

# Licensing Committee

Wednesday, 19th October, 2022

## MEETING OF THE LICENSING COMMITTEE

### HELD IN THE COUNCIL CHAMBER AND REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Matt Collins (Chairperson);  
Alderman Sandford; and  
Councillors Canavan, Gormley, Howard, M. Kelly,  
T. Kelly, Magee, McAteer, McCann, McCoubrey,  
McCullough, McKeown, Murray, Nelson, Thompson and  
Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;  
Ms. N. Largey, Interim City Solicitor/Director of Legal and  
Civic Services;  
Mr. S. Hewitt, Building Control Manager;  
Mr. K. Bloomfield, HMO Unit Manager;  
Ms. C. Young, Marketing and Communication Coordinator;  
Ms. L. Hillis, Principal Building Control Surveyor;  
Ms. M. Gallagher, Senior Building Control Surveyor;  
Mr. J. Cunningham, Senior Licensing Officer;  
Ms. V. Smyth, Democratic Services Officer; and  
Mr. H. Downey, Democratic Services Officer.

### Apologies

No apologies were received.

### Minutes

The minutes of the meeting of 21st 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 3rd October, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

### Declarations of Interest

The Interim City Solicitor/Director of Legal Civic Services declared a conflict of interest in item 2(d) Application for the Renewal of a Seven-Day Annual Indoor Entertainments Licence – St. Malachy's College Old Boys' Association, 442 Antrim Road in that she knew one of the applicants and left the meeting whilst the matter was being discussed.

### Delegated Matters

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

**HMO 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.

**Licences Issued Under Delegated Authority**

The Committee noted a list of applications for licences which had, since its last meeting, been approved under the Council's Scheme of Delegation.

**Application for the Grant of a Seven-Day Annual  
Outdoor Entertainments Licence - The Central  
Catholic Club, 43a Rosemary 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 an application for the grant of a Seven-Day Annual Outdoor Entertainments Licence for the following premises, based on the Council's standard conditions, to provide outdoor musical entertainment for:

<u>Area and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
Central Catholic Club, 43a Rosemary Street Belfast, BT1 1QB	WK/2020/02063	Patrick McAviney Club Chairman

- 1.2 A location map is attached at Appendix 1.

**2.0 Recommendations**

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

- a) Approve the application for the grant of the 7-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 7-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 musical entertainment in the form of live music, within an outdoor area adjacent to the Club's main building. The club has an existing indoor Entertainments Licence.

**3.2** A layout plan is attached at Appendix 2.

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

- Monday to Sunday: 11.30 am to 11.00 pm.

Members are reminded that all applications for the grant of Outdoor Entertainments Licences must be brought before Committee for consideration.

**Representations**

**3.4** No written representation has been received as a result of the public notice of the application.

**PSNI**

**3.5** The Police Service of Northern Ireland has been consulted in relation to the application and has confirmed that it has no objection to the application.

**NIFRS**

**3.6** The Northern Ireland Fire and Rescue Service has been consulted in relation to the outdoor application and has confirmed that it has no objection to the application.

**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.

**Noise**

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- 3.8 The applicant has provided the Service with a noise impact assessment report from an acoustic consultant for the outdoor area, which has been forwarded to our Environmental Protection Unit (EPU) for evaluation.
- 3.9 The provision of only amplified background music and the performance of live small acoustic bands is proposed, and should Members be minded to grant the Outdoor Entertainments Licence the licensee is content for a special condition to this effect be placed on the licence.
- 3.10 Members are reminded that the Clean Neighbourhood and Environment Act (Northern Ireland) 2011 gives the Council additional powers in relation to the control of entertainment noise after 11.00 pm.

**Applicant**

- 3.11 The applicant, and/or their representative will be available at your meeting to answer any queries you may have in relation to the application.
- 3.12 A supplementary letter from the applicant outlining their reasons for applying for an outdoor licence is attached at Appendix 3.

**4.0 Financial and Resource Implications**

None.

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

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

The Committee approved the application for the grant of the 7-Day Annual Outdoor Entertainments Licence.

**Application for the Renewal of a Seven-Day Annual  
Indoor Entertainments Licence - St. Malachy's College  
Old Boys' Association, 442 Antrim Road**

The Committee agreed to defer the application for the renewal of a seven-day annual indoor entertainments licence due to the Interim City Solicitor/Director of Legal Civic Services' declaration of interest, in that she knew one of the applicants.

There was also the matter of the footage received from the objector which showed the identity of individuals and would therefore contravene General Data Protection Regulations (GDPR) if played to the Committee before identities were pixelated.

**Application for the Grant of an Amusement Permit –  
Playland, 24-28 Bradbury Place**

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 an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (the Order).**

<u>Premises and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
Playland (formerly Mavericks) 24-28 Bradbury Place Belfast, BT7 1RS	WK/20200431	Spiros Poker Limited 22 Barrack Street Armagh, BT60 1AD

- 1.2 The Director of Spiros Poker Limited is Sonia Mullen.**

- 1.3 A location map is attached at Appendix 1.**

- 1.4 A layout plan of the premises is attached at Appendix 2.**

**2.0 Recommendations**

- 2.1 In considering the application for the grant of an Amusement Permit, the Committee shall have regard to the Order and to Belfast City Council's Amusement Permit Policy, as follows:**

- a) The fitness of the applicant to hold a Permit having regard to his character, reputation and financial standing, and**
- b) The fitness of any other person by whom the business is to be carried on under the Permit would be managed, or for whose benefit that business would be carried on,**
- c) In considering the fitness of a body corporate to hold an amusement permit, the Council shall also have regard to the character, reputation and financial standing of the directors of the body corporate and any other persons who have executive control of it and who have a financial interest in it, as if the permit were, or were proposed to be, held by them jointly,**
- d) Representation, if any, from the sub-divisional commander of the Police Service of Northern Ireland in whose sub-division the premises are situated, and**

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- e) **Representation, if any, as a result of the public notices of advertisement.**

**You are then required to make a decision based on the following options set out under the Order.**

**You must refuse the application unless satisfied that:**

- a) **The applicant is a fit person to hold an Amusement Permit; and**
- b) **The applicant will not allow the business proposed to be carried on under the Amusement Permit to be managed by, or carried on for the benefit of, a person other than the applicant who would himself be refused the grant of an Amusement Permit.**

**Thereafter:-**

- 1) **You may refuse the application after hearing any representations from third parties, or**
- 2) **You may grant the application, subject to the mandatory condition that the premises are not to be used for an unlawful purpose or as a resort of persons of known bad character, and**
- 3) **You may also grant the application subject to discretionary conditions outlined in the Order relating to the illumination of the premises, advertising of, and window displays on the premises and the display of information notices.**

**2.2 Should you be minded to refuse the application for the grant of an Amusement Permit, or grant the Permit, subject to any discretionary conditions, you are required to advise the applicant of your intention to do so and you must afford the applicant the opportunity to make representations at a specified Licensing Committee meeting on the matter before making a final determination on the application.**

**2.3 If, upon hearing the applicant, you refuse the application for the grant of an Amusement Permit or decide to grant the application subject to discretionary conditions, the applicant may within 21 days from the date on which notice of the decision is served on him, appeal to the county court.**

**3.0 Background**

**Key Issues**

- 3.1 The Licensing Committee is responsible for determining all applications relating to the grant of Amusement Permits.
- 3.2 Planning permission was granted on 23rd September 2013 for a change of use from a fast-food outlet to a coffee shop and amusement arcade on the ground floor.
- 3.3 Members are reminded that, at the Committee meeting on 11th March 2014, an amusement permit was granted for 28 Bradbury Place for a gaming area to the rear of the ground floor of the premises, the area to the front being used as a café.
- 3.4 An amusement permit has been in force for the ground floor since 2017.
- 3.5 The current applicant company, Spiros Poker Ltd., has now taken over the amusement arcade. As there is no mechanism within the Order to enable the transfer of a permit from one company to another, an application must therefore be made for the grant of an Amusement Permit.
- 3.6 The Committee is, therefore, in the first instance, asked to consider if it is content to grant the amusement permit to this new applicant, to operate the existing amusement arcade as it is.
- 3.7 Additionally, planning permission was obtained on 28th March, 2022 for the change of use from a coffee shop to extend the amusement arcade to encompass all the ground floor. This will increase the floor area of the existing arcade by approximately one third of its current size.
- 3.8 There is also no mechanism within the Order to enable consideration of the variation of a permit, hence an application must be made for grant of an Amusement Permit.
- 3.9 Should Members be minded to grant the amusement permit to the new applicant for the existing arcade you are then asked to consider the application to extend the floor area of the amusement permit.

**Application Details**

- 3.10 The application is for a total of 55 gaming machines, giving an increase of 10 machines over the existing arcade; all of which are to pay out a maximum all cash prize of £25.00. Admission to the arcade is restricted to persons aged 18 or over.

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- 3.11 The proposed opening hours of the premises, as specified on the application, are:**

**Monday to Saturday: 09.00 am to 02.00 am the following morning, and**  
**Sunday: 10:00 am to 02:00 am the following morning.**

**NIFRS**

- 3.13 The Northern Ireland Fire and Rescue Service has been consulted and we await its response. The Amusement Permit will not be issued until it has confirmed that it has no objection to the application.**

**Complaints**

- 3.14 The Building Control Service has received no complaints concerning the premises.**

**Applicant**

- 3.15 A representative from Spiros Poker Ltd. will be available at the meeting to discuss any matters relating to the grant of the permit.**

**Planning Matters**

- 3.16 The rear of the ground floor of the premises has operated as a gaming centre since 2017, planning permission having been granted on 23rd September 2013 for a change of use from a fast-food outlet to a coffee shop and amusement arcade on the ground floor.**
- 3.17 On 28th March 2022, planning permission was obtained for the proposed change of use from a coffee shop to the extension of an amusement arcade on the ground floor.**
- 3.18 In an important Court of Appeal decision in June 1999, it was 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.**
- 3.19 The Court also confirmed that the Council can take into account matters such as location, structure, character and impact on neighbours and the surrounding area.**



3.20 A copy of the latest planning permission is attached at Appendix 3.

4.0 Key Issues

Amusement Permit Policy

4.1 The Belfast City Council Amusement Permit Policy, ratified by the Council on 1st May 2013, outlines those matters which may be taken into account in determining any amusement permit application and indicates that each application must be assessed on its own merits.

4.2 All applications for the grant of an amusement permit are assessed against the Amusement Permit Policy.

The key objectives of this policy are to:-

1. Promote the retail vibrancy and regeneration of Belfast;
2. Enhance the tourism and cultural appeal of Belfast by protecting its image and built heritage;
3. Support and safeguard residential communities in Belfast;
4. Protect children and vulnerable persons from being harmed or exploited by gambling;
5. Respect the need to prevent gambling from being a source of crime and disorder.

4.3 The Policy consists of two components which are considered below:

1. Legal requirements under the 1985 Order

4.4 The Committee must have regard to the legal requirements under the 1985 Order relating to:

(a) The character, reputation and financial standing of the applicant:

4.5 References for those associated with the application are attached as Appendix 4 to the report for consideration.

(b) The nature of the premises and activity proposed:

4.6 To ensure that the nature of the premises proposed is suitable for this location Members may consider how the premises are illuminated, the form of advertising and window display, and how notices are displayed on the premises. Whilst the appearance of amusement arcades is considered a Planning matter, Members may still wish to be satisfied that the facade

integrates with adjacent frontages. Photographs of the frontage are attached at Appendix 5.

**(c) Opinions of the Police:**

- 4.7 The Police Service of Northern Ireland has been consulted and has confirmed that it has no objections to the application. A copy of its correspondence is attached at Appendix 6.

**(d) Submissions from the general public:**

- 4.8 No objections have been received as a result of the public notices placed in the three local newspapers.

**2. Assessment criteria for suitability of a location**

- 4.9 The premises in question have been operating as an amusement arcade since 2017. The suitability of the location for an amusement arcade was assessed previously in August 2013, at the time of the original planning application. Both planning permission and an amusement permit were granted for the premises at that time.

- 4.10 However, subsequently planning permission was obtained on 28 March 2022 permitting an increase to the ground floor area of the amusement arcade by approximately a third (64m<sup>2</sup>) involving the change of use of the café at the front of the premises.

- 4.11 Therefore, while the suitability of the location of the premises for an amusement arcade was assessed initially in 2013, this proposed extension to the amusement arcade space means that it must be re-assessed based on the criteria outlined in the Policy.

- 4.12 There are five criteria set out in the Policy which should typically be considered when assessing the suitability of a location for an amusement arcade. These are detailed below as they relate to this application.

**Evaluation of the application site against criteria outlined in the Amusement Permit Policy**

***(a) Retail vibrancy and regeneration of Belfast:***

- 4.13 The application premises are the ground floor of 28 Bradbury Place, a commercial frontage which, according to draft BMAP, is situated outside Belfast City Centre retail core and located in the city centre remainder and on an arterial route.

4.14 The premises are situated on a commercial frontage comprising a mix of uses including bars, restaurants, a convenience supermarket, hairdressers, etc. It is currently adjacent on one side to a bar (Laverys /the Woodworkers), and on the other side to a cleared site that formerly accommodated a hot food bar/restaurant (most recently Bishops fish and chips). This adjacent site is the subject of a proposal, now under construction, to provide student accommodation (56 studios and 100 cluster bedrooms) on the upper floors with a retail unit and student reception area on the ground floor. The retail unit is proposed for development next to the application site. This notwithstanding, the proposal does not break up a continuous shopping frontage as there is a bar on one side of it and the application site itself is currently in café use as opposed to retail use.

*b) Cumulative build-up of amusement arcades in a particular location:*

4.15 This criterion seeks to avoid clustering of these uses in the interest of promoting the retail vibrancy and regeneration of Belfast, which is the first key objective of the Amusement Permit Policy.

4.16 Whilst there are no other amusement arcades on this commercial frontage there are 3 others operating nearby within approximately 200m walking distance of the application premises. These are:

- Players, 22-23 Shaftesbury Square (27 machines)
- Oasis gaming centre 1-7 Donegall Road/14 Shaftesbury Square (54 machines)
- Onassis Amusements, Second floor, 25-41 Botanic Avenue (142 machines)

4.17 In addition to the assessment of cumulative build-up, Members may wish to more broadly consider the issue of the proliferation of permits and the effect of same on the character and amenity of an area.

*c) Impact on the image and profile of Belfast:*

4.18 The application premises is not a listed building, has no neighbouring property which is a tourism asset, nor is it located at a Gateway location. The proposal is not considered to adversely impact on the image and profile of Belfast.

*(d) Proximity to residential use:*

**(i) - predominantly residential in character**

**4.19** The application premises are in the main ground floor commercial frontage of Bradbury Place, where there are a mix of uses including restaurants, public houses, and retail units. There are some residential buildings in the area, primarily blocks of flats in neighbouring streets. There is also newly constructed student accommodation building over the nearby railway line connecting to Botanic Station and, as noted in response to criterion (a) above, student accommodation is also currently under construction next to the application site. This proposed accommodation consists of a ground floor retail unit that will be developed adjacent to the application site. Overall, the area is primarily characterised by a mix of uses typically found in a City Centre location and is not one that is predominantly residential in character.

**(ii) – non-residential property that is immediately adjacent to residential property**

**4.20** The nearest residential properties to the application premises are Flats1-54, Tollgate House, Bradbury Place, which are approximately 20-30m from the application site on the opposite side of the road. These residential properties are not immediately adjacent to the application premises. Furthermore, the student accommodation under construction next to the application site is to have a ground floor retail unit adjacent to the premises.

***(e) Proximity to schools, youth centres and residential institutions for vulnerable people***

**4.21** There are no schools, youth centres, or residential institutions for vulnerable people within 200m of the application premises.

**Conclusion**

**4.22** The Council's Amusement Permit Policy seeks to avoid clustering of these uses in the interest of promoting the retail vibrancy and regeneration of Belfast, which is the first key objective of the Policy. This means that the cumulative build-up of amusement arcades in a particular location should be assessed.

**4.23** The application premises currently have 45 machines, with the proposal increasing this figure by 11 to give a total of 56 machines (an increase of 24.4%). This would give a total provision of 279 machines in this area (an overall increase of 4.4%).

- 4.24 It is worth noting that, while the floorspace allocated to amusement arcade use is increasing by approximately 33%, the number of proposed machines is increasing by 24.4%.
- 4.25 Members will be aware that councils cannot impose a restriction on the number of machines under the amusement permit legislation.
- 4.26 Members are reminded that the Committee refused an application to extend the amusement permit for the premises at 22-23 Shaftesbury Square into the adjoining vacant building at its meeting on 21st September 2016. This was on the basis that the application failed to comply with two of the five criteria set out within the Council's Amusement Permit Policy in terms of (i) the cumulative build-up of amusement arcades in a particular location and (ii) the impact of the arcade upon the image and profile of Belfast.
- 4.27 Whilst the application premises may comply with criterion b) of the policy in that this application will not increase the number of amusement arcades along this commercial frontage, there may be an issue in relation to cumulative build-up of amusement arcades at this location which impacts upon the character and amenity of the area, which the Committee may wish to consider. A land-use map of area is attached at Appendix 7.
- 4.28 Members are reminded that, in addition to the above legal requirements and assessment criteria, the Committee may take into account any matter which is deemed relevant.
- 4.29 Members may depart from the Policy where it is appropriate to do so, although it is envisaged that this should only happen in exceptional circumstances.
- 4.30 The Council's Amusement Permit Policy is attached at Appendix 7.

**Financial and Resource Implications**

- 5.1 Administration of Amusement Permit applications is included in current budgetary estimates.

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

- 6.1 None.

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The Building Control Manager advised that confirmation had recently been received from the Northern Ireland Fire and Rescue Service that they had no objection to the application for the grant of an Amusement Permit.

After consideration the Committee approved the application for the grant of an Amusement Permit by Spiros Poker Limited, including the extension of the amusement arcade on the ground floor into the former coffee shop area.

**Non-Delegated Matters**

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

The Building Control Manager provided an update on the trial period which the Committee, at its meeting on 13th April 2022, had agreed to extend for a further six months, with authority delegated to the Director of Planning and Building Control to deal with all Article 44A extension applications both for City centre and non-city centre locations in the manner which had been previously agreed by the Committee. He provided a summary position whereby following the April Committee Meeting the Committee agreed to offer no objection to Article 44A extension applications for Biddu Duffy's and Horatio Todd's up to 19th October 2022 and that each applicant be requested:

- i. to agree to withdraw all Article 44A extension applications beyond 19<sup>th</sup> October, to allow officers to provide at the Committee meeting in October an update on any issues which had arisen from the operation of the premises during the 9-month trial period, given that both premises were located in close proximity to residential accommodation; and
- ii. to agree not to provide entertainment after 2.00 a.m., unless an Entertainments Licence was in place which expressly permitted entertainment to take place beyond that time.

To date, Biddu Duffy's had only once availed of the additional hours of operation permitted by their Article 44A applications whilst Horatio Todd's had not used any of their additional hours applications.

The licensee of Biddu Duffy's had advised that they were not using their additional hours because customers were no longer interested in late nights, post-covid, whilst the licensee for Horatio Todd's would not be applying for any further additional hours claiming that they cost too much in legal fees and provide no return.

Given that the premises were close to residential properties, the intention of the extended trial period was to consider whether the premises operating to the later hours, or any period immediately following their termination, led to undue inconvenience to persons residing in the vicinity.

The Building Control Manager advised that despite a prolonged trial period of over 9 months, there was still no evidence to provide the Committee in relation to the impact, if any, of these bars selling alcohol to 2.00 am on their local neighbourhood. He added that Coronavirus had had a significant impact on the licensed trade and it would seem

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that the introduction of new legislation to permit longer opening hours had not had the widespread uptake that might have been expected. When reporting to the Committee in April, it was anticipated that trade in the industry and tourism generally would pick up, and that there would be greater interest from pubs and hotels in availing of the opportunity to serve alcohol until 2.00 am. No doubt the more recent pressures that businesses were enduring due to the cost of living and energy crisis had had a further impact on recovery and, in turn, their desire to avail of late licences.

After consideration the Committee agreed to delegate authority to the Director of Planning and Building Control to deal with all such applications in the manner previously agreed on the proviso that such applications did not relate to premises where the provision of entertainment had been subject to significant objections or prosecutions in the past and that the situation would be kept under review and any emerging problems that may arise be reported to the Committee.

Chairperson