

Licensing Committee

Wednesday, 21st March, 2018

MEETING OF LICENSING COMMITTEE

Members present: Alderman Spence (Chairperson);
the Deputy Lord Mayor (Councillor Copeland);
the High Sheriff (Councillor Howard);
Alderman L. Patterson; and
Councillors Boyle, Campbell, Clarke, Canavan, Collins,
Craig, Dudgeon, Groves, Heading, Hussey, Hutchinson,
McConville, McReynolds and O'Hara.

In attendance: Mr. S. Hewitt, Building Control Manager;
Miss N. Largey, Divisional Solicitor; and
Mr. J. Hanna, Senior Democratic Services Officer.

Apologies

No apologies were reported.

Minutes

The minutes of the meeting of 14th 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 5th 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.

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.

Consideration of Entertainments Licences where the Applicant has been convicted of an offence – Bootleggers and Dukes Hotel

The Committee considered the following report:

“1.0 Purpose of Report or Summary of main Issues

1.1 To consider applications for 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:-

- Approve the applications, or
- 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 & Penalty
Bootleggers 46 Church Lane, Belfast, BT1 4QN	Mr Christopher Wolsey Quay Street Merchants Ltd	Renewal	May 2016 Breach of a special condition to ensure minimum width through the rear yard to the final exit maintained. Pre-event checks and Log Book not completed.	21 Feb 2017 £500 and £69 Court costs.

Dukes Hotel 65-67 University Street, Belfast, BT7 1HL	Mr Eamon Diamond Dukes Belfast LLP	Renewal	August 2015 <u>The Chester Park Inn</u> Providing entertainment without an Entertainments Licence in an outdoor area	22 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

- 3.4 Previous applications for the aforementioned premises were considered by the Committee as follows:

Bootleggers

- 3.5 This application is being placed before Committee because the applicant was convicted of offences under the Order at Belfast Magistrates' Court on 21 February 2017, after a during performance inspection carried out in May 2016, found that the required minimum clear distance through a rear escape route was not being maintained and the appropriate pre-entertainments checks were not carried out prior to the entertainment taking place.
- 3.6 This is the second time an application for this premises have been brought before Committee as you previously considered the application at your meeting of 15 March 2017 and, after consideration, you agreed to renew the licence.
- 3.7 Since the previous renewal the premises has been subject to one further during performance inspection as well as the recent renewal inspection to ensure that there has been no recurrence of the breach or any other safety issues. We have found that management procedures are being implemented effectively.

Dukes at Queens

- 3.8 This application is being placed before Committee because the applicant was convicted of offences under the Order at Belfast Magistrates' Court on the 22 March 2016, regarding one of their other premises; namely the Chester Park Inn. During an inspection it was found that entertainment was being provided in an outdoor area, without a valid entertainments licence being in place.
- 3.9 This is the second time an application for this premises have been brought before Committee as you previously considered the application for the Dukes Hotel at your meeting of 16 August 2017 and, after consideration, you agreed to renew the licence.
- 3.10 Since the previous renewal the premises have been subject to two 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. An inspection in December 2017 identified a minor breach at the premises as the log book was not filled out.
- 3.11 A further inspection, which was carried out recently, showed no recurrence of this or any other safety issues and we have found that management procedures are being implemented effectively.

Representations

- 3.12 Public notice of the applications has been placed and no written representations have been lodged as a result of the advertisements.

PSNI

- 3.13 The PSNI has been consulted and has confirmed that they have 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 confirmed that they have 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 applications.

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

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

The Committee agreed to renew the Seven-Day Annual Indoor Entertainments Licenses in respect of both the Bootleggers, 46 Church Lane; and the Dukes Hotel, 65-67 University Street.

Application to provide entertainment beyond 11.00 pm within a Marquee at Custom House Square for the Cathedral Quarter Arts Festival

The Building Control Manager submitted for the Committee’s consideration the following report:

“1.0 Purpose of Report or Summary of main Issues

- 1.1 The Cathedral Quarter Arts Festival will run their annual musical arts festival over eleven nights within a marquee at Custom House Square from Thursday 3rd May to Sunday 13th May 2018. This report is to consider a request from the organisers to permit entertainment to run beyond 11.00 pm to 12.00 am on two of those nights.

2.0 Recommendations

- 2.1 Taking into account the information presented and any representations received you are required to consider the request to extend the hours of entertainment and, subject to all technical requirements being met, either:
1. Agree if either or both of the two proposed nights should be permitted to take place beyond the standard hours of licence or;
 2. Refuse either or both of the extended hours as requested.

3.0 Main report

Key Issues

3.1 Custom House Square is the responsibility of the Department for Communities and they currently hold both a 7-Day Annual Outdoor Entertainments Licence and a 7-Day Annual Marquee Entertainments Licence for the Square.

3.2 The standard days and hours during which the marquee is currently licensed to provide entertainment are:

- **Monday to Sunday: 11.30 am to 11.00 pm.**

3.3 In addition, the following conditions are attached to the Entertainments Licence:

- 1. Maximum numbers will be agreed at the discretion of the Building Control Service and will vary depending upon individual concert set up proposals.**
- 2. Prior to any event taking place the promoters are required to demonstrate evidence of early consultation and have in place a robust system of dealing with any complaints, which has been agreed in advance with the Council.**
- 3. Any requests to provide entertainment later than 23:00hrs must be considered by the Licensing Committee and therefore must be made at least 3 months in advance of the proposed event.**
- 4. Should the Council receive a significant number of noise complaints for any event which has successive nights of entertainment permitted beyond 23:00hrs or if a complaint about an event beyond 23:00hrs is of major concern, then those successive nights with later hours may be subject to reduction and the promoter should have appropriate arrangements in place should this occur.**

3.4 The Cathedral Quarter Arts festival has been taking place for the last 18 years and includes a wide programme of events of local, national and international music, literature, comedy and drama. The event is also regarded as being an integral part of the arts and cultural calendar in Belfast.

3.5 Members will recall that in previous years the Committee has granted extensions beyond the standard hours of 11.00 pm for the Cathedral Quarter Arts Festival. This was last considered by the Committee at your meeting on the 15 March 2017 when the organisers requested that entertainment be permitted beyond 11.00 pm to 12.00 am on three nights of the event. After consideration you agreed to grant the request to extend the hours.

- 3.6 Members will also be aware that the Committee has previously granted extensions beyond the standard hours of 11.00 pm for other events and festivals at the venue. The last such request was in June 2017 when permission was granted for the Oktoberfest to operate its event beyond the permitted hours of 11.00 pm on each of their six nights.
- 3.7 Whilst recognising that such music events contribute to the overall 'vibrancy' of the City it is also the case that noise from these events has the potential to cause widespread disturbance to those living and working in the vicinity.
- 3.8 Before granting any extension the Committee has always carefully considered the financial and commercial benefits of such events against the interests of residents within the area and has, on occasions, agreed with respective promoters to reduce the number of nights they had originally intended to go beyond the standard hours of 11.00 pm in order to reduce the impact the event may have upon them.
- 3.9 The organisers are still in the process of finalising the programme of entertainments for this year's festival but they have confirmed that the type of entertainment will be similar to previous years consisting of mainly local talent mixed with some headline acts.
- 3.10 The organisers have requested that you give consideration to permitting two nights of the event to run beyond 11.00 pm as follows:
- Friday 4 May 12.00 am
 - Saturday 5 May 12.00 am

Rationale for additional hours

- 3.11 A copy of the letter from the organisers outlining the background to the festival and reasons for requesting the extended hours to 12.00 am is attached as Appendix 1.
- 3.12 A Location Map is attached as Appendix 2.
- 3.13 The organisers have advised that the two weekends of the festival are regarded as the busiest evenings and they see more visitors from outside the city and further afield attending these festival events.
- 3.14 They hope that the extended hours will provide their visitors with a memorable festival experience and value for money and allow them

to 'make a night of it' by availing of the many other venues and local restaurants before attending the event.

- 3.15 The organisers have also advised that the extra hour enables them to add local support acts to the bill and give them the opportunity to raise their profile and support a headline festival act.
- 3.16 As this is not an application to vary the terms of the Marquee Entertainments Licence, but a request for Council's permission to extend the hours under an existing licence condition; there is no requirement to advertise the application.
- 3.17 Officers have also discussed the resident's notification and how this is essential to the success of events at the venue, particularly if hoping to operate beyond 11.00 pm. We will continue to liaise with organisers to ensure that the letter is issued to the correct addresses prior to the event taking place.
- 3.18 Representatives of the Cathedral Quarter Arts Festival will be available at your meeting should you wish to seek further information about the festival.

PSNI

- 3.19 The PSNI have been consulted regarding the event and their request to operate two nights of the event to 12.00 am. Their response will be reported at your meeting.

NIFRS

- 3.20 The Northern Ireland Fire and Rescue Service have also been consulted about the application and confirmed that they have no concerns about the event.

Health, safety and welfare issues

- 3.21 Officers from the Service have carried out inspections for previous festivals 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 each individual event during that time.
- 3.22 A pre-event planning meeting will be arranged with the organisers, PSNI and NIFRS to ensure that everything is being done to protect public safety, review traffic management and wider operational issues for the event.

Noise issues

- 3.23 The Environmental Protection Unit (EPU) has been consulted in relation to the request for late night entertainment to run beyond 11.00 pm on two of the eleven nights at the venue.
- 3.24 Due to the cumulative impact of the consecutive nights proposed and potential sleep disturbance to nearby residents Officers are concerned that there is a greater potential for complaints after 11.00 pm. Members are reminded that the Clean Neighbourhood and Environment Act (Northern Ireland) 2011 gives councils additional powers in relation to entertainment noise after 11.00 pm.
- 3.25 However, considerable work has been done with organisers of various events and festivals at the venue and, as a result, the level of complaints and noise issues has been reduced.
- 3.26 Last year's festival did not generate any complaints.
- 3.27 Officers will work with the organisers and their representatives on appropriate noise management plans and procedures for the festival to ensure that noise from the event will not cause unreasonable disturbance to both the commercial and residential premises of the area.

Financial and Resource Implications

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

Equality and Good Relations Implications

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

The Building Control Manager reported that, subsequent to the report having been issued, the applicant had submitted a request to have entertainment permitted to run beyond 11.00pm to 12.00am on a third night, that is, on Saturday 12th May.

He reported that the Police Service of Northern Ireland had been consulted and had offered no objection. In addition, the Environmental Protection Unit had been consulted and had indicated that the same comments as set out in paragraphs 3.24-3.27 of the report would apply if the Committee was reminded to agree to a third night.

The Committee agreed to permit entertainment to take place beyond the standard hours of entertainment to 12 midnight on three nights, that is, Friday, 4th May, Saturday, 5th May and Saturday, 12th May.

Restricted Item

The information contained in the following report is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.

Resolved – That the Committee agrees to exclude the members of the Press and public from the Committee meeting during discussion of this item as, due to the nature of the item, there would be a disclosure of exempt information as described in Section 42(4) and Section 6 of the Local Government Act (NI) 2014.

Accordingly, all persons seated within the public area of the room, including the applicants and their legal representative in connection with the following item were excluded from the room.

Applications for the Grant of 7-Day Annual Indoor and Outdoor Entertainments Licences for South 13.

The Building Control Manager pointed out that, at this stage, the Committee would not be considering the application but would do so when the applicants and their legal representatives were re-admitted to the meeting.

He then proceeded to outline to the Committee the rationale for restricting the report and that this related to a previous event at the venue in respect of which there was currently an internal disciplinary investigation against a member of staff.

The applicants, Mr. G. Flynn and Mr. L. Lynch, and their legal representative, Ms. M. Lowry, were at this stage re-admitted to the meeting. The Building Control Manager reiterated to the Members of the deputation the reasons why they had been excluded for a short period and the Committee had not, as yet, commenced consideration of the applications.

The Building Control Manager then proceeded to review the applications which were for the grant of a Seven-Day Annual Indoor Entertainments Licence and a Seven-Day Annual Outdoor Entertainments Licence for the former B&Q building, now known as South 13, based on the Council's standard conditions to provide indoor music, singing, dancing or any other entertainment of a like kind, theatrical performances, a circus and outdoor musical entertainment.

The applicants and their legal representative were thereupon invited to the table to address a number of the issues which had been raised within the report.

Ms Lowry, solicitor for the applicant, stated that the applicant wished to reserve its position in relation to some of the contents of the report as it was factually incorrect. The Chairperson advised that there was a disciplinary investigation ongoing and the Committee could not do anything which could prejudice that investigation. The Chairperson pointed out that this was the first time the Committee was aware there was an issue with the contents of the report. The Committee was advised that the report had only been shared with the applicant recently and the applicant would probably take issue with some of the contents. Ms Lowry advised the Committee that the report should

not detract from the rights of the applicant and that, subsequent to conviction, the applicant had been granted a licence for other premises on 3 occasions. The Deputation then answered a number of questions from the Members and they retired from the table.

Proposed by Councillor McReynolds,
Seconded by Councillor Hutchinson,

That the Committee agrees to defer consideration of the applications until the internal disciplinary investigation had concluded.

As there were no amendments to the proposal, the Chairperson permitted the deputation to again address the Committee to outline the effects a deferral would have on their business.

Ms. Lowry advised the Committee that the proposal for the deferral would have a serious impact on the company as to whether or not it could continue to trade. It was suggested that the Council could grant a temporary licence for a period of three months to allow the disciplinary investigation to be completed. The applicants stated that they would be willing to contribute to the investigations.

Mr Lynch stated that the deferment would be detrimental to the enterprise and would seriously compromise its relationship with the existing and potential future clients. He pointed out that the music events were only a small percentage of the events run at the venue but the revenue raised at those enabled the other events to take place.

The Chairman again thanked the deputation for their presentation and they retired from the table.

Some members pointed out that they felt they were dealing with the matter without all the information and therefore could not consider the application until the disciplinary investigation was concluded. Others felt that the applicant was not the subject of the Council's disciplinary investigation and as such a decision on the application should be made.

Upon a request for advice from a Member, the Council's solicitor advised the Committee it had to take into account the rights of the applicant, which should only be interfered with when it was proportionate and necessary to do so. The Committee also had to consider whether the evidence gathered in the investigation could be a material factor in determining the application. She advised that was a matter for the Committee and the Courts were usually slow to interfere in such decisions.

The proposal standing in the name of Councillor McReynolds and seconded by Councillor Hutchinson to defer the applications was put to the meeting.

On a recorded vote, thirteen Members voted for the proposal and two against, with three no votes, and it was declared carried.

For 13	Against 2	No vote 3
Aldermen Spence and L. Patterson: Councillors Boyle, Campbell, Clarke, Canavan, Groves, Heading, Howard, Hutchinson, McConville, McReynolds and O'Hara.	Councillors Craig and Hussey	Deputy Lord Mayor Councillor Copeland and Councillors Collins and Dudgeon

Chairperson