

Belfast City Council

Report to:	Licensing Committee
Subject:	Amusement Permit Policy
Date:	20 February 2013
Reporting Officer:	Trevor Martin, Head of Building Control, Ext: 2450
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1	Relevant Background Information
1.1	The Committee will recall a briefing session, held on 4 April 2012, to update Members on the work being undertaken to formulate an Amusement Permit Policy for the Council. Members of the Town Planning Committee were also invited to this briefing.
1.2	<p>At the briefing session Dr Anthony Quinn of Braniff Associates, a consultant with experience of policy formulation and planning matters, outlined the draft policy for Members. The policy has been framed on the basis of:</p> <ul style="list-style-type: none">▪ Background research into legal and planning issues, including comparative analysis with permit/licensing policies elsewhere;▪ Appraisal of the industry, including its market outlook and social implications;▪ Consideration of a number of policy options before deciding upon the aim & objectives of the policy;▪ Providing guidance to assist the Council in assessing the suitability of the location for an amusement arcade;▪ Detailing those matters which the Council will consider in assessing the suitability of the applicant and the nature of the premises proposed.
1.3	The Council has had several legal challenges to its decisions in respect of amusement permit applications. A Court of Appeal decision regarding an application for Ann Street 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'.
1.4	In light of that court decision, the scope of the policy includes developing procedures for better co-ordinating communication between the Town Planning Committee and the Licensing Committee in relation to applications which fall under the consideration of both Committees.

2	Key Issues
2.1	The draft Amusement Permit Policy was subsequently put to public consultation for a 12 week period from 1 October to 21 December 2012.
2.2	The consultation documents were distributed to all the usual Council consultees by e-mail or hardcopy, as well as to all Members, Belfast MLAs, main statutory and industry stakeholders and current Amusement Permit holders. The consultation was also presented to the Consultative Forum on 3 October 2012 for consideration and was published on the Council's social media and web-sites.

2.3	<p>We received five responses in total, three responses from statutory bodies; the Police Service of Northern Ireland (PSNI), the Northern Ireland Fire and Rescue Service (NIFRS), and the Planning Policy Division of the Department of Environment and two responses from the Industry. Appendix 2 contains a summary of the consultation responses and Appendix 3 contains a full copy of the responses received.</p>
	<p>Responses from statutory bodies:</p>
2.4	<p>The PSNI strongly agreed with the overall aim of the policy and strongly supported the five key objectives. The police have asked that the criteria in relation to proximity to vulnerable people's residential institutions recognise children's homes and hostel accommodation used for bail/probation purposes.</p>
2.5	<p>The 'Police Questionnaire' in Appendix B of the draft Policy has been amended accordingly to seek police opinion on the location of a proposed amusement arcade due to its proximity to a residential institution used for bail/probation purposes.</p>
2.6	<p>The NIFRS gave no opinion about the overall aim of the policy or the five key objectives but asked that the Council has regard to fire safety matters, such as the outcome of any fire risk assessment audit carried out by the NIFRS on the premises, when granting or renewing any amusement permit.</p>
2.7	<p>A line has been added to the draft Policy, under the section on assessing amusement permit applications, stating that 'Prior to granting or renewing any amusement permit the Council will have regard to comments from any relevant statutory agency in relation to fire or any other safety matters'. This will be achieved through the fire safety consultation process in the application procedure.</p>
2.8	<p>In their response, the Planning Policy Division of the Department of Environment (DOE) officially confirmed that the Amusement Permit Policy can be considered a material consideration in the determination of planning applications.</p>
2.9	<p>Being considered as a material consideration, we should expect that DOE Planning will attach the appropriate weight to it when assessing applications for planning permission for amusement arcades within Belfast.</p>
2.10	<p>As a result of consultation with DOE Planning, the draft Policy has been amended to reflect its status as a material planning consideration and to remove references to Draft DOE policy which may not be adopted, such as draft PPS 5.</p>
2.11	<p>It will be important that mechanisms are established to ensure that the Town Planning Committee are aware of the Policy, once adopted, and that they take it into account in their decision-making for related planning applications for amusement arcades. Officers will work to put the necessary mechanisms in place, upon adoption of the Policy.</p>
	<p>Responses from the Industry:</p>
2.12	<p>One industry respondent welcomed the introduction of a policy and said that in isolation the five key objectives are all admirable. The other industry respondent strongly disagreed with the five key objectives and the need for a policy.</p>
2.13	<p>Both expressed concern that the Policy and the five objectives were, in their view, written with a negative perspective towards amusement arcades and that there was a clear anti-gaming inference. For example one commented 'Generally the draft policy document demonstrates a view that amusement premises are socially undesirable and have a negative effect on the general area in which they are located.'</p>
2.14	<p>Both raised the concern that the Council and the Policy was straying too much into the remit of Planning. One expressed the view that the Policy was attempting to rewrite planning</p>

	<p>policy in a manner that is deliberately designed to undermine applications and with the deliberate intention of introducing a blanket ban provision into the legislative framework, further commenting that issues of vibrancy and regeneration are obvious planning matters, to which Belfast City Council are a statutory consultee.</p>
2.15	Confirmation by DOE Planning that the draft Policy can be considered a material consideration in the determination of planning applications for amusement arcades suggests that the Council's position on planning issues within the draft Policy is sound.
2.16	One of the respondents said that in the draft Policy 'There is no distinction made between adult premises and non-adult premises'.
2.17	In response, a clearer explanation of the types of gaming machines, premises and associated age restrictions has been included in the introduction to the draft Policy.
2.18	One respondent disagreed with the need, in exceptional circumstances, to assess the suitability of a location in a renewal application.
2.19	It was never the intention to routinely assess the suitability of the location in a renewal application. Nevertheless, in order to help clarify this matter, the policy wording has been amended to state that when determining an application for a renewal of an amusement permit the Council will only assess the suitability of the location in <u>very</u> exceptional circumstances.
	<p>Impact on retail vitality and viability of Belfast</p>
2.20	One industry respondent disagreed with our intention not to grant an amusement permit where it would break up an otherwise continuous shopping frontage, claiming this would make it almost impossible for any premises to obtain a permit.
2.21	This is not a point which we believe to be valid. Recent applications that we have received demonstrate that this particular consideration does not categorically rule out opportunities to apply for amusement permits.
2.22	In response to concerns about the weight attached to the vacant state of proposed premises, the draft Policy wording has been altered to make it patently clear that the existing use of the proposed premises will be a material consideration in the assessment of the amusement permit application. Having stated this, it is only one of a number of considerations when assessing an application and the draft policy makes it clear that each application will be assessed on its own merits. In other words, while every application will be carefully considered the Council will not allow the fact that the property is vacant to overshadow all other considerations to the detriment of reaching a balanced decision.
	<p>Cumulative build-up of amusement arcades in a particular location</p>
2.23	A respondent considered it inappropriate to have a prohibition against premises holding an existing amusement permit to extend, if there is a demand, into an adjacent unit. The view is also given that the policy should recognise the difference between a completely new application and an application where an existing amusement permit is being surrendered and a premises re-located, such as at the end of a lease or for re-development.
2.24	In response, it must be stressed that the draft Policy is for guidance and while, for example, the extension of an existing amusement arcade may be contrary to the draft Policy, each application for an amusement permit must be treated on its own merits. It should also be noted that there is no facility in the legislation to extend an existing amusement permit premises, or to take surrendering of an existing permit into account. If an extension or re-location of the premises is proposed a new amusement permit will be required and the application must be treated as one which can be granted or refused.

	Proximity to schools, youth centres and residential institutions
2.25	Both industry respondents disagreed with this criterion being applicable to all amusement permit applications. One gave the opinion that properly presented and managed premises with age controls (over 18 years of age restriction) do not represent any problem with their neighbours, stating 'We fully respect the importance of protecting young and vulnerable people. Age control and responsible management ensure that this is not an issue'. One respondent stated the view that this was a matter for the Statutory regime, giving the example that the 1985 Order contains express provisions prohibiting the proximity of Bookmakers' offices to schools and youth centres but it does not do likewise for amusement arcades.
2.26	The Police response strongly supported this criterion and while acknowledging that amusement arcades restrict admittance to underage persons and that the 1985 Order does not specifically refer to the need to consider the effects on persons attending schools or youth clubs, we believe that a <u>precautionary</u> approach is needed for applications made near locations where children, young persons and vulnerable people meet.
2.27	This objective is also in keeping with the prevailing gambling legislation in GB, where councils have embodied it as a core objective of their licensing policies. The wording of the draft Policy was altered slightly to better reflect the above.
2.28	The points raised by the Industry have been discussed with Legal Services and our consultant, and we are comfortable that the aim, five key objectives, and the criteria for assessing the suitability of a location contained in the Policy are sound and reasonable.
2.29	The Legal Services Manager and our consultant will be available at your meeting should you need further clarification on the amendments that have been made to the draft Policy or on any of the points raised in the consultation responses.
2.30	The final draft Amusement Permit Policy is attached for your approval.

3	Resource Implications
3.1	<u>Financial</u> None.
3.2	<u>Human Resources</u> If the draft Policy is approved there will be additional work for officers to carry out in assessing applications against the Policy and ensuring proper liaison takes place with the Town Planning Committee. This can only be quantified once the Policy is agreed.
3.3	<u>Asset and Other Implications</u> None.

4	Equality and Good Relation Implications
4.1	The equality screening process has been completed and the relevant equality considerations have been met.

5	Recommendations
5.1	Taking into account the issues raised in the consultation responses and the comments thereon the Committee is asked to;

5.2	<ul style="list-style-type: none"> Consider the re-drafted Amusement Permit Policy and, subject to any amendments you may require, recommend that it be approved. <p>As such matters are not a delegated function of the Licensing Committee any recommendation will be subject to ratification by Council.</p>
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5	<p>Decision Tracking</p> <p>The Head of Building Control will be responsible for ensuring any amendments are made prior to the final draft Policy being presented to Council.</p>
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6	<p>Documents Attached</p> <p>Appendix 1: Final Draft Amusement Permit Policy Appendix 2: Summary of Consultation Responses Appendix 3: Copy of Full Responses</p>
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7	<p>Abbreviations Used</p> <p>BMAP Belfast Metropolitan Area Plan 2015 PPS 5 DOE's Planning Policy Statement 5 on Retailing in Town Centres</p>
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