



<b>Subject:</b>	Application for the Grant of a Seven-Day Annual Indoor Entertainments Licence - Common Market, 16 - 20 Dunbar Street
<b>Date:</b>	20th October, 2021
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, ext. 2435
<b>Contact Officer:</b>	Quintin Thompson, Senior Building Control Surveyor, ext. 2570

<b>Restricted Reports</b>	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
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>	
Is the decision eligible for Call-in?	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 whether to accept a late objection to an application for the grant of a Seven-Day Annual Entertainments Licence for Common Market.						
1.2	<table><tr><td><b>Premises and Location</b></td><td><b>Ref. No.</b></td><td><b>Applicant</b></td></tr><tr><td>Common Market 16-20 Dunbar Street Belfast, BT1 2LH</td><td>WK/2020/1444</td><td>Ms Alana Fox Carlisle Inns Limited 2-14 Dunbar Street Belfast, BT1 2LH</td></tr></table>	<b>Premises and Location</b>	<b>Ref. No.</b>	<b>Applicant</b>	Common Market 16-20 Dunbar Street Belfast, BT1 2LH	WK/2020/1444	Ms Alana Fox Carlisle Inns Limited 2-14 Dunbar Street Belfast, BT1 2LH
<b>Premises and Location</b>	<b>Ref. No.</b>	<b>Applicant</b>					
Common Market 16-20 Dunbar Street Belfast, BT1 2LH	WK/2020/1444	Ms Alana Fox Carlisle Inns Limited 2-14 Dunbar Street Belfast, BT1 2LH					
1.3	The application was received on 9th July 2021. Subsequently, an objection was received outside the 28-day statutory period on 17th September, 2021.						

1.4	Should the Committee be minded to accept the late objection, it is then required to consider the application for the grant of a 7-Day Annual Indoor Entertainments Licence.
1.5	A location map is attached at Appendix 1.
<b>2.0</b>	<b>Recommendations</b>
2.1	As the objection against the application was received outside the 28-day statutory period the Committee is required to determine if it wishes to exercise its discretion to consider it.
2.2	If the Committee decides not to take the objection into account, then the grant application will be dealt with under the Scheme of Delegation.
2.3	Should it exercise its discretion, it is required to receive the person who made the representation, the applicant, and/or their representatives and, after having received their submissions, make a recommendation regarding the application. Both the applicant and the objector will be present should you decide to consider the objection.
2.4	Thereafter, taking into account the information presented and any representations received you are required to consider the application and to either: <ol style="list-style-type: none"> <li>1. Approve the application for the grant of Seven-Day Annual Indoor Entertainments Licence, or</li> <li>2. Approve the application for the grant of Seven-Day Annual Indoor Entertainments Licence with Special Conditions, or</li> <li>3. Refuse the application for the grant of Seven-Day Annual Indoor Entertainments Licence.</li> </ol>
2.5	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.
2.6	If the application is refused and an appeal is lodged, entertainment may not be provided during the appeal period.
<b>3.0</b>	<b>Main Report</b>
	<b><u>Key Issues</u></b>
3.1	The applicant, Ms Alana Fox of Carlisle Inns Ltd., has applied for the grant of a Seven-Day Annual Indoor Entertainments Licence, based on the Council's standard conditions to provide indoor music, singing, dancing or any other entertainment of a like kind.
3.2	Common Market is located in the former Arnotts Fruit Market building and Ms Fox is also the licensee for the building adjacent to Common Market, 39 Gordon Street and Lux, 2-16 Dunbar Street.
3.3	Mr Lawrence Bannon, who is a consultant and advisor to Carlisle Inns Ltd., has been liaising directly with the Service in relation to the application.
3.4	The Committee is reminded that, at the meeting on 18th January 2017, it considered a report regarding representations received outside the 28-day statutory period and agreed to adopt the following criteria when considering late objections:

- Has a reasonable explanation been provided, in writing, by the objector as to why their representation was not made within the 28-day period;
- Does the representation provide substantially different additional information to that already contained within representations that have been received within the 28-day period;
- How far outside the 28-day period were the representations received;
- The proximity of the objectors to the premises;
- The number of other representations received outside the 28-day period; and
- Whether there are any other material considerations which would warrant consideration of the objection.

### **Representations**

3.5 The objector was involved in a previous application for the provisional grant of an entertainments licence for this premises and, therefore, has knowledge of the building. That application was considered and approved by the Committee in December, 2018.

3.6 The objector has confirmed that his main concern is the safety and welfare of the patrons of the premises and businesses in the immediate vicinity and in the objection has highlighted the following issues:

- That the premises are effectively being operated as a "pop up pub",
- Lack of Planning permission for the current use,
- Protection of patrons from the asbestos roof,
- Inadequate provision of emergency exits, and
- The PSNI is not aware of the application.

3.7 Further to the objection, both parties agreed to meet to discuss the objector's concerns and attempt to resolve them. Following this meeting, which took place on 6th October, the objector advised that he wished to uphold his objection.

3.8 The objector noted in the original representation that he was unaware of the application for an entertainments licence and that if he had been aware of it, he would have immediately objected.

3.9 A copy of the objection email is attached at Appendix 2.

3.10 Should you exercise your discretion, you are required to receive the person who made the representation, the applicant, and/or their representatives and, after having received their submissions, make a recommendation regarding the application. If you do not wish to exercise discretion, then the grant application will be dealt with under the Scheme of Delegation.

### **Details of the Premises**

3.11 The areas where entertainment is proposed to be provided are as follows:

- Main Area (Ground Floor), with a maximum capacity of 290 persons
- Mezzanine Floor, with a maximum capacity of 60 persons

3.12	<p>The applicant has applied to provide entertainment on the following days and hours:</p> <ul style="list-style-type: none"> <li>• Monday to Saturday: 12.00 pm to 1.00 am the following morning, and</li> <li>• Sunday: 12.00 pm to 12.00 am.</li> </ul>
3.13	<p>The applicant initially applied to provide entertainment beyond the latest hour to which licences are normally granted for special events. However, Mr Lawrence Bannon advised the Service by email that they no longer require the extended hours at this time.</p>
3.14	<p>The applicant proposes to provide entertainment in the form of DJ's and live bands. During these occasions, they will operate a public bar facility via an occasional liquor licence.</p>
3.15	<p>This venue can potentially accommodate over 1,000 persons, however, the occupancy is restricted to 350 persons at this time due to emergency exit provision. A fire engineer has provided a strategy to ensure that adequate measures are in place to allow the 350 patrons to escape safely.</p>
3.16	<p>If in future the applicant wishes to increase the capacity, then additional emergency exits will be required. Mr Bannon has advised that he is negotiating with Belfast City Council to acquire permission to escape via the Council Depot on Dunbar Street.</p>
3.17	<p>Mr Bannon has advised that a Planning Application has been submitted in respect of the premises.</p>
3.18	<p>A Layout plan of the venue is attached at Appendix 3.</p>
<p><b><u>PSNI</u></b></p>	
3.19	<p>The PSNI has been consulted and has confirmed that it has no objection to the application. However, it does highlight that the proposed area is not covered by a 5(1)(a) Liquor Licence, as stated on the application form.</p>
3.20	<p>PSNI advises that, if the licence is granted, it expects that all current Covid-19 Regulations and Guidance and any current hospitality restrictions be strictly adhered to, implemented and enforced by the licence holder.</p>
3.21	<p>A copy of its correspondence is attached at Appendix 4.</p>
<p><b><u>NIFRS</u></b></p>	
3.22	<p>The Northern Ireland Fire and Rescue Service has been consulted in relation to the application and has confirmed that it has no objection to the application.</p>
<p><b><u>Health, Safety and Welfare Inspections</u></b></p>	
3.23	<p>This building was previously used by Arnott's for fruit and vegetable storage. The applicant submitted a Building Regulations application for the change of use to an assembly building and a completion certificate for the works has been issued by the Service.</p>
3.24	<p>The existing roof of this building is covered with profiled cement-based sheets which contain asbestos. An asbestos report was submitted with the application, although the report did not mention the effect that loud music may have on the asbestos sheets. The applicant provided a further specialist report which detailed air sampling before and after playing loud music.</p>

3.25	<p>This report was provided to the Health and Safety Unit within the City and Neighbourhood Services Department, which has confirmed that the report by the asbestos analyst indicates that noise-induced asbestos fibre release is unlikely and, subject to the duty holder's ongoing responsibility to manage the asbestos containing materials within the premises, it would have no concerns.</p>
	<p><b><u>Noise Issues</u></b></p>
3.26	<p>Given the nature of the entertainment in the venue, an acoustic report outlining the measures to be taken to ensure minimal disturbance to persons in the neighbourhood, either due to noise breakout or from patron activity, has been requested from the applicant. The acoustic report has been submitted to the Environmental Protection Unit and consultations are ongoing with the Licensee in relation to the report.</p>
3.27	<p>If the Committee is of a mind to grant the application for the Entertainments Licence delegated authority is sought, before confirming the licence, to attach any terms and conditions to the Licence regarding the management of noise. Such conditions will only be attached with the full agreement of the licensee.</p>
	<p><b><u>Objector's Representation</u></b></p>
3.28	<p>The objector's Representation Forms are attached as Appendix 5 and they have been provided to the applicant, as required by the protocol.</p>
3.29	<p>In general, the representations relate to concerns as follows:</p>
	<ul style="list-style-type: none"> <li>• The premises do not have Planning Permission for the current use.</li> <li>• Contravention of the current planning consent brings into question the character and suitability of the applicant.</li> <li>• An opinion from an expert as to whether or not the asbestos could be released by sound energy or the transmission of vibration through rhythmic movement would not meet reasonable due diligence without physical on-site tests of a robust nature.</li> <li>• From knowledge of the premises and previous requirements of Building Control there are concerns regarding acoustics, fire compliance, toilet provision, emergency access and egress and noise nuisance in the neighbouring area.</li> </ul>
3.30	<p>The objector has been invited to attend the meeting to discuss any matters relating to their objections, should they arise.</p>
	<p><b><u>Applicant's Representation</u></b></p>
3.31	<p>The applicant has provided their Representation Form, as required by the Protocol, and a copy of their response is attached as Appendix 6.</p>
3.32	<p>The applicant's Representation Form has also been provided to the objectors, as required by the protocol.</p>
3.33	<p>A summary of the applicant's representation is as follows:</p>
	<ul style="list-style-type: none"> <li>• The objection received is a commercial objection which is unfounded, without merit and does not stand up to scrutiny.</li> <li>• The meritless objections should be given no consideration.</li> <li>• Asbestos report submitted to the satisfaction of Belfast City Council Health and Safety.</li> </ul>

<p>3.34</p> <p>3.35</p> <p>3.36</p> <p>3.37</p> <p>3.38</p> <p>3.39</p>	<ul style="list-style-type: none"> <li>• Acoustic report submitted to Belfast City Council Environmental Protection Unit.</li> <li>• Building works completed to the satisfaction of Belfast City Council Building Control.</li> </ul> <p>Following the PSNI response, the solicitor acting on behalf of Carlisle Inns Ltd confirmed that the application form was incorrect and the premises is not covered by a 5(1)(a) liquor licence.</p> <p>He stated that there have been various applications for occasional licences at the premises which use the Article 5(1)(a) licence held by Carlisle Inns Ltd for the adjoining premises at Gordon Street. This is where the confusion has arisen.</p> <p>The applicant and/or their representatives will be available at the meeting to answer any queries you may have in relation to the application.</p> <p><b><u>Counter Representations</u></b></p> <p>No counter representations have been received at the time of writing this report. A copy of the report has been provided to the applicant and objector and a verbal update will be provided in respect of any further representations which are received.</p> <p><b><u>Financial and Resource Implications</u></b></p> <p>Officers carry out during performance inspections on premises providing entertainment this is catered for within existing budgets.</p> <p><b><u>Equality and Good Relations Implications/Rural Needs Assessment</u></b></p> <p>There are no issues associated with this report.</p>
<p><b>4.0</b></p>	<p><b>Documents Attached</b></p>
	<ul style="list-style-type: none"> <li>• Appendix 1 – Location Map</li> <li>• Appendix 2 – Objection Email</li> <li>• Appendix 3 – Layout plans</li> <li>• Appendix 4 – PSNI response</li> <li>• Appendix 5 – Objector’s Representation form</li> <li>• Appendix 6 – Applicant’s Representation form</li> </ul>