

Licensing Committee

Wednesday, 16th February, 2022

MEETING OF THE LICENSING COMMITTEE

HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Rodgers and Sandford; and
Councillors Bradley, Bunting, Howard,
Hutchinson, M. Kelly, T. Kelly, Magee,
McAteer, McCabe, McCullough, McCusker,
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; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported on behalf of Alderman McCoubrey and Councillors Michael Collins and McKeown.

Minutes

The minutes of the meeting of 19th January were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st February, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor Mulholland declared an interest in relation to item 3a – Review of Reduced Fees for Entertainments Licences, on the basis that she worked for an organisation which held an Entertainments Licence, and left the meeting for the duration of the discussion.

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 applications for licences and Road Closure Orders which had, since its last meeting, been approved under the Council's Scheme of Delegation.

Houses in Multiple Occupation (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.

Non-Delegated Matters

Review of Reduced Fees for Entertainments Licences

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 seek agreement on a response to the Department for Communities (DfC) query regarding the continuation of a reduced fee of £1 for applications for the renewal of Entertainment Licences for the 2022/23 financial year.

2.0 Recommendation

2.1 The Committee is asked to consider whether the reduced fee of £1 should continue to apply to applications for the renewal of Entertainment Licences for the 2022/23 financial year and determine whether:

- 1. to extend this measure for the financial year 2022/23;
or**
- 2. to revert to pre-April 2021 fee levels with effect from
6th April, 2022.**

3.0 Background

3.1 In February 2021, DfC determined that a reduced fee of £1 would apply to applications for the renewal of all categories of entertainments licence, both indoor and outdoor, received on or after 6th April, 2021.

3.2 This reduction applies for the duration of the 2021/2022 financial year and was introduced to alleviate hardship being experienced by the hospitality industry because of Covid-19 restrictions.

3.2 Following the first lockdown in March 2020 and the significant impact that this had on the hospitality sector, several interim measures were agreed with the City Solicitor to assist licensees and primarily those with entertainment, cinema or street trading licences.

3.4 These included:

- **accepting confirmation of an intention to renew, to ensure subsistence of the licence, and agreeing the application and associated fee may be provided at a later date;**
- **temporarily suspending the requirement to place a legal notice in the press;**
- **not requesting certificates that would normally be submitted with a licence application until a later date; and**
- **agreeing extended licence periods in recognition of lockdown restrictions.**

3.5 These measures were in place for renewal applications between April, 2020 and June, 2021.

3.6 Since June last year, the Building Control Service has undertaken an extensive review of all entertainment licensing applications and has been in contact with licensees concerning the status of their licence. The Service has taken a flexible approach to assist them as equitably as possible, in a way that is seen to be supportive of business recovery and in a manner that will be legally defensible.

3.7 During that time, the Service has processed almost 300 entertainment licence renewals and has attempted, as far as possible, to enable the applicant to avail of the £1 renewal fee.

3.8 For any applications where objections have been received, these have not been renewed under these processes and will be subject to Committee consideration as normal.

4.0 Key Issues

4.1 In a letter dated 19th January 2022, DfC has asked for the Council's view on the reduced fee of £1 for applications for the renewal of all categories of entertainments licences, which only applies to the 2021/2022 financial year, and whether:

- **there is a need to extend this measure beyond this period or,**

- if the fees should revert to their pre-April 2021 levels with effect from April 2022.

- 4.2 The new Coronavirus restrictions which came into force on 26th December 2021, amongst other measures, required nightclubs to close and brought further operating restrictions in all other licensed premises. It is clear that the hospitality sector continues to be impacted by the pandemic and no doubt it would welcome any additional financial support that can be offered.
- 4.3 DfC has asked if there is a need to extend the measure beyond March, 2022. To ensure that all licensees can avail of any further reduced fee it is suggested that any extension should be for the entire 2022/23 financial year. It is also suggested that the extension should only be for that period and anything thereafter will be subject to further review by the Council.
- 4.4 DfC has asked that a response be made by 9th February 2022, but has subsequently confirmed that, should Committee approval be required, that this is not an absolute deadline.

Financial and Resource Implications

- 5.1 Planned income for 2022/23 is based on our pre-Covid estimate for entertainments licensing income of £195,940.
- 5.2 Given the uncertainty around the sustainability of many hospitality venues due to the impact of Covid, it is very difficult to predict renewal fees income for 2022/2023.
- 5.3 However, if we make the assumption that all the applications we have received or are due to receive this year are renewed again next year and are subject to the £1 renewal fee it is estimated the Council will lose income in the region of £180,000.
- 5.4 The Council has secured funding from the Department for Communities to cover Covid recovery costs for 2022/23, which can be used to make up for any loss of income that extending the concessionary fee for a further year would create.

6.0 Equality or Good Relations Implications/ Rural Needs Assessment

- 6.1 None.”

The Committee agreed to recommend to the Department for Communities that the reduced fee of £1 for applications for the renewal of all categories of Entertainments Licences be extended to the 2022/23 financial year in full.

Request to Create a New Film Classification Rating

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 a request from a cinema operator to create a new classification rating of '15A' for the broadcast of 'The Batman' film in cinemas within the Belfast City Council area.

2.0 Recommendations

- 2.1 The Committee is requested, having heard representation from the applicant, to decide whether to:

a) depart from Standard Licence Condition 2 (b) which states that 'No persons under the age of fifteen years shall be admitted to any Exhibition when a '15' film is in the programme' and to permit cinema operators to impose a rating of '15A' for the Belfast City Council area in respect of 'The Batman' film which would mean that patrons under the age of 15 would be permitted entrance to view the film when accompanied by an adult.

OR

b) refuse the request to depart from the Standard Licence Condition and require the cinema operator to comply with the rating determined by the BBFC.

- 2.2 Whilst there is a general provision for appeals in relation to the conditions placed on Cinema Licences, there is no right of appeal in respect of this decision.

3.0 Main Report

Key Issues

- 3.1 Councils' licence cinemas and other venues under the Cinemas (Northern Ireland) Order 1991 for the exhibition of films. In general, the legislation relates to technical matters such as structural stability and fire safety and, as such, the powers to issue licences are delegated to the Director of Planning and Building Control.

- 3.2 Unlike other Licensing schemes, there is no public notification and representation process for Cinema Licence applications hence there is normally no involvement of the Committee with Cinema Licensing.
- 3.3 Belfast City Council ('the Council') has established Conditions of Licence regarding the general running and administration of the premises. One such Condition is that only films which have been classified with a Certificate issued by the British Board of Film Classification (BBFC) may be shown.
- 3.4 The BBFC is an independent body which classifies all films on behalf of local authorities, and they have strict guidelines and criteria in awarding films a classification. The BBFC Classification Guidelines have been circulated.
- 3.5 The BBFC system is used by all authorities within the United Kingdom and all commercial films will be classified through this process. The Council has adopted the BBFC classifications within the Licence Conditions on all Cinema Licences granted in its jurisdiction.
- 3.6 Article 3 (3) (a) of the Cinemas (Northern Ireland) Order 1991 states that it shall be the duty of a district council, in granting a licence under this Article as respects any premises to:
- 'impose conditions or restrictions prohibiting the admission of children to film exhibitions involving the showing of works designated, by the council or by such other body as may be specified in the licence, as works unsuitable for children'.
- 3.7 Paragraph 2 (b) of the Council's Standard Licence conditions states that:
- 'No persons under the age of fifteen years shall be admitted to any Exhibition when a '15' film is in the programme.
- 3.8 However, Paragraph 3 of those conditions goes on to provide that:
- 'Notwithstanding the conditions hereinbefore contained, a film may be exhibited, or children, or any class of children, may be admitted thereto, or admitted unaccompanied, if permission of the Council is first obtained and any conditions of such permission are complied with.'

- 3.9 A request has been received from the licensee of the Movie House at Cityside (Yorkgate) for the Committee to consider the creation of a new age rating of '15A' for a forthcoming film release, 'The Batman'. A rationale has been provided by the applicant in support of a '15A' rating and has been circulated.
- 3.10 Presently, such a classification does not exist in the BBFC ratings. The nearest equivalent is a '12A' which permits children under 12 to view such a film if accompanied by an adult. The proposal of the applicant in relation to the 'The Batman' would be to permit children under the age of 15 into the film if accompanied by an adult.
- 3.11 The film has recently been classified by the BBFC as '15' therefore no one younger than 15 years of age may watch the film in a cinema.
- 3.12 Officers are aware that the film has been classified as 'PG-13' in the US for 'strong violent and disturbing content, drug content, strong language, and some suggestive material'. It has been rated '15A' by the Irish Film Certificate Office on the basis of their assessment metric as follows: violence (Strong), drugs (Moderate), sex/nudity (Mild) and language (Strong).
- 3.13 The applicant has identified that the UK Cinema Association, which represents over 90% of UK cinema operators, has been requested to write to the BBFC on the creation of a new '15A' rating. The applicant has requested the Council consider this request while he awaits a response from BBFC.
- 3.14 In August 2012, the Committee agreed to accede to a request from Cinemagic (a film festival for children) to screen unclassified films for 2012 and subsequent years. Whilst this condition has been exercised previously for unclassified films it has never been used to admit children to a film which has an existing BBFC classification.
- 3.15 It is clear that from a technical legal perspective, the Council may depart from a BBFC classification should it wish to do so.
- 3.16 There are however a number of significant practical concerns which would cause concern for officers in so doing.
- 3.17 BBFC classification is imposed by the statutory body with the requisite expertise in this matter who are entrusted to provide guidance about whether a film is suitable for children to view. At its heart the classification process is about protecting children and therefore a cautious approach should be adopted in considering departing from their decision in this regard.

- 3.18 All classification decisions are based on the BBFC's published and regularly updated Guidelines. The Guidelines are the product of extensive public consultation, research and the accumulated experience of the BBFC over many years.
- 3.19 Films for cinema release are usually seen by at least two BBFC Compliance Officers, and in most cases, their age rating recommendation is approved by the Compliance Manager or the Head of Compliance.
- 3.20 Compliance Officers look at issues such as bad language, dangerous behaviour, discrimination, drugs, horror, nudity, sex, violence and sexual violence, when making recommendations. They also consider context, tone and impact - how it makes the audience feel - and even the release format - for example, as DVDs, Blu-rays and VoD content are generally watched at home, there is a higher risk of under-age viewing.
- 3.21 As the Committee will appreciate, the Council has no such internal expertise or processes in place to impose its own ratings. It is difficult to identify any other external agency with sufficient expertise in child protection in this area other than BBFC.
- 3.22 It is recognised that this particular film is likely to appeal to children under the age of 15 and that the proposed rating would still require children to be accompanied by an adult. Officers also acknowledge the impact of Coronavirus restrictions upon cinema operators over the last 2 years.
- 3.23 However, it is important to remember that the purpose of BBFC classifications is to protect children from viewing material which, in the view of those with established expertise in this field, is not suitable for them.
- 3.24 There may also be significant reputational issues for the Council in applying a lesser classification to a film which it has not seen in advance, particularly bearing in mind the reasons for a '15' classification.
- 3.25 Given the nature of this request, the matter has been brought to the Committee for determination.
- 3.26 If the Committee were minded to depart from Paragraph 2 (b) of the Standard Licence Conditions, it is also asked to agree to impose the following additional special conditions upon

any cinema operator who wishes to show the Batman film as a 15A:

- i. Any cinema operator who wishes to show the Batman film as a 15A must notify the Council in advance;
- ii. The cinema operator must clearly indicate the nature of any certificate received from the BBFC in any advertisement of the film displayed at the premises, as well as the fact that the Council has agreed that accompanied children under 15 may be permitted entrance; and
- iii. The cinema operator must provide appropriate advice in respect of '15A' films to enable an accompanying adult to decide upon the suitability of the film for children under the age of fifteen years.

3.27 The applicant will be available at the Committee meeting to answer any questions which Members may have in relation to the film.

Financial and Resource Implications

None.

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

3.29 There are no issues associated with this report.”

The Committee was informed that Mr. M. McAdam, Managing Director, Movie House Cinemas, who had called for the creation of a 15A classification, and Mr. E. Lamberti, Policy Manager, British Board of Film Classification, were in attendance and they were welcomed to the meeting.

Mr. Lamberti informed the Members that the British Board of Film Classification was an independent, not-for-profit organisation which had, since 1913, been working on behalf of the film industry to bring uniformity to the standards of film censorship and classification. The Board sought to protect children from harmful film content and assist families in making informed film choices by providing age ratings for cinema releases across the United Kingdom, as well video releases and videos on demand. Its ratings were also being reflected increasingly on streaming platforms.

He provided details of the specific and more general considerations which were taken into account by the Board in classifying film content and explained that each age rating decision was in line with its published classification guidelines and based on

expectations and requirements communicated by the public. Those guidelines were reviewed and updated every four to five years, in response to feedback from a large-scale consultation involving around 10,000 members of the public. The Board also conducted research between consultations into specific areas of concern raised by the public and was required to take account of relevant United Kingdom legislation. Mr. Lamberti concluded by outlining the film classification and appeals process and by providing examples of the Board's wider engagement work.

Mr. McAdam pointed out that the increasing instances of families being refused entry to pre-booked 15 rated films, on account of some of those attending being under that age, highlighted the need to create a 15A classification in the United Kingdom. The United Kingdom Cinema Association supported this view and had written to the British Board of Film Classification to call for its introduction.

He explained that families were able to view 15 rated films via streaming services in their own home or by travelling to the Republic of Ireland, which operated a 15A film classification rating. The creation of a 15A classification would, he argued, give parents the power to decide, on the basis of advisory warnings, if the content of a film was suitable for their child to view and would also enable local cinemas to compete commercially. He went on to urge the Committee to agree, whilst the Board was considering the United Kingdom Cinema Association's request, to create a new 15A classification rating for the Belfast City Council area, to facilitate the release on 4th March of the much anticipated 'The Batman' film. That would allow patrons under the age of fifteen to view the film, if accompanied by an adult, and would be in keeping with the classifications of 15A and 13PG, which had been awarded in the Republic of Ireland and the United States respectively.

Mr. Lamberti then outlined, at the Committee's request, the rationale behind 'The Batman' film having been given a rating of 15 by the British Board of Film Classification. He explained that, whilst the majority of movies in the 'superhero' category had been awarded a 12A rating, the threat and violence content within 'The Batman' movie far exceeded the level which the public would find acceptable for a 12A film.

In response to a Member, Mr. McAdam stressed that he was calling not for the classification of 'The Batman' film to be lowered but for it to be given a 15A rating. The decision on whether it was suitable for those under that age to view would rest with parents, in the context of the advisory warnings provided by the British Board of Film Classification.

After discussion, it was

Moved by Councillor McCabe,
Seconded by Councillor Bradley,

That the Committee agrees to depart from Standard Licence Condition 2(b), thereby enabling cinema operators within the Belfast City Council area to impose a rating of 15A on 'The Batman Movie' and allowing patrons under the age of fifteen to view the film when accompanied by an adult, with the following special conditions to be imposed by the Council:

- i. any cinema operator who wishes to show the Batman film as a 15A must notify the Council in advance;
- ii. the cinema operator must clearly indicate the nature of any certificate received from the British Board of Film Classification in any advertisement of the film displayed at the premises, as well as the fact that the Council has agreed that accompanied children under 15 may be permitted entrance; and
- iii. the cinema operator must provide appropriate advice in respect of '15A' films to enable an accompanying adult to decide upon the suitability of the film for children under the age of fifteen years.

On a vote, seven Members voted for the proposal and eight against and it was declared lost.

Accordingly, the Committee agreed to refuse the request to create a 15A film classification for 'The Batman' film, thereby requiring cinema operators to comply with the rating determined by the British Board of Film Classification.

**Revised Model Terms, Conditions and
Restrictions for Entertainments Licences**

The Committee noted that the Divisional Solicitor would be writing to the Department for Communities to highlight issues around its recently published revised model terms, conditions and restrictions which may be specified by councils in Entertainments Licences and that a detailed report on the implications for the Council would be submitted to a future meeting.

Chairperson