

Licensing Committee

Wednesday, 16th August, 2023

MEETING OF THE LICENSING COMMITTEE

HELD IN THE LAVERY ROOM AND REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor McKeown (Chairperson);
Aldermen McCullough, McCoubrey and Rodgers;
Councillors Anglin, Bradley, P. Donnelly, Doran,
D. Douglas, Lyons, Murray, F. McAteer, McCabe,
McCann, McCusker, McMullan, Ó Néill and Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Ms. N. Largey, Interim City Solicitor/Director of Legal and
Civic Services;
Mr. S. Hewitt, Building Control Manager;
Ms. V. Donnelly, City Protection Manager;
Mr. J. Cunningham, Senior Licensing Officer; and
Mr. J. Hanna, Senior Democratic Services Officer.

Apologies

Apologies were received from Councillors Collins and Gormley.

Minutes

The minutes of the meeting of 21st June 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 July, 2023, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor McCusker declared an interest 2(f) – Application for the Grant of a 7-Day Annual Outdoor Entertainments Licence for Holy Cross Boys Pitch in that he was on the Ardbone Festival Committee and left the meeting while the item was under consideration.

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 a list of applications for licenses which had, since its last meeting, been approved under the Council's Scheme of Delegation.

Competing Stationary Street Trading Licence applications for Donegall Square East at Centra

The Committee considered the following report:

“1.0 Purpose of Report or Summary of main Issues

- 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.

2.0 Recommendations

- 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:
 - 1. Minded to grant and approve the Licence to Mr. Patrick McCafferty; or
 - 2. Minded to grant and approve the Licence to Mr. Christopher Hamill; or
 - 3. Minded to grant and approve the Licence to one of the applicants with additional Conditions, and then;
 - 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.
- 2.2 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.
- 2.3 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.

3.0 Key Issues

3.1 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.

3.2 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.

3.3 Section 9 of the Act sets out discretionary grounds under which a district council may refuse to grant an application.

a. That –

- i. The location at which the applicant wishes to trade as a stationary trader is unsuitable;**
- 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;**
- 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;**
- 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;**
- 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;**

b. That the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;

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- c. That the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;
 - 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

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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

Applicant 1

- 3.7 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:
 - Monday to Sunday from 10.00 p.m. to 3.00 a.m.
- 3.8 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.
- 3.9 Mr. McCafferty is registered with the Council's Environmental Health Food Safety and has a 5* Food Hygiene Rating.
- 3.10 Mr. McCafferty was asked to provide some additional information about his proposal. A brief synopsis of the information is below.
 - 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.
 - 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.
 - 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.

- 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.
- He has provided two photos of his trailer, 'The PattyWagon' and towing vehicle.

Applicant 2

3.11 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:

- Monday to Sunday from 10.00 p.m. to 4.00 a.m.

3.12 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.

3.13 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.

3.14 Mr Hamill is registered with the Council's Environmental Health Food Safety and has a 5* Food Hygiene Rating.

3.15 Mr Hamill was asked to provide some additional information about his proposal. A brief synopsis of the information is below.

- 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.
- The general proposal will be hot food such as chips/burgers/chicken/etc. but other alternatives

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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 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.

- He has provided a photo of his trailer.

Consultation

- 3.16 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.

Police Service of Northern Ireland

- 3.17 The police have no objection.

DFI Roads

- 3.18 The Department have no objection.
- 3.19 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.
- 3.20 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.
- 3.21 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.

Financial and Resource Implications

- 3.22 If the Committee grants a Licence, the Stationary Street Trading Licence fee is as follows:
- Application Fee of £150, and

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- **A Licence fee, for Monday to Sunday, of £1250 per annum.**

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

3.23 There are no issues associated with this report.”

The Committee was advised that both applicants were in attendance and were invited by the Chairperson to address the Committee.

Mr. McCafferty indicated that he had already submitted additional information (as set out in the report). He reiterated that he would surrender the Licence for Tomb Street if this application was granted.

Mr. Hamill, who had been in attendance on line was invited to make representation, but did not or could not address the Committee.

The Committee agreed that it was minded to grant a Street Trading Licence at Donegall Square East at Centra to Mr. Patrick McCafferty to sell hot food and non-alcoholic beverages from a hot food trailer measuring 4.2m by 2.4m. from Monday to Sunday from 10.00 p.m. to 3.00 a.m.

As a consequence of the decision to grant the Licence to Mr. McCafferty and the fact that there was only one designated site available, the Committee agreed that it was minded to refuse the application which had been submitted by Mr. Christopher Hamill, on the grounds set out in Section 9 (a) (i) and (iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which the applicant wishes to trade as a stationary trader is unsuitable and 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.

The Committee noted that, when minded to refuse a Licence application, the applicant would be permitted to make representation to the Council regarding the refusal, with such representations to be made not less than 21 days from the date of the notice. Therefore, the actual decision to grant and refuse the Licence would be considered at a meeting at a later date. The Committee noted also that there was a right of appeal to the Magistrate’s Court against any refusal on these grounds.

**Reconsideration of Designating Resolution
for Street Trading Sites at Writers Square,
Annadale Embankment and King Street**

The Committee was advised that under the provisions of the Street Trading Act (NI) 2001, a district council had powers to designate and rescind the designation of specific streets or parts of streets as being suitable for street trading. The Act also allowed a council to vary a previous designating resolution in relation to the commodities or services to be supplied in specific streets. If a street or the commodity to be offered had not been designated under the Act the Council cannot issue a licence for street trading from a stationary position in that street.

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The process of considering and reviewing the designation of streets is therefore an essential part of the legal framework within which the Council is enabled to regulate street trading in the City.

The Committee will recall that, at its meeting on 15th February 2023, it had granted approval to initiate the statutory process for the designation of 6 sites at Writers Square and 1 site at Annadale Embankment, which had been identified as a result of expressions of interest received from individuals wishing to trade from new sites. In addition, a previous decision by the Committee to refuse to designate a site in King Street was being reconsidered.

Based on the information presented, the Committee was requested to consider each proposal in turn and to:

1. Approve a Designating Resolution to designate the whole street or part of the street (site/s), where it may allocate street trading pitches. The Designating Resolution will include the operational date and may stipulate either:
 - Only specified articles, things or services or classes of specified articles, things or services that may be sold or supplied; or
 - Specified articles, things or services or classes of specified articles, things or services that are prohibited.

Or

2. Decide not to proceed with any or all of the proposals.

In addition to making any Designating Resolution, the Committee might, having considered all comments, record any reasonable conditions that should be applied to a subsequent licence. For example, these might include hours of trade, days of trade, duration of licence.

The Committee was reminded that, once the site became designated it would subsequently have to consider any applications that might be received for a Street Trading Licence on any of the sites.

At that time, the Committee would assess the suitability and quality of the proposals and might decide to grant or refuse a licence within the requirements of the Act. Any Street Trading Licence granted might also be subject to reasonable conditions which could be used to control the commodities being sold, potential nuisance, etc.

The Members were informed that the designation process involved seeking comments from interested parties, including relevant statutory bodies, through public advertisement and consultation. The Street Trading Act (NI) 2001 required the Council to ensure that each application was fairly and objectively assessed, that all relevant factors were considered and, in doing so, the Council must consult with the:

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- PSNI, and
- Department for Infrastructure - Roads.

The Council may also consult other persons as it considers appropriate. Such consultees might include local residents, business and commercial premises in the vicinity of the site in respect of which the application has been received.

The Committee then proceeded to consider each of the sites in turn:

Writers Square (6 sites)

The proposal was for Commodities to be determined.

The Department for Communities (DfC) own the square and had made the proposal. Any subsequent applicant for a Street Trading Licence would first require agreement from the DfC to use the Square. DfC want to encourage a range of commodities such as arts and crafts, fresh food, hot and cold non – alcoholic beverages. There will be no late night trade.

The DfC has discussed their proposal with Destination CQ Business Improvement District (BID) Board and it had its support.

The Police Service of Northern Ireland and DfI Roads had no objection and no responses were received to the public notice.

Annadale Embankment in layby

The proposal was for hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.

The Police had no objection and acknowledged that no night time hot food traders sites were being considered. The Department for Infrastructure – Roads had no objection to the proposal and no responses were received to the public notice.

A. King Street, second parking bay moving away from Castle Court.

The proposal was for a site to trade in hot and cold food and non-alcoholic beverages at night time.

The Committee was reminded that it had previously agreed to consider a request from Councillor McCusker that the Committee reconsiders its decision, of 10th March 2021, to refuse to designate a proposed new street trading site in King Street.

In seeking to have the decision of 10th March 2021 reconsidered, Councillor McCusker had provided some additional information where the designation applicant had offered to provide security at the proposed trading site on the nights he would be operating.

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The Committee was reminded that, at its meeting on 10th March 2021, it was agreed that, based on the information presented, including concerns which had been raised by both the PSNI and Belfast City Centre Management, the proposal for a site to trade in hot and cold food and non-alcoholic beverages at night-time, at the second parking bay, moving away from Castle Court, on King Street, be refused.

The Members were advised that the designation process was about the principle of a street trading pitch being at the location. Matters regarding the suitability of a particular person, the stall and the ability to manage the site were considered as part of the licensing process. The person requesting a site to be designated, was merely a 'trigger' for the process and they might not be the person who is ultimately granted the Street Trading Licence to operate at the site. The Members were reminded also that on occasions the Committee had considered multiple competing licence applications for street trading sites.

For Members information, the Council had previously considered a number of sites for the sale of hot food at night-time and determined that those sites would not be designated, including another site in King Street.

The Service had received responses to the re-consultation from the PSNI and DfI Roads.

The police continued to have concerns about the potential for disorder in and around the immediate area of the proposed site location. There was the potential for crowds gathering and loitering in unmanaged queues possibly spilling out onto the main road or causing added anti-social behaviour.

The Department had no objection to the proposal.

Belfast City Centre Management (BCCM) had previously commented that King Street was already a busy location for vehicular traffic, with a taxi depot and the West Belfast Taxi Association Terminal and Tourist Information Desk located there. BCCM believed the introduction of a hot/cold food stall to the area would encourage crowds to gather in the evening and this would pose a major health and safety concern for both pedestrian and vehicle traffic. BCCM's experience had shown hot food stalls introduced to an area has resulted in an increased level of anti-social behaviour, particularly at night time, which was the proposed trading hours for this location.

No update was provided from BCCM, following the cessation of their core funding from the Department for Communities for the engagement and facilitation roles they had carried out in the city centre.

No responses were received to the public notice.

After discussion, the Committee:

Writers Square (6 sites)

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Agreed to designate 6 sites at Writers Square for the purpose of Street Trading, the commodities for which to be determined.

Annadale Embankment in layby

Agreed to designate a site for Street Trading in the layby at Annadale Embankment for the sale of hot and cold non-alcoholic beverages, confectionery, ice-cream and cold food or similar commodities.

King Street, second parking bay moving away from Castle Court

Agreed to defer consideration of the site to enable representatives of the PSNI to attend a future meeting of the Committee to voice their concerns.

**Application for the Grant of a 7-Day Annual
Outdoor Entertainments Licence for The Topsy
Bird, 96-100 Ann Street, Belfast, BT1 3HH**

The Committee was advised that an application had been received for the grant of a 7-Day Annual Outdoor Entertainments Licence for the Topsy Bird. The applicant proposed to provide entertainment in the form of live musical one or two person acts. The outdoor area was located to the rear of the venue and opened onto Princes Street. The premises currently had an existing Indoor Entertainments Licence.

The days and hours during which entertainment might be provided under the terms of the Indoor Entertainments Licence were:

- Monday to Saturday 11.30 a.m. to 03.00 a.m., and
- Sunday 12.30 p.m. to 03.00 a.m.

The days and hours proposed to provide entertainment within the outdoor area were:

- Friday 4.00 p.m. to 10.30 p.m.
- Saturday 2.00 p.m. to 8.30 p.m.
- Sunday 2.00 p.m. to 8.30 p.m.

The maximum occupancy of the proposed outdoor area would be in the region of between 120 and 180 people. The exact figure would be determined when all technical matters related to the application were resolved to the satisfaction of the Service. The number of persons to be accommodated in the new outdoor area was included in the existing overall maximum occupancy of the indoor area of 430 persons; they were not in addition to that occupancy.

All applications for the grant of Outdoor Entertainments Licences must be brought before Committee for consideration.

The Committee was advised that an objection to the application was received. Further to negotiations between both parties, a noise impact assessment was carried out

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by acoustic consultants acting on behalf of the applicant and the objector. The assessment identified that the limited noise levels had a minimal impact on the Translink Control Room and communication had now been received confirming that the objection has been withdrawn.

However, the objector had concerns that these noise tests had not been carried out during a live performance with patrons present. The Objector has requested that a special condition be attached to the licence to ensure that if noise arising from live entertainment impacts on the Translink Control Room operations then further monitoring of the noise levels would be carried out by the Applicant to establish an acceptable noise level.

The Police Service of Northern Ireland and the Northern Ireland Fire and Rescue Service had both been consulted and neither had any objection to the application.

The premises had been subject to inspections as part of the licensing application process and all technical requirements and associated operational and management procedures had been checked and were satisfactory.

The applicant had provided the Service with a noise impact assessment report from an acoustic consultant for the outdoor area. This had been provided to the Environmental Protection Unit for evaluation.

The Building Control Manager requested that, if the Committee was of the mind to grant the Outdoor Entertainments Licence, then delegated authority was being sought to attach any terms and conditions to the Licence regarding the management of noise. Such conditions would only be attached with the full agreement of the licensee.

The Committee was advised that the applicant was in attendance, and he advised the Committee that he would content for the Committee to apply a condition which would allow it to monitor the sound on an ongoing basis.

The Committee approved the application for the grant of the 7-Day Annual entertainments Licence within the outdoor area, subject to any terms and conditions as outlined above in relation to the management of sound.

**Consideration of an objection to an application
for the renewal of an Entertainments Licence
for The Suffolk Inn**

The Committee considered the following report:

“1.0 Purpose of Report or Summary of Main Issues

- 1.1 To consider an application for the renewal of a 7-Day Annual Indoor Entertainments Licence for The Suffolk Inn based on the Council’s standard conditions to provide music, singing, dancing or any other entertainment of a like kind. They are**

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also licensed for any public contest e.g., pool or snooker competitions, and for the playing of pool, snooker, etc.

1.2	<u>Area and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
	The Suffolk Inn, 12 -14 Suffolk Road, Belfast BT11 0PB	WK/2020/02218	Mr Tony Clarke, The Suffolk Inn Ltd, 53 Andersonstown Road, Belfast, BT11 9AG

1.2 A location map of the premises is attached as Appendix 1.

2.0 Recommendations

2.1 Considering the information presented and representations received in respect of the application you are required to make a decision to either:

1. Approve the application for the renewal of the 7-Day Annual Entertainments Licence, or
2. Approve the application for the renewal of the 7-Day Annual Entertainments Licence with special conditions, or
3. Refuse the application for the renewal of the 7-Day Annual Entertainments Licence.

2.2 If the application is refused, or special conditions are attached to the licence to which the applicant does not consent, then the applicant may appeal the Council's decision within 21 days of notification of that decision to the County Court.

3.0 Main Report

Key Issues

3.1 One objection has been received from a resident living near the premises. The nature of their objection relates to the following:

- Unacceptable levels of noise from patrons.
- Antisocial behaviour by patrons of premises.

3.2 A copy of the objection is attached as Appendix 2.

Liaison meetings

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- 3.3** Following receipt of the objection the Service tried to facilitate liaison meetings between all parties involved to discuss the resident's issues and attempt to resolve them.
- 3.4** Attempts to hold a meeting either online or in person proved unsuccessful. However, the resident still wish to pursue the objection.
- 3.5** As required by the Committee Protocol the applicant and the objector were requested to provide their representation in advance of the meeting for consideration.

Objectors Representation

- 3.6** The objector Representation Form is attached in Appendix 3 and this has been provided to the applicant, as required by the protocol.
- 3.7** In general, the representations relate to concerns as follows:
- persistent, loud and unsociable noise from private events such as DJs, singers and private parties
 - subsequent issues that come from private events being held as the noise is often not regulated
 - significant anxiety and tension it causes within the local surrounding area.
 - residents are anxious every weekend that their property will be damaged and especially concerned about the quality of sleep and wellbeing they will lack.
- 3.8** The objector has been invited to attend your meeting to discuss any matters relating to the objections should they arise.

Applicants Representation

- 3.9** The applicant has provided their Representation Form, as required by the Protocol, and a copy of their response is attached as Appendix 4. The applicant has highlighted the measures which have been undertaken to try and address residents' concerns.
- 3.10** The applicants Representation Form has also been provided to the objectors, as required by the protocol.
- 3.11** A summary of the applicant's representation is as follows:
- Shutters down at 11pm to minimise noise

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- Door staff to control two doors to ensure doors were not propped open and trained/spoke to staff to watch out for this
- Drink must be left in the hallway/table when going outside to reduce people standing outside when smoking
- Approached a local taxi firm to make taxis available at the end of the night
- Conversations with DJ about the volume of music.
- Moved speakers to point inwards to the hall.

Counter representations

- 3.12 In response to the Representation Form submitted by the applicant, the objector has advised NTNT have witnessed noise, the proposed amendments are not adhered to, there is broken glass in the street and windows are kept open during the summer.
- 3.13 No counter representation from the applicant has been received.
- 3.14 The applicant and/or their representatives will be available at your meeting to answer any queries you may have in relation to the application.

Details of the Premises

- 3.15 The areas licensed to provide entertainment are the:
- Ground Floor Lounge with a maximum capacity of 220 persons
 - First Floor Lounge with a maximum capacity of 240 persons.
- 3.16 The days and hours entertainment can be provided are:
- Monday to Saturday: 11.30 am to 2.00 am the following morning and,
 - Sunday: 12.30 pm to midnight.

PSNI

- 3.17 The PSNI have been consulted and attended a joint meeting with the Licensee and Council Officers in relation to the application and confirmed that they have no objection to it. This response is contained within Appendix 5.

NIFRS

- 3.18 The Northern Ireland Fire Rescue Service were consulted in relation to the application and have advised they have no objection to it. However following a site visit in January 2022 they did make verbal recommendation regarding a reduction in numbers in the first floor due to management of the premises, this matter continues to be ongoing but will be resolved prior to the renewal of the current application.
- 3.19 A copy of this email is included as Appendix 6.

Health, safety and enforcement inspections

- 3.20 The premises have been inspected and all works to ensure patron safety in the premises have been completed to the satisfaction of the Service.

Noise issues

- 3.21 Nine noise complaints have been received by the Night Time Noise Team (NTNT) since the renewal application was made in November 2021. When responding to the complaints and attending the area, Officers of the Noise Team have witnessed faint music and patron voices and antisocial behaviour.
- 3.22 On two of the occasions, Officers of the Noise Team witnessed excessive noise levels that warranted action.
- 3.23 On 12th February 2022 Night-Time Noise Team (NTNT) witnessed audible music from open doors and very loud bass beat music. They spoke to the Duty Manager to lower the music and close the doors.
- 3.24 On 24th July 2022 NTNT issued a verbal warning to the manager after attending the premises following three separate reports of noise. NTNT witnessed loud music to the ground and first floor, first floor windows all open and noise was escaping through the opened front doors as patrons were leaving.
- 3.25 There is a special condition attached to the premises when entertainment is being provided that all openable windows remain fixed shut.
- 3.26 The applicant has provided an acoustic report as requested by the Service. A copy of this has been forwarded to Environmental Protection Unit.

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- 3.27 Members are reminded that the Clean Neighbourhood and Environment Act 2011 gives council's additional powers in relation to the control of entertainment noise after 11.00 pm.**

Financial and Resource Implications

- 3.28 Officers carry out monitoring inspections on premises receiving complaints, but this is catered for within existing budgets.**

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

- 3.29 There are no issues associated with this report.”**

The Committee was advised that both the objector and the applicant were in attendance to address the Committee.

The Committee was further advised that the objector had requested anonymity and accordingly it was agreed that the live broadcast would be stopped, and no recording would be made in relation to that part of the meeting.

The objector was admitted to the meeting and proceeded to outline the objections to the application as set out in paragraph 3.7 of the report.

The Applicant was then admitted to the meeting to address the objections. She outlined the measures which had been put in place in order to mitigate any noise issues and indicated her willingness to work with the objectors and the Council to address any concerns.

The Committee approved the application for the renewal of the 7-Day Annual Entertainments Licence and delegated conditions to the Director of Planning and Building Control

**Application for the Grant of a 7-Day Annual
Outdoor Entertainments Licence for Holy Cross
Boys Pitch, Butlers Walk, Belfast, BT14 7BZ**

The Committee was advised that an application had been received for the grant of 7-Day Annual Outdoor Entertainments Licence for Holy Cross Boys Pitch.

The Building Control Manager advised that a 7-Day Annual Outdoor Entertainments Licence and a 14-Day Occasional Indoor Licence for a Marquee had been granted by Committee in previous years for this event but there was no current licence in force for the events planned for this year.

The applicant had applied to provide outdoor entertainment in the form of live music on the school playing pitch at Butlers Walk for Ardbone Community Festival running from 25 – 27 August 2023.

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The standard days and hours during which entertainment might be provided for outdoor events was Monday to Sunday from 11.30 a.m. to 11.00 p.m. In addition, Special Conditions are attached to Outdoor Entertainments Licences related to setting limits on maximum numbers and implementing a robust system of dealing with complaints.

The applicant proposed to provide entertainment in the form of a DJ for a paint party for young people on Friday 25th August, a dance event on Saturday 26th August and a traditional Irish event on Sunday 27th August.

The Members were reminded that all applications for the Grant of Outdoor Entertainments Licences must be brought before Committee for consideration.

The Building Control Manager informed the Committee that, whilst public notice of the application had been placed in the press, the date of the advertisement was such that the 28-day statutory period during which representations to the application might be made would not expire until 18th August, 2 days after the Committee meeting.

At the time of writing this report no representations had been received to the application. The Police Service of Northern Ireland and the Northern Ireland Fire and Rescue Service had both been consulted and neither had any objection to the application.

The Building Control Manager suggested that, should the Committee be minded to grant the Outdoor Entertainments Licence, that this be subject to the proviso that no representations are received within the 28 statutory period to the application.

Subject to the above-mentioned provision, the Committee approved the application for the Grant of the 7-Day Annual Outdoor Entertainments Licence.

Restricted Item

The information contained in the report associated with the following item is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.

Resolved – That the Committee agrees to exclude the members of the Press and public from the meeting during discussion of the following item as, due to the nature of the items, there would be a disclosure of exempt information as described in Section 42(4) and Section 6 of the Local Government Act (Northern Ireland) 2014.

Update regarding legal proceedings concerning a decision of the Licensing Committee to refuse an application for a new HMO licence for 30 Eblana Street, Belfast, BT7 1LD

The Committee considered a report which provided an update concerning a decision of the Committee to refuse an application for a new HMO Licence for 30 Eblana Street, Belfast.

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The Committee noted the update on legal proceedings and approved the following:-

- i. The Council shall consent to the Statutory Appeal based on legal advice; and
- ii. agree to the County Court in Belfast granting Mr Enda Hughes a five year HMO licence on the standard terms and conditions.

Non-Delegated Matters

Review of Pavement Café Licensing Workshop

The Committee agreed to the holding of a Pavement Café Workshop within the next 4-6 weeks, the date, time and venue to be agreed in consultation with the Chairperson.

**Report and Proposals from the Department
for Communities Review of Houses in Multiple
Occupation Licensing Scheme**

The Committee considered the following report:

“1.0 Purpose of Report or Summary of main Issues

- 1.1 When the [Houses in Multiple Occupation Act \(Northern Ireland\) 2016](#) came into effect in April 2019 following the transfer from Northern Ireland Housing Executive’s (NIHE) HMO Registration scheme to Councils under a new licensing regime, the Department for Communities (DfC) committed to undertaking a review of the implementation of the new HMO licensing scheme within two years of the transfer.
- 1.2 DfC commenced the Review of the Houses in Multiple Occupation Scheme in December 2020.
- 1.3 This Committee on the [10 March 2021](#) agreed to the Council’s proposed response to the Review.
- 1.4 The Department for Communities (DfC) presented their initial findings to this Committee in [May 2021](#)
- 1.5 The final [Report and Proposals from the Review of Houses in Multiple Occupation Licensing Scheme](#) was published on 26 May 2023 which also contains the Council’s responses to the issues raised by respondents as part of the Review and DfC’s consideration and response to the Councils suggested

amendments to the HMO legislation to improve the impact and effectiveness of the new HMO Act and its implementation.

2.0 Recommendations

2.1 Committee is asked to note the final Report and Proposals arising from the Review of Houses in Multiple Occupation Licensing Scheme.

3.0 Main Report

Key Issues

3.1 On 22 December 2020, DfC commenced the Review of the Houses in Multiple Occupation Scheme and sought views in relation to the Review by means of an online questionnaire.

3.2 The main objective of the Review was to examine how the scheme was working in terms of the original policy intent which was to improve the conditions for tenants living in HMOs.

3.3 This Committee on the [10 March 2021](#) agreed the Council's response to the Review from an operational perspective, together with a number of suggested legislative amendments that the Council requested to assist with the delivery of the Licensing scheme.

3.4 DfC received 227 responses to the on-line survey with the majority of responses (189) from HMO landlords or agents.

3.5 DfC undertook further engagement with BCC officers, landlords and tenants and presented an interim report to this Committee in [May 2021](#). The Council provided feedback to DfC on the operational and administrative/delivery aspects of the licensing scheme following consideration by this Committee in [November 2021](#).

3.6 The Review looked at the impact of the regulatory scheme on Councils in terms of resources, guidance and legislation with a view to identifying any changes necessary to ensure the legislation achieves its policy intent.

3.7 The [report](#) sets out the operational issues raised during the Review regarding BCC's implementation and delivery of the scheme which covered 18 themes and the BCC response to each issue are contained in the main body of the report (pages 9- 18)

Those themes being -

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1. Cost
2. Guidance
3. Online application process
4. Revision to the definition
5. Environmental issues
6. Determination documentation
7. Planning
8. Over provision
9. Section 28 – change of ownership: effect on licence.
10. Section 29 Death of sole licence holder: effect on licence
11. Communications
12. Council working against landlords.
13. Administration
14. Out of hours contact number.
15. Advert in the paper
16. Minimum room size
17. Section 63 Landlord Training
18. Fee for temporary notice

3.8 As part of the Review, the Council asked DfC to consider making a number of changes to the HMO Act 2016 to assist with the implementation and delivery of the scheme which has been highlighted through engagement with landlords, court cases arising out the Council's interpretation and application of the new legislation and administrative challenges arising from the application of new legislation.

3.9 Some of these proposed changes will be considered by the Department and these are listed below. As these proposed changes mainly involve amending the primary legislation, this will take some time to complete and will require a full NI Assembly to deliver legislative changes along with the relevant Ministerial approvals.

3.10 Proposed Legislative changes agreed to be considered and/or progressed by DfC

(1) Section 6 - Notice regarding continuation of occupation

Section 6 of the 2016 Act sets out the grounds for which a Council may serve a notice of continuation of occupation. Belfast City Council requested that the time limit of 4 months in section 6 is extended to 6 months as with some properties which are let to students, the property may be empty from May to October. The Department have sought

further engagement in order to allow them to consider a change to this section.

3.11 (2) *Temporary Exemption Notice and Extension of Temporary Exemption Notice*

Section 15 of the 2016 Act applies where the owner of an unlicensed HMO makes an application to the Council which specifies steps which may be taken with a view to securing that the HMO ceases to become an HMO and includes a declaration that the owner intends to take those steps. This provision is in place to allow landlords to give tenants notice to leave the property. A temporary exemption notice has an effect for 3 months, Section 16 of the Act allows the notice to be extended for a further 3 months.

3.12 Belfast City Council have requested the ability to charge a fee for such notices. This is currently a free service and charging should be allowed under this provision to bring it into line with the other notices under the scheme for which there is a charge to cover the administrative costs associated with issuing such notices. The Department has agreed to work with the Council to determine the appropriate fee and to propose changes to the legislation to allow such a fee to be charged.

3.13 (3) *Death of a sole licence holder*

Under Section 29 where a sole licensee dies, the licence expires three months after the date of death, unless the Council is satisfied that it is reasonable to extend it in order to wind up the holder's estate. Both Councils and landlords had concerns regarding the 3-month time limit. The Department recognises that 3 months is insufficient time in most cases for winding up an estate. The Department proposes that this time limit is extended to 12 months.

3.14 (4) *Requirement for Council to send a copy of an HMO application to the Statutory Authorities*

Currently, the Council is required to notify the statutory authorities concerning all HMO applications, however there is no requirement for statutory agencies to provide any information they hold in respect of the owner or managing agent under the fit and proper definition. The Council requested that this paragraph be amended to provide a statutory basis upon which other authorities can disclose information in relation to any information they hold in relation to the "fit and proper" person status of the proposed licensee

or managing agent. This would assuage concerns on their part regarding potential breach of data protection legislation.

3.15 The Department recommends the removal of the requirement for statutory agencies to be notified of all HMO applications as it is not required, and they do not have the power to compel statutory agencies to share information regarding the “fit and proper person” test.

3.16 (5) *Time Limits for Council to process an HMO application.*

Paragraph 12 of Schedule 2 sets out a time limit of 3 months for a Council to process an HMO licence application. Any extension to this time limit must be passed in a Magistrates’ Court. If a decision on a licence has not been made within the time limit, the licence is treated as granted (deemed).

3.17 The requirement for an extension to the time limit to be made through a formal application to the Court is incurring significant expenditure legal costs and officer time in resourcing, with the Court service also querying the number of applications received in this regard. The Department recognises the requirement for an application to have a decision in as short a time as possible but also recognises the difficulties faced by Councils in this regard and accepts that with the requirement to ascertain the “fit and proper” status of any landlord or managing agent then deemed licences should where possible be avoided. The Department proposes extending this time limit.

3.18 (6) *The Houses in Multiple Occupation Regulation (Fees)*

Under the above Regulations, the maximum fee that can be charged to process a licence application is £45. The licensing scheme on transfer to Councils in 2019 was designed by DFC and by NI Assembly to be self-financing for Councils and their ratepayers. On review by DFC, it is acknowledged that this upper limit of £45 will have to be reviewed to ensure that the income generated by the licensing scheme continues to meet the full costs of operating and delivering the scheme so that this is not a new or additional burden to ratepayers.

3.19 Overprovision concerns

The Department has indicated in the report that it will not progress some of the changes requested, such as, changes to definitions including in respect of a house in multiple occupation and living accommodation, the reasoning for

which is set out in the main report. One of the key issues raised by the Council in its response to the Review was the issues around “Over provision” and the inability of the HMO Act to deal with the cumulative impacts of a disproportionately high amount of HMOs in some areas. In particular, the issue of overprovision of HMO properties resulting in high density clusters remains an area of concern as the new licensing regime does not address such areas already in existence.

- 3.20 In this Review DfC acknowledge that the issues around overprovision raised by both Councils and landlords, with very differing views on each side. DfC acknowledged that the policy intention of the new licensing regime is to prevent new areas being over-provided in the future. It does not have the scope to reduce over-provision in existing areas that already have a high number of HMOs and have concluded that the issue of historical overprovision is outside of the scope of the Act and therefore of the Review.
- 3.21 The main purpose of the review was to look at how the licensing scheme was performing and to look at changes required to improve the administration of the scheme. The proposed legislative changes are welcomed by officers; however, it is acknowledged that there are a number of changes that will take time to progress by DfC due to the absence of the NI Assembly.
- 3.22 DfC has acknowledged the operational changes made by Belfast City Council since the introduction of the scheme that will drive an improvement in the areas highlighted as part of the Review, for example, the roll out of the Landlord Training scheme.
- 3.23 In conclusion, the new HMO licensing scheme is now in its final year of the first five year term since it transferred from the NIHE’s Registration system. The Review undertaken by DfC has provided the Council and other stakeholders with the opportunity to provide feedback on the benefits and challenges involved in administering and delivering the scheme. The outcome of the actions proposed by DfC in terms of proposed legislative changes are likely to take time to implement and the proposal in particular to change the threshold of the maximum fees that can be charged will need to be kept under review to ensure that the Council can continue to deliver the service on a self-financing basis.
- 3.24 Financial and Resource Implications

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Any delays in changing the legislation to allow the Council to raise fees in excess of the current legal maximum threshold of £45 will have financial implications for the Council as the delivery of the HMO service is based on a self-financing model. Therefore, officers will continue to engage with DfC on this issue and provide an update to members at the earliest opportunity.

3.25 Equality and Good Relations Implications

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

The Committee noted the final Report and Proposals arising from the Review of Houses in Multiple Occupation Licensing Scheme.

Notices of Motion – Annual Update

The Committee considered a report which provided an update on the Motions that the Licensing Committee was responsible for, in line with the decision of the Strategic Policy and Resources Committee that all Standing Committees receive regular updates.

The Committee:

- Noted the update to all Notices of Motion that it was responsible for as referenced in Appendix 1 to the report; and
- Agreed to the closure of 2 Notices of Motion, that is, Sexual Harassment (ID 11); and the reconsideration of the refusal of a Designating Resolution for a Street Trading Licence in King Street (ID 242).

Chairperson