

Licensing Committee

Wednesday, 20th March, 2013

MEETING OF LICENSING COMMITTEE

Members present: Alderman Ekin (Chairman);
Councillors Attwood, M. E. Campbell, Convery,
Groves, Hussey, Keenan, Lavery, Ó Donnghaile,
O'Neill, Spence and Webb.

In attendance: Mr. T. Martin, Head of Building Control;
Mr. S. Hewitt, Building Control Manager;
Ms. N. Largey, Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported from the Deputy Lord Mayor (Councillor Cunningham), Alderman Rodgers and Councillors Jones and L. Patterson.

Minutes

The minutes of the meeting of 20th February were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 4th March, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were reported.

Expression of Sympathy

The Chairman, on behalf of the Committee, expressed sympathy to Councillor Lavery on the recent death of his sister.

Roads (Miscellaneous Provisions) Act 2010 - Road Closures for Special Events

The Committee was reminded that, at its meeting on 21st March, 2012, it had been advised that the introduction of the Roads (Miscellaneous Provisions) Act 2010 would provide councils with the power to temporarily prohibit or restrict, with the consent of the Department for Regional Development, the use of public roads in connection with special events, with a special event being defined as any sporting event, social event, entertainment or film-making on a public road.

The Head of Building Control reported that the Department for Regional Development was in the process of finalising a Commencement Order which was due to come into effect in April and lead to the implementation of the Roads (Miscellaneous Provisions) Act 2010. As a result, the Council would assume statutory responsibility for processing applications, consulting with the relevant agencies, publishing notices in newspapers, considering resulting representations, preparing road closure orders and ensuring that the appropriate signage was in place. A joint Department for Regional Development and Local Government team had been established, under the direction of the Society of Local Authority Chief Executives, to examine the operational issues for local councils arising from the introduction of the Act. Council officers had worked with Department for Regional Development representatives to produce guidance notes for councils and applicants on the legislation and had contributed to three awareness raising sessions which that Department had facilitated primarily for councils.

He informed the Members that, due to the regulatory nature of the legislation and the fact that associated applications could be subject to challenge and public representations, the Council now needed to ensure that the necessary governance arrangements, processes and policies were put in place. He pointed out that the Council, at its meeting on 1st May, 2007, had delegated to the Licensing Committee authority to determine applications on various matters, including Entertainments Licensing, and he recommended that, since the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 was similar in nature to those, the Committee assume responsibility also for determining applications under the Act. The Legal Services Section had advised that there would be no requirement to amend the Council's Standing Orders to make specific reference to the Act, as that could be accommodated therein under the definition of "such other matters of a licensing nature". He recommended also that, in order to deal as expediently as possible with applications, the Council's Scheme of Delegation be amended, in line with other licensing applications, to enable the Director of Health and Environmental Services to make Orders relating to special events, except in circumstances where representations were received. In such cases, or in others as the Director deemed appropriate, the relevant application would be submitted to the Committee for its consideration.

After discussion, the Committee agreed that:

- (i) the Council be recommended to delegate authority to the Licensing Committee to determine all applications, under the provisions of the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010, for an Order to temporarily prohibit or restrict the use of public roads in connection with special events; and
- (ii) the need for the Committee to consider all applications would be reviewed one year after the commencement of the Order.

The Committee noted that the provisions contained within the aforementioned Act would come into operation upon the publication by the Department for Regional Development of the Commencement Order.

Proposed Charging of Fees for Road Closures for Special Events

The Committee considered a report in relation to proposed charging of fees for road closures and special events.

During discussion, several Members highlighted a number of issues contained within the report, including the fact that organisers of community based/small scale events often received only small levels of funding to assist with the holding of events. As such, they could have difficulty meeting the costs associated with the placing of a mandatory notice in a local community newspaper, as proposed. It was suggested that it would be more economical for those organisations whose events were taking place in and around the same date to place joint advertisements in newspapers.

Accordingly, the Committee agreed to defer until its next monthly meeting consideration of the report to enable further information to be obtained in relation to fees to be charged, potential costs to the Council and advertising for event organisers.

Revision of Petroleum Licensing Conditions

The Head of Building Control informed the Members that the Council was designated, under the provisions of the Petroleum (Consolidation) Act (Northern Ireland) 1929, as a Petroleum Licensing Authority and that it granted annually licences to persons wishing to store petroleum spirit. The Council had authority under the Act to impose certain conditions on licensees in order to ensure the safe operation of licensed sites. He explained that the Regional Petroleum Licensing Working Group, which had been established under the direction of the Society of Local Authority Chief Executives to ensure a consistency of approach across all councils on all matters relating to petroleum licensing, had now drafted a set of revised licensing conditions.

He explained that the revision had been necessary to reflect the significant changes which had arisen from the introduction of the Dangerous Substances and Explosive Regulations (Northern Ireland) 2003, which had removed from the aforementioned Act much of the responsibility for controlling the routine operation of petrol filling stations and, therefore, the need to retain many of the prescriptive control measures which had been contained previously within the licensing conditions. The revision was intended also to remove any duplication which might exist from the application of other health and safety legislation and, accordingly, placed no additional burden on licensees. The proposed reduction in the number of conditions did not mean that the responsibilities of licensees and petrol station operators had, in any way, diminished. He pointed out that the Dangerous Substances and Explosive Regulations (Northern Ireland) 2003 did not, however, apply to non-workplace situations and that petroleum licensing was still the primary mechanism by which non-workplace petroleum storage was controlled. He added that the revised conditions were intended at this stage to address only the licensing of retail and non-retail petrol filling stations where a work activity was undertaken.

After discussion, the Committee approved the adoption of the revised Petroleum Licensing Conditions, a copy of which was available on the Modern.gov website.

Consultation on Proposals to Repeal the Pedlars Acts and Amend Street Trading Legislation

The Committee was reminded that, at its meeting on 23rd January, it had approved a response to the Department for Business Innovation and Skills and the Department for Social Development's joint consultation on the above-mentioned proposals. During that meeting, Members had highlighted the problems which had existed within the City prior to the introduction of the Street Trading Act (Northern Ireland) 2001 and had expressed concern that the proposals, if implemented, would be a retrograde move and create significant difficulties in terms of the future management of street trading. Accordingly, the Committee had agreed that a letter be forwarded to the Minister for Social Development advising of its concerns and to the Northern Ireland Local Government Association seeking its full endorsement of the Council's response.

The Head of Building Control reported that responses to those letters had now been received. He explained that Minister McCausland had confirmed that he was aware of the problems associated with illegal street trading prior to the introduction of the aforementioned Act and had noted the Committee's concerns around the implementation of the proposals set out within the consultation. Importantly, the Minister had provided an assurance that the Council's response would be afforded careful consideration in advance of any decision reached on the way forward.

The response from the Northern Ireland Local Government Association had stated that the Association had formulated, in consultation with officers from a number of councils, including Belfast, a draft response to the consultation document. That had been forwarded subsequently to councils and would form the basis for their response to the consultation. The Association had asserted that the proposals set out within the consultation would have serious consequences for retailers in Belfast and other urban councils, had commended the Licensing Committee on its decision to work with the Association to address the issue and had stressed that it would continue to lobby to ensure that the views of councils were taken into consideration as part of the review process.

The Committee noted the information which had been provided and agreed that a report be submitted to a future meeting on potential means of identification which could be displayed by traders operating under temporary Street Trading Licences.

**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.

Application for the Renewal of a Seven-day Annual Entertainments Licence - Mono Bar, 96-100 Ann Street

The Head of Building Control informed the Committee that an application had been received for the renewal of a Seven-day Annual Entertainments Licence in respect of the Mono Bar, 96-100 Ann Street. He reported that the Police Service of Northern Ireland had, as part of the 2012 application process, objected to the renewal of the Licence, due to the high levels of anti-social behaviour and liquor licensing offences associated with the premises. However, following a number of meetings between the applicant and the Police Service, which had been facilitated by officers from the Building Control Service, agreement had been reached on the development of a detailed action plan for the future operation of the Mono Bar. That had led to the Police Service withdrawing its objection to that application. Accordingly, the Committee, at its meeting on 15th February, 2012, had renewed the Entertainments Licence, subject to the licensee adhering to the agreed action plan, which had included a stipulation that he meet on a monthly basis with the Building Control Service and the Police Service.

The Head of Building Control reported further that those meetings had proven to be very successful and that the licensee had since adopted a proactive approach regarding the management of the premises. Officers from the Building Control Service had, over the course of the past year, undertaken four inspections whilst entertainment was taking place, one of which had revealed some minor issues, which had been resolved immediately. As a result, the Building Control Service and the Police Service of Northern Ireland no longer had concerns regarding the overall operation of the Mono Bar. He suggested that, should the Committee be minded to renew the Licence, it might wish to amend the existing action plan to reflect that, in future, meetings between the two Services and the licensee should take place only when issues of concern arose. He added that no written representation had been received in relation to the renewal of the Entertainments Licence.

Accordingly, it was

Resolved – That the Committee, in its capacity as Licensing Authority, grants a renewal of a Seven-day Annual Entertainments Licence in respect of the Mono Bar, 96-100 Ann Street, subject to the licensee adhering to the action plan, which would be amended to reflect that meetings between him, the Building Control Service and the Police Service of Northern Ireland would, henceforth, be held only when required.

Application for the Grant of a Fourteen-day Occasional Entertainments Licence - El Divino, May's Meadows

The Committee was advised that an application had been received seeking the grant of a Fourteen-day Occasional Entertainments Licence in respect of the above-mentioned premises. The Head of Building Control reported that the applicant was proposing to provide entertainment, in the form of a DJ, on 5th May and 25th August within a marquee which would be situated in the car park at the side of the premises. The marquee would accommodate up to a maximum of 500 patrons and both events would cease by 2.00 a.m., in line with the current indoor Entertainments Licence. He explained that, whilst no objections to the grant of the Licence had been received within the twenty-eight day statutory period, one had been submitted outside that timeframe. The objector had highlighted unacceptable noise levels from a previous

outdoor event and had pointed out that, although both of the events would be taking place on the eve of a Bank Holiday, he was required to work on those days and was concerned that his sleep could be affected.

The Head of Building Control pointed out that, under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Committee, when considering an application, must have regard to any representation which had been received within the statutory period. Where objections had been received outside that time, the Committee could exercise its discretion and agree to receive the objectors, but did not have a duty to do so.

After discussion, the Committee agreed, in view of the relevance of the objection which had been received and the proximity of the objector to El Divino, to exercise its discretion and consider the objection at its monthly meeting in April, to which the objector and the applicant would be invited.

Chairman