

Licensing Committee

Wednesday, 20th June, 2018

MEETING OF LICENSING COMMITTEE

Members present: Councillor O'Hara (Chairperson);
the High Sheriff (Councillor Howard);
Aldermen Copeland, L. Patterson and Spence;
and Councillors Boyle, Collins, Craig, Dudgeon,
Groves, Heading, Hussey, Hutchinson,
Magennis, McConville and Nic Biorna.

In attendance: Mr. A. Thatcher, Director of Planning and Building
Control;
Mr. S. Hewitt, Building Control Manager;
Miss N. Largey, Divisional Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported on behalf of Councillors Clarke and McReynolds.

Minutes

The minutes of the meetings of 2nd and 16th May were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 4th June, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor Magennis declared an interest in relation to item 2(i), Beckett's Bar, in that he represented the Stewartstown Road area and had met with the applicant and with Council officers to discuss the application, and left the meeting whilst the matter was being considered.

Welcome

The Chairperson, on behalf of the Committee, welcomed Mr. A. Thatcher, Director of Planning and Building Control, to his first meeting.

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.

Application for the Variation of a Seven-Day Annual Indoor Entertainments Licence – Botanic Inn, 23-27 Malone Road

The Committee was reminded that, at its meeting on 19th April, 2017, it had agreed to consider at a future meeting an objection which had been submitted outside the twenty-eight day statutory period by the Lower Malone Residents' Association to an application for the variation of the Seven-Day Annual Indoor Entertainments Licence for the Botanic Inn.

The Building Control Manager reported that, in April and May, 2018, the Council had received further objections to the application which, again, had been submitted outside the twenty-eight day statutory period. The objectors had since confirmed that they had been unaware of the proposal to provide entertainment until 3.00 a.m., until it had been brought to their attention by the Police Service of Northern Ireland.

He pointed out that the Police Service itself had objected initially to the application, on the basis that it would have insufficient resources to monitor the premises until 3.00 a.m. in midweek, as had been proposed within the application. In light of that objection, the licensee had amended the application to provide that entertainment would take place until 3.00 a.m. on a Saturday night only and, accordingly, the Police Service had withdrawn its objection.

The Committee agreed, in view of the relevance of the objections, to exercise its discretion and to consider at a future meeting all of the objections received to date in relation to the application to vary the Entertainments Licence for the Botanic Inn.

Applications for Extended Hours

The Committee was informed that the Council's City and Neighbourhoods Services Department held various types of Entertainments Licences for those parks and open spaces which it managed across the City, which it transferred to organisers for the duration of their event. Under the terms of those licences, entertainment was permitted to take place from Monday to Sunday between the hours of 11.30 a.m. and 11.00 p.m. and special conditions were attached to each licence in relation to occupancy levels, early consultation with residents and businesses, extended hours and addressing complaints. Accordingly, the Committee's attention was drawn to applications for the extension of the standard hours on the Entertainments Licences for the following parks:

Lower Crescent Park

The Building Control Manager informed the Committee that the organisers of the FOCAL Festival were seeking approval for the standard hours on the Seven-day Annual Outdoor Entertainments Licence for the Lower Crescent Park to be extended until 1.00 a.m. on the nights of Thursday, 30th and Friday, 31st August and Saturday, 1st September.

He explained that the festival centred upon the celebration and promotion of local foods and drinks and reminded the Committee that the organisers had, previously, been given approval to hold similar events in the park in June/July and December 2017.

The organisers had stated that the additional hours would allow them to meet increasing costs, enable more local artists to participate and permit patrons to leave the park and access transport in phases. Approval for the use of the venue had been granted by the People and Communities Committee, at its meeting on 5th June.

He reported that, since this application related to the extension of the hours permitted under an existing licence condition, rather than the variation of the Entertainments Licence itself, there had been no requirement for it to be advertised. The Police Service of Northern Ireland would, together with the Northern Ireland Fire and Rescue Service, be consulted on public safety, traffic management, transport and wider operational issues in the lead up to the festival. Based upon previous experience, officers were satisfied that the park could accommodate the festival and that the measures being proposed to date by the organisers would protect public safety. Organisers would be required to draft a letter for circulation to local residents, informing them of the event and had been advised that, should significant complaints be received, future nights could be curtailed.

The Building Control Manager reported further that the Council's Environmental Protection Unit had been provided with a noise report, which set out the proposed measures to be implemented to prevent unreasonable noise disturbance, and stressed that the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 provided the Council with additional powers to address noise nuisance from 11.00 p.m. onwards, if required. In terms of the two previous festivals, he confirmed that five complaints had been received, which had been brought to the attention of the organisers. Whilst no formal action had been taken, the complaints would be taken into account during preparation for this event.

The Committee agreed that the standard hours on the Seven-Day Annual Outdoor Entertainments Licence for the Lower Crescent Park be extended to enable entertainment to take place until 1.00 a.m. the following morning on Thursday, 30th and Friday, 31st August and Saturday, 1st September, subject to all technical requirements being met to the satisfaction of Council officers.

Woodvale Park

The Building Control Manager reported that the Twaddell and Woodvale Residents' Association had submitted an application to extend the standard hours on the Seven-Day Annual Outdoor Entertainments Licence for Woodvale Park until 1.00 a.m. on the nights of Monday, 9th and Wednesday 11th July.

He explained that the Residents' Association had been an active participant in the Council's Bonfire and Cultural Expression Programme and that it had, since 2008, organised several successful events within the Woodvale Park. The group had confirmed that this year's event would run from Monday, 9th until Wednesday, 11th July and that its request for additional hours was based primarily around the need to expand the scope of diversionary activity for young people and adults, to ensure that wider tensions were minimised during this period. Whilst details had yet to be finalised, it was anticipated that the event on 9th July would include a matinee for families and be followed by a live concert for over 16s, featuring electronic music artists. The event on 11th July would involve a range of international music acts, as well as family orientated

activities. The People and Communities Committee, at its meeting on 8th May, had granted approval for the use of the park.

The Building Control Manager confirmed that, since the Residents' Association was seeking to extend the hours permitted under an existing licence condition, rather than vary the Entertainments Licence itself, there had been no requirement for the application to be advertised. The Police Service of Northern Ireland had not objected to the application and officers from the Building Control Service and the Parks Service were working with the organisers to agree an event management plan, a layout plan and an appropriate occupancy figure. He pointed out that the Council's Environmental Protection Unit had received no complaints in relation to last year's event and that it would seek to ensure that an appropriate noise management plan was developed, in consultation with all relevant parties, in order to minimise noise breakout and disturbance. He added that the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 provided the Council with additional powers to address noise nuisance from 11.00 p.m. onwards and that, should significant complaints be received, future nights could be curtailed.

The Committee agreed that the standard hours on the Seven-day Annual Outdoor Entertainments Licence for the Woodvale Park be extended to enable entertainment to take place until 1.00 a.m. the following morning on the nights of Monday, 9th and Wednesday, 11th July, subject to all technical requirements being met to the satisfaction of Council officers.

Falls Park

The Committee was advised that Féile an Phobail would, this year, be taking place between 2nd and 12th August and that the organisers were seeking approval to extend the standard hours on the Seven-day Annual Outdoor Entertainments Licence for the Falls Park to enable entertainment to be provided until 1.00 a.m. on four of those nights. Approval for the use of the venue had been granted by the People and Communities Committee at its meeting on 5th June.

He explained that, whilst the organisers had applied to operate until 1.00 a.m. on the nights of Wednesday, 8th, Friday, 10th, Saturday, 11th and Sunday, 12th August, it was envisaged that entertainment would run to 1.00 a.m. only on the first of those nights and that it would conclude before that time on the remaining three evenings. They had stated that the ability to operate until 1.00 a.m. would allow them to develop a programme of diversionary activities for young people, involving, for example, sport and discussion, and would assist in addressing ongoing antisocial behaviour issues. Whilst the programme of entertainment had yet to be finalised, it would include a number of international artists and would appeal to all age groups.

He reminded the Committee that, since this application related to the extension of the hours permitted under an existing licence condition, rather than the variation of the Entertainments Licence itself, there had been no requirement for it to be advertised. He pointed out that the Police Service of Northern Ireland had not objected to the application and that it was working with the organisers to address traffic management and on their application for an Occasional Liquor Licence. The organisers had provided the Council with a draft event management plan and a proposed site plan and would continue to engage with the Building Control Service as events developed. He added that officers had, over the course of previous events, undertaken inspections whilst

entertainment had been taking place and had identified no issues relating to health, safety and welfare management.

In terms of noise nuisance, he confirmed that the Council's Environmental Protection Unit had been notified of the intention to provide entertainment until 1.00 a.m. and that it was currently awaiting an acoustic report. He provided details around the twenty-seven noise complaints which had been received in 2017, none of which had necessitated formal action, and stressed that the organisers would be required to demonstrate that commercial and residential properties would not experience unreasonable disturbance and had been advised that significant complaints could lead to further nights being curtailed. He added that the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 provided the Council with additional powers to address noise nuisance from 11.00 p.m. onwards, if required.

The Committee agreed to extend the standard hours on the Seven-Day Annual Outdoor Entertainments Licence for the Falls Park, to enable entertainment to take place until 1.00 a.m. the following morning on the nights of Wednesday, 8th, Friday, 10th, Saturday, 11th and Sunday, 12th August, subject to all technical requirements being met to the satisfaction of Council officers.

Applications for the Renewal and Variation of Seven-Day Annual Indoor and Outdoor Entertainments Licences – Thompson's Garage, 3 Patterson's Place

The Committee considered the following report:

“1.0 Purpose of Report/Summary of Main Issues

- 1.1 To consider applications for the renewal and variation of both the Seven-Day Annual Indoor and Outdoor Entertainments Licence for Thompson's Garage, based upon the Council's Standard Conditions.**

Premises and Location

Thompson's Garage
3 Patterson's Place
Belfast BT1 4GW

Applicant

Mr. Stephen Boyd
Endless Music Limited

- 1.2 The nature of the variation to the Indoor Entertainment Licence is to increase the occupancy of the indoor area from 430 persons to 480 persons.**

- 1.3 The nature of the variation to the Outdoor Entertainments Licence is to extend the hours of when entertainment may be provided from 11 pm to 1 am and increase the occupancy of the outdoor area from 185 persons to 200 persons.**

2.0 Recommendations

2.1 Notwithstanding the opportunity to refuse the applications on any other grounds, the Council may refuse an application for an Entertainments Licence, on the grounds that the applicant has been convicted of an offence under the Order within the period of 5 years immediately preceding the date when the application was made.

2.2 Taking into account the information presented and any representations received you are required to consider the applications in light of the previous convictions and to:

- 1. approve the applications for the renewal of the 7-Day Annual Indoor and Outdoor Entertainments Licences, or**
- 2. approve the applications for renewal with Special Conditions, or**
- 3. refuse the applications for the renewal of the 7-Day Annual Indoor and Outdoor Entertainments Licences.**

2.3 Should you be of a mind to approve the application to renew the Licences you are then required to determine, subject to all technical requirements being met, either to:

- 1. approve the variation of the Licence to increase the occupancy capacity for the Indoor Entertainments Licence; and**
- 2. approve the variation of the Licence to increase the occupancy capacity and the extension of hours for the Outdoor Entertainments Licence; or**
- 3. agree the applications for the variation of the Seven-Day Annual Indoor and Outdoor Entertainments Licence with Special Conditions, or**
- 4. refuse any or all of the variation applications.**

2.4 If the applications are refused, or Special Conditions are attached to the Licences 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 Recorders Court.

2.5 Should the Committee decide to refuse the variation application, and the applicant decides to appeal, the existing Licence will continue with its present Conditions until the Appeal is determined.

3.0 Main Report

Key Issues

Details of the Premises and Proposals

3.1 The areas currently licensed to provide indoor entertainment are:

- **Ground Floor Bar, with a maximum capacity of 240 persons.**
- **Mezzanine Floor, with a maximum capacity of 190 persons.**

3.2 The days and hours during which the premises are currently licensed to provide indoor entertainment are:

- **Monday to Sunday: 11.30 am to 3.00 am the following morning**

3.3 The premise operates as a public bar and nightclub with entertainment being provided on both floors in the form of DJs.

3.4 A new roof has been constructed over the second floor to form a VIP bar with an external balcony. This area was previously an outdoor smoking area. This area was not included on the Entertainments Licence but there was a special condition attached to the Licence restricting the occupancy of the area to 50 persons.

3.5 The applicant has applied to vary the existing Indoor Entertainments Licence to include this new VIP bar with an addition occupancy of 50 persons.

3.6 Layout plans of the proposed 2nd floor VIP area have been circulated.

3.7 The area currently licensed to provide outdoor entertainment is:

- **the Outdoor Area, with a maximum capacity of 185 persons.**

3.8 The days and hours during which the premises are currently Licensed to provide outdoor entertainment are:

- **Monday to Saturday 11.30 am to 11.00 pm, and**
- **Sunday 12.30 pm to 11.00 pm.**

- 3.9 Entertainment is provided to the outdoor area in the form of solo performers, live bands or a DJ through the in-house speaker system.
- 3.10 The applicant has applied to extend the hours of the existing Outdoor Entertainments Licence from 11.00 pm to 01.00 am and to increase the occupancy from 185 to 200 persons.
- 3.11 Layout plans of the proposed outdoor area have been circulated.

Previous convictions

- 3.12 The application is being placed before the Committee because both Mr. Stephen Boyd and Endless Music Limited were convicted of offences under the Local Government (Miscellaneous Provisions) Order 1985 at Belfast Magistrates' Court, on two occasions, namely, 13th May 2014 and 24th May 2016.

First Conviction

- 3.13 The first conviction, on 13th May 2014, arose following breaches of the Terms and Conditions of the Entertainments Licence in that they failed to manage the permitted occupancy and migration between licensed areas. They also failed to ensure that the permitted numbers for the Smoking Area were limited to 50 persons as the area was overcrowded.
- 3.14 As a result, Mr Stephen Boyd and Endless Music Limited were fined a total of £800 and ordered to pay court costs of £69.

Second Conviction

- 3.15 The second conviction, on 24th May 2016, arose following breaches of the Terms and Conditions of the Entertainments Licence in that the 2nd Floor of the premises was found to be in excess of the permitted occupancy.
- 3.16 As a result, Endless Music Limited was fined £750 and ordered to pay court costs of £66.
- 3.17 Following these offences, officers met with Mr Boyd and his representatives to review all their procedures to ensure that appropriate measures were in place to prevent a recurrence.
- 3.18 Members may recall that details of the first conviction was brought to your attention previously and both convictions were considered at your meetings in April, May and October,

2017 in relation to the application for the renewal of the Indoor Entertainments Licence and the grant of the Outdoor Entertainments Licence and, after consideration, you agreed to grant all licences.

- 3.19 The applicant and/or his representatives will be available to discuss any matters relating to the application at your meeting.

Representations

- 3.20 Notice of the application has been advertised and no written representation has been lodged.

PSNI

- 3.21 The PSNI has been consulted and has confirmed that it has no objection to the applications.

NIFRS

- 3.22 The Northern Ireland Fire and Rescue Service has been consulted in relation to the application and confirmed that they have no objection to the applications.

Health, Safety and Welfare Inspections

- 3.23 The request for additional occupancies are minor in nature and can be accommodated without having any adverse effect on the means of escape from the premises in the event of an emergency.
- 3.24 Members are advised that officers have carried out a total of two During Performance Inspections over the past 12 months. On each occasion, all technical matters were satisfactory, and the appropriate measures and management procedures were being implemented effectively.
- 3.25 The premises have also been subject to inspections as part of the licensing application process and all technical requirements and associated operational and management procedures have been checked and are satisfactory.

Noise Issues

- 3.26 No noise complaints have been received in the last 12 months.
- 3.27 Given the nature of the outdoor entertainment at the venue, an acoustic report outlining the measures to be taken to ensure minimal disturbance to neighbouring residential premises, both due to noise breakout or from patron activity,

was requested and forwarded to the Council's Environmental Protection Unit (EPU). At the time of writing this report, EPU comments were not available, therefore, we will advise of their comments at the meeting.

- 3.28 Members are reminded that the Clean Neighbourhood And Environment Act 2011 gives the Council additional powers in relation to the control of entertainment noise after 11.00 pm.

Financial and Resource Implications

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

Equality and Good Relations Implications

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

The Committee agreed to renew the Seven-Day Annual Indoor and Outdoor Entertainments Licences for Thompson's Garage, 3 Patterson's Place, and agreed also:

- (i) to vary the Indoor Entertainments Licence to provide for the inclusion of the VIP bar on the second floor and an increase in the occupancy level from 430 to 480; and
- (ii) to vary the Outdoor Entertainments Licence to permit entertainment to be provided until 1.00 a.m. each night and to provide for an increase in the occupancy level from 185 to 200.

Applications for the Grant of Amusement Permits

The Building Control Manager submitted for the Committee's consideration the following reports relating to the grant of Amusement Permits:

Players, 22 Shaftesbury Square

"1.0 Purpose of Report or Summary of Main Issues

- 1.1 To consider an application from Ms. Yuliya Rodgers of Play SS Limited, for the grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.

Premises and Location
Players
Ground Floor
22 Shaftesbury Square
BT2 7DB

Applicant
Ms. Yuliya Rodgers
Play SS Limited

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 their 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 The Committee is then required to make a decision, based on the following options set out under the Order.

2.3 The Committee 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, the Committee:

- 1. may refuse the application after hearing any representations from third parties, or**
- 2. 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**
- 3. 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.**

2.5 In the case of premises which 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

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 of 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 for determining all applications relating to the grant and provisional grant of Amusement Permits.

3.2 Members are advised that 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. Therefore, an application must be made for the grant of an Amusement Permit.

3.3 An application for the grant of an Amusement Permit for this premises was previously brought to the Licensing Committee for consideration on 19 August 2015 and the Committee granted the application.

3.4 Members are advised that a permit for this premises was first granted on the 1st October 1996.

Applicant

3.5 The applicant intends to operate the premises with the same number of machines and operating hours as was previous granted at the premises. The hours are 9.00 a.m. to 3.00 a.m., Monday to Sunday.

- 3.6 The application is for a total of 30 gaming machines, all of which 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.
- 3.7 Ms Yuliya Rodgers from Play SS Limited, and her representative, will be available to discuss any matters relating to the grant of the permit at your meeting.

Health, Safety, Welfare and Technical Requirements

- 3.8 Officers of the Service have met with the applicant who has confirmed that no changes are being made to the arcade that would require a Building Regulations application.

Planning Matters

- 3.9 A planning application was made to the Planning Service on 30th March 1989 for a change of use from an off-licence to an Amusement Arcade on the ground floor and this was granted on 5th June 1989.
- 3.10 A copy of the Planning Permission has been circulated to the Committee.
- 3.11 Members are advised that 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.
- 3.12 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.

Amusement Permit Policy

- 3.13 Members are reminded that an Amusement Permit Policy was ratified at Council on 1 May 2013. It 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.

- 3.14 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;**
 - 5. respect the need to prevent gambling from being a source of crime and disorder.**
- 3.15 The Policy consists of two components which are considered below:**
- 1. Legal requirements under the 1985 Order**
- 3.16 Members must have regard to the legal requirements under the 1985 Order relating to:**
- (a) the character, reputation and financial standing of the applicant:**
- 3.17 References and additional supporting information for those associated with the application have been circulated.**
- (b) the nature of the premises and activity proposed:**
- 3.18 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 Service**
- 3.19 The PSNI has been consulted in relation to the application and has not offered any objection to the application.**
- (d) Submissions from the general public:**
- 3.20 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

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:

- 3.22 The application premises on the ground floor of No.22 Shaftesbury Square are 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). Because these locations accommodate a mix of uses the principle of opening an amusement centre here is open to consideration, subject to the satisfaction of all other relevant criteria and considerations.
- 3.23 The premises are bordered on one side by the former NI Supporters' Club and on the other side by a vacant retail unit.

Application complies with this criterion.

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

- 3.24 The Oasis amusement centre nearby means that there are two operators in this commercial frontage. Strictly speaking, therefore, it could be argued that this application runs contrary to the cumulative build up criterion of the Permit Policy, which seeks to limit the number of amusement centres to one per commercial frontage. This criterion strives to avoid a clustering of these uses in the interest of promoting the retail vibrancy and regeneration of Belfast, which is the first key objective of the Permit Policy.
- 3.25 However, there are countervailing considerations which also have to be taken into account, notably:
- the premises currently operates as an amusement arcade and
 - there is a history of planning permissions on the site relating to its use as an amusement arcade.
- 3.26 On balance, therefore, given its prior established use as an amusement arcade, there are exceptional circumstances surrounding this permit application which weigh against refusing the application on cumulative build up grounds.

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

- 3.27** The application premises are not listed as part of the built heritage of Belfast, nor are the premises or adjoining units considered to be tourism assets of the City.
- 3.28** However, the premises are located at a key entrance junction (Gateway) to the City Centre, as identified in BMAP 2015. This is one of 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. BMAP also considers these locations to be suitable for landmark development capable of raising the profile of Belfast.
- 3.29** Notwithstanding the above, appreciable weight needs to be attached to the important fact that the premises currently trade as an amusement arcade and has been there for a number of years.

(d) Proximity to residential use:

- 3.30** (i) - predominantly residential in character

3.31 The ground floor premises form part of a commercial block located within the City Centre. The commercial frontage consists largely of licensed uses, retail units, offices and vacant commercial units. It can therefore be described as an area of mixed use and is not predominantly residential in character.

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

There is no residential property above the premises or to its side. The residential area known as St Georges' Gardens is located to the rear of the application property but is separated from it by a road and is not therefore immediately adjacent to it.

Application complies with this criterion.

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

- 3.32** There are no schools or youth centres within 200m of the application premises. Hartington Court, off the Dublin Road, houses a 'general needs' population but it is not considered a residential institution for vulnerable people.

Application complies with this criterion.

Conclusion

- 3.33 In many respects, the fact that there has been an established amusement arcade here for over twenty years constitutes exceptional circumstances for the determination of the suitability of the location for a permit. Essentially this is more akin to a transfer of a permit, however there is no mechanism under this legislation for transfer so the application must fall under the granting criteria. Accordingly, despite finely balanced issues raised by two of the policy criteria, the suitability of this location for an amusement arcade still can be determined acceptable under the Council's Amusement Permit Policy.

Financial and Resource Implications

- 3.34 There are no financial or resource implications associated with this report.

Equality or Good Relations Implications

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

The Committee agreed to grant an Amusement Permit for Players, 22 Shaftesbury Square, 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.

Players, Unit 5-6, 133-137 Lisburn Road

“1.0 Purpose of Report or Summary of Main Issues

- 1.1 To consider an application from Ms. Yuliya Rodgers, for the grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.

Premises and Location

Players
Unit 5-6
133-137 Lisburn Road
BT9 7AG

Applicant

Ms. Yuliya Rodgers
Play LR Limited

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 their 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 The Committee is then required to make a decision based on the following options set out under the Order.

2.3 The Committee 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

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.

2.5 In the case of premises, which 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

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 of 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 for determining all applications relating to the grant and provisional grant of Amusement Permits.

3.2 Members are advised that 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. Therefore, an application must be made for the grant of an Amusement Permit.

3.3 An application for the grant of an Amusement Permit for Players was previously brought to the Licensing Committee for consideration on 19th August, 2015 and the Committee granted the application.

- 3.4 Members are advised that a permit was first granted for these premises on 1st June, 2004.

Applicant

- 3.5 The applicant intends to operate the premises with the same hours of 9.00 a.m. to 3.00 a.m., Monday to Sunday.
- 3.6 The permit is for a total of 64 gaming machines, all of which 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.
- 3.7 Ms. Yuliya Rodgers from Play LR Limited, and her representative, will be available to discuss any matters relating to the grant of the permit at your meeting.

Health, Safety, Welfare and Technical Requirements

- 3.8 Officers of the Service have met with the applicant who has confirmed that no changes are being made to the arcade that would require a Building Regulations application.

Planning Matters

- 3.9 A planning application was made to the Planning Service on 14th June 2004 for a change of use from a Retail Unit to an Amusement Centre on the ground floor and this was granted on 15th October 2004.
- 3.10 A copy of the planning permission has been circulated.
- 3.11 Members are advised that 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.
- 3.12 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.

Amusement Permit Policy

- 3.13 Members are reminded that an Amusement Permit Policy was ratified at Council on 1st May 2013. It 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.

3.14 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.

3.15 The Policy consists of two components which are considered below:

1. Legal requirements under the 1985 Order

3.16 Members must have regard to the legal requirements under the 1985 Order relating to:

(a) the character, reputation and financial standing of the applicant:

3.17 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:

3.18 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 Service:

3.19 The PSNI has been consulted in relation to the application and has not offered any objection to the application.

(d) Submissions from the general public:

3.20 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

3.21 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:

3.22 The application premises on the ground floor of No.133 Lisburn Road are located in a commercial block along one of the main arterial routes into Belfast City Centre. Arterial routes are the major access roads and public transport corridors into the City Centre. They typically accommodate the greatest mix of uses outside of the City Centre, including shopping, commercial, social, leisure, community and other uses. Because this commercial block comprises a mix of commercial uses at ground and first floor level the accommodation of an amusement centre here is therefore open to consideration.

3.23 In addition, the premises are bordered on one side by a sandwich bar and on the other by a restaurant. Accordingly, the amusement arcade does not break up an otherwise continuous shopping frontage.

Application complies with this criterion.

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

3.24 This criterion strives to avoid a clustering of these uses in the interest of promoting the retail vibrancy and regeneration of Belfast, which is the first key objective of the Permit Policy.

There are no other amusement centres on this commercial block so the amusement arcade does not contribute to a cumulative build-up.

Application 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, nor are the premises or adjoining units considered tourism assets of the City. Equally, the premises are not located at a key entrance junction (Gateway) to the City Centre, as identified in BMAP 2015. Taking these

considerations on board the amusement arcade would not adversely affect the image and profile of Belfast.

Application complies with this criterion.

(d) Proximity to residential use:

3.26 (i) - predominantly residential in character

With mainly office use located above the premises and mainly eateries on the ground floor this entire block is predominantly commercial in character.

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

There is no residential property above the premises or to its side. The nearest residential property to the application site, at No.56 Mount Prospect Park, is located to its rear and is not immediately adjacent to it.

Application complies with this criterion.

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

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

Application complies with this criterion.

Conclusion

3.29 This premises has operated as an amusement arcade for approximately 14 years and this is more akin to a transfer of a permit, however there is no mechanism under this legislation for transfer so the application must fall under the granting criteria. The location of the premises for an amusement centre however meets the criterion under the Council's Amusement Permit Policy.

Financial and Resource Implications

3.30 There are no financial or resource implications associated with this report.

Equality or Good Relations Implications

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

The Committee agreed to grant an Amusement Permit for Players, Unit 5-6, 133-137 Lisburn Road, 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.

Application for the Grant of a Seven-Day Annual Indoor Entertainments Licence – Beckett’s Bar, 241 Stewartstown Road

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 a Seven-Day Annual Indoor Entertainments Licence for Beckett’s Bar, based upon the Council’s Standard Conditions to provide music, singing, dancing or any other entertainment of a like kind.**

Premises and Location	Applicant
Beckett’s Bar 241 Stewartstown Road Dunmurry BT17 0LA	Carol Hughes Sharp NI Ltd

- 1.2 Members are advised that the premises are located within an area the former of Lisburn City Council which transferred over to Belfast City Council under Local Government Reform (LGR).**

2.0 Recommendations

- 2.1 Taking into account the information presented and any representations received you are required to consider the application in light of the legal proceedings against the applicant and determine if you wish to refuse the application on the grounds that the applicant has been convicted of offences under the Order.**
- 2.2 Should Members be satisfied that the application need not be refused you are then required to either:**

1. approve the application for the grant of the 7-Day Annual licence, or
 2. approve the application for the grant with special conditions, or
 3. refuse the application for the grant of the 7-Day Annual licence.
- 2.3 If the application is refused, or special conditions are attached to the Licence to which the applicant does not consent, then the applicant may appeal the Council's decision within 21 days of notification of that decision to the Recorders Court.
- 3.0 **Main Report**
- Key Issues**
- Details of the Premises and Proposals**
- 3.1 Currently the premises operates as a Public Bar and Lounge Bar on the Ground Floor and a First Floor Function Room.
- 3.2 This premises previously held an Entertainments Licence issued by Lisburn City Council. The applicant/licensee was John Hughes and that licence expired on 31st December, 2010. A copy of the Licence has been circulated.
- 3.3 The areas where it is proposed to provide indoor entertainment are the:
- Ground Floor Bar, with a maximum capacity of 220 persons.
 - Ground Floor Lounge, with a maximum capacity of 160 persons.
 - First Floor Function Room, with a maximum capacity of 110 persons.
- 3.4 The days and hours during which entertainment is proposed to be provided are:
- Monday to Saturday: 12.30 pm to 1.00 am the following morning and
 - Sunday: 12.30 pm to 12.00 midnight.
- 3.5 Layout plans of the proposed premises
- Previous Application**
- 3.6 Members are advised that, at your meeting on 17th February 2016, the Committee previously considered an application

from Sharp NI Ltd. for the grant of an indoor Entertainments Licence for Beckett's Bar.

3.7 At that meeting, the Committee, in its capacity as Licensing Authority, refused the application for the licence on the grounds that:

(i) it was clear that the application involved Mr. Eugene Hughes and that he was operating the premises, which related to his fitness to hold an Entertainments Licence;

(ii) issues had been encountered at other premises operated by the Hughes family in terms of liquor and entertainments licensing; and

(iii) both the applicant and Mr. Eugene Hughes had been convicted of providing entertainment without a valid Entertainments Licence.

3.8 Details of the offences leading to the conviction and the information under consideration by Committee are contained in the minutes of the meeting of 17th February 2016 which have been circulated.

3.9 The applicant subsequently appealed that decision. The appeal was adjourned a number of times for various reasons and more recently pending the outcome of a prosecution case, taken by the Council, that Sharp NI Ltd and Eugene Hughes had, on 1st May 2017, provided entertainment without a licence.

3.10 That case was heard at Lisburn Magistrates' Court on 15th May 2018. District Judge Watters dismissed the case as she was not satisfied that the prosecution had provided sufficient evidence of a monetary charge for the event.

3.11 Subsequently, the applicant's legal representative advised that their client indicated that he would be prepared to withdraw the Appeal against the decision of the council not to award an Entertainments Licence if his new application is brought before the Licensing Committee for consideration. Upon consideration of all of the issues involved the City Solicitor agreed to that course of action.

Previous convictions

3.12 In addition to the above, the application is being placed before the Committee because both Sharp NI Ltd. and Mr Eugene Hughes were, on 16 February 2016, convicted of

offences under the Local Government (Miscellaneous Provisions) Order 1985, for providing entertainment without a valid Entertainments Licence on 10 July 2015.

- 3.13 As a result, both Sharp NI Ltd. and Mr Hughes were fined a total of £1,000 each and ordered to pay court costs of £166 and an offender levy of £15.
- 3.14 The applicant and/or their representatives will be available to discuss any matters relating to the application at your meeting.

Representations

- 3.15 Notice of the application has been advertised. An objection was lodged on behalf of the Irish News on 14th November 2017 but was withdrawn upon payment of the outstanding monies owed to the objector for the costs of the advert.

PSNI

- 3.16 The PSNI has been consulted and has confirmed that it has no objections to the application.

NIFRS

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

Health, Safety and Welfare Inspections

- 3.18 In preparation for the appeal hearing, officers from the Service undertook an inspection of the premises on 26th October, 2016 and encountered a number of problems which raised serious concern about safety management arrangements. In particular, the first floor lounge area was draped in large amounts of polythene and fabric sheeting in preparation for a children's Halloween event which was completely inappropriate in the way it was fixed and with no evidence that it was treated to be flame-proof should it come into contact with a heat source.
- 3.19 These concerns were communicated directly to Counsel for the appellant to ensure that the event did not take place.
- 3.20 The premise has since been subject to further inspections as part of the licensing application process and many previous safety issues such as those identified in our inspection in July 2015, when the applicant was prosecuted for providing

entertainment without a licence, have now largely been rectified and management procedures have been checked and are satisfactory.

- 3.21 At the time of writing this report there are some outstanding technical requirements to address and, should Members be minded to grant a licence, delegated authority is sought for the licence to be issued by Building Control upon satisfactory completion of these matters.
- 3.22 If the Entertainment Licence is granted, the premises will be inspected as part of our During Performance Inspection regime and will be subject to monitoring to ensure the applicant adheres to their licence conditions.

Noise Issues

- 3.23 The Environmental Protection Unit (EPU) has been consulted in relation to the application and no noise complaints have been received in the last 12 months.
- 3.24 Members are reminded that the Clean Neighbourhood And Environment Act 2011 gives councils additional powers in relation to the control of entertainment noise after 11.00 pm.

Financial and Resource Implications

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

Equality and Good Relations Implications

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

The Committee agreed, on the basis that all outstanding technical issues had now been addressed to the satisfaction of the Building Control Service, to grant a Seven-Day Annual Indoor Entertainments Licence for Beckett’s Bar, 241 Stewartstown Road.

Chairperson