

Licensing Committee

Wednesday, 19th January, 2022

MEETING OF THE LICENSING COMMITTEE

HELD IN THE COUNCIL CHAMBER AND REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Rodgers and Sandford; and
Councillors Bradley, Bunting, Michael Collins,
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;
Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Unit Manager;
Ms. N. Largey, Divisional Solicitor;
Ms. V. Donnelly, City Protection Manager; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported on behalf of Alderman McCoubrey and Councillor Howard.

Minutes

The minutes of the meeting of 15th December were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 10th January, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor McCabe declared an interest in relation to item 2a – Application for the Grant of a Stationary Street Trading Licence – Dargan Crescent, on the basis that she had, in the past, dealt with the applicant through her work, and left the meeting whilst the application was being considered.

Delegated Matters

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

Application for the Grant of a Stationary Street Trading Licence - Dargan Crescent (at Musgrave Cash and Carry Site)

The Building Control Manager informed the Committee that the Council had received an application from Mr. David Reilly for a Stationary Street Trading Licence to

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trade at an available designated site in Dargan Crescent, outside the Musgrave Cash and Carry premises. The designation complied with the designating resolution for that site.

Mr. Reilly had applied to sell hot and cold food and non-alcoholic beverages from Monday to Friday, between 8.00 a.m. and 2.30 p.m., from a catering trailer, measuring 25 feet by 7 feet. He had not previously held a Street Trading Licence with the Council and the Police Service of Northern Ireland and the Department for Infrastructure Roads Service had offered no objection to the use of the site.

The Building Control Manager explained that Mr. Reilly had, within the Access NI Basic Disclosure Certificate which he was required to submit as part of the application process, stated that he had been convicted of an offence on 21st June, 2021.

The Divisional Solicitor outlined the nature of the offence, following which the Building Control Manager pointed out that the Street Trading Act (Northern Ireland) 2001 placed a statutory obligation on the Council to approve an application for a Street Trading Licence unless there were sufficient grounds to refuse it. Section 8 of the Act set out circumstances in which an application must be refused, however, there were no such grounds for refusal applicable to this application.

He went on to explain that, under Section 9 (c) of the Street Trading Act (Northern Ireland) 2001, the Council could, however, refuse to grant an application on discretionary grounds if the applicant was, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a Licence. The Council's Street Trading Policy, which it was required to follow in making a decision, repeated this discretionary ground and went further by stating that the Council, when determining the suitability of each Street Trading Licence, must take into account the safety of the public and any risks which may arise. The applicant's conviction on 21st June, 2021 would, therefore, be a relevant consideration for the Committee in determining his suitability to hold a Street Trading Licence.

It was reported that Mr. Reilly, the applicant, and Ms. E. Ewing, his legal representative, were in attendance and they were welcomed by the Chairperson.

Ms. Ewing explained the circumstances surrounding Mr. Reilly's conviction and pointed out that the Police Service of Northern Ireland had confirmed that there had been no further complaints or issues raised in relation to his behaviour. She concluded by highlighting the fact that this had been an isolated incident and urged the Committee to take this into account when considering her client's application.

After discussion, it was

Moved by Councillor McAteer,
Seconded by Councillor Magee,

That the Committee agrees, given the nature of the conviction, that it is minded to refuse the application on the discretionary grounds set out in Section 9 (1) (c) of the Street Trading Act (Northern Ireland) 2001, in that

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the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a Street Trading Licence.

On a vote, eleven Members voted for the proposal and two against, with four “no votes”, and it was declared carried.

The Committee was advised that, as a consequence of its decision, the applicant would be notified that, under Section 12 (2) (b) of the aforementioned Act, he would be permitted to make representation, in writing, to the Council, with such representation to be made not less than twenty-one days from the date of notice. Should such representation be made, he and/or his representative would, prior to the Committee deciding on the matter, be permitted to address a future meeting.

Applications approved under Delegated Authority

The Committee noted a list of applications for licences, permits and Road Closure Orders which had, since its last meeting, been approved under the Council’s Scheme of Delegation.

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

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 how Article 44A extension liquor licence applications for non-City centre locations for dates in February prior to the Committee meeting on 16th February, and, in particular, St. Valentine’s night, are dealt with.

2.0 Recommendations

2.1 The Committee is asked to consider if authority should be delegated to officers to deal with any Article 44A extension applications for non-City centre locations for dates up to and including 16th February 2022, in a similar way to that agreed for Bidy Duffy’s and Horatio Todd’s at the meeting on 15th December 2021.

2.2 This would again be on the proviso that such applications did not relate to premises where the provision of entertainment had been subject to significant objections or prosecution in the past.

2.3 In such instances, the application would be presented to the Committee for consideration.

3.0 Background

- 3.1 At the meeting on 15th December, the Committee considered a report on the Licensing and Registration of Clubs (Amendment) Act (NI) 2021. The outcome is set out below:**

Pubs and Hotels – City Centre Locations

- 3.2 The Committee agreed that Article 44A extension applications for pubs and hotels in City centre locations should continue to be dealt with by Council officers under delegated authority, as follows:**

- i to offer no objection to Article 44A extension applications which have been received to serve alcohol to 2.00 a.m. for City centre venues where they are in possession of an entertainments licence which permits entertainment to 3.00am every night of the week, and**
- ii to confirm that, in principle, the Council has no objection to Article 44A extension applications which have been received to serve alcohol to 2.00 a.m. for City centre venues where they are in possession of an entertainments licence which permits entertainment to 3.00 a.m. only on specified nights of the week but advising the Court of the fact that the Entertainments Licence does not permit entertainment to 3.00am on some of the dates to which the extension applications relate.**

- 3.3 It was noted that, in cases where Article 44A extension applications had been received for premises where the provision of entertainment had been subject to significant objections or prosecution, those would be presented to the Committee for consideration.**

Pubs and Hotels – Non-City Centre Locations

**Biddy Duffy's, 133 Andersonstown Road/
Horatio Todd's, 406 – 408 Upper Newtownards Road**

- 3.4 The Committee agreed to offer no objection to Article 44A extension applications for Biddy Duffy's and Horatio Todd's up to 31st January 2022 and that each applicant be requested:**

- i to agree to withdraw all Article 44A extension applications beyond 31st January, to allow officers to provide at the Committee meeting in February an update on any issues which had arisen from the**

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operation of the premises during the month of January, 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.

Pubs and Hotels – Non-City Centre Locations Generally

- 3.5 The Committee agreed that, should any further Article 44A extension applications for non-City centre locations be received between this meeting and 31st January 2022, officers should deal with them in a similar way as those for Biddy Duffy's and Horatio Todd's, as long as they did not relate to premises where the provision of entertainment had been subject to significant objections or prosecution in the past.
- 3.6 In such instances, the application would be presented to the Committee for consideration.

**Police Service of Northern Ireland
Authorisations for Additional Hours**

- 3.7 The Committee agreed that authority be delegated to Council officers to deal with Police Service of Northern Ireland authorisations for additional hours and that no representations be made unless there is reason to do so by virtue of any:
 - a. restrictions placed upon the Entertainment Licence (if the premises associated with the application has an Entertainments licence),
 - b. complaints regarding the operation of, or anti-social behaviour in and around, the premises, and
 - c. Building Regulation or other Council statutory enforcement issues.
- 3.8 The minute from the meeting of 15th December has been circulated.

4.0 Key issues

- 4.1 Members will be aware that new Coronavirus restrictions came into force on 26th December 2021 which, amongst other

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measures, required nightclubs to close and prohibited dancing in all other licensed premises.

- 4.2 Should these restrictions be lifted prior to the Committee meeting on 16th February, there is a possibility that a number of pubs and hotels in non-City centre locations may wish to apply for an Article 44A order for additional permitted hours to serve alcohol until 2.00 am for St. Valentine's night and/or the weekend nights leading up to it.
- 4.3 As your decision in relation to any Article 44A extension applications for non-City centre locations only covers the period to 31st January 2022, that would preclude officers from making any delegated decision in relation to applications associated with St. Valentine's night or any other application for dates from 1st February to 16th February.
- 4.4 Given the additional impact on the hospitality sector that the latest restrictions have created and the fact that any venues that have applied for extension licences will have had limited opportunity to utilise them to date, the Committee may wish to consider reviewing how any extension applications for dates prior to your meeting on 16th February, and in particular St. Valentine's night, are dealt with.

Financial and Resource Implications

- 4.5 None.

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

- 4.6 None.”

After discussion, the Committee agreed:

- i. to delegate authority to the Director of Planning and Building Control, on a three-month trial basis, to deal with any Article 44A extension applications for non-City centre locations in a similar way to that which had been agreed for Biddu Duffy's and Horatio Todd's at the meeting on 15th December, 2021, with the proviso that such applications did not relate to premises where the provision of entertainment had been subject to significant objections or prosecution in the past. In such instances, those applications will be presented to the Committee for consideration;
- ii. that a report on the outcome of the aforementioned trial period be presented to the Committee for consideration; and

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- iii. that the report on pubs and hotels in City centre locations, the operation of Biddu Duffy's and Horatio Todd's and on Police Service of Northern Ireland Authorisations for Additional Hours, which was due to be presented to the meeting in February, be submitted at the same time as that relating to non-City centre premises.

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.

Chairperson