



<b>Subject:</b>	<b>Competing Stationary Street Trading Licence applications for Fountain Lane site</b>
<b>Date:</b>	22 January 2020
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, Ext. 2435
<b>Contact Officer:</b>	James Cunningham, Regulatory Services Manager, Ext. 3375

**Restricted Reports**

Is this report restricted?

Yes

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No

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If Yes, when will the report become unrestricted?

After Committee Decision

After Council Decision

Some time in the future

Never

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**Call-in**

Is the decision eligible for Call-in?

Yes

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No

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<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 Fountain Lane, 45ft from the junction with Donegall Place.
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	Both applications comply with the designating resolution for the site.
1.4	Committee may wish to note there is another site in Fountain Lane, 60ft from its junction with Donegall Place, this site is vacant.
1.5	Details of the applications are outlined below:  <b>Applicant 1</b>

1.6	Mr Sean Donnelly has applied for the grant of a Stationary Street Trading Licence at the designated site in Fountain Lane to sell tour tickets, tour memorabilia and gifts. The proposed times of trading are Monday to Sunday from 9.00 am to 5.00 pm. Mr Donnelly proposes to use a stall on wheels measuring 3m by 1.5m.
1.7	Members may wish to note that Mr Donnelly is a director of Titanic and City Tours.
1.8	Members are reminded that, at your meeting in August 2019, Mr Donnelly was granted the Stationary Street Trading Licence to trade at the designated site in Fountain Street 20ft from the junction with Wellington Place. After hearing the appeal from the unsuccessful applicants at you meeting on 13 November 2019 the Committee confirmed the decision to grant Mr Donnelly the Licence.
	<b>Applicant 2</b>
1.9	Mr Michael Kerr has applied for the grant of a Stationary Street Trading Licence at the designated site in Fountain Lane to trade from a traditional market stall measuring 3m by 1.5m. The proposed times of trading are Monday to Sunday from 6.00 am to 10.00 pm. Mr Kerr proposes to sell: <ul style="list-style-type: none"> <li>• Souvenirs and Memorabilia;</li> <li>• Special Day, Occasions and Celebration goods and accessories;</li> <li>• Wrapping paper and cards;</li> <li>• Light Up Novelties;</li> <li>• Flowers and plants;</li> <li>• Clothing and Clothing accessories;</li> <li>• Jokes;</li> <li>• Toys;</li> <li>• Confectionery;</li> <li>• Cold Beverages</li> <li>• Jewellery;</li> <li>• Flags;</li> <li>• Whistles;</li> <li>• Batteries;</li> <li>• Art work;</li> <li>• Beauty and Cosmetics;</li> <li>• Football merchandise;</li> <li>• Tour tickets for all operators;</li> </ul>
1.10	Members may wish to note that Mr Kerr has indicated he would sell tour tickets for: Bus Tours, Trout Tours NI, Wee Toast Tours, Belfast City Sightseeing, Titanic and City Tours, Black Taxi Tours, Taxi Trax, Cic Taxi and Tours, Giants Causeway, Game of Thrones Tours, McCombs Travel, Travel Ireland, Walking Tours, Titanic Tours, Ghost Tours, Boat Tours, Bike Tours, Crumlin Road Gaol Tours and The Gobbins Coastal Path Tours.
1.11	Mr Kerr has stated in his application that he will also be a free information point.
1.12	Mr Kerr had previously made an application for the Stationary Street Trading Licence to trade at the designated site in Fountain Street 20ft from the junction with Wellington Place. The Licensing Committee granted the Licence to Mr Sean Donnelly.
<b>2.0</b>	<b>Recommendations</b>

2.1	<p>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 minded to:</p> <ol style="list-style-type: none"> <li>1. Grant and approve the Licence to Mr Sean Donnelly; or</li> <li>2. Grant and approve the Licence to Mr Michael Kerr; or</li> <li>3. Grant and approve the Licence to one of the applicants with additional Conditions, and then;</li> <li>4. Refuse the Licence application, under the discretionary grounds as outlined at paragraph 3.3 below, of the applicants who have not been granted a Licence.</li> </ol>
2.2	Members may attach any reasonable Conditions when granting a Street Trading Licence.
2.3	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.
2.4	As a consequence, the actual decision to grant and refuse the Licences 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.
<b>3.0</b>	<b>Key Issues</b>
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	<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,</li> </ol>

	<p>would adversely affect the general amenity of the area in which the applicant wishes to trade;</p> <ul style="list-style-type: none"> <li>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>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>d. That the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;</li> <li>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>f. That the applicant has failed to provide the particulars required by the council to deal with the application;</li> <li>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>There is a right of appeal to the Magistrate's Court against any refusal on these grounds.</p>
3.4	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.
3.5	<p>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:</p> <ul style="list-style-type: none"> <li>1. The suitability of the application in the context of the area or street;</li> <li>2. The suitability of allowing more than one application in the area or street;</li> <li>3. The commodities or services which each applicant intends to sell or supply;</li> <li>4. The merits of each application in the context of the character and appearance of the proposed area;</li> <li>5. Whether a mobile trader/a number of mobile traders will affect the character and appearance of the proposed area;</li> <li>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;</li> <li>7. The extent to which the sale of the commodity will provide a useful service not otherwise provided in the area.</li> </ul>
3.6	Committee is reminded that, at your meeting on the 19 September 2018, when considering whether to allow for the sale of bus tour tickets at another site, you agreed that any resulting applications to sell bus tour tickets would be considered by the Committee and, if approved, be granted on a one-year trial basis. Committee may wish to do likewise when considering these applications.
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3.8	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 stall, how the commodities they propose to sell will add to the area and address any concerns with their proposals.
3.9	After considering representations from the applicants you will then be required to make a minded to 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.
3.10	Committee is reminded that the applicant 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.
	<b><u>Financial &amp; Resource Implications</u></b>
3.11	<p>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>
	<b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b>
3.12	There are no issues associated with this report.
<b>4.0</b>	<b>Appendices – Documents Attached</b>
	<ul style="list-style-type: none"> <li>• None</li> </ul>