

# Licensing Committee

Wednesday, 16th August, 2017

## MEETING OF LICENSING COMMITTEE

Members present: Alderman Spence (Chairperson);  
Alderman L. Patterson; and  
Councillors Boyle, Bunting, Campbell,  
Carson, Clarke, Collins, Craig, Dudgeon,  
Groves, Heading, Hussey, Hutchinson,  
McReynolds and Milne.

Also attended: Alderman McGimpsey.

In attendance: Mr. P. Cunningham, Assistant Building Control  
Manager;  
Mrs. L. McGovern, Solicitor; and  
Mr. H. Downey, Democratic Services Officer.

### Apologies

Apologies for inability to attend were reported on behalf of the Deputy Lord Mayor (Councillor Copeland) and Councillors Bell and McConville.

### Minutes

The minutes of the meeting of 21st June were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 3rd July, 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.

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

### Licences/Permits Issued Under Delegated Authority

The Committee noted a list of licences and permits which had been issued under the Council's Scheme of Delegation.

### Applications for the Renewal of Seven-Day Annual Entertainments Licences with Previous Convictions

The Committee considered the following report:

**“1.0 Purpose of Report/Summary of Main Issues**

1.1 To consider applications for the renewal of Entertainments Licences where the applicant has been convicted of an offence under the Local Government Miscellaneous Provisions (NI) Order 1985 (the Order) within the previous five years.

**2.0 Recommendations**

2.1 Taking into account the information presented, you are required to consider the applications and to:-

1. approve the applications, or
2. should you be of a mind to refuse any of the applications, or approve any applications with additional special conditions, an opportunity of appearing before and of being heard by the Committee must be given to the applicants.

**3.0 Main Report**

**Key Issues**

3.1 Members are reminded that the normal process for dealing with Entertainments Licence applications which are not the subject of objections is that the licence will be granted, as provided for in the Council’s Scheme of Delegation.

3.2 However, as each applicant has been found guilty of committing an offence within five years of the application for a licence being submitted to the Council, you are required to consider the following applications:

Premises and Location	Applicant	Application Type	Offence Details	Date of Conviction and Penalty
Irish National Foresters Club 14-18 Albert Street, Belfast, BT12 4HB	Mr. Gerry Lappin	Renewal	June, 2011  Padlocked emergency exit at rear of premises	22nd November, 2011  £400 and £66 Court costs
Phoenix Bar 179-181 Antrim Road, Belfast, BT15 2EW	Mr. Joe Crangle	Renewal	November, 2015  Entertainment without an Entertainments Licence	24th May, 2016  Conditional Discharge and £69 Court costs

Dukes at Queens  65-67 University Street, Belfast, BT7 1HL	Mr. Eamon Diamond  Dukes Belfast LLP	Renewal	August 2015 The Chester Park Inn  Entertainment without an Entertainments Licence in an outdoor area	22nd March, 2016  Conditional Discharge and £69 Court costs
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- 3.3 Notwithstanding the possibility of refusing an Entertainments Licence on any other grounds, the Council may refuse an application on the grounds that the applicant has been convicted of an offence under the Order.

Application History

Irish National Foresters Club

- 3.4 This is the fifth and final time that an application for the premises will be considered since the applicant was convicted on 22nd November, 2011. The last renewal application was brought before the Committee on 15th June, 2016 and, after consideration, it agreed to renew the licence.
- 3.5 Since the previous renewal, the premises have been subject to one during performance inspection, as well as the renewal inspection, to ensure that there has been no recurrence of these or any other safety issues and we have found that management procedures are being implemented effectively.

Phoenix Bar

- 3.6 This is the second time that an application for the premises has been considered since the applicant was convicted on 24th May, 2016. The last renewal application was brought before the Committee on 15th June 2016 and, after consideration, it agreed to renew the licence.
- 3.7 Since the previous renewal, the premises have been subject to two during performance inspections, as well as the renewal inspection, to ensure that there has been no recurrence of these or any other safety issues and we have found that management procedures are being implemented effectively.

Dukes at Queens

- 3.8 This application is being placed before the Committee, because the applicant was convicted on 22nd March 2016 of offences under the Order at Belfast Magistrates Court regarding one of their other premises, namely, the Chester Park Inn.

- 3.9 This is the second time that an application from Mr. Diamond has been brought before the Committee. It previously considered an application for the Chester Park Inn on 21st September 2016 and, after consideration, it agreed to renew the licence.
- 3.10 The applicant is also the licensee for The Washington Bar, 21 Howard Street. The application to renew that licence will be brought before the Committee in due course for consideration.
- 3.11 Since the previous renewal, the premises have been subject to three further during performance inspections, as well as the recent renewal inspection, to ensure that there has been no recurrence of the breach or any other safety issues. For one of the inspections, no entertainment was taking place whilst the other inspections showed that safety and management procedures are being implemented effectively.

**Representations**

- 3.12 Notice of the applications has been advertised and no written representations have been received.

**PSNI**

- 3.13 The PSNI has confirmed that it has no objections to the applications.

**NIFRS**

- 3.14 The Northern Ireland Fire Rescue Service has been consulted in relation to each of the applications and has confirmed that it has no objections.

**Applicants**

- 3.15 The applicants and/or their representatives will be available at your meeting to answer any queries you may have in relation to their respective applications. Copies of the respective application forms for the premises are attached.

**Financial and Resource Implications**

- 3.16 Officers carry out during performance inspections on premises providing entertainment which is catered for within existing budgets.

**Equality and Good Relations Implications**

- 3.17 There are no equality or good relations issues associated with this report.”

The Committee agreed to renew the Seven-Day Annual Indoor Entertainments Licences in respect of the Irish National Foresters Club, 14-18 Albert Street, the Phoenix Bar, 179-181 Antrim Road and Dukes at Queens, 65-67 University Street.

**Application for the Grant of an Amusement Permit –  
Odyssey Bowl, Unit 2, Odyssey Pavilion, Queen's Quay**

The Committee considered the following report:

“1.0 **Purpose of Report/Summary of Main Issues**

- 1.1 To consider an application for the grant of an Amusement Permit for Odyssey Bowl, under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (the Order)

<b><u>Premises and Location</u></b>	<b><u>Ref. No.</u></b>	<b><u>Applicant</u></b>
Odyssey Bowl Unit 2, Odyssey Pavilion Queens Quay Belfast BT3 9QQ	WK/2017/00379	Mr. Brian McCormack Matagorda3 Limited 45 Charles Street London W1J 5EH

- 1.2 The Director of Matagorda3 Limited is Mr. Brian McCormack.
- 1.3 A copy of the application form and a location map has been circulated to the Committee.

2.0 **Recommendations**

- 2.1 The current policy, dictated by the governing Order, is that the Committee, in considering the application for the Grant of an Amusement Permit, shall have regard to:
- a) The fitness of the applicant to hold a Permit having regard to his character, reputation and financial standing,
  - b) The fitness of any other person by whom the business is to be carried on under the Permit would be managed, or for whose benefit that business would be carried on,

- c) **Representation, if any, from the sub-divisional commander of the Police Service of Northern Ireland in whose sub-division the premises are situated, and**
        - d) **Representation, if any, as a result of the public notices of advertisement.**
- 2.2 You are then required to make a decision based on the following options set out under the Order.**
- 2.3 You must refuse the application unless satisfied that:**
  - a) **The applicant is a fit person to hold an Amusement Permit; and**
  - b) **The applicant will not allow the business proposed to be carried on under the Amusement Permit to be managed by, or carried on for the benefit of, a person other than the applicant who would himself be refused the grant of an Amusement Permit.**
- 2.4 Thereafter:-**
  - 1. You may refuse the application after hearing any representations from third parties, or**
  - 2. You may grant the application, subject to the mandatory condition that the premises are not to be used for an unlawful purpose or as a resort of persons of known bad character, and**
- 2.5 In the case of premises that have machines with the maximum cash prize of £25.00, where admission is restricted to persons aged 18 or over, that –**
  - no persons under 18 are admitted to the premises; and**
  - at any entrance to, and inside any such premises there are prominently displayed notices indicating that access to the premises is prohibited to persons aged under 18, and in addition**
  - 3. You may also grant the application subject to discretionary conditions outlined in the Order relating to the illumination of the premises, advertising of, and window displays on the premises and the display of information notices.**

- 2.6 Should you be of a mind to refuse the application for the Grant of an Amusement Permit or grant the Permit subject to any discretionary conditions, you are required to advise the applicant of your intention to do so. In this case, you must afford the applicant the opportunity to make representations at a specified Licensing Committee meeting on the matter before making a final determination on the application.
- 2.7 If, subsequent to hearing the applicant, you refuse the application for the Grant of an Amusement Permit or decide to grant the application subject to discretionary conditions the applicant may appeal that decision to the County Court.

3.0 **Main Report**

**Key Issues**

- 3.1 Members are reminded that the Licensing Committee is responsible and has full delegated authority for determining all applications relating to the grant and provisional grant of Amusement Permits.
- 3.2 Members may be aware that an arcade has operated at this premise since 2000. A permit authorising machines which pay out a maximum all cash prize of £25.00 was first granted at the Health and Environmental Services Committee on 5th December, 2005.
- 3.3 As there is no mechanism within the Order to enable the transfer of a permit from one company to another, as is happening in this case, an application must, therefore, be made for the Grant of an Amusement Permit.

**Applicant**

- 3.4 The applicant intends to operate the premises in the same manner as it has operated previously, with the same number of machines and under the same hours.
- 3.5 The permit is for a total of 21 gaming machines, of which 13 are to pay out a maximum all cash prize of £25.00. In the case of premises which have machines with a maximum cash prize of £25.00 admission is restricted to persons aged 18 or over.
- 3.6 The proposed opening hours of the premises, as specified on the application, are:

Monday to Friday:	12.00 pm to 11.00 pm
Saturday:	10.00 am to midnight
Sunday:	10.00 am to 11.00 pm

- 3.7 The premises are located in the Odyssey Pavilion, which consists of retail units, a multi-screen cinema, bars and restaurants.
- 3.8 A representative from Matagorda3 Limited will be available to discuss any matters relating to the grant of the permit at your meeting.

Health, Safety, Welfare and Technical requirements

- 3.6 The applicant has confirmed that no changes are being made to the arcade that would require a Building Regulations application.

PSNI

- 3.7 The PSNI has been consulted and has confirmed that it has no objections to the application. A copy of its correspondence has been forwarded to the Committee.

NIFRS

- 3.8 The Northern Ireland Fire and Rescue Service has been consulted in relation to the application and has confirmed that it has no objections to the application.

Planning Matters

- 3.9 As the premises have been open since the year 2000 they would have established use rights to operate as an Amusement Arcade under Planning Legislation. Planning permission was granted on 3rd April, 2003.
- 3.10 In an important Court of Appeal decision in June 1999, it was confirmed that the Council, in determining applications for Amusement Permits, may take into account planning considerations but should be slow to differ from the views of the Planning Authority.
- 3.11 The Court also confirmed that the Council can take into account matters such as location, structure, character and impact on neighbours and the surrounding area.
- 3.12 A copy of the planning permission has been made available to the Committee.

Environmental Considerations

- 3.13 Members may wish to consider whether the continued use of the premises for an amusement arcade will impact positively, negatively or neutrally on the existing built environment of the area which is predominately retail and commercial.



**Amusement Permit Policy**

- 3.14 An Amusement Permit Policy was ratified at Council on 1st May 2013 and outlines those matters which may be taken into account in determining any application and indicates that each application must be assessed on its own merits.
- 3.15 The key Policy objectives are to:-
1. Promote the retail vibrancy and regeneration of Belfast;
  2. Enhance the tourism and cultural appeal of Belfast by protecting its image and built heritage;
  3. Support and safeguard residential communities in Belfast;
  4. Protect children and vulnerable persons from being harmed or exploited by gambling; and
  5. Respect the need to prevent gambling from being a source of crime and disorder.
- 3.16 The Policy consists of two components which are considered below:
- 1. Legal requirements under the 1985 Order**
- 3.17 Members must have regard to the legal requirements under the 1985 Order relating to:
- (a) The character, reputation and financial standing of the applicant:
- 3.18 References and additional supporting information for those associated with the application have been circulated to the Committee.
- (b) The nature of the premises and activity proposed:
- 3.19 To ensure that the nature of the premises proposed is suitable for this location Members may consider how the premises are illuminated, the form of advertising and window display, and how notices are displayed on the premises. Whilst the appearance of amusement arcades is considered a Planning matter, Members may still wish to be satisfied that the façade integrates with adjacent frontages.
- (c) Opinions of the Police:
- 3.20 The Police comments have been sought and its response is set out in paragraph 3.7 of the report.

(d) Submissions from the general public:

- 3.21 No objections have been received as a result of the public notices placed in the three local newspapers.

**2. Assessment criteria for suitability of a location**

- 3.22 There are five criteria set out in the Policy which should typically be considered when assessing the suitability of a location for an amusement arcade. These are detailed below as they relate to this application.

(a) Retail vibrancy and viability of Belfast:

- 3.23 The application site at Unit 2, Queens Quay is located internally within the ground floor of the Odyssey SSE Arena sports and entertainment complex. This complex is located outside of the Retail Core of Belfast City Centre, but within the limit of the City Centre as defined in the Belfast Metropolitan Area Plan 2015 (BMAP). It does not break up any continuous shopping frontage.

**Complies with this criterion.**

(b) Cumulative build-up of amusement arcades in a particular location:

- 3.24 This is the only amusement arcade within the Odyssey SSE Arena complex. The nearest amusement arcades to it are located approximately a mile away across the River Lagan in the larger part of the City Centre. The closest amusement arcade to it in East Belfast is located several miles away at 32-46 Castlereagh Road.

**Complies with this criterion.**

(c) Impact on the image and profile of Belfast:

- 3.25 The application premises are not listed as part of the built heritage of Belfast. Neither are they located at one of the 11 Gateway locations at the edge of Belfast City Centre which, as noted in BMAP, presents the visitor with an initial impression that can influence their overall perception of the City.

- 3.26 Nonetheless, given the far-reaching appeal of the Odyssey SSE Arena, it could be argued that the complex as a whole, is a tourism asset within Belfast. However, when considering this matter, appreciable weight needs to be attached to the fact that this amusement arcade has been operating from this complex for well

over a decade and no one has chosen to object to this permit application for a change of ownership.

**Complies with this criterion.**

(d) Proximity to residential use:

*(i) - predominantly residential in character*

- 3.27 This is a purpose-built, enclosed mixed use location within the City Centre. The nearest residential uses to it are the apartments in the adjacent Titanic Quarter. The area is not therefore predominantly residential in character.

*(ii) – non-residential property that is immediately adjacent to residential property*

- 3.28 There are no residential uses within the Odyssey SSE Arena complex that are adjacent to the unit.

**Complies with this criterion.**

(e) Proximity to schools, youth centres, and residential institutions for vulnerable people:

- 3.29 There are no schools, youth centres, or residential institutions for vulnerable people within 200m of the application premises.

**Complies with this criterion.**

- 3.30 A copy of the Council's Amusement Permit Policy has been circulated to Members.

**Conclusion**

- 3.31 Based on the above findings, the application satisfies the five main criteria used by the Council when assessing the suitability of a location for an amusement permit.

**Financial and Resource Implications**

- 3.32 Administration of Amusement Permit applications is included in current budgetary estimates.

**Equality and Good Relations Implications**

- 3.33 There are no equality or good relations issues associated with this report."

After discussion, the Committee agreed to grant to Matagorda3 Limited an Amusement Permit for the Odyssey Bowl, Unit 2, Odyssey Pavilion, with the following conditions to be attached:

- (i) the premises are not to be used for an unlawful purpose or as a resort of persons of known bad character;
- (ii) no persons under the age of 18 are admitted to the premises; and
- (iii) at any entrance to, and inside the premises, there are prominently displayed notices indicating that access is prohibited to persons under the age of 18.

**Applications for the Renewal of Seven-Day Annual Indoor and Outdoor Entertainments Licences – Hudson Bar, 10 – 14 Gresham Street**

**“1.0 Purpose of Report/Summary of Main Issues**

- 1.1 To consider applications for the renewal of the Seven-Day Annual Indoor Entertainments Licence and the Seven-Day Annual Outdoor Entertainments Licence for the Hudson Bar, based on the Council’s standard conditions to provide indoor music, singing, dancing or any other entertainment of a like kind and outdoor musical entertainment.**

<b><u>Premises and Location</u></b>	<b><u>Ref. No.</u></b>	<b><u>Applicant</u></b>
<b>The Hudson Bar 10-14 Gresham Street Belfast BT1 1JN</b>	<b>WK/201700107 WK/201700108</b>	<b>Mr Peter Lavery MMJP Limited 8 Station Road Holywood, BT18 0BP</b>

- 1.2 Members are reminded that two objections were received regarding the applications and, after consideration at your meeting on 17th August 2016, you agreed to renew both Entertainments Licences for a trial period of six months.**

- 1.3 The applications would have been presented for your consideration sooner but officers have endeavoured to mediate with all parties regarding the applications and concerns raised. Officers have also been conscious of the requirements of the Entertainments Licence which requires liaison meetings to be held, as and when required, with the licensee and representative groups drawn from local residents, and chaired by Council Officers, which was agreed by the Committee at the meeting on 17th August.**

- 1.4 A copy of the minutes of that meeting and of the location ma has been forwarded to the Committee.**

**2.0 Recommendations**

**2.1 Taking into account the information presented and representations received in respect of the applications you are required to make a decision to:**

- 1. agree to hear the applicant's agent who has not complied with the Committee's Operating Protocol in relation to hearing deputations;**
- 2. approve the applications for the renewal of the Seven-Day Annual Indoor and Outdoor Entertainments Licences, or**
- 3. approve the applications for the renewal of the Seven-Day Annual Indoor and Outdoor Entertainments Licences with special conditions, or**
- 4. refuse the applications for the renewal of the Seven-Day Annual Indoor and Outdoor Entertainments Licences.**

**2.2 If the applications are refused, or special conditions are attached to either 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.**

**3.0 Main Report**

**Key Issues**

**3.1 The areas currently licensed to provide indoor entertainment are the:**

- Ground Floor, with a maximum capacity of 95 persons.**
- First Floor, with a maximum capacity of 95 persons.**
- Second Floor, with a maximum capacity of 105 persons.**
- Heel Bar, with a maximum capacity of 30 persons.**

**3.2 The area currently licensed to provide outdoor entertainment is the:**

- Hudson Yard, with a maximum capacity of 220 persons.**

- 3.3 Following your meeting on 17th August 2016, the special conditions on the Indoor and Outdoor Entertainments Licences were amended, as follows:

**Indoor**

1. The licensee to attend meetings, as and when required, with the PSNI and representative groups drawn from local residents, chaired by the Council, to discuss issues relating to Entertainments Licensing;
2. The external roller shutter on the ground floor (mid front bar) should be secured in the open position when entertainments is taking place;
3. Internal emergency exit doors at Gresham Street must not be open for any reason other than an emergency;
4. Doors on escape routes to be free from fastenings when premises are occupied; and
5. This Entertainments Licence is to be managed in conjunction with the Outdoor Entertainments Licence.

**Outdoor**

1. The licensee to attend meetings, as and when required, with the PSNI and representative groups drawn from local residents, chaired by the Council, to discuss issues relating to Entertainments Licensing;
2. The premises to be managed in accordance with the requirements set out within AB Consulting Services report dated 25th March 2014;
3. During entertainment, exit to Gresham Street to be manned at all times when roller shutter is in the closed position;
4. At all times, a key to roller shutter is to be retained by personnel manning the Gresham Street exit;
5. The music noise level in the outdoor area must not exceed 95 dBA Leq up to 23.00;
6. The music noise level in the outdoor area must not exceed 85 dBA Leq after 23.00;
7. No live band performances are permitted in the outdoor area after 23.00; and
8. This Entertainments Licence is to be managed in conjunction with the Indoor Entertainments Licence.

- 3.4 The days and hours during which the premises are currently licensed to provide entertainment, under both licences are:
- Monday to Saturday: 11.30 am to 3.00 am the following morning
  - Sunday: 12.30 pm to 3.00 am.

- 3.5 The premises operates as a public house with entertainment currently provided in the form of DJ's and live band performances.

#### Representations

- 3.6 Notice of the applications has been advertised and no written representations have been lodged.

#### Further Liaison

- 3.7 Following your meeting on 17th August 2016, officers have further engaged with the objectors and the applicant to ensure that the agreements and conditions imposed were being implemented effectively.

- 3.8 Further complaints have been received from one of the objectors regarding alleged loud entertainment music emanating from the premises. These were received and responded to by the Council's Night Time Noise Team. Whilst the Noise Team witnessed some live music when in the street, they considered that the noise levels were not unreasonable and, therefore, warranted no further action.

- 3.9 On receipt of the complaints, officers of the Service further followed up each of these complaints with the applicant and the objector and endeavoured to convene meetings with the relevant parties involved.

- 3.10 The objector has regularly been advised to contact the Night Time Noise Team when they are being disturbed, so that readings can be taken to substantiate any allegation. However, when lodging the complaint, the objector has requested no further contact and, therefore, has not provided access for verifiable readings to be taken.

#### Liaison Meeting

- 3.11 A liaison meeting took place at Council offices on 14th April 2017 between an officer of the Service, representatives of the applicant and the objector and Alderman Chris McGimpsey.
- 3.12 The meeting was held in accordance with the requirements of the Entertainments Licence, which requires liaison meetings to be held, as and when required, with the licensee and representative groups

drawn from local residents, and chaired by Council officers. The inclusion of this condition was agreed by the Committee at the meeting on 17th August 2016 and informed the Committee's decision to renew the licence, albeit for only 6 months.

- 3.13 At the meeting on 14th April, the objector acknowledged the difference and changes made regarding noise disturbance from the premises. It was also confirmed that the Service had received one complaint at that time. However, the objector advised of further occurrences which had not been referred to the Service.
- 3.14 The applicant's representatives, outlined the measures they had put in place and that they continued to encourage taxis to collect patrons from Royal Avenue, rather than Gresham Street, and that patrons were also encouraged to leave the premises via the rear yard area, onto Royal Avenue, rather than Gresham Street, which was previously taking place.
- 3.15 Details of the technical matters were also discussed, namely, their fire safety procedures and measures to manage noise from the premises.

#### Complaint

- 3.16 However, during the meeting, discussions broke down following a dispute between the applicant's licensing consultant and the objector. As a result, a formal complaint has been made by Alderman McGimpsey, via email, regarding the actions and behaviour of the consultant towards the objector and the Council officer. Alderman McGimpsey considers that the applicant's consultant was disrespectful and counter-productive. A copy of his complaint has been circulated to the Committee.
- 3.17 On receipt of Alderman McGimpsey's complaint, we informed the applicant and sent him a copy of the Alderman's email and requested him to form a response. We also sent the applicant a copy of the officer's record of the meeting. A formal letter was subsequently sent outlining our concerns of the allegations, the measures we wanted to introduce as a result and that we were duty bound to bring these issues to the attention of the Committee. A copy of our correspondence to the applicant has been forwarded to the Committee.
- 3.18 In line with the Committee Protocol, we also sent the applicant and the objector Representation Forms and requested that these be provided to be presented to you for consideration. These were requested at the liaison meeting on 14th April 2017 to ensure that there was appropriate time to share the information between all



parties and to allow officers to clarify any points raised if necessary.

### Objector's Representation

- 3.19 The objector has completed and submitted a Representation Form, a copy of which has been forwarded to Members.
- 3.20 A general summary of their representation is listed below and is similar to the concerns they raised last year, namely:
- their main concern is the Outdoor Entertainments Licence. They have no objections to the indoor entertainments and is trying to find a solution that will work for everyone;
  - each and every new Bar Manager promises to deal with the outside entertainment but twelve years on it is still the biggest issue;
  - they have requested that the Outdoor Entertainments Licence be restricted for entertainment to cease at 11.00 pm;
  - they have tried to resolve the noise issues by speaking directly to the owner/director and through the meetings arranged by Belfast City Council. They had hoped that, as a result of the meetings, the licensee would be honourable, but that has not been the case;
  - reference was made regarding being assaulted by a drunken patron on 8th September 2012;
  - being woken by people leaving the premises when drinking after hours;
  - taxis coming and going around 5.00 am; and
  - witnessed the premises operating out of hours to 5.00 am on Saturday night/Sunday morning of 8th-9th April.
- 3.21 The objector also acknowledges that things have been much better since the changes were made and the main exiting arrangements for patrons to leave the premises via the rear yard area, onto Royal Avenue rather than Gresham Street. However, they also note that they are still getting small groups hanging around outside on Gresham Street.
- 3.22 The objector has also included with their Representation Form a record of complaints which they have observed, some of which we hadn't been informed of prior to their submission.
- 3.23 The objectors and/or their representatives will be available to discuss any matters relating to their objection should they arise during your meeting.

**Applicant's Representation**

- 3.24 In accordance with the Licensing Committee Protocol, the applicant was asked to complete an Applicant's Representation Form. This was further requested in our correspondence to the applicant, following Alderman McGimpsey's complaint, and another copy of the respective form was enclosed.
- 3.25 At the time of that correspondence, the objector had already provided a copy of their Representation Form, in line with the initial deadline. However, we have not received a Representation Form from the applicant and they have recently confirmed that they do not intend to do so and consider that it would not be proper nor prudent to submit the form.
- 3.26 However, the applicant's licensing representative did send an email correspondence on 7th July 2017 regarding their concerns. That email has been forwarded to the Committee.
- 3.27 A summary of that correspondence is listed below:
- the applicant does not resile from his position or concerns which were aired at the liaison meeting on 14th April, 2017;
  - the consultant considers that the record of the liaison meeting is only the officer's observations and, as recorded, are at odds with the comments and notes received by the applicant and submitted by the objectors. They cannot accept that they are agreed or accepted by them, as they consider that there are several blatant omissions and errors;
  - reaffirms that the applicant is not required to attend liaison meetings and that their representatives can attend on their behalf and address any matters raised;
  - is disappointed that he, as the applicant's licensing representative, was not informed of the complaint made by Alderman McGimpsey, as he is the nominated representative of the premises;
  - requests that the email is considered as a formal representation in lieu of the Committee protocol's Applicant's Representation Form and be presented to the Service Director and Committee Chairman for their consideration as to how this matter should be dealt with and progressed; and

- requests an adjournment of this matter to allow the applicant's agent to have a meeting with the Committee Chairman and reduced delegation of Committee Members to address the letter from Alderman McGimpsey.

- 3.28 The applicant's representative has also requested to make verbal representation to the Committee and considers it to be his right to do so. However, we also made them aware that if they didn't provide us with the required Representation Form, the objector may, therefore not wish to share their representation with them, which they have requested.
- 3.29 As a result, Members will be aware that under the Committee Protocol, only those who have made written submissions and registered a request to speak in respect of an application shall be permitted to make oral representations before the Committee. The Committee can, however, depart from the Protocol in exceptional circumstances.
- 3.30 The Legal Services Section has advised that holding the meeting suggested by the applicant's agent would be a breach of the rights of the objectors and would be susceptible to challenge. The Committee is, therefore, advised not to accede to that request.
- 3.31 The applicant and/or their representatives will be available at your meeting should you choose to speak with them and request them to answer any queries you may have in relation to the application.

#### PSNI

- 3.32 The PSNI has confirmed that it has no objection to the Entertainments Licences being renewed. A copy of its correspondence has been circulated.

#### Health, Safety and Welfare Issues

- 3.33 A total of seven during performance inspections have been carried out on the premises by Officers from the Service since your meeting on 17th August, 2016. The inspections revealed that the conditions of licence were being adhered to.
- 3.34 The premises have also been subject to inspections as part of the licence renewal process. As a result, all technical requirements and associated operational and management procedures have been checked and are satisfactory. The inspections have also ensured noise measures stipulated are being managed effectively.

- 3.35 The premises will continue to be inspected as part of our During Performance Inspection regime and will be subject to further monitoring to ensure the applicant adheres to their licence conditions.

**NIFRS**

- 3.36 The Northern Ireland Fire Rescue Service has confirmed that it has no objection to the Entertainments Licences being renewed.

**Noise Issues**

- 3.37 The Environmental Protection Unit (EPU) has been consulted in relation to the application and has confirmed that it has received a total of thirteen noise complaints since the meeting on 17th August 2016.
- 3.38 Whilst the Noise Team witnessed some live music when in the street, it considers that the noise levels were not unreasonable and therefore warranted no further action.
- 3.39 Officers have previously been denied access by the objector. However, they have nonetheless responded to the complaints and followed up accordingly.

**Financial and Resource Implications**

- 3.40 Officers carry out during performance inspections on premises providing entertainment but this is catered for within existing budgets.

**Equality or Good Relations Implications**

- 3.41 There are no equality or good relations issues associated with this report.”

Prior to reviewing the application, the Assistant Building Control Manager highlighted the fact that the Licensing Committee Protocol permitted only those applicants or objectors who had completed an official representation form and who had registered a request to address the Committee to make oral representation whilst an application was being considered. He pointed out that, in this instance, the applicant had not complied with the Protocol, in that he had failed to submit a representation form, despite having been requested on more than one occasion to do so. That had meant that information had not been shared between the applicant and the objector, who had submitted a form, in advance of the Committee meeting. He pointed out that Mr. J. McGuigan, the applicant’s representative, was in attendance and recommended that the Committee decide, before considering the application, if, in the absence of a representation form, it would permit Mr. McGuigan to make oral representation.

The Committee agreed that it would be beneficial to obtain clarification from Mr. McGuigan on that issue and he was welcomed by the Chairperson.

Mr. McGuigan informed the Members that he had not been provided with a copy of the Licensing Committee Protocol by the Building Control Service or been advised of the need to submit a representation form in the required format. He referred to an email which he had submitted on 7th July to the Building Control Service, in relation to the liaison meeting which had taken place on 14th April and the operation of the premises generally and stated that, in his view, it constituted adherence to Clause 4 of the Protocol, regarding making representation to the Committee, and should entitle him to speak on the applicant's behalf. However, his attention was drawn by the Chairperson to Clause 6 of the document, which stipulated that a prepared statement should be submitted in advance of a Committee meeting and that the official representation form should be used.

After discussion, the Committee agreed, in order to ensure that it was in possession of all of the facts surrounding the application before reaching a decision, that Mr. McGuigan be permitted, on this occasion, to make oral representation on the applicant's behalf.

The Assistant Building Control Manager then provided an overview of the application, following which Alderman McGimpsey, together with Ms. A. Torley, the objector, and Ms. B. Torley, her sister, were invited to address the Committee.

Alderman McGimpsey informed the Committee that the Torley family had lived in Winetavern Street for many years and that, despite being surrounded by a number of licensed premises, they had only experienced issues with the Hudson Bar. He pointed out that undertakings by successive bar managers to resolve issues around the operation of the premises had, in all likelihood, been provided only to assist with the application process at that time, given that they had not then been implemented. That, combined with the refusal by the applicant's representative to comply with the Licensing Committee Protocol and his behaviour at the liaison meeting on 14th April, demonstrated a general disregard for the objector's family. He concluded by highlighting the fact that the Hudson Bar was licensed to accommodate 325 patrons and that, if not regulated properly, it would continue to create difficulties for the Torley family.

In response to a question from a Member, Ms. A. Torley explained that the noise issues associated with the premises were most evident when the outdoor entertainment area was in use and when patrons were leaving the premises through a shutter door leading onto Gresham Street. She referred to the fact that the Committee, at its meeting on 18th August, 2016, had attached to the Outdoor Entertainments Licence a condition requiring that door to remain closed whilst entertainment was taking place and indicated that the arrangement had worked well initially. However, a number of weeks after the liaison meeting on 14th April, it had appeared, unsurprisingly, to have been set aside and the shutter door was again being used, which had generated increased noise levels from patrons and taxis in Gresham Street. She added that it was often the case that noise levels were not consistent and had usually subsided by the time that the Council's Night Time Noise Team had arrived.

In response to a further question, she confirmed that the liaison meeting on 14th April had been the only one to have had been held since the Entertainments Licences had been renewed and that the behaviour of the applicant's representative on

that occasion meant that further meetings would be unlikely. That view was endorsed by Alderman McGimpsey who highlighted the fact that he had lodged with the Council a formal complaint in relation to Mr. McGuigan's conduct at that meeting and that, based upon his experience to date, he would not be confident that any commitments made on behalf of the applicant at such meetings would be fulfilled.

The Chairperson thanked the deputation for their contribution and invited Mr. McGuigan to return to the table to make representation on the applicant's behalf.

Mr. McGuigan began by expressing concern at the way in which his conduct at the liaison meeting which had taken place on 14th April had been presented. He explained that he had attended that meeting on behalf of Mr. Lavery, the licensee, who had other commitments, and that he was under the impression that its purpose was to move matters forward, rather than to revisit previous complaints. Discussions had been mainly positive, however, as the minute of the meeting had indicated, issues had arisen in the latter stages, when the objector had referred to an incident which had occurred in 2012 in Gresham Street whilst she and her dog had been returning to her home which, in her view, the licensee had failed to acknowledge. That, he argued, was the primary motivation behind her attempts to stymie subsequent licensing applications, which was evidenced by the fact that, since the liaison meeting, twelve noise complaints had been lodged with the Council in relation to the Hudson Bar, compared to only one beforehand. He stressed that none of those complaints had been substantiated and referred to the fact that the objector had failed to provide firm evidence to support her objection and had even refused officers entry to her property to monitor noise levels. The licensee, on the other hand, had no difficulty with noise measurements being taken within his premises and had co-operated fully with Council officers throughout the course of this and previous applications. He concluded by requesting the Committee to renew both the Indoor and the Outdoor Entertainments Licences.

In response to a number of questions from the Members, Mr. McGuigan stated that it was his understanding that responsibility for organising the liaison meetings rested with the Building Control Service and that he would be willing to attend future meetings on the licensee's behalf, if required. In terms of the objector's allegation that the roller door leading onto Gresham Street was being used on nights when entertainment was taking place, he confirmed that that was the only route through which litter bins could be removed from the premises and that it had been opened for only five minutes on only one occasion and was long before entertainment was due to commence.

Mr. McGuigan was thanked by the Chairperson.

The Committee agreed that there was no requirement to hear from the Police Service of Northern Ireland representative, who was in attendance, but sought further clarification from the Assistant Building Control Manager, primarily around liaison meetings, the operation of the aforementioned shutter door and the management of the premises generally.

The Assistant Building Control Officer explained that the Building Control Service would have preferred to have facilitated more than one liaison meeting but had been unable to identify dates which suited both the licensee and the objector. He reported that none of the seven during performance inspections of the Hudson Bar which had been undertaken since August, 2016 had found the shutter door leading into Gresham to be open whilst entertainment had been taking place. He added that those inspections, together with others which had been undertaken under the current

application process, had confirmed that all licensing requirements were being met and he assured the Committee that, should it be minded to renew the Entertainments Licences, any future breaches would be brought to its immediate attention.

After discussion, the Committee agreed to renew the Seven-Day Annual Indoor and Outdoor Entertainments Licences for the Hudson Bar, 10-14 Gresham Street, for a period of twelve months, with the conditions which had been attached to the previous licences, as set out within paragraph 3.3 of the report, to be retained.

### **Non-Delegated Matters**

#### **Institute of Licensing National Training Conference**

The Committee was reminded that the Institute of Licensing was a professional body for licensing practitioners in local government, the police, private sector, trade and the legal profession. The Institute, which operated throughout England, Scotland, Wales and Northern Ireland, had been established to provide education and training and to disseminate knowledge in all matters relating to licensing.

The Committee was reminded further that Belfast was a Corporate Member affiliated to the Northern Ireland Region of the Institute and that Mr. James Cunningham, the Council's Regulatory Services Manager, was the chairman of the Institute of Licensing (Northern Ireland Region) and a Director and Trustee of the Institute.

The Assistant Building Control Manager reported that, this year, the Institute would be holding its National Training Conference in the Holiday Inn Hotel, Stratford-Upon-Avon from Wednesday 15th till Friday 17th November and that it would provide Elected Members and officers with an opportunity to meet with other licensing professionals and to obtain an update on changes within the licensing sector. Accordingly, he recommended that the Committee authorise the attendance at the event of the Chairperson, the Deputy Chairperson, the Director of Planning and Place and the Building Control Manager (or their nominees) and suggested that it might wish to consider funding the travel to the conference of Mr. James Cunningham, in recognition of his role as the chairman of the Northern Ireland Region. Mr. Cunningham's residential fee would be paid for by the Institute of Licensing.

The Committee adopted the recommendation and agreed to fund the travel to the conference of Mr. James Cunningham.

#### **Change of Date of November Meeting**

The Committee agreed to move its monthly meeting on 15th November to an alternative date, to prevent it from coinciding with the Institute of Licensing National Training Conference, which the Chairperson, the Deputy Chairperson and a number of officers had, earlier in the meeting, obtained approval to attend.

Chairperson