

Licensing Committee

Wednesday, 19th March, 2014

MEETING OF LICENSING COMMITTEE

Members present: Alderman Ekin (Chairman);
Alderman R. Patterson;
Councillors Attwood, M.E. Campbell, Clarke,
Cunningham, Groves, Hussey, Hutchinson,
Jones, Keenan, Magee, Mallon, Ó Donnghaile and
Reynolds.

In attendance: Mr. T. Martin, Head of Building Control;
Mr. S. Hewitt, Building Control Manager;
Ms. N. Largey, Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apology

An apology was reported on behalf of Alderman Rodgers.

Minutes

The minutes of the meeting of 19th February were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 3rd March, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were reported.

Non-Delegated Matters

Meeting of the Committee in May

The Committee was reminded that the European Parliament and Local Government Elections were scheduled to take place on 22nd May. The Democratic Services Officer reported that the Strategic Policy and Resources Committee, at its meeting on 21st February, had agreed that all Committee meetings in May should be cancelled to allow Members to concentrate on those Elections. He pointed out that the monthly meeting of the Licensing Committee was due to be held on 21st May and he recommended that the Committee agree to cancel that meeting.

The Committee adopted the recommendation and agreed that authority be delegated to the Chief Executive, in consultation with the Party Leaders and the Chairman of the Strategic Policy and Resources Committee and, if necessary, the Licensing Committee, to take any urgent decisions in accordance with the procedures which were routinely set in place during the recess month of July each year.

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Request to Address the Committee

The Committee was reminded that, at its meeting on 19th February, it had been provided with details relating to a major incident which had, on the evening of 9th February, taken place at a music event at the Odyssey Complex. That had necessitated action by, amongst others, the Council, the emergency/medical services and the Police Service of Northern Ireland and had attracted significant media attention. The Head of Building Control reported that, subsequently, Mr. R. Fitzpatrick, the Chairman of the Odyssey Trust Company, had convened a meeting of the relevant agencies in order to analyse the circumstances which had contributed to the incident and to identify actions to prevent a recurrence. In addition, he had written to the Chief Executive requesting an opportunity to address the Members on the incident and to identify potential ways in which they could work jointly on the wider issue of alcohol misuse within the City.

Accordingly, the Committee agreed that Mr. Fitzpatrick be invited to attend its monthly meeting in April and agreed also that all Members of the Council be invited to the meeting.

**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF
THE POWERS DELEGATED TO IT BY THE COUNCIL AT ITS MEETING ON
1st MAY, 2007 IN ACCORDANCE WITH STANDING ORDER 46**

Licences Issued under Delegated Authority

The Committee noted a list of licensing applications which had been granted under the delegated authority of the Director of Health and Environmental Services.

**Application for the Grant of a Seven-day Annual Entertainments Licence –
M Club, 23-31 Bradbury Place**

The Committee was advised that an application had been received for the renewal of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises. The Head of Building Control reported that one objection to the application had been submitted within the twenty-eight day statutory period, which related to noise breakout from the premises. He pointed out that, under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Committee, when considering an application, must have regard to any representation which had been received within that period.

Accordingly, the Committee agreed to consider the application at its monthly meeting in April and noted that the objector and the applicant would be invited to attend.

**Application for the Grant of a Seven-day Annual Outdoor
Entertainments Licence - Hudson Bar, 10-14 Gresham Street**

The Head of Building Control informed the Members that an application had been submitted for the grant of a Seven-day Annual Outdoor Entertainments Licence in respect of the Hudson Bar, 10-14 Gresham Street. He reported that the premises were licensed currently to provide indoor entertainment each night till 3.00 a.m., for up to a

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maximum of 125 patrons. The applicant was now proposing to offer entertainment, in the form of a DJ or through the in-house speaker system, in an open arcade which was located to the rear of the bar and which would accommodate up to a maximum of 300 persons. He reminded the Committee that, at its meeting on 21st September, 2011, it had agreed that, in future, all applications for Outdoor Entertainments Licences be placed before it for consideration.

He confirmed that no written representation had been received in relation to the application and that the Police Service of Northern Ireland had not objected. Over the past year, five inspections of the premises had been conducted whilst entertainment had been taking place, none of which had given rise to any issues. He added that there had, over the past year, been a number of complaints arising involving excessive noise from music and patron dispersal. Officers from the Council's Night Time Noise Service had drawn the complaints to the attention of the applicant, despite being satisfied that the noise levels which they had recorded had not impacted adversely upon the complainants. He explained that, given the nature of entertainment provided within the venue, the applicant had been requested to submit an acoustic report outlining the measures to be implemented to minimise disruption to neighbouring residential properties from noise and patron activity. That had since been assessed by the Council's Environmental Protection Unit, which had confirmed that noise generated by entertainment within the arcade area would be within acceptable limits for nearby residential properties. In addition, the applicant had confirmed that regular sound checks would be undertaken after 11.00 p.m. to ensure that noise levels did not exceed those stipulated within the acoustic report.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant a Seven-day Annual Outdoor Entertainments Licence in respect of the Hudson Bar, 10-14 Gresham Street.

Application for the Renewal and Variation of a Seven-day Annual Entertainments Licence – Oh Yeah Music Centre, 15-21 Gordon Street

The Head of Building Control informed the Committee that an application had been received for the renewal and variation of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises. He reported that entertainment, in the form of a live band, was provided currently from Monday to Saturday till 1.00 a.m., on a Sunday till midnight and, in addition, on the last Saturday of each month till 2.00 a.m. The applicant was now proposing to hold innovative events which would be both commercially and culturally beneficial and, as such, he was seeking to operate till 2.00 a.m. each Saturday night, although he had stated that those events would be limited to a maximum of twenty-four nights per year.

The Head of Building Control confirmed that no written representation had been received in relation to the application and that the Police Service of Northern Ireland had not objected. He pointed out that officers of the Building Control Service had, during the past year, visited the premises on three occasions whilst entertainment was being provided, none of which had detected breaches of the Entertainments Licensing legislation. In addition, the Council's Environmental Protection Unit had confirmed that it

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had, over the same period, received no complaints regarding noise disturbance from music or from patron dispersal.

The Committee agreed, in its capacity as Licensing Authority, to grant a renewal and variation of a Seven-day Annual Entertainments Licence, with entertainment being permitted to take place, in future, each Saturday night till 2.00 a.m.

**Application to Hold a Music Event beyond the Hours Permitted –
Custom House Square**

The Committee considered the undernoted report:

“1.0 Relevant Background Information

- 1.1 A request has been received from Cathedral Quarter Arts Festival to hold an 11 day music event in a marquee at Custom House Square, running from 1st May to 11th May 2014.
- 1.2 The standard days and hours during which Custom House Square is currently licensed to provide entertainment are:

Monday to Sunday: 11.30 a m to 11.00 p m

- 1.3 In addition, a special condition on the Custom House Square licence allows the licensee to apply for additional hours, later than 11.00 p m, which may or may not be granted dependent upon any noise issues which may have arisen from previous events there.

Previous decisions and extended hours granted

- 1.4 Members may recall that, in previous years, the Committee has granted extensions beyond the standard hours of 11.00 p m for this and other events including Belsonic and Open House Festival.
- 1.5 There are both a Seven-Day Annual Outdoor Entertainments Licence and a Seven-Day Annual Marquee Entertainments Licence in place for Custom House Square.
- 1.6 You may recall that objections were received from residents regarding last year’s Outdoor Licence application and you subsequently heard these at your meeting of 17th April, 2013. After consideration, you agreed to restrict outdoor entertainment to no more than 3 nights in any given 7 day period, with an exception being made for Bank or Public holidays when an additional night is permitted in that 7 day period.

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1.7 Whilst no such restrictions were deemed necessary for the Marquee Licence, the following conditions are attached to both Entertainments Licences:

- **A licensee may, 3 months in advance of a proposed event, apply for additional hours to provide entertainment beyond 11.00 pm. Such applications will be considered by the Licensing Committee and any previous noise issues will be taken into account;**
- **Should an application to provide entertainment beyond 11.00 pm be granted and the Council then receive a significant number of complaints regarding noise or the complaint is of such significant impact, authority be granted to the Director of Health and Environmental Services, in consultation with the Legal Services Manager, to reduce the finishing time for any subsequent nights of the event, in which case the promoter will be required to make contingency arrangements;**
- **All letters forwarded by promoters to residents must advise that, should they have objections or concerns regarding an event providing entertainment beyond 11.00 pm, they contact the Building Control Service.**

1.8 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.

1.9 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 p m in order to reduce the impact upon them.

2.0 Key Issues

2.1 The Cathedral Quarter Arts Festival has been taking place for the last 15 years and encompasses a wide programme of events including 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.

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- 2.2** This year, the organisers propose to run the event within a marquee at Custom House Square over 11 nights between the 1st May and 11th May. The marquee programme this year includes acts such as Wilko Johnston, Martha Reeves, De La Soul as well as other international and local artists.
- 2.3** In addition to the events being held at Custom House Square there are other smaller events taking place throughout licensed premises within the city centre.
- 2.4** The organisers have requested permission to run the event beyond 11.00 p m to 12.00 a m on 5 of the 11 nights as follows:
- **Friday 2nd May**
 - **Saturday 3rd May (Bank Holiday weekend)**
 - **Friday 9th May**
 - **Saturday 10th May**
 - **Sunday 11th May**
- 2.5** A copy of the proposed running order for the festival has been forwarded to the Committee.

Rationale for additional hours

- 2.6** The organisers have advised that the two weekends of the festival are regarded as the busiest evenings of the event and they see more visitors from outside the city and further afield attending these festival events.
- 2.7** 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 local restaurants before attending the concerts.
- 2.8** The organisers have also advised that the extra hour on these weekend nights enables them to add local support acts to the bill and give them the opportunity to support a headline festival act. Being able to support such acts is a priceless opportunity for local bands, helping them to reach new audiences, build experience and ultimately achieve greater success.
- 2.9** As this is not an application to vary the terms of the licence, but a request for Council's permission to extend the hours under an existing licence condition, there is no requirement for public advertisement in this case.

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- 2.10 A copy of letter from the organiser outlining the background to the event and reasons for requesting the extended hours to 12.00 a m has been forwarded to Members.**
- 2.11 Representatives of Cathedral Quarter Arts Festival will be available at the meeting should you wish to seek further information on these proposals.**

Health, safety and welfare issues

- 2.12 The organiser has provided a draft version of the Event Management Plan. Officers of the Service are currently assessing this documentation and other supporting information to ensure the technical requirements of the event and licence conditions are complied with. Work is ongoing in this regard.**
- 2.13 In compliance with the conditions of the licence, the organisers have also written to each of the residents within the vicinity of the venue and provided them with information about the event and the desired finish time of 12.00 a m on the 5 nights proposed beyond the standard hours of the licence. They have also highlighted to residents that the 12.00 a m finish time is still subject to approval by the Committee. At the time of writing this report no objections or concerns have been raised by residents to the proposals.**
- 2.14 A copy of the letter sent to residents has been forwarded to Members.**
- 2.15 Officers of the Building Control Service have carried out during performance inspections over the duration of this event in previous years 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 the event during that time.**

Noise issues

- 2.16 The Environmental Protection Unit (EPU) has been consulted in relation to the request for late night entertainment for the Festival.**
- 2.17 In view of the apartment developments situated in close proximity to the proposed Festival Marquee, the EPU feels it is important to protect the night time period between 11.00 p m and 7.00 a m for residents.**

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- 2.18 Last year, a total of 7 complaints were received over the course of the 11 nights. Complaints were as a result of noise outbreak from the marquee and, under the terms of the Clean Neighbourhoods and Environment (NI) Act 2011, a Warning Notice had to be served on the Event Manager on Friday 10th May, 2013 for failure to reduce noise in the required time. The event ran to midnight on 5 of the 11 nights of the Festival last year.
- 2.19 Members may recall that in previous years a small number of complaints were received. In 2012, one complaint was received which related to the dismantling of the marquee rather than music disturbance, However, it is noted that in 2012 all events finished by 11.00 p m.
- 2.20 In 2011, when the event did finish after 11.00 p m on a number of nights, one complaint was received after 11.00 p m regarding alleged noise disturbance from music.
- 2.21 Members are advised that the Clean Neighbourhoods and Environmental Act (Northern Ireland) 2011 gives Council officers additional enforcement powers in relation to entertainment noise after 11.00 p m and are requested to consider the request for later finish times on five occasions over the event in light of this.
- 2.22 An officer from EPU will be available at your meeting to advise on any concerns regarding the proposed event and any potential noise impact it may have on nearby residents.

PSNI

- 2.23 The PSNI has been consulted in relation to the application and have no objection or concerns with the event.

3.0 Resource Implications

Financial

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

Human Resources

None.

Asset and Other Implications

None.

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4.0 Equality and Good Relations Considerations

4.1 There are no equality or good relations issues.

5.0 Recommendations

5.1 Having considered this information and any representations received, you are then required to determine, subject to all technical requirements being met:

- 1. if any or all of the proposed 5 nights for the Cathedral Quarter Arts Festival in May, 2014 should be permitted to take place beyond the standard hours of licence and, if so;**
- 2. determine an appropriate finishing time for each of the proposed extended nights of the event.”**

During discussion, a Member reminded the Committee that it had, at its meeting on 17th April, 2013, considered a similar application from the Department for Social Development, the licensee of Custom House Square. He pointed out that a representative of that Department had, at that meeting, indicated that he would be willing to develop an appropriate policy to deal with events taking place at that venue and he sought clarification on whether that had been completed.

In response, the Head of Building Control undertook to raise the matter with the Department for Social Development.

After further discussion, the Committee agreed, in its capacity as Licensing Authority, to permit entertainment to take place in a marquee in Custom House Square, as part of the Cathedral Quarter Arts Festival, till midnight on Friday, 2nd, Saturday, 3rd, Friday, 9th, Saturday, 10th and Sunday, 11th May, subject to all technical requirements being met to the satisfaction of Council officers and with the following conditions remaining on the Licence:

- i. should the Council receive a significant number of complaints regarding noise or the complaint is of such significant impact, authority may be granted to the Director of Health and Environmental Services, in consultation with the Town Solicitor to reduce the finishing time for any subsequent nights of the event, in which case, the promoter will be required to make contingency arrangements; and
- ii. all letters forwarded by promoters to residents must advise that, should they have objections or concerns regarding an event providing entertainment beyond 11.00 p.m., they should contact the Building Control Service.

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**Application for the Provisional Grant of an Amusement Permit –
Mavericks, 28 Bradbury Place**

The Committee considered the undernoted report:

“1 Relevant Background Information

- 1.1 Members are reminded that, at your meeting on 22nd January 2014, you agreed that a special meeting be held to consider an application for the grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.**

<u>Premises and Location</u>	<u>Ref. No</u>	<u>Applicant</u>
Mavericks 28 Bradbury Place Belfast, BT7 1RQ	WK/2013/01 90	Mr Gareth McCausland Belfast Leisure Company Ltd.

- 1.2 The application is for a total of 45 gaming machines of which all 45 machines are to pay out a maximum all cash prize of £25.00. In the case of premises that have machines with a maximum cash prize of £25.00 admission is restricted to persons aged 18.**
- 1.3 The proposed opening hours of the premises, as specified on the application, are:**
- | | |
|---------------------------|-------------------------------|
| Monday to Saturday | 10.00 a m to 11.30 p m |
| Sunday | 11.30 a m to 11.30 p m |
- 1.4 The proposed amusement arcade is to be located in Bradbury Place within a block of one, two and three storey terraced buildings. The property was formerly occupied as a McDonald’s fast food outlet.**
- 1.5 They propose to operate the business in conjunction with a Coffee Shop, which will operate from the front of the premises as you enter through the front doors. The Amusement Arcade will operate beyond this area and is within a separate enclosed area.**
- 1.6 A location map has been forwarded to Members**

2 **Key Issues**

2.1 Members are reminded that the Licensing Committee is responsible for determining all applications relating to the grant of Amusement Permits.

Objections

2.2 As a result of the public notices of application the Service has received one objection to the application.

2.3 A summary of the objection is as follows:

- the suitability of the applicant; as the objector has concerns with regards to the applicants knowledge, experience and ability to run the property having due regard to the legal requirements pursuant to the Betting, Gaming, Lotteries and Amusements (NI) Order 1985.
- there are a significant number of premises/businesses with the benefit of amusement permits in the locality of the applicant's premises and as a consequence there is no need for an additional business of this nature.

2.4 A copy of the letter of objection has been forwarded to the Committee.

2.5 Upon receipt of the objection, clarification was sought regarding the objector's concern over the suitability of the applicant. In response, the objector states that they do not have any specific concerns regarding the applicant's experience to run an amusement arcade but, given the intricacies of the legislation regarding stakes and prizes, they wish to ensure that the Council make the appropriate enquiries to determine that the applicant does indeed have the required experience.

2.6 This additional correspondence has been circulated to the Committee.

2.7 The objector and their legal representative will be in attendance to appear before and be heard by the Committee.

Applicant

2.8 The Service has informed the applicant of the objection and provided him with a copy of the written representation with

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the details identifying the objector redacted. They acknowledged the objection and have advised that Mr McCausland has the knowledge, experience and ability to run the property including meeting the legal requirements under the legislation.

- 2.9 They have also indicated that the property meets the required criteria of the Council's Amusement Permit Policy. A copy of the letter of objection has been circulated to the Committee.
- 2.10 Mr McCausland and his representatives will be in attendance to appear before and be heard by the Committee.

PSNI

- 2.11 The PSNI has not objected to the application. In addition to the representation received from the PSNI, it has also provided the following information:
- i. it is not aware of any criminal convictions for the applicants.
 - ii. it is not in possession of complaints regarding the applicants.
 - iii. the Police Service has not been called to any incidents at 28 Bradbury Place in regards to this applicant.
 - iv. It is not aware of an amusement permit application being made by the applicant for premise elsewhere before.

- 2.12 A copy of the PSNI correspondence has been circulated to Members.

Health, safety, welfare and technical requirements

- 2.13 The applicant has confirmed that a Building Regulations application will be made for any alterations required to the premises. Members should note that, if you are minded to grant the application, it must be upon condition that all works required to comply with both Building Regulations and Amusement Permit technical requirements are completed to the satisfaction of the Service.

Planning matters

- 2.14 An application was made to the Planning Service on the 31st May 2013 for a change of use from a Fast Food Outlet to a Coffee Shop and Amusement Arcade on the Ground Floor only. The application was subsequently granted approval on the 23rd September 2013.
- 2.15 As part of the planning consultation process, Officers of the Environmental Protection Unit (EPU) and Building Control Service commented on the planning application. EPU recommended that the following condition be attached to the planning approval to ensure that adjacent commercial premises are not adversely affected by noise from the development:
- the walls and floors of the amusement arcade shall be lined with a suitable sound insulation material to provide a noise reduction value of 60dB(A) in adjacent premises.
- 2.14 In addition to the above condition, EPU also recommended that certain informatives be attached should planning permission be granted. Members are advised that enforcement action cannot be taken should the applicant not comply with them.
- 2.17 A copy of the planning approval has been circulated to the Committee.
- 2.18 Members may recall 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.
- 2.19 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

- 2.20 Members will be aware 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.

2.21 The key Policy objectives are to:-

- i. Promote the retail vibrancy and regeneration of Belfast;
- ii. Enhance the tourism and cultural appeal of Belfast by protecting its image and built heritage;
- iii. Support and safeguard residential communities in Belfast;
- iv. Protect children and vulnerable persons from being harmed or exploited by gambling;
- v. Respect the need to prevent gambling from being a source of crime and disorder.

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

2.23 1. Legal requirements under the 1985 Order

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

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

2.24 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:

2.25 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.

2.26 The applicant has been asked to provide an elevation drawing showing the proposed façade of the arcade for consideration at your meeting.

(c) Opinions of the Police:

- 2.27 The Police comments have been sought and are included in paragraph 2.10 of the report.

(d) Submissions from the general public:

- 2.28 The comments from the general public are included in paragraphs 2.2 to 2.5 of the report.

2.29 **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 regeneration of Belfast:

- 2.30 The application premises is outside Belfast City Centre Retail Core and is located in the City Centre Remainder. It does not break up any continuous shopping frontage.
Complies with this criterion.

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

- 2.31 There are no other amusement arcades on this commercial frontage.
Complies with this criterion.

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

- 2.32 The application premises has no neighbouring property which is a tourism asset, nor is it located at a Gateway location.
Complies with this criterion.

(d) Proximity to residential use:

(i) - predominantly residential in character

- 2.33 The application premises is located in the main commercial frontage of Bradbury Place, where there are a mix of uses including restaurants, public houses, and retail units. There are residential buildings in the area, primarily blocks of flats, on streets leading off from Bradbury Place.

2.34 The application premises is located in the City Centre Remainder, as defined under Belfast Metropolitan Area Plan (BMAP) and can therefore be viewed as a 'mixed use' area and not one that is predominantly residential in character.

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

2.35 The nearest residential properties to the application premises are Flats1-54, Tollgate House, Bradbury Place, which are approximately 20-30m from the application site on the opposite side of the road. These residential properties are not immediately adjacent to the application premises.
Complies with this criterion.

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

2.36 There are no schools, youth centres, or residential institutions for vulnerable people within 200m of the application premise.
Complies with this criterion.

Conclusion

2.37 The application premise complies with all assessment criteria for the suitability of the location as laid down in Belfast City Council's Amusement Permit Policy.

2.38 In addition to the above legal requirements and assessment criteria Members may take into account any matter which is deemed relevant. Members may also depart from the Policy where it is appropriate to do so, although it is envisaged that this should only happen in exceptional circumstances.

3 Resource Implications

Financial

3.1 None.

Human Resources

3.2 None.

4 Equality and Good Relations Considerations

4.1 There are no equality or good relations issues.

5 Recommendations

5.1 The current policy, dictated by the governing Order is that the Committee, in considering the application, shall have regard to:

- a. The fitness of the applicant to hold a Permit having regard to his character, reputation and financial standing,**
- b. The fitness of any other person by whom the business 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.**

5.2 You are then required to make a decision based on the following options set out under the Order.

5.3 You 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.**

5.4 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**

5.5 In the case of premises that have machines with the maximum cash prize of £25.00 where admission is restricted to persons aged 18 or over that:

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- **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**
- 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.**
- 5.6 Should you be of a mind to refuse the application or grant the Permit subject to any discretionary conditions you are required to advise the applicant of your intention to do so.**
- 5.7 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.**
- 5.8 If, subsequent to hearing the applicant, you refuse the application or decide to grant the application subject to discretionary conditions the applicant may appeal that decision to the County Court.”**

The Building Control Manager addressed a number of assertions contained within the additional information which had been submitted on behalf of the objector on the day before the meeting. He confirmed that the application related to 45 gaming machines, as opposed to 61 as stated within that document, and that the premises would operate till 11.30 p.m., rather than 1.00 a.m. In terms of the potential to increase the number of machines to 100, he pointed out that the Council had no powers in that regard, however, given the floor space available within the premises, such a number could not be accommodated. In terms of the assertion which had been made that the current application had been the first to be assessed under the Council's new Amusement Permit Policy, he reminded the Committee that the Policy had been used in considering applications for amusement arcades in Donegall Pass and the Stranmillis Road.

He explained that the objector's submission had concentrated solely on criterion (2) of the aforementioned Policy, namely, Cumulative Build-up of Amusement Arcades in a Particular Location, and confirmed that the Building Control Service had taken into account all of the five criteria set out within the document before advising the Planning Service and the Town Planning Committee that the application was in compliance with the Policy. He added that the Planning Service had confirmed that it had, in assessing the application, taken into consideration its Development Control Advice Note 1, which offered guidance around the planning criteria relating to amusement centres, and that this location complied with that Advice Note, in that it was situated in an area of mixed

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commercial use. Finally, he confirmed that the assertion which had been made that the number of gaming machines had increased sharply since the Council had undertaken the research which had formed the basis of its Amusement Permit Policy, was at odds with the Council's view, as a number of arcades had since been closed.

The Committee was advised that Mr. T. Quinn, Braniff Associates, who had assisted the Council in the development of its Amusement Permit Policy, was in attendance in order to address any issues arising from the application and he was welcomed to the meeting.

Mr. Quinn reminded the Members that the Council's Amusement Permit Policy had been formulated to provide clarity around the process for dealing with Amusement Permit applications. He provided a brief overview of the Policy and confirmed that, in his view, the application complied with the five assessment criteria regarding the suitability of the location, as set out within the document, in terms of, for example, being situated within the greater City Centre area, being the only arcade on that commercial frontage and being situated away from residential properties, schools and youth centres. He reminded the Committee that the purpose of Criterion 2 of the Policy was to promote retail vibrancy and to avoid a clustering of non-retail uses in the retail cores or in district centres.

The Committee was advised that Mr. M. Trimble, representing Oasis Retail Services, the objector to the application, together with Ms. K. Mairs, legal representative and Ms. D. Thompson, MBA Planning, were in attendance and they were admitted to the meeting.

Ms. Mairs informed the Members that Oasis Retail Services had been operating gaming centres for more than forty years and that it operated currently ten centres, five of which were based in Belfast. She explained that, whilst her client welcomed the fact that the Council had formulated an Amusement Permit Policy to deal with applications, she was of the view that the second criterion within the document, relating to the cumulative build up of arcades at a particular location, had not been assessed fully, as had been evidenced within the Planning Service Officer's report, which had been made available to the objector. She stated that, whilst her client recognised the need for each application to be assessed on its own merit, there were already 134 gaming machines in and around that area currently and the presence of a further arcade would lead to a saturation in the market.

Ms. Thompson reiterated the point which had been made by Ms. Mairs regarding the cumulative build up of arcades at that location. She made the point that, should this application be granted, it would be likely to lead to further submissions which, based upon the way in which the Council's Amusement Permit Policy had been implemented in this case, the Committee would have no choice but to approve.

Mr. Trimble informed the Committee that Oasis Retail Services had, for many years, been at the forefront of the gaming industry in Northern Ireland and that it was a strong advocate of responsible gaming. He stated that, should the Committee approve the application, it would have an impact on the sustainability of the company's business in that area.

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The Chairman thanked the delegation for their contribution and they retired from the meeting.

Mr. G. McCausland, the applicant, and Mr. G. O'Hare, his legal representative were then admitted to the meeting.

Mr. O'Hare informed the Committee that the amusement centre would be located along a major arterial route on the ground floor of a retail premises which had been vacant for approximately eleven years. He explained that the business would include a coffee shop, which would enhance the vibrancy of the street, and that it would provide the sole entry point to the amusement arcade. The arcade itself would provide 45 gaming machines and would operate only till 11. 30 p.m. each night. He outlined the extensive experience which the applicant had gained over the years in managing other businesses and stressed that he had invested considerable time and effort on all aspects of the application and had sought guidance from, amongst others, solicitors, architects and accountants with a view to maximising the success of the business.

Mr. O'Hare explained that Oasis Retail Services accounted currently for 22% of the gaming machine market in Northern Ireland and that its arcades opened for longer hours than those being proposed by his client. He stressed that his client's application had fulfilled all of the criteria set out within the Council's Amusement Permit Policy and that that had been taken into account by the Planning Service in granting its approval. He pointed out that the arcade would be located away from residential properties, schools and churches and provided an undertaking that only persons who were known to be over twenty-one years of age would be admitted. Mr. O'Hare highlighted the fact that the references which had been submitted in respect of his client's application had confirmed that he was a fit person to hold an Amusement Permit, as required under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, and, accordingly, he requested that the Committee approve the application.

Mr. McCausland and Mr. O'Hare were thanked by the Chairman and they retired from the meeting.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant provisionally an Amusement Permit in respect of Mavericks, 28 Bradbury Place, subject to:

- (i) 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;
- (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.

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The Committee noted that, in accordance with the undertaking which had been provided at the meeting by the applicant's legal representative, no person under the age of twenty-one years would be admitted to the premises.

Review of Street Trading Licences

Fountain Lane/Fountain Street

The Head of Building Control informed the Committee that Mr. Joseph Kerr held currently Stationary Street Trading Licences permitting him to trade at the above-mentioned locations. He explained that, upon being granted those Licences, Mr. Kerr had agreed to pay the requisite Licence fees on a monthly basis by direct debit and that he had, initially, adhered to that arrangement. However, he had failed to make payments since August, 2013, despite being forwarded invoices by the Council's Central Transactions Unit and having agreed, in June 2013, with the Council a payment plan, with a view to him eradicating his arrears. As a result, his debt had continued to increase and, importantly, he had continued to trade at both sites. Council officers had endeavoured, without success, to work with him to resolve the matter and were now unable to make contact with him to address the issue.

The Head of Building Control informed the Committee that Section 10 of the Street Trading Act (Northern Ireland) 2001 stipulated that, at any time after a Licence had been granted, the Council could, in certain circumstances, revoke a Licence. Such circumstances would include, as in this case, the non-payment, without reasonable explanation, of fees and charges due to the Council. He explained that, should the Committee be minded to revoke Mr. Kerr's Licence, the aforementioned Act required that he be provided with advance notification to that effect and be invited to either make written representation to the Council or to attend a future meeting in person.

After discussion, the Committee agreed that it was minded to revoke the Stationary Street Licences held by Mr. Joseph Kerr in respect of the designated sites at Fountain Lane and Fountain Street and agreed that he be invited to make representation to the Committee regarding its decision.

Andersonstown/Ladybrook/Suffolk/Turf Lodge

The Committee was advised that Mr. Thomas Seenan had, since 2005, held a Mobile Street Trading Licence permitting him to sell ice cream, confectionery and non-alcoholic beverages in the above-mentioned areas of the City. The Head of Building Control reported that Mr. Seenan had, upon obtaining the Licence, agreed to pay the associated fee on a monthly basis by direct debit and that he had made payments up to 2008. However, in 2009, his direct debit had defaulted and he had fallen into arrears. He had, subsequently, made payment in full, however, since September, 2013, he had made no further payments, despite the matter having been drawn to his attention by the Council's Central Transactions Unit. As a consequence, his arrears had continued to accumulate. He added that routine inspections by Council officers of the areas covered by Mr. Seenan under the terms of his Licence had found no evidence of him trading and that they had been unable to contact him regarding his debt.

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The Head of Building Control informed the Committee that Section 10 of the Street Trading Act (Northern Ireland) 2001 stipulated that, at any time after a Licence had been granted, the Council could, in certain circumstances, revoke a Licence. Such circumstances would include, as in this case, the non-payment, without reasonable explanation, of fees and charges due to the Council. He explained that, should the Committee be minded to pursue that course of action, the aforementioned Act required that he be provided with advance notification to that effect and be invited to either make written representation to the Council or to attend a future meeting in person.

After discussion, the Committee agreed that it was minded to revoke the Mobile Street Licence held by Mr. Thomas Seenan permitting him to trade in the Andersonstown, Ladybrook, Suffolk and Turf Lodge areas and agreed that he be invited to make representation to the Committee regarding its decision.

Malone/Ormeau/Skegoniell/Windsor

The Head of Building Control informed the Committee that Mr. Terry Horner had, in 2011, been granted a Mobile Street Trading Licence permitting him to sell ice cream, confectionery and non-alcoholic beverages at the above-mentioned locations. He explained that Mr. Horner had agreed to pay the licence fee on a monthly basis and that he had, initially, made regular payments. However, those had, in 2012, become more sporadic, and, as a result, his account had fallen into arrears. In order to address the issue, he had agreed with the Council's Central Transactions Unit to make a payment to cover his outstanding fees and had come to an arrangement regarding future payments. The Head of Building Control pointed out that the licensee had again been inconsistent in his payment and that his account had been in default since 2013. He provided details of Mr. Horner's current arrears and pointed out that, in spite of those, he had continued to trade, although he had, over the course of the past month, been engaging to a greater extent with Council officers.

The Head of Building Control informed the Committee that, under Section 10 of the Street Trading Act (Northern Ireland) 2001, the Council could, at any time after a Licence had been granted, in certain circumstances, revoke a Licence. Such circumstances would include, as in this case, the non-payment, without reasonable explanation, of fees and charges due to the Council. He explained that, should the Committee be minded to revoke Mr. Horner's Licence, the aforementioned Act required that he be provided with advance notification to that effect and be invited to either make written representation to the Council or to attend a future meeting in person.

After discussion, the Committee agreed that it was minded to revoke the Mobile Street Licence held by Mr. Terry Horner permitting him to trade in the Malone, Ormeau, Skegoneill and Windsor areas and agreed that he be invited to make representation to the Committee regarding its decision.

Chairman