

Licensing Committee

Wednesday, 21st September, 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 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. J. Cunningham, Senior Licensing Officer;
Mr. H. Downey, Democratic Services Officer; and
Ms. V. Smyth, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported on behalf of Councillors Bradley, Hutchinson and Thompson.

Minutes

The minutes of the meeting of 10th and 17th August 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 September, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were reported.

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

Application for the Provisional Grant of a Seven-Day Annual Indoor Entertainments Licence with Extended Hours - QUB, One Elmwood Student Centre

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 provisional grant of a Seven-Day Annual Indoor Entertainments Licence with extended hours for QUB, One Elmwood Student Centre.

<u>Area and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
QUB 1 Elmwood Student Centre 77 University Road Belfast BT7 1NF	WK/2022/00490	Mr Brian Horgan Queens University Belfast, University Road, Belfast, BT7 1NN

- 1.2 A location map has been circulated.

2.0 Recommendations

- 2.1 Taking into account the information presented and any representations received Members are required to consider the application and to:

- a) approve the application for the provision of entertainment to 2.00 am from Thursday to Saturday, or
- b) approve the application with special conditions, or
- c) refuse the application for the provision of entertainment to 2.00 am from Thursday to Saturday.

- 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, entertainment may not be provided until any such appeal is determined.

3.0 Main Report

Key Issues

Provisional Grant of a Licence

- 3.1** There is provision within the Local Government (Miscellaneous Provisions) (NI) Order 1985 (the Order), to make application for the grant of an entertainments licence in respect of premises which are to be, or are in the course of being, constructed, extended or altered.
- 3.2** If the Council is satisfied that the premises would, if completed in accordance with plans deposited, be such that it would grant the licence, the Council may grant the licence subject to a condition that it shall be of no effect until confirmed by the Council.
- 3.3** This is described as the provisional grant of a licence.
- 3.4** The circumstances in relation to the new Student Centre are that the building has now actually been completed and is ready to open. The Building Control Service has completed it for the purposes of the Building Regulations and all fire safety, structural and access requirements have been satisfied.
- 3.5** In relation to the Entertainments Licence, all statutory consultations have been completed satisfactorily and the certificates pre-requisite to the grant of licence have been received.
- 3.6** Under the Scheme of Delegation, the Director of Place and Economy has authority to issue any application for the grant of a licence where there are no representations in respect of it and the hours of operation applied for do not exceed 1.00am.
- 3.7** However, applications to provide indoor entertainment beyond 1.00 am are subject to consideration by the Committee and the Student Centre has applied for the following days and hours of use:
- Sunday to Wednesday: 12.00 am to 1.00 am the following morning
 - Thursday to Saturday: 12:00 am to 2:00 am the following morning
- 3.8** To assist the University in the circumstances where the building is ready to open for the start of the new term in advance of consideration of this application for an extension

in hours to 2.00 am the Entertainment Licence has been issued permitting the premises to operate to 1.00 am.

- 3.9 The Committee is, therefore, only being asked to consider whether the provision of entertainment to 2.00 am may be permitted.

Details of the Premises and Proposals

- 3.10 The premises is a new building, which replaces the former Queen's University Students' Union on the same site.

- 3.11 The areas proposed to be licensed to provide indoor entertainment and their maximum occupancies are:

- Mandela Hall (Ground floor) – 1,300
- 2nd Floor Bar (Second floor) - 780

- 3.12 The days and hours during which entertainment is proposed to be provided, are:

- Sunday to Wednesday: 12.00 am to 1.00 am the following morning
- Thursday to Saturday: 12:00 am to 2:00 am the following morning

- 3.13 The applicant has stated that the extension of hours to 2.00 am from Thursday to Saturday is to enable them to offer their student population a comprehensive package of entertainment and to be competitive in the local area.

- 3.14 Members are reminded that the previous Students Union building which existed on this site operated with a Seven-Day Annual Entertainments Licence permitting entertainment to 3.00 am from Monday to Sunday.

Representations

- 3.15 Public notice of the application has been placed and no written representation has been received as a result of this advertisement.

PSNI

- 3.16 The Police Service of Northern Ireland has been consulted and has confirmed they have no objection to the application. Its response has been circulated.

NIFRS

- 3.17 The Northern Ireland Fire and Rescue Service has been consulted and has confirmed that it has no objection to the application.

Health, Safety and Welfare

- 3.18 The premises has been inspected by the Building Control Service and it is now complete for the purposes of the Building Regulations.

Noise

- 3.19 The applicant has submitted an Event Management Plan (EMP) which has been evaluated by the Environmental Protection Unit (EPU).

- 3.20 EPU has recommended that events within the One Elmwood Student Centre shall be operated in accordance with the Event Noise management Plan approved under condition 19 of the planning approval and suggest the following special condition be added to the Entertainments Licence:

1. When Mandela Hall is in use, all exiting from the Annex Bar, Union Bar and Mandela Hall after 11.00 pm shall be directed to University Road.

- 3.21 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

- 3.22 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

- 3.23 None.

Equality or Good Relations Implications/Rural Needs Assessment

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

The Committee agreed to approve the application for the provisional grant of a Seven-Day Annual Indoor Entertainments Licence for QUB, One Elmwood Student Centre, with entertainment being permitted till 2.00 a.m. from Thursday to Saturday.

Non-Delegated Matters

Pavement Café Licensing Scheme

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

“1.0 Purpose of Report/Summary of Main Issues

- 1.1 The Licensing of Pavement Cafes Act (NI) 2014 ('the Act') came into operation on the 1 October 2016. However, the Council, along with a number of other councils, did not implement the legislation at that time as the Department for Infrastructure Roads had not issued their technical guidance for Councils in support of the Act.**
- 1.2 The Committee is reminded that, in 2017, it previously determined a number of matters in relation to the administration of the Licensing of Pavement Cafés Act (NI) 2014.**
- 1.3 This included setting Pavement Café Licence fees, agreeing the Standard Conditions to be attached to licences, agreeing the standard hours of operation for licences and amendments to the Scheme of Delegation to outline those matters that would be brought before the Licensing Committee for consideration.**
- 1.4 The Council in June 2020, decided to introduce a temporary process for considering pavement café applications to assist the hospitality sector during the pandemic, as we had not implemented the legislation due to the lack of technical guidance. The temporary pavement café licensing scheme was extended last year and will expire on 30 September 2022.**
- 1.5 This report is presented to seek guidance on how to progress from the temporary process for pavement café licences to a permanent scheme.**

2.0 Recommendations

- 2.1 Based on the information provided Members are asked to consider proposals that:**

1. a permanent pavement café licensing scheme should now be implemented;
 2. a transition and implementation period of 6 months be introduced to allow existing licensed businesses to continue to operate until the grant of their permanent licence is determined and after which temporary licences will no longer be valid;
 3. the application fees, as agreed by the Council in 2017, be introduced;
 4. there will be a review of current Licence Conditions; and
 5. there will be a gradual return to normal and proportionate enforcement procedures.
- 3.3 Members are advised that the Licensing Committee does not have delegated powers in relation to policy decisions concerning licensing matters and as such your recommendation will be subject to ratification by Council.
- 3.0 **Background**
- 3.1 The Licensing of Pavement Cafes Act (NI) 2014 ('the Act') came into operation on 1st October 2016. However, the Council, along with a number of other councils, did not implement the legislation at that time as the Department for Infrastructure Roads had not, and still has not, issued their technical guidance for Councils in support of the Act.
- 3.2 That said, the Department for Infrastructure (Dfi) has now evaluated and determined the appropriateness of 85 Temporary Pavement Café applications in Belfast, using their professional expertise following their own guidance documents.
- 3.3 As such, Dfi's technical guidance document for Council's is no longer seen as crucial, as Dfi are deemed to be the experts in determining the suitability for the use of the pavement.
- 3.4 The Council in June 2020, decided to introduce a temporary process for considering pavement café applications to assist the hospitality sector during the pandemic, as we had not implemented the legislation due to the lack of technical guidance. The temporary pavement café licensing scheme was extended last year to 30 September 2022.

- 3.5 This process included drafting temporary guidance for applicants, which was based on the Department for Communities guidelines and supplementary guidance from the Licensing Forum Northern Ireland produced when the Act came into force.
- 3.6 The Council's temporary guidance was issued to assist the hospitality sector during the pandemic. The principles contained in that guide will transfer into permanent guidance.
- 3.7 One of the key aspects of the temporary process was the ability of businesses to start using the pavement café area whilst their licence application was being determined and statutory agencies were encouraged, by Government, to take a very liberal view when considering applications to allow the hospitality businesses to reopen. This meant permitting:
- Much larger pavement café areas, than would have been agreed in 'normal' circumstances.
 - Dfl introducing 'Parklets' to be used as a pavement café area.
 - Dfl closing or restricting roads so they could be used as a pavement café area

Current Situation

- 3.8 There are now 85 Pavement Cafés in Belfast that have received temporary licences. The majority of these are well run with no complaints to the Council. More than 40 other applications have been received which could not progress due to applicants failing to provide sufficient information to consult with Dfl Roads. There are also a significant number of businesses operating who have not applied for a Temporary Pavement Café licence.
- 3.9 A few licensed pavement cafés, in particular in the City centre, are now becoming a source of complaint from adjacent businesses and from members of the public. The nature of those complaints relates to:
- The size of the area being used.
 - The area affecting footfall and trade to adjacent businesses.
 - Furniture not being removed at the end of trade.
 - Impact on early morning deliveries.
- 3.10 We also have reports that the Council's cleansing and waste management crews are experiencing difficulties in getting their vehicles in to empty bins and clean the streets as

pavement café furniture is not being removed at the end of trade. Additionally, the pavement is not being cleaned and litter generated by customers using the area is not being collected by the business. This is contributing to the ongoing cleanliness issues in the City.

4.0 Key Issues

- 4.1** There is an obvious desire to create a vibrant café culture in the City with al fresco dining now an accepted part of the hospitality offer. In doing so we must also be mindful of the impact this may have on the various needs of all those who use our City.
- 4.2** Temporary licences will expire at the end of September and several licensees have been enquiring about ‘renewing’ their licence.
- 4.3** It is therefore proposed that a permanent pavement café licensing scheme should now be implemented given that Dfl has already evaluated the technical appropriateness of many temporary Pavement Café applications.
- 4.4** As previously determined by Council in 2017, Pavement Café licences will be granted for a period of 5 years.
- 4.5** To implement pavement café licensing, it would be advisable to have a transition and implementation period of approximately 6 months. It is suggested that all grant applications from existing licensed pavement cafés should be made by the end of December 2022 at the latest. The implementation period will allow existing licensed businesses to continue to operate until the grant of their permanent licence is determined.
- 4.6** The implementation period will also allow the Council time to process grant applications for permanent applications and for relevant statutory and public consultations to be undertaken. An implementation period will also avoid the prospect of an influx of grant applications having to be considered in a short space of time.
- 4.7** A cut-off date for transitional arrangements to enable a move to a permanent Pavement Café Licence scheme is suggested as 31 March 2023. Thereafter any temporary licences will no longer be valid and any that have not made an application for a Licence will be subject to routine enforcement procedures.

Fees

- 4.8 Given the circumstances under which the temporary scheme was introduced, the Council waived any fees associated with a Pavement Café application.
- 4.9 In 2017, the Council agreed that fees should be charged for a Pavement Café Licence and determined the grant application fee to be £225.00 with an annual licence fee of £55.00 for the ensuing 4 years. (No annual licence fee is charged in the first year).
- 4.10 Whilst the legislation allows the Council to set fees at full cost recovery levels Members decided to set a significantly reduced fee, equating to 25 pence per day for a 5-year licence.
- 4.11 It is therefore proposed that in implementing the Pavement Café scheme we also introduce the associated fees agreed by Council in 2017. In doing so this would be similar in approach to several other councils.
- 4.12 The financial implications of not introducing fees for 5-year pavement café licences will be lost income of at least £37,825, based solely on the current number of applications granted at present.

Licence Conditions

- 4.13 The Licensing Committee agreed, at their meeting of December 2016, to Standard Licence Conditions which would be applied to pavement café's.
- 4.14 The majority of those conditions have proven appropriate, however there is scope to clarify and augment some of those Conditions, particularly in relation to street cleanliness issues.
- 4.15 Should it be agreed that the permanent scheme be implemented a further report will be brought to Committee in the coming months to consider revised conditions.

Enforcement

- 4.16 Over the course of the pandemic the Council has responded to requests from the Assembly and industry to assist recovery and we have therefore been endeavouring to provide support and minimise impact on small businesses.

- 4.17 For that reason, there has been a very ‘light touch’ approach to enforcement in relation to those who have not made application, failed to provide the necessary information to progress their application or who may not be operating in accordance with the terms of their licence.
- 4.18 As restrictions have ceased there needs to be a gradual return to normal and proportionate enforcement procedures in line with established council policy guidance. This will include addressing applications which cannot progress because insufficient information has not been provided, commencing proactive action in relation to unlicensed pavement cafes and dealing with breaches of Licence Conditions.
- 5.0 **Financial and Resource Implications**
- 5.1 The grant application fee for a 5-year pavement café licence is £225.00 with an annual licence fee of £55.00 for the subsequent 4 years. If the fees are waived there will be a total lost income over 5 years of at least £37,825 on the basis of applications granted at present.
- 6.0 **Equality or Good Relations Implications/Rural Needs Assessment**
- 6.1 Full engagement with the Equality and Diversity Officer regarding the equality screening exercise undertaken in June 2020 and reviewed in 2021 will be undertaken prior to progressing to a permanent scheme.”

The Building Control Manager provided background details to the temporary pavement café licence process, with the purpose of seeking guidance from the Committee on how to progress to a permanent scheme.

A number of Members expressed their concerns around the timing of imposing a licence fee during a cost-of-living crisis, as the Council should be seen to be helping and supporting businesses. Concerns were also raised around cleanliness, stepping up enforcement and disrespect for Council officers. The Building Control Manager stated that those businesses currently holding licences could be approached and a stronger enforcement line taken, however, under a temporary scheme this was not as straightforward as it would be if the Council introduced a permanent scheme. The Members agreed that there was a need to reach a position of regulation as to how pavement cafes operate, in order to achieve fairness, accessibility and cleanliness. The Building Control Manager informed the Members that introducing permanent licences would enable further engagement with DfI in relation to the size of pavement cafes.

The Senior Licensing Officer provided the Committee with a front-line insight into the temporary licence process and responded to the Members’ concerns. He highlighted the level of administration created by the temporary scheme and the non-completion of

paperwork by many applicants. He understood the temporary licence scheme from an economic point of view but advised there was a need for Members to be aware of all the factors involved. He noted that a number of problem premises were non-licensed and provided the Members with details around regulatory compliance, cleanliness and pedestrian obstructions caused by large temporary cafes.

Discussion ensued around engaging and encouraging businesses to apply for a licence and the timing of the introduction of a fee, given that businesses were still in a state of recovery following the pandemic and with many now struggling with the cost of energy bills.

After consideration, the Committee agreed to extend the current temporary arrangement for a further twelve months.

**Motion - Drink Spike Testing
Kits in Licensed Premises**

The Committee was reminded that the Standards and Business Committee, at its meeting on 23rd August, had referred the following motion on Drink Spike Testing Kits in Licensed Premises, which had been proposed by Councillor Murray and seconded by Councillor Maghie, to the Licensing Committee:

“This Council, in a bid to make our night-time economy a safer place, will work with licensed premises to introduce drink spike testing kits into their premises.

This will include training for staff on how to administer the kits, what to do in the event of a positive result, and promotional material promoting how customers can access the kits.”

The Committee agreed that a report on how this might be facilitated, resourced and managed be presented to a future meeting.

HMO Licence - Flat 2, 26 Jerusalem Street, Belfast

The Interim City Solicitor provided the Committee with an update on an appeal of its decision to refuse an HMO licence at Flat 2, 26 Jerusalem Street, which had been heard on 16th September. She confirmed that Judgement had been reserved and that the Committee would be provided with a further update when the Judgement had been delivered.

Chairperson