

Licensing Committee

Wednesday, 21st October, 2015

MEETING OF LICENSING COMMITTEE

Members present: Councillor Hussey (Chairperson);
Alderman L. Patterson; and
Councillors Armitage, Attwood, Bunting, Carroll,
Clarke, Craig, Dudgeon, Groves, Jones,
McConville, Mullan and Sandford.

In attendance: Mr. T. Martin, Head of Building Control;
Ms. N. Largey, Divisional Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies were reported on behalf of the Deputy Lord Mayor (Alderman Spence) and Councillors Brown, Campbell, Hutchinson and Magennis.

Minutes

The minutes of the meeting of 16th 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 1st October, 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.

Non-Delegated Matter

Implementation of the Licensing of Pavement Cafés Act (Northern Ireland) 2014

The Committee was reminded that, at its meeting on 16th September, it had approved a response to the Department for Social Development's draft guide which had been formulated to assist councils in implementing the Licensing of Pavement Cafés Act (Northern Ireland) 2014. The Committee had agreed also that officials from that Department be invited to attend a future meeting in order to discuss in greater detail a number of issues which had been raised within the response.

The Head of Building Control reviewed the main elements of the response, which had highlighted, amongst other things, concerns around the difficulties which the Building Control Service would face in processing approximately 300 applications for Pavement Café Licences following the implementation of the Act on 1st April, 2016, the need for the drafting by the Department for Social Development of standardised guidance for use by all councils, for comprehensive consultation to be undertaken with disability-related groups and for clarification to be provided on planning issues in terms

of private and public land. He confirmed that Mr. G. McAlorum and Mr. L. Quinn, Social Policy Unit, Department for Social Development, were in attendance in order to address those issues and they were welcomed to the meeting.

Mr. Quinn informed the Committee that the issue of pavement cafés had first been considered in 2008, when the Council, in association with Belfast City Centre Management, had written to the Department for Social Development (the Department) to advocate the promotion of a pavement café culture within Belfast. He explained that the current Licensing of Pavement Cafés Act had been passed by the Northern Ireland Assembly in 2014 and that it had been planned to commence the legislation in April, 2015. However, due to the implementation of Local Government Reform, the Minister for Social Development had agreed to delay its commencement until 1st April, 2016.

Mr. Quinn stated that the Department had, in July, initiated a consultation process on a draft guide which it had produced with a view to providing councils with an understanding of the provisions set out within the Act and with assistance around its implementation. He thanked the Council for its detailed response to the draft guide and confirmed that it had been amended to take account of all of the comments which had been received. In relation to the difficulties which had been raised by the Council around the proposed date for the commencement of the Act, he confirmed that he would be prepared to raise that issue with the Minister for Social Development. However, he pointed out that the hospitality sector would be disappointed with any further delay in the introduction of the Act and that, of those councils which had responded to the consultation, several had indicated that, whilst it would present them with a challenge, they felt that they could meet the commencement date, although he accepted that they would not have the same numbers of applications to process as the Council. He undertook to circulate to the eleven councils all of the responses which had been received.

He drew the Members' attention to the point which had been raised consistently within the Council's response highlighting the need for model terms and conditions to accompany the Act, similar to those which were used within the Entertainments Licensing legislation. He pointed out that the Licensing of Pavement Cafés Act (Northern Ireland) 2014 differed significantly from the Entertainments Licensing legislation and that it had been based largely upon the Street Trading Act (Northern Ireland) 2001. The draft guide, which had been produced to assist councils in implementing the Licensing of Pavement Cafés Act, had been based also upon the document which had accompanied the Street Trading Act. He emphasised that, whilst the Department did not have authority under the Act to issue model terms and conditions, he would be agreeable to working closely with councils and Hospitality Ulster to formulate guidelines which would be acceptable to all parties and could be endorsed by the Department.

Messrs. Quinn and McAlorum then addressed a number of questions which had been raised by the Members. Mr. McAlorum confirmed that the Department for Social Development had sought the views of IMTAC, which offered advice to Government Departments and others on issues affecting the mobility of disabled and other people, on the draft guide. It was of the view that a minimum pavement width of two metres should be a requirement for every pavement café and had raised the issue when it had met with both the Minister for Social Development and the Social Development

Committee. He informed the Members that it was the Department's opinion that such matters should be left to councils to determine and that it had made it a statutory requirement for them, in considering applications, to consult fully with Transport NI.

In terms of the zoning of certain areas of the City which were deemed to be more suitable than others for pavement cafés and how that could be used as grounds for refusing an application, Mr. McAlorum indicated that the issue of zoning had not been included within the legislation. However, the Department's advice to councils would be that they would be required to justify the refusal of an application and that the suitability or otherwise of a café at any location should be taken only on the basis of that particular site. In such instances, the views of Transport NI would be important.

In relation to the reference within the draft guide to the requirement for planning permission for pavement cafés, Mr. Quinn made the point that the form of words used had been provided by the Department of the Environment's Planning Policy Division and accepted that they appeared to be at odds with the views of the Council's Planning Service. He confirmed that the Department would engage with the Planning Policy Division with a view to issuing professional guidance to planners across the eleven councils on how to deal with that element of the Act, once commenced. Mr. McAlorum pointed out that the Licensing of Pavement Cafés Act (Northern Ireland) 2014 applied only to pavement cafés situated on public areas and that developments on private land would require to be addressed through the planning process. He added that, in stating within its guide that a pavement café should be enclosed, the Department was of the view that that could be achieved simply through the use of a barrier and, as such, the requirements of the Smoking (Northern Ireland) Order 2006 would not apply.

Messrs. Quinn and McAlorum thanked the Committee for receiving them.

The Head of Building Control reported that, following the Committee meeting on 16th September, correspondence had been received from Mr. C. Neill, Chief Executive, Hospitality Ulster, seeking an opportunity to outline to the Committee his concerns around any potential delay in implementing the Licensing of Pavement Cafés Act (Northern Ireland) 2014 which might result from the Council's response.

The Committee agreed that it would be beneficial to obtain the views of Hospitality Ulster and, accordingly, Mr. Neill was welcomed to the meeting.

Mr. Neill informed the Members that Hospitality Ulster, which had been formerly known as Pubs of Ulster, represented the interests of the hospitality sector in Northern Ireland and that its membership included bars, hotels, restaurants and visitor attractions. He pointed out that the sector accounted for over 13,000 jobs across Belfast and that the Licensing of Pavement Cafés Act (Northern Ireland) 2014, which had already taken a number of years to progress, would provide small businesses especially with an opportunity to boost their income, particularly given the difficult trading conditions which they had experienced in recent years. With that in mind, he urged the Council to do everything within its power to ensure that it would not delay the implementation of the Act.

In relation to the issues around the definition of public and private land, Mr. Neill advised that Hospitality Ulster had, at the consultation stage of the legislation, made no

representation to the Northern Ireland Assembly on that matter and he accepted that some members who currently operated a pavement café could potentially be forced to remove it once the Act was commenced. He concluded by making a number of suggestions on how the main issues which had been raised within the Council's response could be addressed. Those included the possible introduction by the Department for Social Development of transitional arrangements to enable councils to deal with any influx of applications following the introduction of the Act and also the drafting, prior to April, 2016, by representatives of the eleven councils, the Department for Social Development and the hospitality sector of appropriate guidance, which would compensate for the absence of model terms and conditions within the Act.

The Chairperson thanked Mr. Neill for his contribution.

After discussion, the Committee agreed that a letter be forwarded to the Department for Social Development summarising the discussions arising from the meeting, including those areas where agreement had been reached. The Committee agreed also that officers facilitate discussions between the Council, other councils, the Departments for Social Development and Regional Development, Hospitality Ulster, Disability Action, Transport NI, the Police Service of Northern Ireland and other relevant parties, with a view to formulating in advance of the commencement of the Licensing of Pavement Cafés Act a guidance and practice note on the design and management of pavement cafés in Northern Ireland.

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

Licences issued under Delegated Authority

The Committee noted a list of licensing applications which had been granted under the Council's Scheme of Delegation.

**Application for the Grant of a Temporary Street Trading Licence –
Lower Garfield Street**

The Head of Building Control informed the Committee that Section 14 of the Street Trading Act (Northern Ireland) 2001 permitted the Council to issue a Temporary Street Trading Licence for special events, such as fairs and festivals, where a full-term Licence might not be appropriate and to attach to it any conditions which it deemed to be applicable. Such a Licence could not, however, be granted for a period exceeding seven days and no more than five could be granted to a person in any year.

He stated that an application had been received from Mr. B. McGeown, the licensee of Aether and Echo, 1-3 Lower Garfield Street, seeking approval to sell alcoholic and non-alcoholic beverages between the hours of 7 p.m. and 11 p.m. on Friday, 6th and Saturday, 7th November from outside his premises, as part of a music event which he was organising. He reminded the Committee that, at its meetings on 21st January and 16th September, it had approved applications for similar events taking place at that venue and confirmed that, once again, the licensee was required to obtain a Temporary Street Trading Licence from the Council before submitting an application to the Petty Sessions Court for the grant of an Occasional Liquor Licence.

The Head of Building Control explained that the events would necessitate the erection of a stage outside the premises, which would face into Lower Garfield Street in order to avoid creating a distraction for drivers in nearby Lower North Street. The applicant would be seeking Transport NI's consent to place the stage and crowd barriers on Lower Garfield Street and had confirmed that pedestrian access between that street and others nearby would be maintained at all times. He pointed out that Belfast City Centre Management, the Police Service of Northern Ireland and Transport NI, which had been consulted as part of the application process, had offered no objections and that, whilst the type of event fell outside the remit of the Outdoor Entertainments Licensing legislation, in that it was taking place on a public street, officers of the Building Control Service would be working closely with the applicant to ensure that the two events would not impact adversely upon the venue's Indoor Entertainments Licence.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant to Mr. B. McGeown a Temporary Street Trading Licence permitting him to sell alcoholic and non-alcoholic beverages between the hours of 7.00 p.m. and 11.00 p.m. on Friday, 6th and Saturday, 7th November outside Aether and Echo, 1-3 Lower Garfield Street.

Application for the Renewal of a Seven-day Annual Indoor Entertainments Licence - The Annex Bar, 480- 482 Shore Road

The Committee was advised that an application had been received for the renewal of a Seven-day Annual Indoor Entertainments Licence in respect of the Annex Bar, based upon the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind. The Head of Building Control explained that, under the terms of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, the Committee, in considering any application for the grant, renewal or transfer of an Entertainments Licence, must have regard to any convictions of the applicant relating to an offence under the Order which had occurred within a five-year period immediately preceding the date on which the application had been made.

He reported that the applicant had, on 24th April, 2012, been convicted at the Belfast Magistrates Court of an offence under the aforementioned Order. That offence had related to an inspection of the premises by an officer of the Building Control Service whilst entertainment had been taking place, which had found that an exit door had been locked. A fine of £800 and costs of £72 had been imposed upon the licensee. The Committee, at its meetings in each of the past three years, had been informed of the conviction and had on those occasions agreed to renew the Entertainments Licence.

He confirmed that, since the last renewal of the Licence, two inspections of the premises had been undertaken, both of which had found that all management procedures were being implemented effectively. No written representations had been received in relation to the application and the Police Service of Northern Ireland had offered no objection.

The Committee agreed, in its capacity as Licensing Authority, to grant a renewal of a Seven-day Annual Indoor Entertainments Licence in respect of the Annex Bar, 480-482 Shore Road.

**Application for the Renewal of a Six-day Annual Indoor Entertainments Licence -
Flame Restaurant, 36-50 Howard Street**

The Head of Building Control reminded the Committee that, under the terms of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, it was required, when considering any application for the grant, renewal or transfer of an Entertainments Licence, to have regard to any convictions of the applicant relating to an offence under the Order which had occurred within a five-year period immediately preceding the date on which the application had been made.

He drew the Members' attention to an application which had been received for the renewal of a Six-day Annual Indoor Entertainments Licence in respect of the above-mentioned premises, based upon the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind. He pointed out that the applicant had, on 3rd February, been convicted at the Belfast Magistrates Court of an offence under the aforementioned Order. That offence had related to an inspection of the premises by officers of the Building Control Service which had revealed that entertainment was being provided prior to the licensee having been granted an Entertainments Licence. That had led to a fine of £150 and costs of £69 being imposed. He pointed out that the Committee, at its meeting on 17th September, 2014, having been informed that the applicant was the subject of legal proceedings, had agreed to grant the Entertainments Licence.

He stated that, since that conviction, two inspections had been undertaken whilst entertainment was taking place and that officers had been satisfied that the premises were being operated in accordance with the Entertainments Licensing legislation. No written representations had been received in relation to the application and the Police Service of Northern Ireland had offered no objection.

The Committee agreed, in its capacity as Licensing Authority, to grant a renewal of a Six-day Annual Indoor Entertainments Licence in respect of Flame Restaurant, 36-50 Howard Street.

**Application for the Renewal of a Seven-day Annual Indoor Entertainments
Licence - Red Devil Bar, 194-198 Falls Road**

The Committee was informed that an application had been received for the renewal of a Seven-day Annual Indoor Entertainments Licence in respect of the Red Devil Bar, based upon the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind. He pointed out that, under the terms of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, the Committee, in considering any application for the grant, renewal or transfer of an Entertainments Licence, must have regard to any convictions of the applicant relating to an offence under the Order which had occurred within a five-year period immediately preceding the date on which the application had been made.

He reported that the licensee had, on 11th February, 2014, been convicted at the Belfast Magistrates Court of an offence under the aforementioned Order. That offence had related to an inspection of the premises by an officer of the Building Control Service whilst entertainment had been taking place, which had found that a

roller door covering an emergency exit had been locked and that the log book, which was used to record the necessary safety checks, had been unavailable for inspection. As a result, the applicant had been fined £500 and ordered to pay costs of £69. Since the date on which the offence had been detected, officers had conducted six further inspections whilst entertainment was being provided, none of which had identified any issues to be addressed. The Head of Building Control confirmed that no written representations had been received in relation to the application and that the Police Service of Northern Ireland had offered no objection.

The Committee agreed, in its capacity as Licensing Authority, to grant a renewal of a Seven-day Annual Indoor Entertainments Licence in respect of the Red Devil Bar, 194-198 Falls Road.

Presentation of Reports

The Committee agreed that, in future, those applications for the grant, renewal or transfer of an Entertainments Licence where an applicant had, within the previous five years, been convicted of an offence under the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, should be incorporated into one report and that, should it be minded to refuse an application, the applicant be invited to attend its next monthly meeting in order to make representation.

Chairperson