

# Licensing Committee

Wednesday, 17th September, 2014

## MEETING OF LICENSING COMMITTEE

Members present: Councillor M. E. Campbell (Deputy Chairman)  
(in the Chair);  
Aldermen R. Patterson and Rodgers;  
Councillors Attwood, Clarke, Cunningham, Groves,  
Hussey, Hutchinson, Magee, Ó Donnghaile and Spence.

Councillor Mullan attended within thirty minutes of the commencement of the meeting but subsequent to the business having been concluded.

In attendance: Mr. T. Martin, Head of Building Control;  
Mrs. S. Toland, Lead Operations Officer/Head of  
Environmental Health;  
Mr. C. Campbell, Divisional Solicitor; and  
Mr. H. Downey, Democratic Services Officer.

### **Apologies**

Apologies were reported on behalf of the Chairman (Alderman Ekin) and Alderman McCoubrey.

### **Minutes**

The minutes of the meeting of 20th August 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 September, 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.

## **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 Council's Scheme of Delegation.

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**Application for the Grant of a Six-day Annual Entertainments Licence –  
Flame Restaurant, 36-50 Howard Street**

The Committee was advised that an application had been received for the grant of a Six-day Annual Entertainments Licence in respect of the above-mentioned premises. The Head of Building Control reported that the premises operated currently as a restaurant and that the applicant was seeking to offer entertainment, in the form of cabaret, within the main ground floor area, in order to enable it to compete on an equal footing with other venues in the City Centre. Whilst the applicant had applied to operate till midnight on each night, it was envisaged that only a Friday and Saturday night would be required.

He drew the Committee's attention to issues which had arisen in relation to the advertisement and provision of entertainment at Flame Restaurant, in advance of an Entertainments Licence having been granted, which had resulted in the Building Control Service initiating legal proceedings against the applicant. She had stated subsequently that the decision to replace background music with a singer and not to charge an admission fee or allow dancing had been taken on the basis of incorrect information which she had obtained, which had advised that those actions were permissible under the terms of her Liquor Licence. She had confirmed that the premises would operate as a restaurant only, until such times as her application had been determined, and had requested the Committee to consider granting an Entertainments Licence prior to the outcome of the legal proceedings being known.

The Head of Building Control reported further that, under the terms of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, the Committee, in considering any application for the grant, renewal or transfer of an Entertainments Licence, must have regard to any convictions of the applicant relating to an event under the Order which had occurred within a five-year period, immediately preceding the date on which the application had been made. He pointed out that, in view of the fact that there was a prosecution pending in relation to Flame Restaurant, the Committee was required to consider the application.

He informed the Members that no written representations had been received in relation to the application and that the Police Service of Northern Ireland had offered no objection. Since the offence had been detected, officers of the Building Control Service had met with the applicant and were satisfied that all of the requirements for the grant of an Entertainments Licence would be met. In addition, the Council's Environmental Protection Unit had confirmed that it had received no complaints in relation to noise disturbance or patron dispersal from the premises.

Accordingly, the Committee agreed, in its capacity as Licensing Authority, to grant a Six-day Annual Entertainments Licence in respect of Flame Restaurant, 36-50 Howard Street.

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**Application for the Renewal of a Seven-day Annual Entertainments Licence –  
The Annex Bar, 480-482 Shore Road**

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 explained that, under the terms of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, the Committee, in considering any application for the grant, renewal or transfer of an Entertainments Licence, must have regard to any convictions of the applicant relating to an event under the Order which had occurred within a five-year period, immediately preceding the date on which the application had been made.

He reminded the Committee that, at its meetings on 19th September, 2012 and 20th November, 2013, it had, in considering applications for the renewal of the Entertainments Licence, been informed that the applicant had, on 24th April, 2012, been convicted at the Belfast Magistrates Court of an offence under the aforementioned Order. The offence had related to an inspection in October, 2011 of the premises by an officer from the Building Control Service whilst entertainment had been taking place, which had found that an emergency exit to the rear of the ground floor had been locked. The Committee had, on each occasion, agreed to renew the Entertainments Licence.

He reported that, during the past year, two inspections had been undertaken whilst entertainment was being provided, each of which had found that the premises were being managed appropriately. He confirmed that no written representations had been received in relation to the application and that the Police Service of Northern Ireland had offered no objection. In addition, the Council's Environmental Protection Unit had, during the past twelve months, received no complaints in relation to noise disturbance from the premises.

The Committee agreed, in its capacity as Licensing Authority, to grant a renewal of a Seven-day Annual Entertainments Licence in respect of The Annex Bar, 480-482 Shore Road.

**Application for the Renewal of a Seven-day Annual Entertainments  
Licence – Red Devil Bar, 194-198 Falls Road**

The Head of Building Control drew the Committee's attention to an application which had been received for the renewal of a Seven-day Annual Entertainments Licence in respect of the Red Devil Bar, 194-198 Falls Road. He explained that, under the terms of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, the Committee, in considering any application for the grant, renewal or transfer of an Entertainments Licence, must have regard to any convictions of the applicant relating to an event under the Order which had occurred within a five-year period, immediately preceding the date on which the application had been made.

He reported that the licensee had, on 11th February, 2014, been convicted at the Belfast Magistrates Court of an offence under the aforementioned Order. The offence had related to an inspection in November, 2012 of the premises by an officer from the Building Control Service whilst entertainment had been taking place, which had found that a roller door covering an emergency exit to the rear of the premises had been locked and that the log book had been unavailable for inspection. He pointed out that,

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since the date on which the offence had been detected, officers had met with the management of the Red Devil Bar to review safety procedures and had been satisfied that appropriate measures had been put in place to ensure the safe evacuation of patrons in the event of an emergency. Three subsequent inspections had failed to identify any issues of concern. He confirmed that no written representations had been received in relation to the application and that the Police Service of Northern Ireland had offered no objection.

The Committee agreed, in its capacity as Licensing Authority, to grant a renewal of a Seven-day Annual Entertainments Licence in respect of the Red Devil Bar, 194-198 Falls Road.

**Application for the Renewal of a Seven-day Annual Entertainments Licence –  
Thompsons Garage, 3 Patterson’s 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 explained that, under the terms of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, the Committee, in considering any application for the grant, renewal or transfer of an Entertainments Licence, must have regard to any convictions of the applicant relating to an event under the Order which had occurred within a five-year period, immediately preceding the date on which the application had been made.

He informed the Members that the applicant had, on 13th May, been convicted at the Belfast Magistrates Court of an offence under the aforementioned Order. The offence had related to an inspection in September, 2013 of the premises by an officer from the Building Control Service whilst entertainment had been taking place. The officer had found that the numbers of patrons on the first and second floors of the premises, including the smoking area, had exceeded those permitted under the terms of the Entertainments Licence. Officers had, subsequently, met with the management of the premises to review fire safety procedures and were satisfied that the appropriate measures were in place to ensure the safe evacuation of patrons in the event of an emergency.

The Head of Building Control reported that, since the date of the conviction, three inspections of the premises had been undertaken by the Building Control Service whilst entertainment was being provided, none of which had revealed any major issues. He confirmed that no written representations had been received in relation to the application and that the Police Service of Northern Ireland had submitted no objection. In addition, the Council’s Environmental Protection Unit had, during the past twelve months, received no complaints in relation to the premises.

The Committee agreed, in its capacity as Licensing Authority, to grant a renewal of a Seven-day Annual Entertainments Licence in respect of Thompsons Garage, 3 Patterson’s Place.

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**Application for the Variation of a Seven-day Annual Entertainments Licence –  
Crescent Arts Centre, 2-4 University Road**

The Committee was advised that an application had been received for the variation of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises, based upon the Council's standard conditions to provide dancing, singing or music or any entertainment of a like kind. The Head of Building Control explained that the premises were licensed currently to provide entertainment till 1.00 a.m. each night, which took the form of theatrical and musical performances. The applicant was now seeking to operate till 3.00 a.m. to facilitate a dance festival, which it was envisaged would become an annual event and be held over two nights. He had indicated that, should that festival be successful, he might wish to offer additional events of that nature to that time.

The Head of Building Control reported that no written representations had been received in relation to the application and that the Police Service of Northern Ireland had offered no objection. He pointed out that the premises had, during the past year, been visited on one occasion by officers of the Building Control Service whilst entertainment was being provided and that it had been found to be operating in accordance with the Entertainments Licensing legislation. The Council's Environmental Protection Unit had confirmed that, during the past twelve months, it had received no complaints in relation to noise disturbance from the premises.

The Committee agreed, in its capacity as Licensing Authority, to grant a variation of a Seven-day Annual Entertainments Licence in respect of the Crescent Arts Centre, 2-4 University Road, with entertainment being permitted to take place, in future, till 3.00 a.m. on each night.

**Application for the Grant of an Amusement Permit –  
Twilight Zone, 100-150 York Street**

The Committee considered the undernoted report:

**“1 Relevant Background Information**

**1.1 An application was received on 24th July 2014 from Mr Samuel Stranaghan, EZE Gaming Limited for the grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (the Order)**

<b>1. <u>Premises and Location</u></b>	<b><u>Ref. No.</u></b>	<b><u>Applicant</u></b>
<b>Twilight Zone 100-150 York Street Belfast, BT15 3HF</b>	<b>WK/2014/1182</b>	<b>Mr Samuel Stranaghan EZE Gaming Limited</b>
<b>2 The Directors of EZE Gaming Limited are Mr Samuel Adam Stranaghan, and Mr Robert Mark Stranaghan.</b>		

**1.3 The permit is for a total of 80 gaming machines, all of which are to pay out a maximum all cash prize of £25.00. In the case**

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of premises which have machines with a maximum cash prize of £25.00 admission is restricted to persons aged 18 or over.

- 1.4 The proposed opening hours of the premises, as specified on the application, are:

Monday to Sunday from 10.00 a.m. to 10.00 p.m.

- 1.5 The premises is located in the Citysite retail complex, (formerly Yorkgate Shopping Complex), which consists of retail units, a multi screen cinema, bingo premises and restaurants.
- 1.6 A location map has been forwarded to Members.
- 1.7 Public notice of the application was placed in the Daily Mirror, Irish News and Newsletter within seven days of the application being made.

**2 Key Issues**

- 2.1 Members are reminded that the Licensing Committee is responsible and has full delegated authority for determining all applications relating to the grant and provisional grant of Amusement Permits.
- 2.2 Members may be aware that an arcade has operated at this premise since 1999. A permit authorising machines which pay out a maximum all cash prize of £25.00 was first granted at the Health and Environmental Services Committee on 11th September, 2006.
- 2.3 Members are advised that there is no mechanism within the Order to enable the transfer of a permit from one company to another, as is happening in this case, therefore an application must be made for the grant of an Amusement Permit.

**Representations**

- 2.4 No objections have been received as a result of the public notices placed in the three local newspapers.

**Applicant**

- 2.5 The applicant intends to operate the premises the same as it has previously operated, with the same number of machines and under the same hours.

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- 2.6 A representative from EZE Gaming Limited will be available to discuss any matters relating to the grant of the permit at your meeting.**

**PSNI**

- 2.7 The Police Service of Northern Ireland has been consulted in relation to the application but at the time of writing this report its response is outstanding. However, we will present a copy of their response at your meeting.**

**Health, Safety, Welfare and Technical requirements**

- 2.8 The applicant has confirmed that no changes are being made to the arcade that would require a Building Regulations application.**

**Planning Matters**

- 2.9 A planning application was made to the Planning Service on the 17th June 2003 for the 'Retrospective change of use to Amusement Centre' and this was granted on 15th August 2003.**
- 2.10 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.**
- 2.11 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.**
- 2.12 A copy of the planning permission and informatives has been circulated to the Committee.**

**Environmental Considerations**

- 2.13 Members may wish to consider whether the continued use of the premises for an amusement arcade will impact positively, negatively or neutrally on the existing built environment of the area which is predominately retail and commercial in character.**

**Amusement Permit Policy**

- 2.14 Members will be aware that an Amusement Permit Policy was ratified at Council on 1st May, 2013. It outlines those matters**

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which may be taken into account in determining any application and indicates that each application must be assessed on its own merits.

**2.15 The key Policy objectives are to:-**

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

The Policy consists of two components which are considered below:

**1. Legal requirements under the 1985 Order**

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

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

**2.17 References and additional supporting information for those associated with the application have been circulated to the Committee.**

**(b) The nature of the premises and activity proposed:**

**2.18 To ensure that the nature of the premises proposed is suitable for this location Members may consider how the premises are illuminated, the form of advertising and window display, and how notices are displayed on the premises. Whilst the appearance of amusement arcades is considered a Planning matter, Members may still wish to be satisfied that the façade integrates with adjacent frontages.**

(c) Opinions of the Police Service:

- 2.19 The Police comments have been sought and reference is made in paragraph 2.7 of the report.

(d) Submissions from the general public:

- 2.20 No objections have been received as a result of the public notices placed in the three local newspapers.

**2. Assessment criteria for suitability of a location**

- 2.21 There are five criteria set out in the Policy which should typically be considered when assessing the suitability of a location for an amusement arcade. These are detailed below as they relate to this application.

(a) Retail vibrancy and viability of Belfast:

- 2.22 The application premises are located outside of the Primary Retail Core and City Centre limit, as defined by the draft Belfast Metropolitan Area Plan 2015 (dBMAP). It occupies a first floor unit in the Cityside retail complex, with primary access provision located nearest to the York Street entrance. The unit is an existing amusement arcade occupying a corner within the complex. Therefore, it cannot be concluded that this existing premises would break up a continuous shopping frontage.

*Application complies with this criterion.*

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

- 2.23 The existing amusement arcade that occupies the unit to which this application applies is the only amusement arcade situated in the Cityside Complex. Accordingly, this application does not exceed the permitted number of amusement arcades per shopping centre.

*Application complies with this criterion.*

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

- 2.24 The application premises has no neighbouring property deemed to be a tourism asset, nor is it located at a key entrance junction (Gateway) to the City Centre, as identified in the dBMAP 2015. Within this context, the application cannot

be considered as having a negative impact on the image and built heritage of the city.

Application complies with this criterion.

(d) Proximity to residential use:

(i) - predominantly residential in character

2.25 The application premises is located at first floor level, within the Cityside retail complex, where there are a mix of uses including a bingo hall, restaurants and retail units. It can therefore be viewed as a 'mixed use' commercial and leisure environment, and not one that is residential in character.

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

2.26 Being located in a retail complex, there are no residential properties immediately adjacent to the application premises.

*Application complies with this criterion.*

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

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

*Application complies with this criterion.*

### Conclusion

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

2.29 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 Administration of Amusement Permit applications is included in current budgetary estimates.**

**Human Resources**

- 3.2 None**

**Asset and Other Implications**

- 3.3 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 for the Grant of an Amusement Permit, 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 is to be carried on under the Permit would be managed, or for whose benefit that business would be carried on,**
- c) Representation, if any, from the sub-divisional commander of the Police Service of Northern Ireland in whose sub-division the premises are situated, and**
- d) Representation, if any, as a result of the public notices of advertisement.**

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

- 5.2 You must refuse the application unless satisfied that:**

- a) The applicant is a fit person to hold an Amusement Permit; and**

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- 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.**

**5.3 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**

**5.4 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 –**

- 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**
- 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.**

**5.5 Should you be of a mind to refuse the application for the Grant of an Amusement Permit or grant the Permit subject to any discretionary conditions, you are required to advise the applicant of your intention so to do. 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.**

**5.6 If, subsequent to hearing the applicant, you refuse the application for the Grant of an Amusement Permit or decide to grant the application subject to discretionary conditions the applicant may appeal that decision to the County Court.”**

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The Committee agreed, in its capacity as Licensing Authority, to grant an Amusement Permit in respect of Twilight Zone, 100-150 York Street, 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 being 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.

**Review of a Mobile Street Trading Licence**

The Committee was advised that Mr. Angelo Morelli had, since 2006, held a Mobile Street Trading Licence permitting him to sell ice cream, confectionery and non-alcoholic beverages in the Ardoyne, Cliftonville, Duncairn, Falls, Fortwilliam and Oldpark areas of the City. The Head of Building Control reported that Mr. Morelli had, upon obtaining his Licence, agreed to pay the associated fee by cash on a monthly basis and that he had made regular payments between 2006 and 2012. However, in July, 2013, his payments had ceased and his account had fallen into arrears. Despite being issued with invoices and reminder letters by the Council's Central Transactions Unit, Mr. Morelli had made no further payments until June, 2014, at which time he had signed an agreement to pay off his arrears at a rate of £60 per week. However, only one such payment had been made and the licensee's debt had continued to accumulate, to the extent that it now stood at £969. He added that routine inspections by Council officers of the areas covered by Mr. Morelli under the terms of his Licence had found no evidence of him trading and that they had been unable to contact him regarding the matter.

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 being granted, the Council could, in certain circumstances, revoke a Licence. Such instances 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 Mr. Morelli 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 Trading Licence held by Mr. Angelo Morelli permitting him to trade in the Ardoyne, Cliftonville, Duncairn, Falls, Fortwilliam and Oldpark areas and agreed that he be invited to make representation to the Committee regarding its decision.

Chairman