

## Licensing Committee

Wednesday, 10th April, 2019

### MEETING OF LICENSING COMMITTEE

- Members present: Councillor O'Hara (Chairperson);  
Alderman Copeland, and  
Councillors Boyle, Clarke, Collins, Dudgeon, Garrett  
and Groves.
- In attendance: Mr. A. Thatcher, Director of Planning and Building Control;  
Mr. S. Hewitt, Building Control Manager;  
Mr. C. McLoughlin, Solicitor;  
Mr. J. Cunningham, Regulatory Services Manager; and  
Miss C. Donnelly, Democratic Services Officer.

### Apologies

Apologies for inability to attend were reported on behalf of Alderman Spence and Councillor Nic Biorna.

### Minutes

The minutes of the meeting of 20th March were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st April, 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.

### Delegated Matters

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

#### **Applications Approved under Delegated Authority**

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

#### **To Consider the Renewal of a Stationary Street Trading Licence**

The Committee considered the following report:

#### **Purpose of Report or Summary of main Issues**

**To consider initiating the process to refuse the renewal of the  
Stationary Street Trading Licence held by Mr Joseph Kerr for**

continuing non-payment of Licence fees and failure to use the Street Trading Licence to a reasonable extent.

### Recommendations

Members are asked to decide whether: -

1. They are minded to refuse the renewal of Mr Kerr's Licence as he has, without reasonable explanation, failed to pay any fees or charges due to the Council and, without reasonable excuse, failed to avail himself to a reasonable extent of his licence; or
2. If Committee is minded to refuse to renew the licence to agree to consider the refusal of the Licence at a future meeting at which Mr Kerr would be invited to make representation regarding his failure to pay the fees due and non-use of his Licence.

### Main report

#### Key Issues

#### Legislative Background

The Street Trading Act (NI) 2001 places a statutory obligation on the Council to grant an application for a Street Trading Licence unless there are sufficient grounds to refuse it.

Section 9 (1) of the Act sets out discretionary grounds under which a district council may refuse to grant an application. These are as follows:

- a. That –
  - i. The location at which the applicant wishes to trade as a stationary trader is unsuitable;
  - ii. The space in the designated street in which the applicant wishes to trade as a stationary trader is inadequate for the applicant to do so without causing undue interference or inconvenience to persons or vehicles using the street;
  - iii. The area or areas of the district in which the applicant wishes to trade as a mobile trader are unsuitable for the applicant to do so without causing undue interference or

**inconvenience to persons or vehicles in the area or areas;**

- iv. There are sufficient traders trading in the street, or at premises adjoining it, in the articles, things or services in which the applicant wishes to trade;**
- v. The nature of the articles, things or services in which the applicant wishes to trade is such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area in which the applicant wishes to trade;**
- b. That the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;**
- c. That the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;**
- d. That the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;**
- e. That the applicant has at any time been granted a street trading licence by the council, which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to the council in respect of the licence;**
- f. That the applicant has failed to provide the particulars required by the council to deal with the application;**
- g. That the applicant has failed to provide or identify suitable or adequate arrangements for storing any articles, things or receptacles in or with which he proposes to trade.**

**Should Committee be of a mind to use its discretionary power to refuse to renew Mr Kerr's Street Trading Licence, Section 12 of the Act requires that he be afforded the opportunity to make representation relating to the proposal, which must be considered by Committee at a future date before a final decision is made on the application.**

### Application

Mr Joseph Kerr has applied to renew his Stationary Street Trading Licence, which allows him to trade in Fountain Lane (45ft from its junction with Donegall Place) selling confectionery, toys, clothing accessories, Halloween accessories, gift-wrap, souvenirs and tour tickets including bus tours. The licence permits trading from Monday to Sunday from 08.00hrs to 22.00hrs.

The Street Trading Act (N.I.) 2001 permits the Council to refuse to renew a Licence if it is satisfied that the Licence holder has, without reasonable explanation, failed to pay any fees or charges due to the Council and if the Licence holder has, without reasonable excuse, failed to avail himself to a reasonable extent of his Licence.

Committee is reminded that Mr Kerr has a long history of non-payment of Licence fees. Members are reminded that the Licensing Committee previously reconsidered Licences held by Mr Kerr for sites at Fountain Lane and Fountain Street, for the non-payment of the Licence fees at their meeting on the 19 March 2014, 17 October 2018 and 12 December 2018.

At its October 2018 meeting, the Committee agreed to revoke the Stationary Street Licence held by Mr Kerr for Fountain Street for non-payment of fees. Members may wish to note that Mr Kerr lodged an appeal to the Magistrates' Court. The Court have informed the Council that Mr Kerr was asked on a number of occasions to complete a Notice of Appeal, no Notice was submitted to the Court and no papers were served on the Council. The Licence expired on the 18 January 2019, no renewal application was submitted.

At its meeting in December 2018, Committee heard from Mr Kerr regarding how he was going to address his outstanding debt and future licence fee payments. Mr Kerr informed the Committee that he had set up a direct debit with the Council's Central Transactions Unit to pay the licence fee and the arrears accrued from non-payment of fees and that he would be willing to enter into a formal agreement with the Council to pay the remaining arrears.

The Committee agreed not revoke Mr Kerr's Street Trading Licence on condition that Mr Kerr met with officers and entered into a formal agreement to pay the outstanding monies and the monthly licence fees.

Following the December Committee meeting, officers met with Mr Kerr on 27 December 2018 when he again promised to make payments and agreed to sign a formal agreement. Mr Kerr has never returned the signed agreement to the Council; as such, no agreement is in place.

Mr Kerr has not paid his Licence fees since 4 December 2018 and is not engaging with us at all to recover his debt and currently owes the Council £3098.34, despite efforts to contact him.

Members may wish to note Mr Kerr only trades sporadically. Mr Kerr trades without any other Licence infringements.

**Financial and Resource Implications**

If this Licence is refused, there will be a loss in annual Licence Fees of £1250. However, there is sufficient interest in this site and it is expected it will be filled within a short time.

The Service will work with Central Transactions Unit and Legal Services to take steps to ensure any outstanding debt will be recovered.

**Equality or Good Relations Implications/Rural Needs Assessment**

There are no issues associated with this report.

The Committee was minded to refuse to renew the licence and agreed to consider the refusal of the Licence at a future meeting at which Mr Kerr Would be invited to make representation regarding his failure to pay the fees due and non-use of his Licence.

**Cathedral Quarter Arts Festival –  
Application to Provide Entertainment  
beyond 11pm within a Marquee at Custom House Square**

The Committee considered the following report:

**Purpose of Report or Summary of main Issues**

The Cathedral Quarter Arts Festival will run their annual musical arts festival over eleven nights within a marquee at Custom House Square from Thursday 2 May to Sunday 12 May 2019. This report is to consider a request from the organisers to permit entertainment to run beyond 11.00 pm to 12.00 am on four of those nights.

**Recommendations**

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 the four proposed nights should be permitted to take place beyond the standard hours of licence or;

2. Refuse any or all of the extended hours as requested.

**Main report**

**Key Issues**

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 Indoor Entertainments Licence (Marquee) for the Square.

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.

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 11.00 pm 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 11.00 pm or if a complaint about an event beyond 11.00 pm 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.

The Cathedral Quarter Arts festival has been taking place for the last 19 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.

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 21 March 2018 when the organisers requested that entertainment be permitted beyond 11.00 pm to 12.00 am on two nights of the event. After consideration, you agreed to grant the request to extend the hours.

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.

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.

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.

The organisers have requested that you consider permitting four nights of the event to run beyond 11.00 pm as follows:

Friday 3 May	12.00 am
Saturday 4 May	12.00 am
Sunday 5 May (Bank Holiday)	12.00 am
Friday 10 May	12.00 am

#### Rationale for additional hours

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.

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.

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.

As this is not an application to vary the terms of the Indoor Entertainments Licence for a Marquee, but a request for Council's permission to extend the hours under an existing Licence Condition there is no requirement to advertise the application.

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.

Representatives of the Cathedral Quarter Arts Festival will be available at your meeting should you wish to seek further information about the festival.

#### PSNI

The PSNI have been consulted regarding the event and the request to operate four nights of the event to 12.00 am. The police have confirmed that they have no objections to the application.

#### NIFRS

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

#### Health, safety and welfare issues

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.

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

The Environmental Protection Unit (EPU) has been consulted in relation to the request for late night entertainment to run beyond 11.00 pm on four of the eleven nights at the venue.

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.**

**Last year's festival generated two complaints but no further action resulted.**

**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**

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

**Equality or Good Relations Implications/Rural Needs Assessment**

**There are no issues associated with this report.**

The Committee agreed to permit four nights of the Cathedral Quarter Arts Festival to run beyond 11.00 pm as follows:

Friday 3 May	12.00 am
Saturday 4 May	12.00 am
Sunday 5 May (Bank Holiday)	12.00 am
Friday 10 May	12.00 am

Chairperson