

Licensing Committee

Wednesday, 11th December, 2019

MEETING OF LICENSING COMMITTEE

Members present: Councillor S. Baker (Chairperson);
The High Sherriff, Alderman Sandford;
Councillors Bunting, Donnelly, Groves,
Hussey, Hutchinson, T. Kelly, Magee,
Magennis, McAteer and Smyth.

In attendance: Mr. A. Thatcher, Director of Planning and Building Control;
Mr. S. Hewitt, Building Control Manager;
Ms N. Largey, Divisional Solicitor;
Mr. J. Cunningham, Regulatory Services Manager; and
Ms. E. McGoldrick, Democratic Services Officer.

Apologies

Apologies were reported on behalf of Councillors Dorrian, Howard and M. Kelly.

Minutes

The minutes of the meeting of 13th November were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 2nd December, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were reported.

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.

Application for the Grant of a 7-Day Annual Outdoor Entertainments Licence for the Wellington Park Hotel

The Committee considered the undernoted report for the Grant of a 7-Day Annual Outdoor Entertainments Licence:

“1.0 Purpose of Report or Summary of main Issues

- 1.1 To consider an application for the Grant of a 7-Day Annual Outdoor Entertainments Licence based on the Council’s Standard Conditions to provide outdoor musical entertainment.**

Premises and Locations	Applicant
Wellington Park Hotel 19-21 Malone Road Belfast BT9 6RU	Mr Felix Mooney Dunadry Developmer Company Ltd Wellington Park Hotel 19-21 Malone Road Belfast, BT9 6RU.

- 1.2 A location map is attached as Appendix 1 (copy available [here](#)).**

2.0 Recommendations

- 2.1 Taking into account the information presented and any representations made you are required to make a decision to either:**

- 1. Approve the application for the grant of the Entertainments Licence, or**
- 2. Approve the application for the grant of the Entertainments Licence with Special Conditions, or**
- 3. Refuse the application for the grant of the Entertainments Licence.**

- 2.2 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 County Court.**

3.0 Main report

Key Issues

- 3.1 Members are reminded that all applications for the Grant of Outdoor Entertainments Licences are brought before Committee for your consideration.**

- 3.2 Committee are advised that an application for this outdoor area was considered at your meeting of 18 April 2018 and, whilst objections had been received in respect of the application, the Committee agreed to grant the outdoor entertainments licence for a period of six months.**

- 3.3 However, the applicant did not apply to renew the licence and it subsequently expired.

Details of Premises and Proposals

- 3.4 The applicant proposes to provide outdoor entertainment within the external beer garden, which is located to the front of the Wellington Park Hotel. The external area will be utilised by both the Botanic Inn and the Wellington Park Hotel.

- 3.5 The previous Licence was issued with the following terms and conditions:

(a) Occupancy of the external beer garden to be 350 persons.

(b) The days and hours during which entertainment may be provided are:

- Monday to Saturday 11.30 am to 11.00 pm, and
- Sunday 12.30 pm to 10.00 pm.

(c) Special Conditions:

1. The capacity of 350 persons for the outdoor area will be included in the existing overall maximum occupancy of the indoor areas; it is not in addition to this occupancy.
2. The maximum indoor occupancy for both premises will be managed in conjunction with the external area to ensure numbers in all areas do not exceed capacity.
3. Entertainment to be provided to the outdoor area must be no greater than 75 dBLAeq, 5mins at 1m from the loudspeaker.
4. Outdoor area must be managed in accordance with the Noise Management Strategy dated January 2018.
5. Music must be provided through the in-house sound system.

The applicant has advised that, if a Licence is granted for the area, it is his intention to provide low key entertainment in the form of solo performers, live bands or a DJ through the in-house speaker system.

- 3.6 Layout plans of the proposed external area are attached as Appendix 3 (copy available [here](#)).

- 3.7 The applicant has provided a Noise management Plan which is attached as Appendix 4 (copy available [here](#)).

Representations

- 3.8 Notice of the application has been advertised and no written representations have been lodged.

Police Service of Northern Ireland

- 3.9 The police have offered no objection to the application. A copy of their correspondence is attached as Appendix 5 (copy available [here](#)).

3.10 **Northern Ireland Fire Rescue Service**

The Fire and Rescue Service have offered no objection to the application.

Health, Safety and Welfare Issues

- 3.11 The premises will continue to be inspected as part of our During Performance Inspection regime to ensure the applicant adheres to their Licence Conditions.

Noise Issues

- 3.12 The Council's Environmental Protection Unit (EPU) has been consulted in relation to the application and they have confirmed that two complaints were received in the past 12 months relating to noise break out from the premises, neither of which related to noise arising from entertainment.

Applicant

- 3.13 The applicant and/or their representatives will be available at your meeting should you choose to hear from them or have any queries in relation to the application.

3.14 **Financial and Resource Implications**

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

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

There are no issues associated with this report."

The Building Control Manager provided an overview of the application. He highlighted that, if the Licence was approved, the special conditions under 3.5 of the report would be attached to the Outdoor Entertainments Licence.

After discussion, it was

Moved by Councillor Hussey,
Seconded by Councillor Magee and

Resolved – That the Committee agrees, in its capacity as Licensing Authority, to approve the application for the grant of a Seven-Day Annual Outdoor Entertainments Licence for the Wellington Park Hotel, Malone Road, with entertainment being permitted to take place on Monday to Saturday between the hours of 11.30 a.m. and 11.00 p.m. and Sunday between the hours of 12.30 p.m. and 10.00 p.m., subject to the conditions outlined in the report.

**Application for the Variation of a 7-Day Annual
Entertainments Licence for The Deer's Head - 3am**

The Building Control Manager informed the Committee that an application had been received for the variation of a Seven-Day Annual Indoor Entertainments Licence in respect of The Deer's Head, based upon the Council's standard condition to provide music, singing, dancing or any other entertainment of a like kind.

He reported that entertainment was provided currently on Monday to Saturday from 11.30 a.m. till 1.00 a.m. and on Sunday from 12.30 p.m. to midnight. The licensee had now applied to provide entertainment till 3.00 a.m. the following morning on Monday to Sunday.

He pointed out that the applicant had stated that the main reason they wished to extend the hours of entertainment was to compete with other premises in the City centre providing late night entertainment. He advised that the applicant considered the current 1.00am Licence left them at a disadvantage and, as the area they were situated in was severely underdeveloped, they needed to make themselves a destination venue with a key role to play in the regeneration of the North Street area.

The Building Control Manager confirmed that no written representation had been received in relation to the application and that the Northern Ireland Fire and Rescue Service and the Police Service of Northern Ireland had not objected. In such circumstances, it was normal practice for the Entertainments Licence to be issued under the Council's Scheme of Delegation. However, given that the application related to the extension of the hours of entertainment beyond 1.00 a.m., it was being presented to the Committee for consideration.

He advised that no noise complaints had been received in relation to the premises in the last 12 months.

The Committee agreed to vary the Seven-Day Annual Indoor Entertainments Licence for The Deer's Head, 1-3 Lower Garfield Street, thereby permitting entertainment to take place till 3.00 a.m. the following morning on Monday to Sunday.

Consideration of Designating Resolutions for Street Trading Sites

The Committee considered the following report:

“1.0 Purpose of Report or Summary of main Issues

1.1 Members will recall that, at your meeting of 19 June this year, the Committee granted approval to initiate the statutory process for the designation of a new street trading site at the entrance into Victoria Square from Ann Street for the sale of hot and cold food and non-alcoholic beverages or similar commodities.

1.2 At that meeting the Committee also granted approval to initiate the statutory process for the rescinding of the designating resolution for the 3 Designated sites at Queen’s Quay.

2.0 Recommendations

2.1 Based on the information presented the Committee is requested to consider each proposal in turn and to decide whether to:

2.2

A) New designation

- 1. Approve a Designating Resolution to designate the entrance into Victoria Square from Ann Street for the sale of hot and cold food and non-alcoholic beverages or similar commodities. The Designating Resolution will include the operational date, or**
- 2. Decide not to proceed with the proposal.**

2.3 In addition to making any Designating Resolution, Members may, having considered all comments, record any reasonable Conditions that should be applied to a subsequent Licence. For example, these may include hours of trade, days of trade, duration of Licence, etc.

2.4 Members are reminded that once the site becomes designated the Council will subsequently have to consider any applications that may be received for a Street Trading Licence.

2.5 At that time, an assessment will be made of the suitability and quality of the proposal within the requirements of the Act. Any Street Trading Licence granted may also be subject to reasonable conditions which can be used to control the commodities being sold, and potential nuisance, etc.

2.6

B) Rescinding of designation

1. Approve the rescinding of the Designating Resolution for Queen's Quay and include the operational date, or
2. Decide not to proceed with the proposal.

3.0 **Main report**

Key Issues

3.1 The designation process involved seeking comments from interested parties, including relevant statutory bodies, through public advertisement and consultation.

3.2 The Street Trading Act (NI) 2001 requires the Council to ensure that each application is fairly and objectively assessed, that all relevant factors are considered and, in doing so, the Council must consult with the:

- a) PSNI, and
- b) Department for Infrastructure - Roads.

3.3 The Council may also consult other persons as it considers appropriate. Such consultees may include:

- a) Belfast City Centre Management Company (BCCM)
- b) Local residents, business and commercial premises in the vicinity of the site in respect of which the application has been received.

3.4 Subsequently, the Service has received responses to the applications from a variety of interested parties and individuals.

3.5 The purpose of this report is to enable the Committee to consider each of the proposals in conjunction with any submissions received and make a decision on whether or not to designate or rescind the sites.

A) Designation of new Site

3.6 Victoria Square Management have applied to the Council requesting that a site, measuring 14ft by 15ft, is designated on their land at the entrance into Victoria Square from Ann Street for the sale of hot and cold food and non-alcoholic beverages or similar commodities.

3.7 A map of the proposed site is attached as Appendix 1 (copy available [here](#)).

- 3.8 Committee may wish to note that the Act applies to land which is privately owned, if the public have access to it.

Police Service of Northern Ireland

- 3.9 The police have offered no objection to the proposal.

DFI Roads

- 3.10 The Department have advised that this location is not part of the adopted road network and consequently they have no objection to the application. However, it is likely that patrons queuing at the stall will cause an obstruction of the footway, taking into account the density of pedestrians expected during its hours of operation and the presence of existing street furniture.

Belfast City Centre Management

- 3.11 BCCM state there are already a number of businesses in the vicinity of Ann Street which all sell similar items.

Commerz Real

- 3.12 Commerz Real is the landowner of Victoria Square and have confirmed they have no objection to the proposal.

Boojum – Victoria Square at the Ann Street entrance.

- 3.13 They have objected to the proposal because:
- They have an existing exclusivity agreement with the Landlords of Victoria Square Shopping Centre which is in place to protect their business against competition in and around the space that is being proposed for designation.
 - Designating a new site for the sale of hot and cold food and non-alcoholic beverages in this location brings direct competition. They believe there will be no control over the business, which could be direct competitors, discounting on the same products or even something that is not well managed, and this would reduce footfall.
 - They pay substantial occupational costs including rates as part of their unit.

- They have existing sight lines from Ann Street to their front door which is crucial to customers knowing where they are. The proposed location will severely diminish that and have an impact on their trade. Shopping Centre customers sit and relax in this location and that will be taken away.

3.14 In response to this objection Victoria Square Management have confirmed there is an exclusivity agreement with Boojum, however, it only relates to Mexican fast casual dining, and it expires in February 2020. It is also never their intention to introduce a direct competitive offer with any of their tenants, this would not be in any of their interests. The sole purpose is to create activity and have the ability to have food trucks offering additionality, for periods of time.

3.15 Victoria Square Management have met with Boojum, to reassure them of their intentions, however, Boojum still wish to maintain their objection.

Fish City - 33 Ann Street Belfast

3.16 Fish City do not want another vendor selling similar commodities as their business and they do not want any structure to block their sight lines on Ann Street.

3.17 Copies of all the responses are attached to this report for your information as Appendix 2 (copy available [here](#)).

3.18 Published 28-day Notice

No responses were received to the public notice.

B) Rescinding the Designation of sites

3.19 The procedures that must be followed for rescinding a Designating Resolution are the same as those for making the Designation in the first place.

3.20 The Department for Communities, Belfast Regeneration Directorate, as landowner of Queen's Quay, had asked that the designation of 3 sites on their land at Queen's Quay is rescinded.

PSNI

3.21 The police have offered no objection to the proposal.

3.22 DFI Roads

DfI Roads have offered no objection to the proposal.

Published 28 day Notice

3.23 No responses were received to the public notice.

3.24 Financial and Resource Implications

The cost of all notices is included in current revenue budgets.

3.25 Equality or Good Relations Implications/Rural Needs Assessment

There are no issues associated with this report.”

Victoria Square from Ann Street

During discussion, Members raised concerns in relation to the potential impact the stall would have on existing businesses in the vicinity of Ann Street which sold similar commodities, obstruction of the footway, overdevelopment of the area and the objections which had been received from local businesses.

After discussion, the Committee, having considered the comments and the objections which had been received, agreed not to designate the above-mentioned site for the purpose of street trading.

3 sites at Queen's Quay

The Committee considered the request from the Department for Communities, Belfast Regeneration Directorate, to rescind the designation of 3 sites on land at Queen's Quay.

Accordingly, the Committee, in its capacity as Licensing Authority, agreed, pursuant to Section 3 of the Street Trading Act (Northern Ireland) 2001, to pass a resolution to rescind the original designating resolution with effect from 31st January, 2020.

Houses in Multiple Occupation (HMO) Licenses Issued Under Delegated Authority

The Committee noted the applications that had been issued under the Council's Scheme of Delegation.

Non-Delegated Matters

Update on Institute of Licensing National Training Event

The Committee was reminded that Institute of Licensing's National Training Event took place in November 2019 and the Committee had authorised the attendance

of the Chair, the Deputy Chair, the Director of Planning and Building Control and the Building Control Manager to attend.

The Building Control Manager advised that the event had been a great opportunity to meet with licensing professionals from across the UK and keep abreast of changes to licensing in other jurisdictions. He reported that themes and learning from the conference included presentations on:

- Cumulative Impact areas;
- Drug Trends;
- Public Sector Equality Duty in Licensing;
- Partnership approach to enforcement;
- Safeguarding in Licensing;
- Fit and Proper Person Criteria; and
- Public safety Challenges for Licensed Events.

The Committee noted the information which had been provided.

Chairperson