



<b>Subject:</b>	<b>Competing Stationary Street Trading Licence applications for Donegall Square East at Centra</b>
<b>Date:</b>	16 August 2023
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, Ext. 2435
<b>Contact Officer:</b>	James Cunningham, Senior Licensing Officer, Ext. 3375

<b>Restricted Reports</b>	
<b>Is this report restricted?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>If Yes, when will the report become unrestricted?</b>	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

<b>Call-in</b>	
<b>Is the decision eligible for Call-in?</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
1.1	To consider two separate and competing Street Trading Licence applications to trade at the designated site in Donegall Square East at Centra. The site is for night time use only.
1.2	Members are reminded that the normal process for dealing with competing Street Trading Licence applications is that the Service will bring the matter to your attention for consideration.
1.3	All the applications comply with the designating resolution for the site.
<b>2.0</b>	<b>Recommendations</b>
2.1	Based on the submissions presented and considering any amendments to the applications, the Committee is requested to consider each application in turn, taking into account Section 5 of the Street Trading Licensing Policy outlined in paragraph 3.5, and decide whether it is:

<p>2.2</p> <p>2.3</p>	<ol style="list-style-type: none"> <li>1. Minded to grant and approve the Licence to Mr Patrick McCafferty; or</li> <li>2. Minded to grant and approve the Licence to Mr Christopher Hamill; or</li> <li>3. Minded to grant and approve the Licence to one of the applicants with additional Conditions, and then;</li> <li>4. Minded to refuse the Licence application under the discretionary grounds as outlined at paragraph 3.3 below, of the applicant who has not been granted a Licence.</li> </ol> <p>When minded to refuse a Licence application, the applicant must be informed that they will be permitted to make representation regarding the refusal to the Council, with such representations to be made not less than 21 days from the date of notice.</p> <p>As a consequence, the actual decision to grant and refuse the Licence will be considered at a meeting on a later date. There is a right of appeal to the Magistrate's Court against any refusal on these grounds.</p>
<p><b>3.0</b></p>	<p><b>Key Issues</b></p>
<p>3.1</p> <p>3.2</p> <p>3.3</p>	<p>The Street Trading Act (Northern Ireland) 2001 (the Act) places a statutory obligation on a district council to grant an application for a Street Trading Licence unless there are sufficient grounds to refuse it.</p> <p>Section 8 of the Act sets out circumstances in which an application must be refused, however there are no such grounds of refusal applicable to these licence applications.</p> <p>Section 9 of the Act sets out discretionary grounds under which a district council may refuse to grant an application.</p> <p>a. That –</p> <ol style="list-style-type: none"> <li>i. The location at which the applicant wishes to trade as a stationary trader is unsuitable;</li> <li>ii. The space in the designated street in which the applicant wishes to trade as a stationary trader is inadequate for the applicant to do so without causing undue interference or inconvenience to persons or vehicles using the street;</li> <li>iii. The area or areas of the district in which the applicant wishes to trade as a mobile trader are unsuitable for the applicant to do so without causing undue interference or inconvenience to persons or vehicles in the area or areas;</li> <li>iv. There are sufficient traders trading in the street, or at premises adjoining it, in the articles, things or services in which the applicant wishes to trade;</li> <li>v. The nature of the articles, things or services in which the applicant wishes to trade is such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area in which the applicant wishes to trade;</li> </ol> <p>b. That the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;</p> <p>c. That the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;</p>

- d. That the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;
- e. That the applicant has at any time been granted a street trading licence by the council, which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to the council in respect of the licence;
- f. That the applicant has failed to provide the particulars required by the council to deal with the application;
- g. That the applicant has failed to provide or identify suitable or adequate arrangements for storing any articles, things or receptacles in or with which he proposes to trade.

3.4

There is a right of appeal to the Magistrate's Court against any refusal on these grounds.

3.5

Members are reminded that the Council, in March 2011, agreed an amended Street Trading Licensing Policy to allow for circumstances where there are two or more applications for the same designated pitch within the City. Attached as appendix 3.

3.6

Section 5 of the Policy provides guidance on how to deal with competing licence applications and states that without prejudice to the discretionary grounds for refusing an application the Council may also take the following into account:

1. The suitability of the application in the context of the area or street;
2. The suitability of allowing more than one application in the area or street;
3. The commodities or services which each applicant intends to sell or supply;
4. The merits of each application in the context of the character and appearance of the proposed area;
5. Whether a mobile trader/a number of mobile traders will affect the character and appearance of the proposed area;
6. Any potential adverse impact caused to the character and appearance of the proposed location by the application, by a mobile trader or by a number of mobile traders;
7. The extent to which the sale of the commodity will provide a useful service not otherwise provided in the area.

#### **Details of the competing applications**

3.7

#### **Applicant 1**

3.8

Mr Patrick McCafferty has applied for the grant of a stationary street trading licence to sell hot food and non-alcoholic beverages from a hot food trailer measuring 4.2m by 2.4m. His proposed hours of operation are as follows:

3.9

- Monday to Sunday from 10.00pm to 3.00am

Mr McCafferty is currently licensed to trade at night and has been trading at the designated site in Tomb Street since March 2022, selling hot food and non alcoholic beverages. This will be an additional trading site for Mr McCafferty. During routine inspection we have found Mr McCafferty has been trading without infringement of his licensing conditions.

3.10	Mr McCafferty is registered with the Council's Environmental Health Food Safety and has a 5* Food Hygiene Rating.
3.11	<p>Mr McCafferty was asked to provide some additional information about his proposal. A brief synopsis of the information is below.</p> <ul style="list-style-type: none"> <li>• If granted the licence for Donegall Square East it would be his intention to surrender the Licence for Tomb Street so as to concentrate his efforts on the Donegall Square East pitch.</li> <li>• He has worked throughout Ireland at a number of locations and at events including the National Trust at the Divis Blackmountain summer solstice event, and the Lammas Fair in Ballycastle.</li> <li>• He states he uses as much locally sourced products as he can and also uses environmentally friendly packaging. He offers products at affordable prices, through an extensive menu, (not just burgers) with vegan and vegetarian options.</li> <li>• Whilst trading in Tomb Street, he does a litter pick once an hour and at the end of every night's trading he makes sure all litter is lifted, this routine would continue if granted the pitch at Donegal Square East.</li> <li>• He has provided two photos of his trailer, 'The PattyWagon' and towing vehicle.</li> </ul>
3.12	<b>Applicant 2</b>
3.13	<p>Mr Christopher Hamill has applied for the grant of a stationary street trading licence to sell hot food and non-alcoholic beverages from a hot food trailer measuring 4.8m by 1.8m. His proposed hours of operation are as follows:</p> <ul style="list-style-type: none"> <li>• Monday to Sunday from 10.00pm to 4.00am</li> </ul>
3.14	Mr Hamill is currently licensed to trade during the day and has been trading at the designated site in Balmoral Road outside 'The Range' since December 2018, selling hot food and non-alcoholic beverages. This will be an additional trading site for Mr Hamill.
3.15	During routine inspection we have found Mr Hamill has been trading without infringement of his licensing conditions. In April 2021, he was reminded about leaving his trailer on site after the hours of trading. He acknowledged the issue and resolved the matter.
3.16	Mr Hamill is registered with the Council's Environmental Health Food Safety and has a 5* Food Hygiene Rating.
3.17	<p>Mr Hamill was asked to provide some additional information about his proposal. A brief synopsis of the information is below.</p> <ul style="list-style-type: none"> <li>• He informs us that has been operating a catering trailer for 12 years and therefore has experience and knowledge of running a successful site. The trailer that he will be using is a professionally built trailer which is clean and well presented and his staff are trained in food hygiene.</li> <li>• The general proposal will be hot food such as chips/burgers/chicken/etc. but other alternatives could be added to the menu if there is a demand for them. He will ensure that the site is cleared of litter each evening. There will be no problem in managing each of</li> </ul>

	<p>the two sites as one is daytime and the other late nights. Staff are currently in place on the daytime site and would also be available to work some evenings.</p> <ul style="list-style-type: none"> <li>• He has provided a photo of his trailer</li> </ul> <p><b><u>Consultation</u></b></p> <p>3.18 The PSNI and DfI Roads Service were consulted regarding this proposal as the site has been vacant for a number of years. Their responses are attached as Appendix 1.</p> <p>3.19 <b>Police Service of Northern Ireland</b> The police have no objection.</p> <p>3.20 <b>DFI Roads</b> The Department have no objection.</p> <p>3.21</p> <p>3.22 The applicants have been invited to appear before Committee and make a brief presentation on matters such as how the business will be operated, the design of the trailer, how the commodities they propose to sell will add to the area and address any concerns with their proposals.</p> <p>3.23 After considering representations from the applicants you will then be required to make a decision that you are minded to grant one of the applications and to refuse the other. Committee must give grounds as to why they are minded to refuse an application.</p> <p>3.24 Committee is reminded that the applicants for the Licence whose application you are minded to refuse will be permitted to make written representation to the Council. As a consequence, the actual decision to grant and refuse the Licences will be considered at a meeting on a later date.</p> <p><b><u>Financial &amp; Resource Implications</u></b></p> <p>3.24 If the Committee grants a Licence, the Stationary Street Trading Licence fee is as follows:</p> <ul style="list-style-type: none"> <li>• Application Fee of £150, and</li> <li>• A Licence fee, for Monday to Sunday, of £1250 per annum.</li> </ul> <p><b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b></p> <p>3.25 There are no issues associated with this report.</p>
<b>4.0</b>	<b>Appendices – Documents Attached</b>
	<ul style="list-style-type: none"> <li>• Appendix 1 - PSNI and DfI Roads Service consultation response</li> <li>• Appendix 2 – Overview of applications</li> <li>• Appendix 3 - Street Trading Licensing Policy</li> </ul>