



<b>Subject:</b>	<b>To consider the renewal of a Stationary Street Trading Licence</b>
<b>Date:</b>	10 <sup>th</sup> April, 2019
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, ext. 2435
<b>Contact Officer:</b>	James Cunningham, Regulatory Services Manager, 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>	
<b>After Committee Decision</b>	<input type="checkbox"/>
<b>After Council Decision</b>	<input type="checkbox"/>
<b>Some time in the future</b>	<input type="checkbox"/>
<b>Never</b>	<input type="checkbox"/>

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

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
<b>1.1</b>	To consider initiating the process to refuse the renewal of the Stationary Street Trading Licence held by Mr Joseph Kerr for continuing non-payment of Licence fees and failure to use the Street Trading Licence to a reasonable extent.
<b>2.0</b>	<b>Recommendations</b>
<b>2.1</b>	Members are asked to decide whether: -  1. They are minded to refuse the renewal of Mr Kerr's Licence as he has, without reasonable explanation, failed to pay any fees or charges due to the Council and, without reasonable excuse, failed to avail himself to a reasonable extent of his licence. 2. If Committee is minded to refuse to renew the licence to agree to consider the refusal of the Licence at a future meeting at which Mr Kerr would be invited to make representation regarding his failure to pay the fees due and non-use of his Licence.

<b>3.0</b>	<b>Main report</b>
	<p data-bbox="272 219 427 248"><b><u>Key Issues</u></b></p> <p data-bbox="272 282 603 311"><b>Legislative background</b></p> <p data-bbox="165 349 1469 416"><b>3.1</b> The Street Trading Act (NI) 2001 places a statutory obligation on the Council to grant an application for a Street Trading Licence unless there are sufficient grounds to refuse it.</p> <p data-bbox="165 450 1469 517"><b>3.2</b> Section 9 (1) of the Act sets out discretionary grounds under which a district council may refuse to grant an application. These are as follows:</p> <ul style="list-style-type: none"> <li data-bbox="272 551 408 580">a. That – <ul style="list-style-type: none"> <li data-bbox="304 618 1469 685">i. The location at which the applicant wishes to trade as a stationary trader is unsuitable;</li> <li data-bbox="304 719 1469 819">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 data-bbox="304 853 1469 954">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 data-bbox="304 987 1469 1055">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 data-bbox="304 1088 1469 1189">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> </ul> </li> <li data-bbox="272 1223 1469 1290">b. That the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;</li> <li data-bbox="272 1323 1469 1391">c. That the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;</li> <li data-bbox="272 1424 1469 1491">d. That the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;</li> <li data-bbox="272 1525 1469 1626">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;</li> <li data-bbox="272 1659 1469 1727">f. That the applicant has failed to provide the particulars required by the council to deal with the application;</li> <li data-bbox="272 1760 1469 1827">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.</li> </ul> <p data-bbox="165 1861 1469 1991"><b>3.3</b> Should Committee be of a mind to use its discretionary power to refuse to renew Mr Kerr's Street Trading Licence, Section 12 of the Act requires that he be afforded the opportunity to make representation relating to the proposal, which must be considered by Committee at a future date before a final decision is made on the application.</p>

## **Application**

- 3.4** Mr Joseph Kerr has applied to renew his Stationary Street Trading Licence, which allows him to trade in Fountain Lane (45ft from its junction with Donegall Place) selling confectionery, toys, clothing accessories, Halloween accessories, gift-wrap, souvenirs and tour tickets including bus tours. The licence permits trading from Monday to Sunday from 08.00hrs to 22.00hrs.
- 3.5** The Street Trading Act (N.I.) 2001 permits the Council to refuse to renew a Licence if it is satisfied that the Licence holder has, without reasonable explanation, failed to pay any fees or charges due to the Council and if the Licence holder has, without reasonable excuse, failed to avail himself to a reasonable extent of his Licence.
- 3.6** Committee is reminded that Mr Kerr has a long history of non-payment of Licence fees. Members are reminded that the Licensing Committee previously reconsidered Licences held by Mr Kerr for sites at Fountain Lane and Fountain Street, for the non-payment of the Licence fees at their meeting on the 19 March 2014, 17 October 2018 and 12 December 2018.
- 3.7** At its October 2018 meeting, the Committee agreed to revoke the Stationary Street Licence held by Mr Kerr for Fountain Street for non-payment of fees. Members may wish to note that Mr Kerr lodged an appeal to the Magistrates' Court. The Court have informed the Council that Mr Kerr was asked on a number of occasions to complete a Notice of Appeal, no Notice was submitted to the Court and no papers were served on the Council. The Licence expired on the 18 January 2019, no renewal application was submitted.
- 3.8** At its meeting in December 2018, Committee heard from Mr Kerr regarding how he was going to address his outstanding debt and future licence fee payments. Mr Kerr informed the Committee that he had set up a direct debit with the Council's Central Transactions Unit to pay the licence fee and the arrears accrued from non-payment of fees and that he would be willing to enter into a formal agreement with the Council to pay the remaining arrears.
- 3.9** The Committee agreed not revoke Mr Kerr's Street Trading Licence on condition that Mr Kerr met with officers and entered into a formal agreement to pay the outstanding monies and the monthly licence fees.
- 3.10** Following the December Committee meeting, officers met with Mr Kerr on 27 December 2018 when he again promised to make payments and agreed to sign a formal agreement. Mr Kerr has never returned the signed agreement to the Council; as such, no agreement is in place.
- 3.11** Mr Kerr has not paid his Licence fees since 4 December 2018 and is not engaging with us at all to recover his debt and currently owes the Council £3098.34, despite efforts to contact him.
- 3.12** Members may wish to note Mr Kerr only trades sporadically. Mr Kerr trades without any other Licence infringements.

## **Financial and Resource Implications**

- 3.13** If this Licence is refused, there will be a loss in annual Licence Fees of £1250. However, there is sufficient interest in this site and it is expected it will be filled within a short time.
- 3.14** The Service will work with Central Transactions Unit and Legal Services to take steps to ensure any outstanding debt will be recovered.

<b>3.15</b>	<b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b> There are no issues associated with this report.
<b>4.0</b>	<b>Appendices – Documents Attached</b>
	None