

Licensing Committee

Wednesday, 11th December, 2013

MEETING OF LICENSING COMMITTEE

Members present: Councillor M. E. Campbell (Deputy Chairman)
(in the Chair);
Aldermen McCoubrey and Rodgers; and
Councillors Attwood, Clarke, Groves, Keenan,
Magee, Ó Donnghaile 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
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies were reported on behalf of the Chairman (Alderman Ekin) and Councillor Cunningham.

Minutes

The minutes of the meeting of 20th November were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 2nd December, 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.

Schedule of Meetings 2014

The Committee noted the contents of a report setting out the scheduled monthly meetings for the Committee for the period from January till May, 2014, details of which were available on the Modern.gov website.

Update on Outdoor Events Policy

The Committee was reminded that it had, earlier in the year, in considering a number of applications for Outdoor Entertainments Licences for venues across the City, agreed that an appropriate policy be drafted to deal with such applications. The Head of Building Control reported that there had been a significant increase in the number of annual outdoor events taking place in Belfast, which ranged from large scale concerts to local community-led events. He explained that the proposed policy would seek to streamline the current process for dealing with applications, assist the Committee in its decision-making and enable licensees and promoters to plan events more effectively.

He reviewed the work which had been undertaken to date, which had included the identification of up to fifty venues and locations which had the potential to be used for outdoor events. Officers would be seeking the views of various stakeholders, including statutory agencies, Translink, licensees, promoters and other Council Departments, on issues such as the suitability of venues in terms of access/egress, previous complaints and the proximity of local residents, and would continue to liaise with them until the policy was approved. He added that it would be beneficial at this stage in the process to obtain the views of Members on the suggested content of the Outdoor Events Policy.

After discussion, the Committee agreed that the matter be considered in the first instance through the Party briefing process, following which a draft policy would be presented to the Committee for its consideration.

**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 Variation of a Seven-day Annual
Entertainments Licence - The Errigle Inn, 312-320 Ormeau Road**

The Committee was advised that an application had been received for the variation of a Seven-day Annual Indoor Entertainments Licence in respect of the above-mentioned premises. The Head of Building Control reported that, whilst the premises were licensed currently to provide entertainment from Monday to Saturday till 1.00 a.m. and on a Sunday till midnight, it was offered primarily on Thursday, Friday and Saturday nights and took the form of either a DJ or a live band. The variation had been sought to enable the premises to operate from Monday to Saturday till 2.00 a.m., which would permit it to compete with other venues which operated till that time. The applicant had confirmed that, should it be granted, it was the intention that entertainment would be provided on Thursday, Friday and Saturday nights and that the remaining three nights would be used for special occasions only.

The Head of Building Control informed the Members that no written representations had been received in relation to the application and that the Police Service of Northern Ireland had not objected. Since the current Entertainments Licence had been renewed, officers of the Building Control Service had conducted two inspections of the premises whilst entertainment had been taking place, neither of which had given rise to any issues. In addition, the Council's Environmental Protection Unit had received no complaints over the course of the past year.

He highlighted the location of the Errigle Inn in relation to residential properties in the area and pointed out that the Committee had, in the past, refused to vary Entertainments Licences for premises outside the City centre to enable them to offer entertainment beyond 1.00 a.m., due to the potential for noise disturbance and the fact that no other establishments in the area were permitted to operate till a later time. However, it had agreed more recently, at its meetings on 21st August and 20th November, to vary Entertainments Licences for two premises outside the City centre to enable entertainment to take place till 2.00 a.m. on a limited number of nights. Those decisions had taken into account the representations which had been made by the applicants regarding the unique nature of their premises and the need to ensure that local residents were not adversely affected by undue noise disturbance.

The Committee agreed that it would be beneficial to obtain from the applicant further information on the proposed variation and, accordingly, Mr. P. McGurran was admitted to the meeting.

Mr. McGurran informed the Members that he was seeking to provide entertainment in the Errigle Inn till 2.00 a.m. in order to enable it to enhance its service for tourists and also patrons attending venues such as the Ravenhill Rugby Ground. That, in turn, would permit it to compete commercially with other premises in the City which operated beyond 1.00 a.m. and would create additional employment. He reviewed the arrangements which were in place currently to address any issues which were raised by residents regarding the operation of premises and confirmed that, should the Committee agree to vary his Licence, they would be extended to include the additional hours.

In response to a question from a Member, he confirmed that he would be agreeable to the variation being granted initially for Friday and Saturday nights and for a trial period and requested that the Committee give consideration to including within the variation a number of Bank Holidays which fell outside those days.

Mr. McGurran was thanked for being in attendance and he left the meeting.

After discussion, it was

Moved by Councillor Attwood,
Seconded by Councillor Ó Donnghaile and

Resolved – That the Committee, in its capacity as Licensing Authority, agrees to grant, for a period of six months, a variation of a Seven-day Annual Indoor Entertainments Licence in respect of the Errigle Inn, 312-320 Ormeau Road, with entertainment being permitted to take place till 2.00 a.m. on Friday and Saturday nights and on Bank Holidays.

**Application for the Variation of a Seven-day Annual
Entertainments Licence - Aether and Echo, 1-3 Lower Garfield Street**

The Head of Building Control drew the Committee's attention to an application which had been received for the variation of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises. He explained that the premises provided entertainment currently from Monday to Thursday till 1.00 a.m., on a Friday and Saturday night till 3.00 a.m. and on a Sunday till midnight in the form of a DJ or live band. The applicant was seeking to vary the Licence to permit him to operate till 3.00 a.m. on Monday and Thursday in order to attract additional business through, for example, wedding receptions and a comedy club, and to secure the services of guest DJs.

The Committee was advised that no written representations had been received in relation to the application and that the Police Service of Northern Ireland had not objected. Since the transfer in September, 2013 of the Entertainments Licence, officers of the Building Control Service had undertaken one inspection of the premises, however, no entertainment had been taking place. In addition, the Council's Environmental Protection Unit had received no complaints over the course of the past year in relation to noise disturbance from music or patron dispersal.

The Committee agreed, in its capacity as Licensing Authority, to grant a variation of a Seven-day Annual Entertainments Licence in respect of Aether and Echo, 1-3 Lower Garfield Street, with the nights on which entertainment is permitted to take place till 3.00 a.m. being extended to include a Monday and Thursday.

**Application for the Transfer and Variation of a Seven-day Annual
Entertainment Licence - Ronnie Drew's, 79-83 May Street**

The Committee was advised that an application had been received for the transfer and variation of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises. The Head of Building Control reported that the premises were licensed currently to provide entertainment from Monday to Saturday till 1.00 a.m. and on a Sunday till midnight, with solo acts and small live bands performing on a Friday and Saturday night. The applicant was seeking to operate till 3.00 a.m. on those nights, which would enable him to cater for visitors to the City and to compete with other venues which provided entertainment beyond 1.00 a.m.

The Head of Building Control confirmed that no written representations had been received in respect of the application and that the Police Service of Northern Ireland had not objected. However, it had suggested that, should the Committee be minded to grant the variation, it should consider attaching to the Entertainments Licence conditions requiring the licensee to employ only Security Industry Authority registered door supervisors, install a suitable closed circuit television system and use non-glass containers when the venue was operating beyond 12.30 a.m. He added that Building Control officers had conducted two inspections of the premises whilst entertainment had been taking place, one of which had uncovered a minor issue which had been addressed promptly by the licensee. Overall, the Service was satisfied that all operational and management procedures were being implemented effectively. The Council's Environmental Protection Unit had confirmed that it had received no complaints regarding the venue.

It was reported that Chief Inspector G. Moran was in attendance in order to provide clarification around the conditions which the Police Service of Northern Ireland had suggested be attached to the Entertainments Licence and he was admitted to the meeting.

Chief Inspector Moran outlined the rationale behind the suggested conditions. He highlighted, in particular, the fact that the majority of glass-related incidents in licensed premises originated in those which operated till the early hours of the morning and pointed out that a number of those venues now used non-glass containers on a voluntary basis. He confirmed that the Police Service would be keen for a condition requiring the use of non-glass containers to be attached to all late night Entertainments Licences. However, he suggested that the Committee might wish to waive the imposition of that condition in this instance to enable it to give further consideration to the matter.

Chief Inspector Moran was thanked by the Chairman and he retired from the meeting.

The Committee was informed that Mr. D. Malone, the applicant, was in attendance and he was welcomed to the meeting.

Mr. Malone informed the Committee that he was seeking to vary the Entertainments Licence in order to enhance the premises' offering to visitors to the City and to enable it to compete commercially with other venues which operated till 3.00 a.m. In terms of the suggested conditions which had been advocated by the Police Service, he confirmed that Security Industry Authority registered door supervisors were employed currently on each night of the week and that the premises' closed circuit television system had been upgraded recently. He pointed out that patrons leaving the premises with drinks glasses were requested by door staff to swap them for plastic containers and expressed the view that the use of such containers inside the premises at any time would not be in keeping with the image which he was working to create for Ronnie Drew's

In response to a question from a Member, Mr. Malone confirmed that the premises had a number of closed circuit television cameras in operation and that he would have no difficulty in making recordings available to the Police Service, if requested.

Having been thanked by the Chairman, Mr. Malone retired from the meeting.

The Head of Building Control informed the Committee that the Licensed Premises' Group, which had been established by the Council and the Police Service of Northern Ireland to enhance and encourage good management practices in licensed premises, met on a regular basis to discuss those which experienced issues with anti-social behaviour and alcohol-related crime. He confirmed that, if required, the use of non-glass containers could be incorporated into such a premises' action plan with a view to addressing those issues.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant a transfer and variation of a Seven-day Annual Entertainments Licence in respect of Ronnie Drew's, 79-83 May Street, with entertainment being permitted to take place on a Friday and Saturday night till 3.00 a.m.

**Competing Applications for a Stationary
Street Trading Licence – Site 2 Berry Street**

The Committee was reminded that, at its meeting on 16th October, it had considered two separate competing Street Trading Licence applications for a vacant designated site in Berry Street, located 46 feet from its junction with Royal Avenue. The Committee, having considered the representations made by the applicants, had agreed that it was minded, in view of the fact that her application was the first to be submitted, to grant to Ms. M. Szczesna a Stationary Street Trading Licence to sell hand crafts, e-cigarettes, e-cigarette accessories and refills, seasonal accessories, leather goods and jewellery from Monday to Saturday between the hours of 9.00 a.m. and 7.00 p.m. and on a Sunday from 1.00 p.m. till 6.00 p.m. in Berry Street, 46 feet from its junction with Royal Avenue, at a site which has been designated previously for the sale of those commodities.

As a consequence of the decision to grant the Licence to Ms. Szczesna and the fact that there was only one designated site available, the Committee had agreed that it was minded to refuse the application which had been submitted by Mr. P. Robinson, on the grounds set out in Sections 9(i) and 9(iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which he wished to trade was unsuitable and that there were sufficient traders trading at that location in the articles, things or services in which he wished to trade.

The Head of Building Control informed the Members that Mr. Robinson had been advised that, in accordance with Section 12 (2)(b) of the Street Trading Act (Northern Ireland) 2001, he would be permitted to make written representation to the Council within twenty-one days from the date of notice. He confirmed that, whilst Mr. Robinson had not appealed the decision, he had requested that his application be held on record and considered should a suitable site become available. He added that officers had since discussed with Mr. Robinson the availability of other sites.

Accordingly, it was

Resolved – That the Committee, in its capacity as Licensing Authority, agrees to affirm its decision of 16th October to grant to Ms. M. Szczesna a Stationary Street Trading Licence to sell hand crafts, e-cigarettes, e-cigarette accessories and refills, seasonal accessories, leather goods and jewellery from Monday to Saturday between the hours of 9.00 a.m. and 7.00 p.m. and on a Sunday from 1.00 p.m. till 6.00 p.m. in Berry Street, 46

feet from its junction with Royal Avenue, at a site which had been designated previously for the sale of those commodities, subject to:

- i. the applicant providing all necessary documentation; and
- ii. the receipt of the appropriate licence fee.

As a consequence of that decision, the Committee agreed to refuse the application which had been submitted by Mr. P. Robinson, on the grounds set out in Sections 9(i) and 9(iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which he wished to trade was unsuitable and that there were sufficient traders trading at that location in the articles, things or services in which he wished to trade.

Competing Applications for a Stationary Street
Trading Licence - Shaw's Bridge Car Park

The Head of Building Control reminded the Committee that, at its meeting on 16th October, it had considered three separate competing Street Trading Licence applications for a vacant designated site at the above-mentioned location. The Committee, having considered the representations made by the applicants, had agreed that it was minded, in view of the fact that he was the current licensee and that he had operated the site in accordance with the Street Trading legislation, to grant to Mr. Kenneth Chivers a Stationary Street Trading Licence to sell, from a van measuring 4 metres by 2 metres, ice cream, non-alcoholic beverages and confectionery from Monday to Sunday between the hours of 11.00 a.m. and 8.00 p.m. in the car park at Shaw's Bridge, at a pitch which had been designated previously for the sale of those commodities.

As a consequence of the decision to grant the Licence to Mr. K. Shivers and the fact that there was only one designated site available, the Committee agreed that it was minded to refuse the applications which had been submitted by Mr. P. Chivers and Mr. R. Adair, on the grounds set out in Sections 9(i) and 9(iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which they wished to trade was unsuitable and that there were sufficient traders trading at that location in the articles, things or services in which they wished to trade.

The Head of Building Control informed the Members that the unsuccessful applicants had been advised that, in accordance with Section 12 (2)(b) of the Street Trading Act (Northern Ireland) 2001, they would be permitted to make written representation to the Council within twenty-one days from the date of notice. However, neither applicant had availed of that opportunity.

Accordingly, it was

Resolved – That the Committee, in its capacity as Licensing Authority, agrees to affirm its decision of 16th October to grant to Mr. Kenneth Chivers a Stationary Street Trading Licence to sell, from a van measuring 4 metres by 2 metres, ice cream, non-alcoholic beverages and

confectionery from Monday to Sunday between the hours of 11.00 a.m. and 8.00 p.m. in the car park at Shaw's Bridge, at a pitch which had been designated previously for the sale of those commodities, subject to:

- i. the applicant providing all necessary documentation; and
- ii. the receipt of the appropriate licence fee.

As a consequence of that decision, the Committee agreed to refuse the applications which had been submitted by Mr. P. Chivers and Mr. R. Adair, on the grounds set out in Sections 9(i) and 9(iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which they wished to trade was unsuitable and that there were sufficient traders trading at that location in the articles, things or services in which they wished to trade.

Application for the Variation of a Mobile Street Trading Licence

The Committee was reminded that, at its meeting on 18th September, it had considered an application by Mr. K. McShane for the variation of his Street Trading Licence to include the Falls area of the City. The Committee had been addressed by the applicant and by several ice cream vendors who were licensed to trade in that location and who were each opposed to the application. Accordingly, it had agreed that it was minded to refuse the application, on the grounds that there existed sufficient traders within that area for the goods in which the applicant wished to trade.

The Head of Building Control reported that Mr. McShane had, subsequently, been advised of his right to make representation within twenty-one days regarding the Committee's decision. He confirmed that correspondence had now been received from the applicant's legal representative setting out the basis for his client's request to the Committee to change its decision. That had stated primarily that, given the population and size of the Falls area, the Committee had had no evidence to conclude that the four vendors who were licensed to trade there currently were sufficient to meet demand and that it had failed to give adequate regard to the European Union's anti-competition legislation. The point had been made also that Mr. McShane had been a licensed trader for the past five years and that, should his application have been granted, it had been his intention to employ additional staff to cover the Falls area. The legal representative had drawn attention to the fact that one of the objectors had obtained a Licence to trade in public parks in the west of the City, which would limit his ability to provide an adequate service to both parks users and local residents.

After discussion, the Committee agreed to defer consideration of the matter to enable officers to obtain further information in relation to the issues which had been raised within the letter.

Application for the Grant of a Mobile Street Trading Licence

The Committee was advised that an application had been received from Mr. Simon Allen for a Mobile Street Trading Licence to sell ice cream, confectionery and non-alcoholic beverages in the Ballyhackamore, Ballymacarrett, Ballynafeigh, Belmont,

Bloomfield, Knocknagoney, Strandtown and Sydenham areas of the City. The applicant was proposing to trade from Monday to Friday between the hours of 3.00 p.m. and 9.00 p.m. and on a Saturday and Sunday from 1.00 p.m. till 9.00 p.m.

The Head of Building Control reported that an objection to the application had been received from Mr. Neal Adair, who was licensed to sell ice cream, confectionery and non-alcoholic beverages in six of the areas which had been requested by the applicant, namely, Ballyhackamore, Ballymacarrett, Ballynafeigh, Belmont, Bloomfield and Strandtown. He confirmed that Mr. Adair was in attendance in order to outline his objections to the application and he was welcomed to the meeting.

Mr. Adair informed the Members that he had, for several years, been providing a service to customers in the aforementioned areas and that he had sought at all times to operate in accordance with the terms of his Licence. He stated that his trade had declined in recent years and stressed that, should the Committee grant the application, it would, together with the increased cost of providing ice cream, have a detrimental impact upon his income. He added that the area in which he traded was frequented on occasions by unlicensed vendors or those from adjoining council areas which impacted also upon his business.

A member pointed out that the area in which Mr. Adair traded was significant in size and suggested that he might wish to give some consideration to reaching an agreement with Mr. Allen on, for example, the streets to be covered by each of them or their times of trading, which could be to the benefit of both parties.

In response, Mr. Adair pointed out that the size of an area did not necessarily guarantee sales and that he remained of the view that one trader was sufficient on his route.

Mr. Adair thanked the Committee for receiving him and he retired from the meeting.

Mr. Allen, the applicant, was then admitted to the meeting and welcomed by the Chairman.

Mr. Allen explained that this was his first application for a Mobile Street Trading Licence and that he had, in the past, provided cover for a trader in another part of the City. He made the point that it was not his intention to impinge upon Mr. Adair's trade and that, in his view, there existed sufficient business in that part of the City to support a second vendor.

Having been thanked by the Chairman, Mr. Allen retired from the meeting.

The Head of Building Control explained that the advice of Counsel had been sought on whether the Council could, in assessing competing applications for a Street Trading Licence, restrict the number of street traders, on the basis that it would be detrimental to existing street traders and/or fixed business premises. That advice had

indicated, primarily, that the Council could not restrict the number of traders on the grounds that it would affect another trader's business, as argued by Mr. Adair, as such a move would be contrary to anti-competition legislation.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant to Mr. Simon Allen a Mobile Street Trading Licence to enable him to sell ice cream, confectionery and non-alcoholic beverages from Monday to Friday between the hours of 3.00 p.m. and 9.00 p.m. and on a Saturday and Sunday from 1.00 p.m. till 9.00 p.m. in the Ballyhackamore, Ballymacarrett, Ballynafeigh, Belmont, Bloomfield, Knocknagoney, Strandtown and Sydenham areas of the City. The Committee agreed also that Council officers should discuss with the objector, Mr. N. Adair, the possibility of extending the areas in which he was permitted to trade to include Knocknagoney and Sydenham, which would necessitate the submission by him of an application to vary his Licence.

Chairman