

Licensing Committee

Wednesday, 18th November, 2020

MEETING OF LICENSING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Copeland and Sandford; and
Councillors Bradley, Bunting, Michael Collins, Howard,
Hussey, Hutchinson, M. Kelly, T. Kelly, Magee, McAteer,
McCabe, McCullough, McKeown, Nicholl 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;
Mr. V. Donnelly, City Protection Manager;
Mrs. S. Steele, Democratic Services Officer; and
Ms. C. Donnelly, Democratic Services Officer.

Apologies

An apology for inability to attend was received from Councillor Magennis.

Minutes

The minutes of the meeting of 14th October 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 November, 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 recorded.

Schedule of Meeting 2021

The Committee approved the schedule of meetings for the Licensing Committee as outlined below and agreed that all meetings would commence at 5.00 pm:

- Wednesday, 20th January
- Wednesday, 17th February
- Wednesday, 10th March
- Wednesday, 21st April
- Wednesday, 19th May
- Wednesday, 16th June
- Wednesday, 18th August

- Wednesday, 15th September
- Wednesday, 20th October
- Wednesday, 17th November
- Wednesday, 15th December

Verbal Update - Requests to Address the Licensing Committee

The Divisional Solicitor reported to the Committee that, following recent changes to how the Council administrated the licensing of Houses of Multiple Occupation, several landlords and representatives from the Landlord Association of Northern Ireland (LANI) had requested to address the Committee. She advised that a report outlining the concerns of the Landlords would be presented to Members at the December meeting of the Licensing Committee.

The Committee agreed to accede to requests from landlords and LANI to address the Licensing Committee at its meeting in December, in relation to technical issues regarding HMO applications.

The Committee further agreed to write to the Minister for the Department for Communities to request a meeting at the earliest possible date to discuss its ongoing frustrations at the ineffectiveness of the current HMO Act 2016 and around the proposed upcoming review of the legislation.

Delegated Matters

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

Licences Issued Under Delegated Authority

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

Designation of New Street Trading Sites

The Committee agreed that the statutory consultation process in relation to the consideration of the designation of a number of proposed new street trading sites should commence.

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

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 22 Sandymount Street

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 22 Sandymount Street.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 24 Sandymount Street

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 24 Sandymount Street.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 25 Sandhurst Gardens

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 25 Sandhurst Gardens.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 70 Sandhurst Drive

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that in relation to night-time noise, there was a warning notice issued on 20th October 2019 and that, in relation to daytime noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years,

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 70 Sandhurst Drive, with the additional condition that the owner shall provide an out of hours contact number to Council officers to contact the owner, or their managing agent (if any), in the event that there are incidents of anti-social behaviour emanating from within the curtilage of the HMO in respect of which it is considered necessary to contact the owner.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 38 St Albans Gardens

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 38 St. Albans Gardens.

Application for the grant of a New Licence to operate a House of Multiple Occupation at 23 Pakenham Street

The City Protection Manager provided an overview of the application and explained that, as it was a new application, it must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that For the purpose of determining whether or not the granting of a licence would result in overprovision of HMOs in the locality of the accommodation, the locality was defined as being Pakenham Street in accordance with HMO Policy 5 (the number of HMOs did not exceed 10% of dwelling units on that road or street) as defined in the document "Houses in Multiple Occupation Subject Plan for Belfast City Council Area 2015. On the date of assessment 15 October 2020 there were no licensed HMO in Pakenham Street out of 21 domestic units.

The Committee approved the application for the Grant of a new Licence to Operate a House of Multiple Occupation for 23 Pakenham Street, with the additional condition that the owner shall provide an out of hours contact number to Council officers to contact the owner, or their managing agent (if any), in the event that there are incidents of anti-social behaviour emanating from within the curtilage of the HMO in respect of which it is considered necessary to contact the owner.

Non-Delegated Matters

Amendment of the Scheme of Delegation to delegate authority to determine some renewal applications with objections

The Divisional Solicitor presented the Committee with an update in respect of the following report:

Purpose of Report or Summary of main Issues

To consider amendment of the Scheme of Delegation in respect of applications for renewal of a licence for the use of premises as a House in Multiple Occupation (HMO).

Recommendations

Taking into account the information presented Committee is asked to consider whether it wishes to amend the Scheme of Delegation to:

- (i) Allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the objection relates to overprovision, either directly or indirectly; and
- (ii) Allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the issues raised are general in nature and not specific to the relevant property, applicant or managing agent.

Amending the Scheme of Delegation does not fall within the delegated authority of Committee and must therefore be ratified by Council.

Main report

Key Issues

Members will be aware that Section 20 of the Houses in Multiple Occupation Act (NI) 2016 states that the power to refuse an application on the grounds of overprovision or breach of planning control do not apply to renewal applications.

Paragraph 3.6.27 of the Scheme of Delegation permits officers to exercising all powers in relation to the grant (but not refusal) of HMO licences, except in certain circumstances. One of those exceptions is where material objections are received. This means that where a material objection has been received the application must be referred to Committee.

Council continues to receive objections in relation to renewal applications which raise general issues about overprovision or raise concerns about other issues in the general area which are not specific to either the property, owner or managing agent of the property. In accordance with the 2016 Act these objections are valid and whilst not dismissing the alleged issues, legal advice has consistently been that refusal of an application on the basis of such an objection would not be sustainable.

It is considered that this process is unfair to the applicants and indeed to objectors. It also brings applications to Committee unnecessarily which increases work load for both Committee and officers.

Officers therefore believe it may be appropriate to amend the Scheme of Delegation to allow officers to grant renewal applications licences in circumstances where the nature of the objection relates to overprovision, either directly or indirectly.

Members may also wish to consider whether to grant delegated authority to officers to grant a renewal application where valid objections have been received but where the issues raised in the objection are not specific to the property in question.

It is acknowledged that this is less straightforward as issues may arise which should be considered by Committee. In this context however members are reminded that paragraph 1.13 of the Scheme of Delegation states that Chief Officers may refer any delegated matter to Committee in any case. Furthermore, any decision which would otherwise be delegated under the Scheme should be reported to Committee if it is politically contentious, sensitive, significant or if it is otherwise in the public interest to do so.

Financial and Resource Implications

None.

Equality and Good Relations Implications

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

Following discussion, the Committee agreed to defer consideration of the report until its meeting in December.

Chairperson