

Licensing Committee

Wednesday, 20th October, 2021

MEETING OF THE LICENSING COMMITTEE

HELD IN THE COUNCIL CHAMBER AND REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen McCoubrey, Rodgers and Sandford; and
Councillors Bradley, Bunting, Michael Collins, Howard,
Hutchinson, M. Kelly, T. Kelly, Magee, Magennis, McAteer,
McCabe, McCullough, McCusker, McKeown, Mulholland
and Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Ms. N. Largey, Divisional Solicitor;
Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Unit Manager;
Ms. V. Donnelly, City Protection Manager; and
Mr. H. Downey, Democratic Services Officer.

Apologies

No apologies were reported.

Minutes

The minutes of the meeting of 15th September were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 4th October, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor McCullough declared an interest in relation to item 2c – Application for the Grant of a Seven-Day Annual Outdoor Entertainments Licence – Northwood Linear Park, on the basis that he had held discussions with the organiser of the event, and left the meeting whilst the application was being considered.

Councillors McCabe and Mulholland declared an interest in relation to item 3a - Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021, in that they each worked for an organisation which, on occasions, applied for a liquor licence and left the meeting for the duration of the discussion.

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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 item, 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.

Non-Delegated Matter

Amendment to Standing Orders and Operating Protocols

The Divisional Solicitor informed the Committee that Council officers had been made aware of a recent judicial review of a planning decision which had been taken by another council. Whilst the Judgement had yet to be formally published, it was felt that it should be brought to the attention of Members, as the judge had made a number of findings which would impact upon decisions taken by the Committee for this and future meetings.

She confirmed that a report would, on 22nd October, be presented to the Strategic Policy and Resources Committee seeking approval, firstly, to suspend those parts of the Operating Protocols for the Licensing and Planning Committee which prohibited Members from taking part whilst a decision was being made, insofar as it related to non-attendance, and, secondly, to delete/replace those Standing Orders relating to the call-in of decisions taken by the Licensing and Planning Committees.

She pointed out that officers were engaging with their counterparts in the Department for Communities to explore how the issues identified by the Judgement could be resolved and that a further report would be presented to the Committee in due course.

Accordingly, she recommended that the Committee:

- i. note the information which had been provided;
- ii. note that the call-in process would apply to decisions taken by the Committee from this meeting onwards; and
- iii. agree that it was a matter for Members to decide whether to take part whilst a decision was being made, if they had not attended a previous meeting where the application had been discussed, notwithstanding the provisions of the Operating Protocol.

The Committee adopted the recommendations.

Delegated Matters

**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE
OF THE POWERS DELEGATED TO IT UNDER STANDING ORDER 37(d)**

Applications Approved under Delegated Authority

The Committee noted a list of Road Closure Orders which had, since its last meeting, been made under the Council's Scheme of Delegation.

**Application for the Grant of a Seven-Day Annual Outdoor
Entertainments Licence - Banana Block, 310 Newtownards Road**

The Building Control Manager submitted for the Committee's consideration the following report:

“1.0 Purpose of Report/Summary of Main Issues

- 1.1 To consider an application for the grant of a Seven-Day Annual Outdoor Entertainments Licence, based on the Council's standard conditions to provide outdoor musical entertainment.

<u>Area and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
Banana Block 310 Newtownards Road Belfast, BT4 1HE	WK/2020/01331	Mr Ralf Alwani Belfast Rooftops Ltd.

- 1.2 A location map has been circulated to Members.
- 1.3 Members are reminded that all applications for the grant of Outdoor Entertainments Licences must be brought before the Committee for consideration.

2.0 Recommendations

- 2.1 Taking into account the information presented and any representations made in respect of the application the Committee is required to make a decision to either:

- (a) approve the application for the grant of the Seven-Day Annual Outdoor Entertainments Licence, or
- (b) approve the application for the grant with special conditions, or
- (c) refuse the application for the grant of the Seven-Day Annual Outdoor Entertainments Licence.

2.2 If an 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. In the case that the applicant subsequently decides to appeal, outdoor entertainment may not be provided until any such appeal is determined.

3.0 Main Report

Key Issues

3.1 The applicant has applied to provide entertainment within the outdoor area adjacent to the main building known as the Banana Block. The area will serve the Banana Block building, which is also subject to an application for Indoor Entertainment. If the Committee is minded to grant the Outdoor Entertainments Licence, it will not be issued until such time as the Indoor Entertainments Licence is granted. The applicant has indicated that the outdoor area will only be used for entertainment when entertainment is provided within the indoor space.

3.2 The standard days and hours for an Outdoor Entertainments Licence are:

- Monday to Sunday: 11.30 a.m. to 11.00 p.m.

3.3 In addition, the following Special Conditions are usually attached to Outdoor Licences:

1. Maximum numbers will be agreed at the discretion of the Building Control Service and will vary depending upon individual event set up proposals.
2. Prior to any event taking place the promoters are required to demonstrate evidence of early consultation and have in place a robust system of dealing with any complaints, which has been agreed in advance with the Council.
3. Any requests to provide entertainment later than 11.00 p.m. must be considered by the Licensing Committee and therefore must be made at least 3 months in advance of the proposed event.
4. Should an application to provide entertainment beyond 11.00 p.m. be granted and the Council then receive a

significant number of complaints regarding noise or the complaint is of such significant impact, authority is granted to the Director of Planning and Building Control, in consultation with the City Solicitor, to reduce the finishing time for any subsequent nights of the event, in which case the promoter will be required to make contingency arrangements.

Representations

- 3.4 Public notice of the application has been placed and no written representation have been lodged as a result of the advertisement.

PSNI

- 3.5 The Police Service of Northern Ireland has been consulted in relation to the application. At the time of writing this report, the Council has not received a response. An update will be provided at the meeting.

NIFRS

- 3.6 The Northern Ireland Fire and Rescue Service was also consulted and has no objection to the application. It will be invited to attend any planning meetings and will be provided with any associated event documentation for comment.

Health, Safety and Welfare

- 3.7 The applicant is developing a management plan outlining how the area will be managed to ensure the health and safety of their patrons and staff. Policies on customer social distancing, staff social distancing, PPE, handwashing and waiter service will be included in the plan.
- 3.8 When received, the Service will provide a copy of the applicant's proposals to mitigate the spread of COVID-19 to the Health and Safety section of City and Neighbourhood Services for their consideration.

Noise

- 3.9 The applicant has been advised that an acoustic report will be required prior to outdoor entertainment being hosted at the venue. The report will be provided to the Environmental Protection Unit for evaluation.

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Applicant

- 3.10 The applicant, and/or their representatives, will be available at your meeting to answer any queries you may have in relation to the application.

Financial and Resource Implications

- 3.11 None.

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

- 3.12 There are no issues associated with this report.”

The Committee agreed to grant a Seven-Day Annual Outdoor Entertainments Licence for Banana Block, 310 Newtownards Road, subject to the Police Service of Northern Ireland confirming that it had no objection to the licence being granted.

**Application for the Grant of a Seven-Day Annual Outdoor
Entertainments Licence - Northwood Linear Park**

The Building Control Manager submitted for the Committee’s consideration the following report:

“1.0 **Purpose of Report/Summary of Main Issues**

- 1.1 To consider an application for the grant of a Seven-day Annual Outdoor Entertainments Licence in respect of Northwood Linear Park, based on the Council’s standard conditions to provide outdoor musical entertainment.

<u>Area and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
Northwood Linear Park Shore Road Belfast BT15 3LZ	WK/2020/	Mr. Ryan Black City and Neighbourhood Services Department Belfast City Council

- 1.2 The dates of a forthcoming community event proposed to take place in the park are such that this is the only Committee meeting at which this matter can be considered.
- 1.3 A location map has been circulated to Members.

2.0 Recommendations

2.1 Taking into account the information presented and any representations made in respect of the application the Committee is required to make a decision to either:

- a) approve the application for the grant of the Seven-day annual Outdoor Entertainments, or**
- b) approve the application for the grant with special conditions, or**
- c) refuse the application for the grant of the Seven-Day Annual Outdoor Entertainments Licence.**

2.2 If an 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. In the case that the applicant subsequently decides to appeal, outdoor entertainment may not be provided until any such appeal is determined.

3.0 Main Report

Key Issues

3.1 As for all licences associated with the Council's parks, the applicant is Mr. Ryan Black, Director of Neighbourhood Services.

3.2 The standard days and hours for an Outdoor Entertainments Licence are:

- Monday to Sunday: 11.30 a.m. to 11.00 p.m.**

3.3 In addition, the following Special Conditions are attached to Outdoor Entertainments Licences:

- Maximum numbers will be agreed at the discretion of the Building Control Service and will vary depending upon individual concert set up proposals.**
- Prior to any event taking place the promoters are required to demonstrate evidence of early consultation and have in place a robust system of dealing with any complaints, which has been agreed in advance with the Council.**

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- Any requests to provide entertainment later than 11.00 p.m. must be considered by the Licensing Committee and therefore must be made at least three months in advance of the proposed event.
- Should an application to provide entertainment beyond 11.00 p.m. be granted and the Council then receive a significant number of complaints regarding noise or the complaint is of such significant impact, authority is granted to the Director of Planning and Building Control, in consultation with the City Solicitor, to reduce the finishing time for any subsequent nights of the event, in which case the promoter will be required to make contingency arrangements.

3.4 Members are reminded that all applications for the grant of Outdoor Entertainments Licences are subject to consideration by the Committee.

Dockside Festival

3.5 At the Council meeting in July 2021, it was agreed to allocate £500k to a diversionary and festival programme, on the understanding that, as part of this programme, there would be events on Council land that would have to be organised within a tight timeframe.

3.6 It was further agreed that all planned events must be compliant with Covid-19 restrictions at the time, with the use of Council Parks for approved events granted, if required, in compliance with existing Council policies and use of Council parks and open spaces. Approvals were subject to:

- Negotiation of satisfactory terms and conditions of use, including any relevant fees, via an appropriate legal agreement prepared by the City Solicitor, including managing final booking confirmation dates and flexibility around 'set up' and take down' periods, and booking amendments, subject to;
 - The applicant resolving any operational issues to the Council's satisfaction;
 - Compliance with Coronavirus restrictions in place at the time of the event; and
 - The applicant complying with all relevant statutory licencing requirements.

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- 3.7** Subsequently, at the SP and R meeting on 24th September, The Hubb Community Resource Centre was awarded £44,000 to run a festival programme from 25th – 31st October.
- 3.8** Its showcase event is the Dockside Festival, which will utilise the Northwood Linear Park to host a family friendly, community event over the Halloween weekend on Friday 29th and Saturday 30th October.
- 3.9** Entertainment in the form of live bands and DJ's will be provided on both evenings of the Festival finishing by 11.00 pm.

Representations

- 3.10** Whilst public notice of the application has been placed in the press the date of the advertisement is such that the 28-day statutory period during which representations to the application may be made will not expire until after the outdoor events are scheduled to take place.
- 3.11** In the circumstances, where notification of a planned event is provided and there being no suitable alternative outdoor licenced venue to re-locate to, Members are asked to agree to grant approval for the events only and issue a licence for 29th and 30th of October.
- 3.12** To issue the licence, from a regulatory and enforcement perspective, is preferable to an event proceeding unlicensed.
- 3.13** At the time of writing this report, no representations have been received to the application.

PSNI

- 3.14** The Police Service of Northern Ireland has been consulted in relation to the application. At the time of writing this report the Council has not received a response. An update will be provided for Members at the meeting.

NIFRS

- 3.15** The Northern Ireland Fire and Rescue Service has been consulted in relation to the application. When additional fire safety information is available to permit an assessment being made the NIFRS will provide a consultation response.

Health, Safety and Welfare

- 3.16 Officers from the Service will engage with the applicant and event organisers in the lead up to the event to ensure all documentation and technical information is in place.
- 3.17 When received, the Service will provide a copy of the applicant's proposals to mitigate the spread of Covid-19 to the Health and Safety section of City and Neighbourhood Services for their consideration.
- 3.18 Additionally, officers will inspect the site during the build of the event space and following its completion to ensure they are satisfied all safety and management procedures are in place.

Noise

- 3.19 The applicant has been requested to provide the Service with an acoustic report for the event. When received, it will be provided to the Environmental Protection Unit for evaluation.
- 3.20 When a report has been developed for the event it will be considered by Officers to ensure the technical requirements are in accordance with all relevant legislation and guidance. The noise mitigation strategy must demonstrate that noise from the event will not cause unreasonable disturbance to commercial and residential premises.
- 3.21 The organisers will also be required to produce a suitable neighbourhood notification letter and officers will agree the extent of its distribution prior to the event taking place.

Applicant

- 3.22 The applicant, and/or their representatives, for both the licence and the event will be available at the meeting to answer any queries you may have in relation to the application.

Financial and Resource Implications

- 3.23 None.

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

- 3.24 There are no issues associated with this report."

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The Committee agreed to grant a Seven-Day Annual Outdoor Entertainments Licence for Northwood Linear Park, with entertainment being permitted only on Friday, 29th and Saturday 30th October.

Application for the Grant of a Seven-Day Annual Indoor Entertainments Licence - Common Market, 16 - 20 Dunbar Street

The Building Control Manager submitted for the Committee's consideration the following report:

1.0 Purpose of Report/Summary of Main Issues

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 Premises and Location	Ref. No	Applicant
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 Seven-Day Annual Indoor Entertainments Licence.

1.5 A location map has been circulated to the Committee.

2.0 Recommendations

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.

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- 2.4** Thereafter, taking into account the information presented and any representations received the Committee is required to consider the application and to either:
- 1.** approve the application for the grant of Seven-Day Annual Indoor Entertainments Licence, or
 - 2.** approve the application for the grant of Seven-Day Annual Indoor Entertainments Licence with Special Conditions, or
 - 3.** refuse the application for the grant of Seven-Day Annual Indoor Entertainments Licence.
- 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.
- 3.0** **Main Report**
- Key Issues**
- 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 Arnott's 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:

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- 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 has been circulated.**
- 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 The applicant has applied to provide entertainment on the following days and hours:**
- Monday to Saturday: 12.00 p.m. to 1.00 a.m. the following morning, and**
 - Sunday: 12.00 p.m. to 12.00 a.m.**
- 3.13 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.**
- 3.14 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.**
- 3.15 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.**
- 3.16 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.**

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- 3.17 Mr Bannon has advised that a Planning Application has been submitted in respect of the premises.**
- 3.18 A Layout plan of the venue has been circulated to Members.**

PSNI

- 3.19 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.**
- 3.20 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.**
- 3.21 A copy of its correspondence has been circulated.**

NIFRS

- 3.22 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.**

Health, Safety and Welfare Inspections

- 3.23 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.**
- 3.24 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.**
- 3.25 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.**

Noise Issues

- 3.26 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.
- 3.27 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.

Objector's Representation

- 3.28 The objector's Representation Forms have been circulated and they have been provided to the applicant, as required by the protocol.
- 3.29 In general, the representations relate to concerns as follows:
- The premises do not have Planning Permission for the current use.
 - Contravention of the current planning consent brings into question the character and suitability of the applicant.
 - 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.
 - 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.
- 3.30 The objector has been invited to attend the meeting to discuss any matters relating to their objections, should they arise.

Applicant's Representation

- 3.31 The applicant has provided their Representation Form, as required by the Protocol, and a copy of their response has been circulated.
- 3.32 The applicant's Representation Form has also been provided to the objectors, as required by the protocol.
- 3.33 A summary of the applicant's representation is as follows:
- The objection received is a commercial objection which is unfounded, without merit and does not stand up to scrutiny.
 - The meritless objections should be given no consideration.
 - Asbestos report submitted to the satisfaction of Belfast City Council Health and Safety.
 - Acoustic report submitted to Belfast City Council Environmental Protection Unit.
 - Building works completed to the satisfaction of Belfast City Council Building Control.
- 3.34 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.
- 3.35 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.
- 3.36 The applicant and/or their representatives will be available at the meeting to answer any queries you may have in relation to the application.

Counter Representations

- 3.37 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.

Financial and Resource Implications

- 3.38 Officers carry out during performance inspections on premises providing entertainment this is catered for within existing budgets.**

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

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

The Building Control Manager provided an overview of the report and explained that the Committee was required, in the first instance, to decide if it wished to exercise its discretion and hear from the objector, whose objection had been lodged outside the 28-day statutory period.

The Committee agreed to exercise its discretion and, accordingly, Mr. J. Morgan, the objector, and Mr. L. Bannon, an advisor to the applicant, were welcomed to the meeting.

Mr. Morgan informed the Committee that he had acted as an advisor to a company which, in 2018, had occupied the premises at 16 - 20 Dunbar Street. That company had secured planning permission to operate a temporary event space therein but had been forced to abandon the proposal and give up the property as it had deemed it to be commercially unviable due primarily to asbestos-related issues.

He explained that he owned a venue in Tomb Street, a short distance from this property, and that it held an Article 5 (1) (a) Liquor Licence, met all statutory requirements and did not serve food. He failed, therefore, to see how he could be viewed by the applicant as being a competitor. He pointed out that his venue complied fully with the licensing retailers' code on responsible drinking and did not sell alcohol at 99p per drink, as the applicant's company did.

He then rejected the applicant's assertion that other licensees in the area had welcomed the application by stating that they had made a significant investment in their business to meet current regulations and were not in favour of this venue being used as a pop-up bar.

Mr. Morgan drew the Committee's attention to his concerns around the existence of asbestos in the property and referred to the fact that the previous application had included a full asbestos report. The applicant at that time had been informed by the Council that, in order to ensure the safety of patrons, it would be necessary to fully encapsulate the roof. However, according to paragraph 3.25 of the Committee report, this was no longer required, as noise-induced asbestos release was deemed to be unlikely. He argued that this provided only limited assurance and stressed that robust testing should be undertaken to meet due diligence requirements.

He then highlighted the fact that the applicant had, since June, 2021, traded in breach of the current planning approval and that it was his understanding that

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enforcement action was being undertaken by the Planning Service in this regard. In addition, the latest application for an occasional Liquor Licence had been refused, on the basis that the judge had determined that the proposed charitable event would be secondary to a commercial venture. He added that an adjoining premises operated by the applicant had, in July 2021, been forced to close for one week for breaching Covid-19 restrictions by organising school formals with no social distancing.

Mr. Bannon informed the Members that Mr. Morgan had lodged his objection solely with the intention of frustrating the application process. He confirmed that the safety of customers was of paramount importance for the applicant and that all issues relating to the property had been addressed, in consultation with Council officers. Several tests had been carried out on the asbestos element of the roof, including one whilst music had been playing, and no concerns had been raised.

He pointed out that the applicant had been granted a number of occasional liquor licences, despite Mr. Morgan having objected unsuccessfully each time. On the latest occasion, the judge had found it difficult to grant a liquor licence, as the premises had not held an Entertainments Licence. However, the judge had confirmed that, should the Licence be granted by the Committee at this meeting, the applicant could return to Court on 21st October to obtain a Liquor Licence to cover events taking place over the incoming weekend.

Mr. Bannon went on to state that, in his view, there had been no breach of the current planning permission. Nevertheless, a new retrospective planning application had been submitted in August to allay any concerns around the future use of the premises.

He made the point that Common Market, which operated from Thursday to Sunday and provided employment for between sixty and eighty people, was extremely popular amongst traders and customers and had been praised by other licensees. He added that the venue was provided free-of-charge to any charity wishing to fundraise and concluded by stressing that the grant of the Entertainments Licence would further enhance the offering for all customers.

In response to a query from a Member, the Building Control Manager explained that the presence of asbestos had been the subject of considerable discussions between Council officers and the applicant. He explained that the initial application in 2018 had related to the use of the building as a music/concert venue, whilst the asbestos report and follow-up report which had been submitted for this application applied to a lower level of entertainment/noise. He added that the Council's Health and Safety Section had confirmed that it was content that the asbestos issue had been resolved on the basis of those reports.

The Divisional Solicitor explained that an enforcement file had been opened by the Planning Service in respect of the current use of the premises, which confirmed that there was an issue around planning permission and had given rise to a new application being submitted. In terms of the issues which had been raised around liquor licensing, she pointed out that that was the responsibility of the Police Service of Northern Ireland and the Courts and highlighted the fact that the Police Service had not objected to the grant of the Entertainments Licence.

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The Chairperson then offered the objector and the applicant the opportunity to address any factual inaccuracies which had been raised by the other party.

Mr. Morgan highlighted the point which he had made earlier in the meeting around the planning enforcement action being undertaken in relation to the current use of the property and invited the Committee to defer the application until such time as the new planning application had been determined.

Mr. Bannon reiterated the points which he had made earlier in the meeting in relation to planning issues and urged the Committee to grant the Entertainments Licence.

After discussion, the Committee agreed to grant a Seven-Day Annual Indoor Entertainments Licence for Common Market, 16 – 20 Dunbar Street and delegated authority to Council officers, in advance of the licence being issued, to attach any conditions relating to noise control and the prevention of noise breakout from the venue.

**Houses in Multiple Occupation Licences
Issued Under Delegated Authority**

The Committee noted a list of licences for Houses in Multiple Occupation which had, since its last meeting, been issued under the Council's Scheme of Delegation.

**Application for a New Licence to Operate a House
of Multiple Occupation - 8 Jerusalem Street**

The Divisional Solicitor drew the Committee's attention to additional representation relating to the above-mentioned application which had been submitted earlier in the day by the applicant's legal representative and been circulated to Members. She recommended that the Committee agree to defer the application until its meeting in November to enable officers to review and formally respond to the representation and to allow for it to be included within the Committee report, if deemed to be material to the application.

The Committee adopted the recommendation.

**Application for the Renewal of a Licence to Operate
a House of Multiple Occupation - 12 Curzon Street**

The HMO Unit Manager submitted for the Committee's consideration the following report:

"1.0 Purpose of Report/Summary of Main Issues

- 1.1 To consider an application for the renewal of a Licence permitting the use of premises as a House in Multiple Occupation (HMO).**

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<u>Premises</u>	<u>Application No.</u>	<u>Applicant(s)</u>	<u>Managing Agents</u>
12 Curzon Street Belfast BT7 1QU	8392	Dirnan Properties Ltd	None

- 1.2 Members are reminded that licences are issued for a 5-year period with standard conditions. Where it is considered necessary to do so, the Committee can also impose special conditions.

Background

- 1.3 Following the public notice of the application, objections were received in relation to alleged noise nuisance and anti-social behaviour taking place at the property.
- 1.4 As valid objections have been received, the application must be considered by the Committee which must, after hearing from the objectors and the applicant, decide whether to grant the renewal application.

2.0 **Recommendations**

- 2.1 Taking into account the information presented, the Committee is asked to hear from the applicant and make a decision to either:

- (i) grant the application, with or without any special conditions; or
- (ii) refuse the application.

- 2.2 If the application is refused, the applicant has a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.

3.0 **Main Report**

Key Issues

- 3.1 Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that:
- a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control;

- b) the owner, and any managing agent of it, are fit and proper persons;
- c) the proposed management arrangements are satisfactory);
- d) the granting of the licence will not result in overprovision of HMOs in the locality;
- e) the living accommodation is fit for human habitation and—
- f) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or
- g) can be made so suitable by including conditions in the licence.

3.2 However, where the application is for renewal, the Council cannot take into account whether the use is a breach of planning control or would result in overprovision.

Objections

3.3 Following publication of notice of the application, a number objections were received. A copy of the objections have been circulated. The issues raised are as follows:

- a) Over provision of HMOs in this area, leading to densification of the neighbourhood and reducing living quality;
- b) Existing household waste arrangements are not sufficient for the existing population;
- c) Insufficient sound proofing of properties;
- d) Alleged nuisance complaints and anti-social behaviour attributed to the subject property.

3.4 Points a), b) and c) are not specific to the premises and, as this is a renewal application, the legislation prohibits the Council from taking into account issues around overprovision.

3.5 When considering the fitness of an applicant the Council must have regard to convictions in relation to specified offences and any other matter which it considers to be relevant.

3.6 The NIHMO Unit has consulted with the following units within the Council's City and Neighbourhood Services Department –

Environmental Protection Unit ('EPU') - has confirmed that in relation to night-time noise there have been three noise warning notices issued on the 16 November 2017, 13 November 2017 and 3 December 2017 in respect of the HMO in the last 5 years;

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Environmental Protection Unit ('EPU') - has confirmed that in relation to day-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years;

Public Health and Housing Unit ('PHHU') - has confirmed that in relation to rubbish accumulation/filthy premises, there has been no relevant enforcement action required in respect of the HMO in the last 5 years; and

Enforcement Unit('EU') – has confirmed that in relation to litter and waste, there has been no relevant enforcement action required in respect of the HMO in the last 5 years,

- 3.7 The NIHMO Unit received a complaint relating to an allegation of the tenants playing music and coming and going from the property on 5th April 2021. The complaint was accompanied by a video lasting 8 secs, showing an individual knocking on the door. In addition, there was a still photograph of a police car and a police officer on the Street at 1.36 am. The NIHMO unit took no action in relation to this complaint.**
- 3.8 The NIHMO Unit received a further complaint relating to an incident on 8th August 2021 from 12.50 am onwards. The complaint consisted of a written statement and 3 videos, the complainant stated, *'The lads in number 12 were having a party and playing football on the street and in and out of their house all night.'***
- 3.9 The videos are short (23 seconds, 48 seconds and 79 seconds) and showed people coming and going from the property and in one video a person is seen kicking a football with someone out of camera shot. Officers will have these videos available for members to view at Committee.**
- 3.10 On foot of this complaint, the NIHMO Unit wrote to the owner of the property.**
- 3.11 The owner confirmed to the NIHMO Unit that, in response to the August incident, he had a meeting with the tenants regarding their behaviour, during which he reinforced their responsibilities as tenants and furnished them with a copy of the anti-social behaviour policy. He further advised the tenants that this couldn't happen again and if it does the next step will be to contact their guarantors. The owner is of the belief that the tenants took the advice on board and he states**

that they apologised for their behaviour. The owner also asked his tenants to apologise to any of their neighbours that they may have annoyed.

- 3.12 Based on the information provided by the owner, the NIHMO Unit was satisfied that the owner's conduct in dealing with the incident was reasonable and proportionate.

Fitness

- 3.13 The applicants and managing agent have confirmed that they have not been convicted of any relevant offences, as set out at paragraph 3.6 of this report.
- 3.14 The applicant or managing agent have not been convicted of any HMO related offences by the Council. The EPU, PHHU and EU, solely in respect of their statutory functions, have confirmed that there are no relevant, previous convictions in respect of the applicant, managing agent or occupants. Due to data protection issues which have arisen, PSNI have not been accepting or responding to notification of these applications. Officers are continuing to engage with PSNI to find a resolution to this issue.
- 3.15 Officers are not aware of any other issue relevant to the Applicant's fitness.

Attendance

- 3.16 The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during the Committee meeting.

Suitability of the Premises

- 3.17 An inspection of the premises was carried out by officers from the NIHMO Unit on 13th August 2021, at which time it was established that the property met the physical standards for an HMO.

Notice of Proposed Decision

- 3.18 On 20th August 2021, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, officers issued a notice of proposed decision to the applicant setting out the terms of the proposed licence.
- 3.19 The notice of proposed decision stated that the council proposed to grant the licence. Officers are of the view that any

reported/alleged instances of anti-social behaviour and concern about the lack of accountability from those who own HMO properties, can be adequately addressed by the provision of an anti-social behaviour plan and out of hours contact number by the owner, as is already required under the standard terms and conditions of a licence.

Financial and Resource Implications

- 3.20 None. The cost of assessing the application and officer inspections are provided for within existing budgets.**

Equality and Good Relations Implications

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

The HMO Unit Manager provided an overview of the report and played for the benefit of the Committee three short videos which had accompanied the complaint which the HMO Unit had received on 8th August.

He reported that Mr. S. Byrne and Mr. B. Gardiner-Crehan, two of the objectors to the applicant, and Mr. D. O'Donnell, the applicant, were in attendance and they were welcomed to the meeting.

Mr. Byrne explained that he was a homeowner in Curzon Street and that, on at least one night per week, he and his wife were forced to stay with neighbours due to excessive noise and anti-social behaviour associated with the property at number 12. He pointed out that Section 10 (6) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 defined anti-social behaviour as “acting or threatening to act in a manner causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality” and stressed that this was particularly relevant to this application. He made the point that whatever management arrangements were in place currently for number 12 Curzon Street were clearly inadequate and added that HMO properties in the area generally were having a detrimental impact upon the quality of life and human rights of other residents, in terms of, for example, feeling safe and being able to sleep without interruption.

Mr. Gardiner-Crehan drew the Members' attention to the three short videos which they had viewed earlier in the meeting and confirmed that he had recorded them outside number 12 Curzon Street from 12.50 a.m. onwards on the morning of 8th August, 2021. The video showing football being played in the street had been recorded at 12.58 a.m. He stated that this was a regular occurrence for that property and that his family, which included two young children, were often forced to move to another room in order to sleep. That was likely to be the case also for other families with young children living in the street. Such instances confirmed that the landlord was failing to address noise nuisance and anti-social behaviour. He went on to state that he had established a neighbourhood watch scheme in the street in an attempt to improve the appeal of the area, however, its

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effectiveness would be likely to be limited by the fact that ten of the seventeen properties in Curzon Street were now Houses in Multiple Occupation.

Mr. O'Donnell began by pointing out that, as the owner of the property, he had received only one complaint of anti-social behaviour, that being on 8th August. He stressed that he treated anti-social behaviour very seriously and fully investigated any incidents which were brought to his attention. That had been the case for this complaint, although, in his view, the videos which had submitted by Mr. Gardiner-Crehan offered no evidence, as they did not display the time of recording or the extent of noise nuisance. He confirmed that, following the complaint, he had met with his tenants to make them aware of their responsibilities towards other people living in the street and had provided them with a copy of the anti-social behaviour policy. Those tenants had left the property on 31st August, as their tenancy had not been renewed.

In response to a query from a Member, Mr. O'Donnell confirmed that there were now new tenants in his property and that he had not been made aware of any incidences of anti-social behaviour since they had moved in.

The Chairperson then offered the objectors and the applicant the opportunity to address any factual inaccuracies which had been raised by the other party.

Mr. Gardiner-Crehan pointed out that the videos from the night of 8th August had, in fact, contained noise, although this had not been apparent when they had been played to the Committee. He added that he had not made a complaint to the Police Service of Northern Ireland on that night as, from experience, the perpetrators had usually re-entered the property prior to officers arriving, nor had he contacted the Council's Night-Time Noise Team, as it dealt primarily with internal noise.

Mr. Byrne drew the Committee's attention to the fact that he had, on 30th September, informed the landlord that noise was emanating from his property.

Mr. O'Donnell stated that, in terms of the complaint relating to 8th August, he had not been provided with any measurement of noise levels.

The HMO Unit Manager added that the most recent information from the Council's Environmental Protection Unit had been provided two weeks previously and that it had made no reference to a further noise complaint. The HMO Unit had also received no complaints of noise or anti-social behaviour relating to this property.

After discussion, the Committee agreed to defer consideration of the application until its meeting in November to enable officers to obtain up-to-date information on any complaints of noise and/or anti-social behaviour associated with the property and agreed also that the objectors and the applicant be permitted to submit any relevant information.

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Non-Delegated Matter

**Licensing and Registration of Clubs
(Amendment) Act (Northern Ireland) 2021**

The Committee agreed to defer until a special meeting a report providing an update on recent changes to the liquor licencing laws in Northern Ireland, by virtue of the Licensing and Registration of Clubs (Amendment) Act (NI) 2021, which had received Royal Assent on 26th August, and inviting the Committee to establish a position in relation to any objections which the Council might wish to lodge.

The Committee agreed also that, in the interim, applications which had been notified to the Council would, pursuant to paragraph 3.7.9 of the Council's Scheme of Delegation, be dealt with under delegated authority, thereby permitting the Strategic Director of Place and Economy, in consultation with the City Solicitor, to lodge objections to notices of applications received under liquor licensing legislation.

Chairperson