 3.1 Financial Implications

The application fee for each Street Trading Licence is £100 and the Licence fee, if licensed Monday to Sunday, will be £1017 per annum.

#### Human Resources

None.

#### Asset and Other Implications

None.

### 4 Equality Implications

4.1 There are no equality and good relations issues.

### 5 Recommendation

5.1 Based on the submissions presented and considering any amendments to the applications the Committee is required to consider each application in turn and then make a decision regarding each as follows:-

1. To approve the application for the grant of a Street Trading Licence; or
2. To approve the application with additional conditions; or
3. That you are minded to refuse the application for the grant of a Street Trading Licence under the discretionary grounds as set out at Section 9 (1) of the Act.

Section 9 (1) of the Act states that a council may refuse an application on any of the following grounds:-

(a) that –

- (i) the location at which the applicant wishes to trade as a stationary trader is unsuitable;

- (ii) the space in the designated street in which the applicant wishes to trade as a stationary trader is inadequate for the applicant to do so without causing undue interference or inconvenience to persons or vehicles using the street;
- (iii) the area or areas of the district in which the applicant wishes to trade as a mobile trader are unsuitable for the applicant to do so without causing undue interference or inconvenience to persons or vehicles in the area or areas;
- (iv) 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; or
- (v) the nature of the articles, things or services in which the applicant wishes to trade is such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area in which the applicant wishes to trade;
- (b) that the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;
- (c) that the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;
- (d) that the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;
- (e) that the applicant has at any time been granted a street trading licence by the council, which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to the council in respect of the licence;
- (f) that the applicant has failed to provide the particulars required by the council to deal with the application;
- (g) that the applicant has failed to provide or identify suitable or adequate arrangements for storing any articles, things or receptacles in or with which he proposes to trade.

**5.3** When minded to refuse a licence application the applicant must be informed that they will be permitted to make representation regarding the refusal to the Council, with such representations to be made not less than twenty-one days from the date of notice.

**5.4 As a consequence, the actual decision to refuse the licence will be considered at a meeting on a later date.**

**5.5 There is a right of appeal to the Magistrate's Court against any refusal on these grounds."**

### **Site 1**

It was reported that Mr. G. Grimley, the applicant for the above-mentioned licence, was in attendance and he was admitted to the meeting and welcomed by the Chairman. Mr. Grimley reported that he was applying to sell tour, event and concert tickets, souvenirs and tee-shirts at one of the sites in Donegall Quay, from a small trailer unit measuring 3m x 1.5m. He was of the view that this would be an ideal location to sell bus/tour tickets and to provide tourist information.

He pointed out that it was his intention to sell tour tickets at this site in order to remove that service from the City Centre area. Mr. Grimley reported that it was envisaged that a kiosk would be utilised as a last minute ticket booth between the hours from 3.00 p.m. to 5.00 p.m. at a discounted rate for various shows and events which would be taking place within the City.

In response to Member's question, Mr. Grimley indicated that he would be willing to remove the sale of tour tickets from his application.

The Chairman thanked Mr. Grimley for attending and he retired from the meeting.

After discussion, it was

Resolved - That the Committee, in its capacity as Licensing Authority, agrees to grant to Mr. G. Grimley a Stationary Street Trading Licence to sell event and concert tickets, souvenir Tee-shirts and caps, at one of the sites at Donegall Quay on a Monday to Saturday between the hours of 9.00 a.m. and 9.00 p.m. and on a Sunday between the hours of 10.00 a.m. and 9.00 p.m. for a period of one year.

### **Site 2**

The Head of Building Control reported that he had received notification from Ms. S. Hyndman indicating that she would be withdrawing her request to sell tour bus tickets at the site and that, in accordance with the authority delegated to her, the Director of Health and Environmental Services would be granting to Ms. Hyndman a Stationary Street Trading Licence to sell cold food, confectionary, hot and cold non-alcoholic beverages and postcards at one of the sites at Donegall Quay.

Noted.

**Competing Applications for a Grant of a Stationary  
Street Trading Licence - Donegall Square North**

The Committee considered the undernoted report:

**“1 Relevant Background Information**

- 1.1 The Council has received two separate and competing street trading licence applications for the site in Donegall Square North which is situated at the front of City Hall, close to its junction with Donegall Square West.
- 1.2 Members are reminded that consideration of competing Street Trading Licence applications is a matter for this Committee and not delegated to the Director of Health and Environmental Services in the Council's Scheme of Delegation.
- 1.3 Members will recall that, further to your meeting on 15th February 2012, you agreed to change the designated commodities for this site to allow that a variety of commodities could be determined but to prohibit the sale of hot food and bus tour tickets. Both of the applications comply with the designating resolution for the site.
- 1.4 Details of the applications are outlined below:

**Applicant 1**

- 1.5 Miss Christina Rea has applied to renew her Street Trading Licence to sell flowers and plants. Miss Rea has held the Licence for one year.
- 1.6 Miss Rea has applied to sell the additional commodities of arts and crafts, hair accessories, health and beauty products, cosmetics, perfumes and toiletries, pop and sport memorabilia, wrapping paper and cards, jewellery, sun glasses, umbrellas, fancy dress costumes, stationary, novelty items; e.g. LED/glow products, CD's, seasonal items; e.g. Christmas novelties, religious and cultural merchandise, mobile phone covers and accessories, fruit and vegetables, fresh fruit juices and smoothies, slush puppies, hot and cold beverages, cold foods, walking tour tickets and event tickets, all from a traditional market type stall measuring 3m x 1.5m.
- 1.7 Her proposed hours of operation are as follows:  
  
Monday to Saturday from 9.00 a.m. to 9.00 p.m.; and  
Sunday from 10.00 a.m. to 5.00 p.m.

- 1.8 Miss Rea has held the licence for this site from 1st February, 2011. Our records indicate that when we have carried out 5 routine site inspections Miss Rea has not been trading during this period. Members are advised that the general Terms and Conditions of a street trading licence states that *'the Licence holder shall avail himself to a reasonable extent of his right to trade under this licence'*.
- 1.9 As such, Miss Rea was asked to provide evidence that she had traded at the designated site during the period she was licensed or to provide any reason why she did not trade.
- 1.10 Following the request for evidence of trade, Miss Rea's father, Mr Joseph Rea (a licensed trader) was found to be trading at the site under Miss Rea's licence on 17 March 2012.
- 1.11 In a letter to the Council (attached) Miss Rea has stated that the sale of flowers and plants is no longer providing a profitable income. She states that she traded on three occasions during the period of her licence; on Saturday 2nd April, 2011 for Mother's Day, Saturday 24th December, 2011 for Christmas, and on Tuesday 14th February 2012 for Valentine's Day and on each occasion was unable to generate enough income to pay for her stock.
- 1.12 Miss Rea states in her letter that the addition of the other commodities would generate sufficient income to allow her to trade on a regular basis.

Applicant 2

- 1.13 Mr Desmond Grehan has applied to sell drawings of listed buildings in Belfast, books, pamphlets and postcards from a trailer type stall measuring 4.35m x 1.4m. His proposed hours of operation are as follows:
- Monday to Sunday from 10.00 a.m. to 7.00 p.m.
- 1.14 The size of the stall is larger than a normal City centre street trading pitch which is 3m x 1.5m (4.5sqm) as stated at Section 5.4 of the Stall Design Policy. Members are however advised that Section 5.9 of the Policy allows in any individual case, and for whatever reason, that Committee may decide to grant a design which varies from the agreed Policy and that such a decision would not be taken to have created any kind of precedent in respect of future applications. The Committee has previously granted licences for larger pitch sizes at a number of different locations in the City centre.

- 1.15 The PSNI and DRD Roads Service have no objections to the larger stall size as there is adequate space to accommodate the small increase in size.

**2 Key Issues**

- 2.1 The Street Trading Act (Northern Ireland) 2001 (the Act) places a statutory obligation on a district council to grant an application for a street trading licence unless there are sufficient grounds to refuse it.

- 2.2 Section 8 of the Act sets out circumstances in which an application must be refused, however there are no such grounds of refusal applicable to these licence applications.

- 2.3 Section 9 of the Act sets out discretionary grounds under which a district council may refuse to grant an application.

9.(1) A council may refuse an application on any of the following grounds:-

(a) that –

- (i) the location at which the applicant wishes to trade as a stationary trader is unsuitable;
  - (ii) the space in the designated street in which the applicant wishes to trade as a stationary trader is inadequate for the applicant to do so without causing undue interference or inconvenience to persons or vehicles using the street;
  - (iii) the area or areas of the district in which the applicant wishes to trade as a mobile trader are unsuitable for the applicant to do so without causing undue interference or inconvenience to persons or vehicles in the area or areas;
  - (iv) 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;
  - (v) the nature of the articles, things or services in which the applicant wishes to trade is such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area in which the applicant wishes to trade;
- (b) that the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;

- (c) that the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;
- (d) that the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;
- (e) that the applicant has at any time been granted a street trading licence by the council, which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to the council in respect of the licence;
- (f) that the applicant has failed to provide the particulars required by the council to deal with the application;
- (g) that the applicant has failed to provide or identify suitable or adequate arrangements for storing any articles, things or receptacles in or with which he proposes to trade.

2.4 There is a right of appeal to the Magistrate's Court against any refusal on these grounds.

2.5 Members are reminded that the Council, in March 2011, agreed an amended Street Trading Licensing Policy to allow for circumstances where there are two or more applications for the same designated pitch within the City. Section 5 of the Policy provides guidance on how to deal with competing licence applications and states that, without prejudice to the discretionary grounds for refusing an application, the Council may also take the following into account:

1. The suitability of the application in the context of the area or street;
2. The suitability of allowing more than one application in the area or street;
3. The commodities or services which each applicant intends to sell or supply;
4. The merits of each application in the context of the character and appearance of the proposed area;
5. Whether a mobile trader/a number of mobile traders will affect the character and appearance of the proposed area;

6. Any potential adverse impact caused to the character and appearance of the proposed location by the application, by a mobile trader or by a number of mobile traders;
7. The extent to which the sale of the commodity will provide a useful service not otherwise provided in the area.

- 2.6 Members are reminded that the ability to trade on the public highway should not be regarded as a right in perpetuity, but a privilege, and there is no absolute right for someone holding a licence to be granted it again when it comes up for renewal, consideration must be given to the merits of each application for the site.
- 2.7 The applicants have been invited to appear before Committee and make a brief presentation on matters such as how the business will be operated, the design of the stall, how the commodities they propose to sell will add to the area and address any concerns with their proposals.
- 2.8 After considering representations from the applicants you will then be required to grant one of the applications and refuse the other.

### 3 Resource Implications

#### 3.1 Financial

If the Committee grants a licence, the Street Trading Licence fee is as follows:

- application fee of £100, and
- a Licence fee, for Monday to Sunday, of £1017 per annum.

#### 3.2 Human Resources

None.

#### 3.3 Asset and Other Implications

None.

### 4 Equality Implications

- 4.1 There are no equality or good relations issues

## **5 Recommendation**

- 5.1 Based on the submissions presented and considering any amendments to the applications, the Committee is requested to consider each application in turn, taking into account Section 5 of the Street Trading Licensing Policy outlined in paragraph 2.5, and decide whether it is minded to:**
- 1. grant and approve the Licence to Miss Christina Rea;  
or**
  - 2. grant and approve the Licence to Mr Desmond Grehan;  
or,**
  - 3. grant and approve the Licence to one of the applicants with additional conditions, and then;**
  - 4. refuse the licence application, under the discretionary grounds as outlined at paragraph 2.3 above, of the applicant who has not been granted a licence.**
- 5.2 Members may attach any reasonable conditions when granting a licence.**
- 5.3 When minded to refuse a licence application, the applicant must be informed that they will be permitted to make representation regarding the refusal to the Council, with such representations to be made not less than twenty-one days from the date of notice.**
- 5.4 As a consequence, the actual decision to grant and refuse the licences will be considered at a meeting on a later date. There is a right of appeal to the Magistrate's Court against any refusal on these grounds."**

### **Applicant 1**

It was reported that Mr. J. Rea, representing the applicant Miss C. Rea, was in attendance and he was admitted to the meeting and welcomed by the Chairman. Mr. Rea explained that his daughter had applied to renew her Street Trading Licence to sell flowers and plants and, due to the fact that the sale of those items was no longer providing a profitable income, she wished to sell also other commodities such as arts and crafts, hair accessories, health and beauty products, cosmetics, perfumes and toiletries, pop and sport memorabilia, wrapping paper and cards, jewellery, sun glasses, umbrellas, fancy dress costumes, stationary, novelty items such as LED/glow products, compact discs, and seasonal items such as Christmas novelties and religious and cultural merchandise, mobile phone covers and accessories, fruit and vegetables, fresh fruit juices and smoothies, slush puppies, hot and cold beverages, cold foods, walking tour tickets and event tickets, all from a traditional market typed stall measuring 3m x 1.5m.

Mr. Rea reported that the reason that that extensive list of commodities had been submitted was due to the fact that it was difficult to predict which items would attract customers to the site. In addition, a charge of £50.00 would be incurred each time his daughter wished to sell a new commodity.

Mr. Rea then answered a number of questions and retired from the meeting.

### **Applicant 2**

It was reported that Mr. D. Grehan the second applicant for the above-mentioned Street Trading Licence was in attendance and he was admitted to the meeting and welcomed by the Chairman. Mr. Grehan reported that he had applied to sell drawings of listed buildings in Belfast, books, pamphlets and postcards from a trailer-type stall measuring 4.35m x 1.4m at the site. He indicated that the stall would sell pictures of the listed buildings located throughout the City and that the stall would be utilised to promote Belfast to tourists. He circulated for the information of the Members examples of his products, including measured drawings and prints. He stated that it was envisaged that additional staff would be employed once the stall had been established. He was of the view that the location would be ideal for selling such items.

Mr. Grehan then answered a number of questions and retired from the meeting.

After discussion, it was

Moved by Alderman Rodgers,

Seconded by Alderman McCoubrey and

Resolved - That the Committee, in its capacity as Licensing Authority, agrees to grant to Mr. D. Grehan a Stationary Street Trading Licence to sell drawings of Belfast's listed buildings, books, pamphlets and postcards on a Monday till Sunday between the hours of 10.00 a.m. and 7.00 p.m. at Donegall Square North for a period of one year.

As a consequence of that decision, and as there was only one space for a single stall, it was

Resolved – That the Committee, in its capacity as Licensing Authority, is minded to refuse the grant of a Stationary Street Trading Licence to Miss C. Rea to sell the above-mentioned commodities on the grounds that the nature of the articles, things or services in which the applicant wished to trade was such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area in which the applicant wished to trade. In addition, Section 5 of the Council's Street Licensing Policy stated that, without prejudice to the discretionary grounds for refusing an application, the Council could also take into account the commodities or services which each applicant intended to sell or supply.

The Head of Building Control informed the Members that the unsuccessful applicant would be advised that, as required under Section 12 (2)(b) of the Street Trading Act (Northern Ireland) 2001, she would be permitted to make written representation to the Council within twenty-one days from the date of notice.

**Application to Amend the Standard Hours on an Entertainments  
Licence – Belsonic Event, Custom House Square**

The Committee considered the undernoted report:

**“1.0 Relevant Background Information**

- 1.1 Notification has been received from the organisers of Belsonic to hold a 10 day music event running from 15th to 26th August at Custom House Square.
- 1.2 Custom House Square hosts numerous and varied musical and cultural events throughout the year and is the responsibility of the Department for Social Development, which holds a Seven-day annual licence permitting outdoor entertainment and entertainment in a marquee.
- 1.3 The standard days and hours, during which Custom House Square is currently licensed to provide entertainment are:  
  
Monday to Sunday: 11:30 a.m. to 11:00 p.m.
- 1.4 In addition, a special condition on the Custom House Square licence allows the licensee to apply for additional hours, later than 11:00pm, which may or may not be granted dependent upon any noise issues, which may have arisen from previous events there.

**Extended hours previously granted to Belsonic**

- 1.5 Members may recall that at your meeting on 22nd June 2011, you considered an application from Belsonic Limited to hold a 10 day outdoor music event, with 4 of those nights providing entertainment beyond the 11:00 p.m. standard licence hours at Custom House Square.
- 1.6 At the same meeting, Committee also agreed that the Open House Festival could provide entertainment at the Square beyond the 11:00 pm standard licence hours at Custom House Square on 2 nights.
- 1.7 Members may also recall that, at your meeting on 17th February 2010, you agreed that Belsonic could hold a 3 day outdoor music event which also extended beyond the 11:00pm standard licence hours. Then, at your meeting on 16th June you agreed to an extended event and that 6 of the additional 9 nights could run to midnight or later in August 2010.

1.8 However, the following specific conditions were also attached:

- prior to the event proceeding, the promoters of Belsonic are required to demonstrate evidence of early consultation in relation to the intended event.
- the event is staged subject to the promoter using the advanced technology sound system described in their supporting letter.
- a robust system, agreed in advance with the Council, to deal with any complaints from local residents over the course of the event is put in place.
- if a significant number of complaints are received about noise or the complaint is of such significant impact, then the finishing time for subsequent evenings of the event will be reduced and the promoter should make contingency arrangements for this eventuality.

1.9 At those meetings, the Service advised Members that there had been an increasing number of applications from promoters to hold outdoor events late into the evening, often at locations that are close to residential premises. Whilst recognising that such outdoor music events can bring enjoyment to hundreds and in some cases thousands of people and boost the overall 'vibrancy' of a city, it was also highlighted that noise from these events has the potential to cause widespread disturbance to those living and working in the vicinity.

1.10 The Council already receives a considerable number of applications from promoters for outdoor musical events at the Square and in the summer months these can sometimes occur on a weekly basis.

1.11 Furthermore, Members may also be aware of a new piece of legislation, which came into force in Northern Ireland on 1st April 2012, namely, the Clean Neighbourhoods and Environmental Act (Northern Ireland) 2011. This legislation extends the Council's powers under the Noise Act 1996, which applies night time noise control between the hours of 11:00 pm to 7:00 am for noise from residential dwellings to include night time noise control over any licensed premises and/or *any place* in relation to which entertainment may take place.

- 1.12 While Council officers already investigate noise complaints for noise emanating from entertainment premises and/or places, this new legislation gives Council officers additional enforcement powers after 11:00 p.m.
- 1.13 From April 2012, Council officers investigating complaints about entertainment noise after 11:00 p.m. may issue a Warning Notice on a responsible person associated with the event and if this Notice is not complied with within 10 minutes of service, officers may, after taking appropriate noise measurements, issue a fixed penalty notice of £500 or decide to prosecute the Promoter for non-compliance with the Warning Notice.

## 2.0 Key Issues

- 2.1 Belsonic is now established as one of the largest outdoor music events in Northern Ireland. Many of the events are sold out some weeks in advance and in excess of 40,000 people attend throughout the period of the event. This year it will be providing an array of world class acts such as Tom Jones, Emile Sande, David Guetta, James Morrison, and Noel Gallagher.
- 2.2 For this year's event a request has been made that you give consideration to only one of the nights to running beyond 11:00 pm. The organisers have asked that the final night of the event be extended to finish at 12:00 am. The other remaining 9 nights will cease at 11:00 pm.
- 2.3 A copy of the events running order has been circulated.
- 2.4 As these are not applications to vary the terms of a licence, but a request for Council's permission to extend hours under an existing licence condition, there is no requirement for public advertisement in this case.
- 2.5 Further details of the Event Management Plan are needed for Council Officers to ensure that all technical requirements will be met, but work is ongoing in this regard. Representatives of Belsonic Limited will be available should you wish to seek further information on these proposals.

## Representations

- 2.6 An objection has been received from a resident of the apartments in Ulster Street to any concert, particularly with excessive noise disruption such as Belsonic, being held in Custom House Square.
- 2.7 The objector has stated that this is a mixed area with a large residential contingent including Custom House Residences which front onto the Square, the Queens Buildings apartments, The Boat House apartments and the Obel Tower.

- 2.8 The objector argues that noise levels recorded at this event previously showed levels in excess of permitted levels and in some instances the building vibrates when the bass levels are excessive.
- 2.9 It is his view that noise management measures will not address this problem and anything the organisers do to minimise the problem has been a complete waste of time. As such he considers that no licence should be granted to Belsonic and certainly nothing beyond the watershed of 11.00 p.m. on a Sunday night.
- 2.10 The objector was invited to attend the meeting and has declined but asked that his representation be placed before Members.

**Building Control**

- 2.11 Officers from the Building Control Service have carried out during performance inspections over the duration of these events in previous years and have always found the organisers to be professional in their approach and have had no issues with the health, safety and welfare management of the events during that time.

**Environmental Protection**

- 2.12 The Environmental Protection Unit (EPU) of the Environmental Health Service has been consulted in relation to the request for late night entertainment for the Belsonic event at Custom House Square.
- 2.13 The Unit has confirmed that they have no major issues with the Belsonic event, but are concerned that the organisers have requested for one of the nights to run beyond the 11:00pm standard licence hours at Custom House Square particularly in view of the additional noise control powers under the Clean Neighbourhoods and Environment (NI) Act 2011.
- 2.14 They have stated that they are supportive of all events aimed at improving the attractiveness and diversity of the City but that this should be achieved while in compliance with the relevant legislation and recognising and respecting the rights of residents to enjoy their property by exercising appropriate control of such events, as is expected by the public.

- 2.15 Consequently, EPU has requested that Committee consider an additional condition on the licence for the event as follows:
- that the licensee, at least one month in advance of the event, submits a suitable noise assessment and noise management plan. The noise assessment must be completed by a suitably qualified and experienced noise control consultant and demonstrate that noise from the event will not cause unreasonable disturbance to commercial and residential premises.
- 2.16 Officers will consider the above reports to ensure the technical requirements are in accordance with all relevant legislation and guidance (see appendices 4 and 5 attached to this report for your information).
- 2.17 EPU has also advised that the Council received a total of 10 complaints from disturbed residents regarding the Belsonic 2011 event and a total of 20 from the 2010 event.
- 2.18 In view of the apartments situated in close proximity to the stage for the proposed Belsonic event EPU feel it is important to protect the night time period between 11:00 p.m and 7:00am for residents. It is noted that of the 10 nights proposed for Belsonic 2012 the Promoter intends to finish at 11:00 p.m on all but one night for which a finish time of 12:00 a.m. is requested on the last August bank holiday Sunday night. Members are requested to consider this later finish time on one occasion over the event in view of the new legislation which extends Council officers noise control powers at night.
- 2.19 An officer from EPU will be available at your meeting to advise on any concerns regarding the proposed event and any potential noise impact it may have on nearby residents.

**PSNI**

- 2.20 The PSNI have also been consulted in relation to the applications for both events and their response was outstanding at the time of writing this report. Their views will be available for consideration at your meeting.
- 2.21 However, in their comments for last year's Belsonic event, the PSNI stated that, given that the police can only object to an entertainment licence on the basis of public safety and the Council will be assessing this prior to agreeing to the event taking place, they do not believe there are grounds to object to the request for additional nights.

**3.0 Resource Implications**

**3.1 Financial**

Officers will be required to carry out inspections at the event but this is catered for within existing budgets.

**Human Resources**

None.

**Asset and Other Implications**

None.

**4.0 Equality and Good Relations Considerations**

4.1 There are no equality or good relations issues.

**5.0 Recommendations**

5.1 Having considered this information and any representations received you are then required to determine, subject to all technical requirements being met:

1. if the proposed event on 26th August 2012 should be permitted to take place beyond the standard hours of licence and, if so;
2. an appropriate finishing time for the proposed extended night of the event.

5.2 To assist Members, should you be of a mind to permit the event to take place, the following are possible conditions to consider attaching to the licences for the event:

- that the licensee, at least one month in advance of the event, submits a suitable noise assessment and noise management plan. The noise assessment must be completed by a suitably qualified and experienced noise control consultant and demonstrate that noise from the event will not cause unreasonable disturbance to commercial and residential premises
- prior to the event proceeding, the promoters are required to demonstrate evidence of early consultation in relation to the intended event.
- a robust system, agreed in advance with the Council, to deal with any complaints from local residents over the course of the event is put in place.”

The Head of Building Control reported that an objection had been received from a resident of the area in relation to the holding of the Belsonic Event at the Custom House Square and the application to extend the permitted hours on 26th August to 12.00 a.m. the main points of which were outlined in the report. He advised the Committee that it would be required to take account of the objection in coming to a decision on the application.

The Committee was advised that, under the Clean Neighbourhoods and Environmental Act (Northern Ireland) 2011, the Council's powers had been extended under the Noise Act 1996, which applied night time noise control between the hours of 11.00 p.m. to 7.00 a.m. for noise from residential dwellings, to include night time noise control over any licensed premises and/or any place in relation to which entertainment may take place.

After discussion, it was

Resolved – That the Committee, in its capacity as Licensing Authority, grants to Belsonic the variation of its Outdoor Entertainments Licence to hold an event on 26th August with a finishing time of 12.00 midnight.

**Application to Extend the Hours Permitted on an Outdoor Entertainments Licence - Feile An Phobail**

The Committee considered the undernoted report:

**“1.0 Relevant Background Information**

- 1.1 Applications have been received from the organisers of Féile an Phobail to hold an 11 day music event running from Thursday 2nd to Sunday 12th August at Falls Park.
- 1.2 The Park currently has an Outdoor Entertainment Licence in place and has been used to hold numerous types of events throughout the year. The Licence is the property of the Parks and Leisure Department of the Council and is transferred for each event to the promoters. The Licence is a Seven-day Annual Entertainments Licence permitting outdoor entertainment and entertainment in a marquee.
- 1.3 The standard days and hours for Outdoor Entertainments Licences and those during which Falls Park is currently licensed to provide entertainment are:  
  
Monday to Sunday: 11:30 a.m. to 11:00 p.m.
- 1.4 In addition, a special condition on the Falls Park Licence allows the licensee to apply for additional hours, later than 11:00pm, which may or may not be granted dependent upon any noise issues, which may have arisen from previous events there.

- 1.5 The festival was first established in 1988 and has operated from different venues in West Belfast since then, such as Beechmount Leisure Centre, Andersonstown Leisure Centre and Falls Park. The organisation has also previously held several open-air concerts at Falls Park and operated within the conditions of the Entertainment Licence.
- 1.6 The event is a celebration of the creativity and energy of the local community and its passion for the arts and sport. The Féile is also aimed at providing events and entertainment at an affordable price for the community.
- 1.7 The event consists of an opening carnival parade of floats, bands and GAA clubs walking to an open-air venue and music events taking place from various venues throughout West Belfast including from an open-air venue.
- 1.8 Over the years, Féile an Phobail has grown to be regarded as one of the largest community festivals in Europe. The carnival parade routinely brings together over 20,000 participants for a colourful, musical procession with specially-designed floats representing a chosen theme, dancers and children in costume and face-masks.
- 1.9 It has grown from a one-week festival into a year-round programme with many events. It established the first ever children's arts festival in Northern Ireland, called the Draíocht Children's Arts Festival, with activities ranging from sports to multi-cultural and educational events through both Irish and English.
- 1.10 In May 2009, Féile an Phobail launched Belfast's first dedicated comedy festival, Laugh at the Bank which has also been operating every year since then.

#### **Féile an Phobail Festivals**

- 1.11 Féile an Phobail runs numerous festivals throughout the year and are as follows:
  - August Féile - oldest project. Among Europe's largest community festivals.
  - Féile an Earraigh - Springtime Irish traditional music festival.
  - Draíocht - annual children's festival beginning in mid-October.
  - Laugh at the Bank - Belfast's first comedy festival.

- 1.12 Members may also be aware of a new piece of legislation, which came into force in Northern Ireland on 1st April 2012, namely, the Clean Neighbourhoods and Environmental Act (Northern Ireland) 2011 (CNEA). This legislation extends the Council's powers under the Noise Act 1996, which applies night time noise control between the hours of 11:00pm to 7:00am for noise from residential dwellings, to include night time noise control over other 'offending premises'.
- 1.13 The definition of 'offending premises' includes any licensed premises and/or *any place* in relation to which entertainment may take place. Any place would, therefore, include an outdoor venue used for the purposes of entertainment. While Council officers already investigate noise complaints for noise emanating from entertainment premises and/or places, this new legislation gives Council officers additional enforcement powers after 11:00 p.m.
- 1.14 From April 2012, Council officers investigating complaints about entertainment noise after 11:00pm may issue a Warning Notice on a responsible person associated with the event and if this Notice is not complied with within 10 minutes of service, officers may, after taking appropriate noise measurements, issue a fixed penalty notice of £500 or decide to prosecute the Promoter for non-compliance with the Warning.
- 2.0 Key Issues
- 2.1 Since 1988, Féile an Phobail has developed to be regarded as one of the largest community festivals in Europe.
- 2.2 The events music concerts will operate on each night from various locations in West Belfast providing a range of music such as irish traditional, rock, indie rock, folk and ska music. The concerts will also stage well known performers such as Mary Black, Alabama 3 and Bad Manners.
- 2.3 The organisers have requested that you give consideration to four of the nights being permitted to run beyond 11:00 p.m. to 1:00 a.m. on 8th, 9th, 10th and 11th August. The other remaining nights will cease at 11:00 p.m.
- 2.4 A copy of the events running order is attached to this report for your information.
- 2.5 As these are not applications to vary the terms of a 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.

- 2.6 The Service has received a copy of the Event Management Plan and relevant event details, but Officers are currently liaising with the Organisers to ensure that all technical requirements will be met, thus work is ongoing in this regard. Representatives of Féile an Phobail will be available at the meeting should you wish to seek further information.

**Extended hours previously granted to other Outdoor Venues**

- 2.7 Members may recall that Custom House Square has been permitted to hold a number of events and music concerts beyond the 11:00 p.m. standard hours of entertainment and the applications for your permission to do so have been brought before you in the past.
- 2.8 Other venues where concerts have taken place beyond 11:00pm include Botanic Gardens, Ormeau Park and most recently, applications have also been received for Boucher Road playing fields for the forthcoming Tennents Vital and Quays Viper festival.
- 2.9 Whilst recognising that such outdoor music events can bring enjoyment to hundreds and in some cases thousands of people and boost the overall 'vibrancy' of a city it should also be highlighted that noise from these events has the potential to cause widespread disturbance to those living and working in the vicinity.
- 2.10 In respect of applications to extend the hours on events such as Belsonic, you previously agreed after consideration, that the standard hours for the Entertainments Licence relating to Custom House Square be amended with the following conditions
- Prior to the event proceeding the promoters are required to demonstrate evidence of early consultation in relation to the intended event.
  - The event is staged subject to the promoter using the advanced technology sound system described in their supporting letter.
  - A robust system, agreed in advance with the Council, to deal with any complaints from local residents over the course of the event is put in place.
  - if a significant number of complaints are received about noise or the complaint is of such significant impact, then the finishing time for subsequent evenings of the event will be reduced and the promoter should make contingency arrangements for this eventuality.

**Building Control**

- 2.11 Officers from the Building Control Service have previously carried out during performance inspections over the duration of other events organised by Féile an Phobail and have always found the organisers to be professional in their approach and have had no issues with the health, safety and welfare management of the events during that time.

**PSNI**

- 2.12 The PSNI has also been consulted in relation to the application for the event and they have confirmed that the organisers have been in contact with them about the event and have already informed them of the proposed extension of hours and they subsequently have no major concerns with the event.
- 2.13 However, Members should be aware that, as with all such events, a series of detailed planning meetings will be held, some of which have begun, to look at traffic management, transport and any wider operational policing issues.
- 2.14 Further information from the PSNI will be available at your meeting and a representative of the police will be available to answer any queries Members may have.

**Environmental Protection**

- 2.15 The Environmental Protection Unit (EPU) of the Environmental Health Service has been consulted in relation to the request for late night entertainment for the event at Falls Park.
- 2.16 The Unit has confirmed that they have no major issues with the Féile event. However, they are concerned that the organisers have requested four consecutive nights to run beyond the 11:00pm standard Licence hours, particularly in view of the additional noise control powers under the Clean Neighbourhoods and Environment (NI) Act 2011. The cumulative impact of four late consecutive nights and potential sleep disturbance to nearby residents is also an issue.
- 2.17 Further to the potential disturbance from the music associated with such an event there are additional considerations in relation to the potential disturbance generated by both the dispersal of such a large crowd into the area as well as plant and machinery engaged in subsequent stage take down.

- 2.18 In order to ensure protection of neighbouring residents EPU have requested that Committee consider an additional condition on the Licence for the event as follows:
- 2.19 That the licensee, at least one month in advance of the event, submits a suitable noise assessment and noise management plan. The noise assessment must be completed by a suitably qualified and experienced noise control consultant and demonstrate that noise from the event will not cause unreasonable disturbance to commercial and residential premises.
- 2.20 Officers will consider the above reports to ensure the technical requirements are in accordance with all the relevant legislation and guidance (see appendices).
- 2.21 It is noted that on four of the dates the 8th, 9th, 10th & 11th of August the applicant has requested finish times of 1am. In view of the new CNEA powers discussed in paragraphs 1.12 to 1.13 above and the proximity of the venue to residential properties members are requested to consider the later finish times on these dates.
- 2.22 An officer from EPU will be available at your meeting to advise on any concerns regarding the proposed event and any potential noise impact it may have on nearby residents.

2.23 Promoters

Further details of the Event Management Plan for the event are required for Council Officers to ensure that all technical requirements will be met, but work is ongoing in this regard. Representatives of Féile an Phobail will be available at your meeting should you wish to seek further information on their proposals.

3.0 Resource Implications

3.1 Financial

Officers will be required to carry out inspections at the event but this is catered for within existing budgets.

Human Resources

None.

3.1 Asset and Other Implications

None.

**4.0 Equality and Good Relations Considerations**

**4.1 There are no equality or good relations issues.**

**5.0 Recommendation**

**Having considered this information and any representations received you are then required to determine, subject to all technical requirements being met:**

- 1. If the proposed events on 8th, 9th, 10th and 11th August 2012 should be permitted to take place beyond the standard hours of Licence and, if so;**
- 2. An appropriate finishing time for the proposed extended nights of the event.**

**To assist Members, should you be of a mind to permit the event to take place, the following are possible conditions to consider attaching to the Licences for the event:**

- that the licensee, at least one month in advance of the event, submits a suitable noise assessment and noise management plan. The noise assessment must be completed by a suitably qualified and experienced noise control consultant and demonstrate that noise from the event will not cause unreasonable disturbance to commercial and residential premises**
- prior to the event proceeding, the promoters are required to demonstrate evidence of early consultation in relation to the intended event.**
- a robust system, agreed in advance with the Council, to deal with any complaints from local residents over the course of the event is put in place.**
- if a significant number of complaints are received about noise or the complaint is of such significant impact, then the finishing time for subsequent evenings of the event will be reduced and the promoter should make contingency arrangements for this eventuality.”**

Following discussion, it was

Resolved – That the Committee, in its capacity as Licensing Authority, approves the application in respect of the Feile An Phobail Event, Falls Park, for the variation of its Outdoor Entertainments Licence to extend the hours during which the entertainment may be provided during the period from 8th till 11th August to 1.00 a.m. the following morning, subject to the additional conditions as outlined in the report.

**Application for the Grant of Seven-day Entertainments  
Licences (Outdoor and Indoor) for Boucher Road Playing Fields**

The Committee was advised that an application had been received from the Council's Parks and Leisure Department for the grant of a Seven-day Annual Entertainments Licence (Outdoor and Indoor) in respect of the Boucher Road Playing Fields.

The Head of Building Control reported that an Entertainments Licence had been granted previously during 2008 for the Playing Fields. However, it had expired during 2010. The standards hours and days for both an outdoor Entertainments Licence and for an Indoor Licence for a marquee were Monday to Sunday from 11.30 a.m. till 11.00 p.m.

He pointed out that the current application related to two separate events which would be held during August and that the organisers of one of the planned events wished to operate beyond 11.00 p.m. He reminded the Committee that the new legislation, which came into force in Northern Ireland on 1st April, 2012, namely, the Clean Neighbourhoods and Environmental Act (Northern Ireland) 2011, extended the Council's powers under the Noise Act 1996, which applied night time noise control between the hours of 11.00 p.m. to 7.00 a.m. for noise from residential dwellings, to include night time noise control over other 'offending premises'.

The Head of Building Control advised the Members that the Parks and Leisure Committee, at its meeting on 14th June, had granted approval for the use of the Boucher Road Playing Fields for two separate events to be held at that site during August, subject to the event organisers meeting all statutory requirements, including Entertainments Licensing. He pointed out that the Tennent's Vital Festival was scheduled to take place during the period from 21st till 22nd August and that 45,000 tickets had been made available for sale for each night, with entertainment planned to last from 6.00 p.m. until 10.45 p.m. He reported that the promoter had extensive experience of organising outdoor events and had organised many other events in Belfast, such as Tennent's Vital Concerts at the Botanic Gardens and Ormeau Park.

The second event, which would take place over three days in a marquee during the period from 10th till 12th August, which was entitled 'Quay Vipers MCC 11th Snakebite Rally', would be held at the following times:

Friday, 10th August:	7.15 p.m. – 1.00 a.m., the following morning;
Saturday, 11th August:	6.45 p.m. – 1.30 a.m., the following morning; and
Sunday, 12th August:	6.30 p.m. – 11.00 p.m.

The Snakebite Rally was an annual event within the local motorcycle fraternity and had been held at various locations such as the Drumnagreagh Hotel and Benone Beach. The organisers had agreed to reduce the hours of entertainment from their original submission to 11.00 p.m. on the final night but had requested that they retain the late hours for the other two nights in order to maximise the appeal of the event which had run to this time in previous years within other Council areas.

The Head of Building Control reported that no written representations had been lodged as a result of the public notices. In addition, the Police Service of Northern Ireland had been consulted and had indicated that it was unable to comment until further information had been provided in relation to the planned events. However, it had indicated that it had general concerns in relation to the potential noise and departure of large numbers associated with the Tennent's Vital Festival. In this regard, the Head of Building Control reported that, as with all such events, a series of detailed planning meetings would be held in order to look at traffic management, transport and any wider operational policing issues.

After discussion, it was

Resolved – That the Committee, in its capacity as Licensing Authority, agrees to grant to the Parks and Leisure Department a Seven-day Annual Entertainments Licence (Outdoor and Indoor) in respect of the Boucher Road Playing Fields and to the holding of the events on the times and dates outlined, subject to the additional conditions as outlined in the report.

**Application for the Grant of a Seven-day Annual Outdoor Entertainments Licence – Merchant Hotel, 14 Skipper Street**

The Committee considered an application for the grant of a Seven-day Annual Outdoor Entertainments Licence in respect of the above-mentioned premises.

The Head of Building Control reported that the premises was licensed currently to provide for entertainment in the following areas:

<b><u>Location</u></b>	<b><u>Maximum Capacity</u></b>
• The Merchant Hotel	300 persons
• The Cloth Ear	300 persons
• Ollie's Nightclub	550 persons
• Ollie's VIP	20 persons
• Bert's	240 persons
• Conference Room 1	100 persons
• Conference Room 2	60 persons
• Conference Room 3	60 persons
• 4th Floor Lounge	40 persons

He pointed out that the days and hours during which the premises was licensed to provide entertainment was:

Monday till Saturday:	11.30 a.m. till 1.00 a.m.
Sunday:	12.30 p.m. till 12.00 midnight

In addition to the above hours, Ollie's nightclub was licensed to provide entertainment until 3.00 a.m., seven days per week. He pointed out that there was an external area to the front of the nightclub which operated currently as a smoking area and it was in that area that the applicant proposed to be licensed to provide outdoor entertainment. The maximum permitted number for this area would be 60 persons.

The Head of Building Control reported that the normal process for dealing with entertainments licence applications which were not the subject of objections was through the Director of Health and Environmental Services, as provided for in the Council's Scheme of Delegation. However, at the Committee's meeting on 21st September, 2011, it had been agreed that all future applications for outdoor entertainment be brought before the Committee for consideration. In this regard, he stated that no written representations had been lodged as a result of the public notices. Within the past twelve months, three inspections had been carried out in the premises by officers of the Building Control Service. An inspection during June, 2011 had revealed various issues which had been resolved and subsequent inspections revealed that the conditions of the licence were being adhered to and that the management of the premises was satisfactory.

Resolved – That the Committee, in its capacity as Licensing Authority, grants for a period of one year a Seven-day Annual Outdoor Entertainments Licence in respect of the Merchant Hotel, 16 Skipper Street to provide outdoor entertainment on Monday, Thursday, Friday and Saturday from 10.00 p.m. till 1.00 a.m.

**Application for the Grant of a Fourteen-day Occasional  
Outdoor Entertainment Licence - Belfast Zoo, Antrim Road**

The Committee considered the undernoted report.

**“1.0 Relevant Background Information**

- 1.1 An application was received on 18th May, 2012 from the Parks and Leisure Department of the Council for grant of a Fourteen-day Occasional Outdoor Licence at Belfast Zoo based on the Council's standard conditions to provide outdoor musical entertainment.

<u>Premises and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
Belfast Zoo Antrim Road Belfast BT36 7PN	WK/2012/00820	Belfast City Council Parks & Leisure Dept 24-26 Adelaide Street Belfast, BT2 6DG

- 1.2 The Zoo currently does not hold any type of Entertainment Licence as they have never provided any Entertainment in the past.
- 1.3 The main purpose for the application is to allow the Zoo to hold eight performances which will take place over six days running from Friday 10th August to Sunday 12th August and Friday 17th August to Sunday 19th August, 2012. The event is an operatic performance by NI Opera of Benjamin Britten's 'Noye's Fludde' which will be provided during the Zoo's normal operating times and will be ticket only.

- 1.4 The area proposed to be licensed to provide Outdoor Entertainment is the area at the side of the Zoo's lake and a purpose built stage which will be built over the lake and secured on the hard standings around it.
- 1.5 They propose to face the stage towards the playground area, which will allow the audience to sit on the grass surrounding the lake to ensure they have a good view of the performance.
- 1.6 There is a slight 'amphitheatre' cambering on the grass area at this point and the organisers would like to maximise this for the event.
- 1.7 The orchestra will be located on the road in front of the 'Sitatunga Enclosure'.
- 1.8 The proposed area has a maximum capacity of approximately 600 persons and only 300 tickets will initially be available for each performance, thus the area could comfortably accommodate any increased demand for ticket sales.
- 1.9 There will be no seating provided and guests will be seated on the lawns and grassed areas around the lake. A site plan has been appended to this report for your information.
- 1.10 The organisers also intend to utilise some of the Zoo's rooms for changing rooms and a temporary marquee will be positioned at the side of the Floral Hall for the chorus.
- 1.11 Members should also be aware that each of the performances will be taking place during normal opening hours at the Zoo, so the audience for the performances will represent a relatively small percentage of the total number of Zoo visitors.
- 1.12 The applicant has advised that, if a licence is granted, it is not the intention to regularly provide entertainment and the application is mainly for this event. However, they may use the Licence for other similar events in the future.

## 2.0 Key Issues

- 2.1 Members are reminded that the normal process for dealing with Entertainments Licence applications which are not the subject of objections, is that the Director of Health and Environmental Services will grant the licence as provided for in the Council's Scheme of Delegation. However, at your meeting on 21 September 2011, you agreed that all future applications for outdoor entertainment be brought before Committee for your consideration.

**2.2 Objections**

No written representation has yet been lodged as a result of the public notices of the application. However the 28 day objection period will not expire until 15 June 2012, after this report was written. Should any objections be made they will be placed before the Committee on the night of your meeting.

**2.3 PSNI**

The Police Service of Northern Ireland has been consulted and has no objection to the application.

**2.4 EPU**

The Environmental Protection Unit (EPU) of the Department has been consulted and do not envisage noise nuisance from the entertainment proposed.

**2.5 Building Control**

Officers of the Service are currently liaising with the Parks and Leisure Departments Representative and the event Organisers to evaluate the Event Management Plan and respective site plan to ensure that all technical matters are being taken into consideration and dealt with.

**2.6 Licensee**

The applicant will be available at your meeting to answer any queries you may have in relation to the application.

**3.0 Resource Implications**

**3.1 Financial**

Officers will be required to carry out inspections at the event but this is catered for within existing budgets.

**3.2 Human Resources**

None

**3.3 Asset and Other Implications**

None

**4.0 Equality and Good Relations Considerations**

**4.1 There are no equality or good relations issues.**

**5.0 Recommendations**

**5.1 Taking into account the information presented and any representations made in respect of the application you are required to make a decision to either:**

- 1. approve the application for the grant of a Fourteen-day Occasional Outdoor Licence, or**
- 2. approve the application for the grant with special conditions, or**
- 3. refuse the application for the grant of the licence.**

**5.2 If an application is refused, or Special Conditions are attached to the licence to which the applicant does not consent, then the applicant may appeal the Council's decision within 21 days of notification of that decision to the County Court. In the case that the applicant subsequently decides to appeal outdoor entertainment may not be provided until any such appeal is determined.**

After discussion, it was

Resolved – That the Committee, in its capacity as Licensing Authority, grants a Fourteen-day Occasional Outdoor Entertainment Licence in respect of the Belfast Zoo, Antrim Road to operate during the period from 10th August to 12th August and 17th August to 19th August.

**Application for the Renewal and Renewal/Variation of Seven-day Annual Entertainments Licences – Botanic Inn/Eglantine Inn/Wellington Park Hotel**

The Committee considered the undernoted report:

**“1 Relevant Background Information**

**1.1 Applications have been received for the renewal of Seven-day annual Entertainments Licences for the under-noted premises:**

<b><u>Premises and Location</u></b>	<b><u>Ref. No.</u></b>	<b><u>Applicant</u></b>
Wellington Park Hotel 19-21 Malone Road	WK/2012/00555	Dunadry Development Company Limited
Botanic Inn 23-27 Malone Road	WK/2012/00320	Mr Gordon Harvey Botanic Inns Limited
Eglantine Inn 32-40 Malone Road	WK/2011/00338	Mr Robert Davis Wine Inns Limited

- 1.2 In addition, an application for the variation of the licence in respect of the Botanic Inn has been received.
- 1.3 Members are reminded that, at your meeting on 24th October 2011, the Committee, in its capacity as Licensing Authority, granted the renewal of Seven-day annual Entertainments Licences in respect of the Botanic Inn, the Eglantine Inn and the Wellington Park Hotel. The renewals were subject to:-
- (i) each licensee, as agreed at the meeting, adhering to the Pubs of Ulster's voluntary code of practice in relation to drinks promotions; and
  - (ii) quarterly meetings between the Building Control Service, the Lower Malone Residents' Association and the Police Service of Northern Ireland being facilitated by the Council's Community Safety Unit to address issues relating to the overall cleanliness of the area and the dispersal of patrons from the premises following closing time.
- 1.4 **Wellington Park Hotel**
- An application has been received from Dunadry Development Company Limited for the renewal of a Seven-day annual Entertainments Licence for the Wellington Park Hotel based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.
- 1.5 The areas currently licensed to provide entertainment are the:-
- 1. Piper Bistro, ground floor, with a maximum capacity of 120 persons.
  - 2. Mooney and Brasserie Bars, ground floor, with a maximum capacity of 600 persons.
  - 3. Blackshaw Lounge, ground floor, with a maximum capacity of 360 persons.
  - 4. Dillon Room, first floor, with a maximum capacity of 50 persons.
  - 5. Middleton Room, first floor, with a maximum capacity of 200 persons.
  - 6. McWilliams Suite, first floor, with a maximum capacity of 500 persons.

- 1.6 The days and hours during which the premises are currently licensed to provide entertainment are:-

Monday – Saturday: 11.30 a. m to 1.00 a. m. the following morning

Sunday: 12.30 p. m. to 10.00 p. m.

- 1.7 The premises operate as a hotel with entertainment being provided for private functions from Monday to Saturday. Public discos are held in the Mooney and Brasserie Bars on Saturday nights.

- 1.8 Botanic Inn

An application has been received from Botanic Inns Limited for the renewal and variation of a 7-day annual entertainments licence for the Botanic Inn based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of the like kind.

- 1.9 The areas currently licensed to provide entertainment are the:-

1. Ground floor, with a maximum capacity of 550 Persons

2. First Floor, with a maximum capacity of 500 persons

- 1.10 The days and hours during which the premises are currently licensed to provide entertainment are:-

Monday & Tuesday: 11.30 a.m. to 11.00 p.m.

Wednesday to Saturday: 11.30 a.m. to 1.00 a.m. the following morning

Sunday: 12.30 p.m. to 12.00 midnight

- 1.11 With a special condition being attached to the Licence permitting entertainment to 12.30am on Easter Monday and if Christmas Eve, New Year's Eve, St. Patrick's day or Halloween fall on Monday or Tuesday night.

- 1.12 The nature of the variation applied for is to amend the hours of entertainment to permit entertainment to be provided as follows:-

**Monday to Saturday: 11.30 a. m. to 1.30 a.m. the following morning**

**Sunday: 12.30 p.m. to 12.30 a.m. the following morning**

**1.13 Currently the premise operates as a public bar and nightclub with entertainment being provided on the ground floor on Wednesday to Sunday in the form of DJs and live bands. Entertainment is provided on the first floor on Wednesday to Saturday in the form of a DJ.**

**1.14 The licensee has stated that the variation to extend the permitted hours is required for the following reasons:-**

- 1. to facilitate the winding down of the crowd at the end of the night to ensure an orderly and controlled exit of the premises thus preventing a mass exodus causing crowding of exits**
- 2. to help hold the crowd and stop the poaching of customers by the late night clubs in the City centre through promotion teams canvassing customers when they currently leave early as required by existing licence times**
- 3. to provide flexibility to compete with late night City centre venues and provide entertainment to a reasonable time on other nights that do not clash with these venues**
- 4. to give the Botanic Inn more equal hours of entertainment with the licensed premises in the greater University area**

**1.15 Eglantine Inn**

**An application has been received from Mr Robert Davis for the renewal of a 7-day annual entertainments licence for the Eglantine Inn based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of the like kind.**

**1.16 The areas currently licensed to provide entertainment are:-**

- 1. Ground floor lounge, with a maximum capacity of 300 persons**
- 2. First Floor lounge, with a maximum capacity of 300 persons**

**1.17 The days and hours during which the premises are currently licensed to provide entertainment are:-**

Monday and Tuesday: 11.30 a.m. to 11.00 p.m.  
Wednesday to Saturday: 11.30 a.m. to 1.00 a.m. the  
following morning  
Sunday: 12.30 p.m. to 12.00 midnight

- 1.18 With a special condition being attached to the Licence permitting entertainment to 12.30am on Easter Monday and if Christmas Eve, New Year's Eve, St. Patrick's day or Halloween fall on Monday or Tuesday night.
- 1.19 Currently the premise operates the ground floor as a public bar and first floor as a nightclub. Entertainment is provided on the ground floor in the form of a band on a Friday night only and the first floor in the form of a DJ from Wednesday to Saturday.
- 1.20 Since these 3 licences were granted they have been subject to many objections and complaints which have resulted in numerous Committee meetings and special meetings. Additionally, a number of decisions of the Council have been, in the past, appealed by the applicants and heard at Belfast Recorders Court.

## 2 Key Issues

### 2.1 Representations

No objections have been received in relation to the renewal applications or to the application for the variation of the licence as a result of the public notices of application. However, given the history of objections associated with the premises it was deemed appropriate to bring the applications to your attention for consideration. In addition, Members are advised that the condition of licence restricting the hours of entertainment on Monday and Tuesday nights, which the Botanic Inn is now seeking to vary, was imposed by the Court some years ago.

### 2.2 PSNI

The Police Service of Northern Ireland has offered no objection to these applications.

### 2.3 Community Safety Report on Liaison Meetings

The first meeting, Chaired by Community Safety, took place on 28th February 2012 and was attended by representatives of Lower Malone Residents Association, Botanic Inn, Eglantine Inn, Wellington Park Hotel and PSNI.

- 2.4 At the meeting, the residents group expressed the view that the meetings were not functioning properly and that relationships between the residents and licensees continued to be difficult. Residents appeared extremely frustrated and felt there was nothing to be gained from the liaison meetings. They stated that there was little to no co-operation and commitment from the Licensees to address their concerns about alcohol related anti-social behaviour in the area, which they believe is directly linked to the licensed premises, and believed their issues were being ignored when the Licensing Committee considered the renewal of the licences for the premises.
- 2.5 From the licensees point of view they also felt some frustration about the liaison meetings but made it clear they were willing to continue with the meetings and engagement with residents. Police were happy to continue attending the meetings and felt that some communication was better than no communication.
- 2.6 It appeared that the meetings were delivering very little and that both parties, residents and licensees, were very much entrenched in their positions.
- 2.7 It was agreed that all parties involved would provide Community Safety with feedback and indicate whether or not they saw merit in continuing the liaison meetings. A commitment was given from Community Safety that they were happy to continue facilitation of the meetings. However the final decision on whether or not to continue was left with the parties around the table.
- 2.8 Feedback from the licensees has indicated that they are happy to continue with the meetings. However, residents have again expressed their frustration with the meetings and confirmed that they saw no merit in continuing with them. Instead they have expressed a preference to work directly with the Community Safety Unit in an attempt to resolve some of the ASB problems they are experiencing. The responses from participants of the liaison meetings are appended to this report.
- 2.9 The Community Safety Unit has agreed to work directly with residents and licensees to address any problems they raise. Any matters directly related to the entertainments licences for the premises can be raised at the Licensed Premises Group and, if necessary, brought to the attention of Committee.

**2.10 Building Control**

Since the Licensing Committee meeting in October 2011, two during performance inspections have been carried out on the Eglantine Inn, Wellington Park Hotel and the Botanic Inn, by Officers from the Service. Generally these inspections revealed that the conditions of licences were being adhered to and that the management of the premises was satisfactory.

**2.11 Licensees**

The applicants for all three premises have been invited to attend your meeting should you wish to hear any representations relating to their entertainment licence applications.

**3 Resource Implications**

**3.1 Human Resources**

None

**3.2 Financial**

None

**3.3 Asset and Other Implications**

None

**4 Equality Implications**

4.1 There are no equality or good relations issues.

**5 Recommendation**

5.1 Taking into account the information presented and any representations received you are required to consider each of these applications for the renewal of an entertainments licence in turn and to:

1. approve the applications for renewal, or
2. approve the applications for renewal with special conditions; in addition to the standard conditions, or
3. refuse the applications for the renewal of the licence.

- 5.2** Thereafter, taking into account the information presented and any representations received you are required to consider the application for the variation of an entertainments licence for the Botanic Inn and to:-
- 1.** approve the application for variation, or
  - 2.** approve the application for variation with special conditions; in addition to the standard conditions, or
  - 3.** refuse the application for the variation of the licence.
- 5.3** If the applications are refused, or special conditions are attached to the licences to which the applicants do not consent, then the applicants may appeal the Council's decision within 21 days of notification of that decision to the County Court. If the applicant decides to appeal, the Licence will continue with its present conditions until the Appeal is determined.
- 5.4** In the light of the discussion in relation to the usefulness of the liaison meetings and the opinions of the residents group the Committee may well decide to remove the condition of licence requesting that these meetings be held.

The Head of Building Control advised the Committee that no objections had been received in relation to the renewal of the applications or to the application for the variation of the licence in respect of the Botanic Inn. However, given the history of objections associated with the premises, it had been deemed appropriate to bring the applications to the Committee's attention for consideration. In addition, the conditions of the licence restricting the hours of entertainment on Monday and Tuesday nights, which the Botanic Inn was seeking to vary, had been imposed by the Courts some years ago.

The Head of Building Control reported that the members of the Lower Malone Residents' Association had indicated that it did not see any value in holding liaison meetings. They claimed that those meetings were not functioning properly and relationships between the residents and the licensees continued to be difficult. In addition, they were of the view that there was little or no co-operation nor commitment from the licensees to address their concerns in relation to alcohol and anti-social behaviour in the area. At a meeting which had been held on 28th February, which had been attended by representatives of the Lower Malone Residents' Association, the Botanic Inn, the Eglantine Inn and the Wellington Park Hotel, together with the Police Service of Northern Ireland it had been agreed that all parties involved would provide the Council's Community Safety Team with feedback on whether or not they saw merit in continuing with the liaison meetings.

The Head of Building Control reported that the Police Service of Northern Ireland had offered no objections in relation to the applications.

Mr. S. McGorrigan and Mr. G. Webb, representing the Botanic Group, were admitted to the meeting and welcomed by the Chairman. Mr. McGorrigan reported that, as a licensee, the Botanic Group took its responsibility seriously and that all residents in the area had been provided with his personal mobile phone number should any difficulties arise. In relation to the request for the variation of the Entertainments Licence, the applicants indicated that they were requesting the variation of the licence in order to ensure that patrons dispersed from the premises in an orderly manner. In addition, he stated that residents within the area were customers of the premises.

After discussion, during which the representatives answered various questions which were put to them by the Members, Mr. McGorrigan and Mr. Webb retired from the meeting.

After discussion, it was

Resolved - That the Committee, in its capacity as Licensing Authority, grants the renewal of a Seven-day Annual Entertainments Licence in respect of the Eglantine Inn, 32/40 Malone Road and the Wellington Park Hotel, 19-21 Malone Road, based upon the Council's standard conditions to provide dancing, singing, music or entertainment of a like kind.

Following further discussion, it was

Moved by Councillor Lavery,  
Seconded by Alderman Rodgers,

That the Committee, in its capacity as Licensing Authority, agrees to grant the application for the renewal of a Seven-day Annual Entertainments Licence for the Botanic Inn, and furthermore, grants the variation of the Licence in order to extend the hours during which entertainment might be provided to:

Monday and Tuesday: 11.30 a.m. to 1.00 a.m. the following morning

Wednesday to Saturday: 11.30 a.m. to 1.00 a.m. the following morning

Sunday: 12.30 p.m. to 12.00 midnight

On a vote by show of hands ten Members voted for the proposal and one against and it was accordingly declared carried.

In addition, the Committee agreed that meetings between the licensees and residents be arranged if and when required.

**Application for the Renewal of a Seven-day  
Annual Entertainments Licence - Kremlin Bar, 96 Donegall Street**

The Committee agreed that a special meeting be held in order to consider the renewal of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises on a date to be agreed in conjunction with the Chairman.

Chairman