

Licensing Committee

Wednesday, 17th February, 2016

MEETING OF LICENSING COMMITTEE

Members present: Councillor Hussey (Chairperson);
the Deputy Lord Mayor (Alderman Spence);
Alderman L. Patterson; and
Councillors Armitage, Attwood, Bell, Brown,
Bunting, Campbell, Carroll, Clarke, Craig,
Dudgeon, Groves, Jones, Magennis, McConville
and Sandford.

In attendance: Mr. S. Hewitt, Building Control Manager;
Ms. N. Largey, Divisional Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies were reported on behalf of Councillors Hutchinson and Mullan.

Minutes

The minutes of the meeting of 20th 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 Carroll declared an interest in respect of item 2 (d) in so far as he was a member of the Casement Social Club and took no part in the discussion or the vote.

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.

Applications for the Renewal of a Seven-day Annual Entertainments Licences – Rock Bar, 491- 493 Falls Road/EI Divino, May's Meadow

The Committee was advised that applications had been received for the renewal of Seven-day Annual Indoor Entertainments Licences 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.

The Building Control Manager reported that a number of written representations had been received in respect of each application. He confirmed that all of those relating to the Rock Bar had been received outside the twenty-eight day statutory period, whilst two of the four objections for EI Divino had been submitted outside that timeframe.

He outlined the nature of the objections and confirmed that, under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Committee, when considering an application, must have regard to any representation which had been received within the twenty-eight day statutory period. However, where objections had been lodged outside that period, the Committee could exercise its discretion and agree to receive the objectors, although it did not have a duty to do so.

The Committee agreed, in view of the relevance of the objections, to exercise its discretion and to consider all of the objections for each application at a future meeting, to which the objectors and the applicants would be invited.

**Application for the Grant of an Entertainments Licence -
Casement Social Club, 88-100 Andersonstown Road**

The Committee was advised that an application had been received for the grant of a Seven-day Annual Indoor Entertainments Licence in respect of the Casement Social Club, based upon the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.

The Building Control Manager reported that the club's Entertainments Licence had expired in October, 2008 and that the applicant was seeking to renew it in order to provide entertainment in the games room, lounge and members' bar, which had a combined occupancy of approximately 200 persons. Since it was a registered club, it could provide entertainment from Monday to Saturday till 11.00 p.m. and on a Sunday till 10.00 p.m. and obtain approval from the Police Service of Northern Ireland to sell alcohol beyond the permitted hours on up to 85 occasions in any twelve month period.

He explained that the Building Control Service had, on a number of occasions, been made aware that entertainment was being held within the premises without a valid Licence and had advised the applicant of the application process and of the possibility of facing legal proceedings for further non-compliance. However, during a subsequent inspection on 4th August, 2015, officers had found that entertainment was taking place and that the front door had been locked. That had resulted in legal action being taken against the club for each offence, with the case being listed for hearing on 1st March. Since the inspection, officers had met with representatives of the club to discuss the application process and technical requirements and the Council was now being urged to consider granting the Entertainments Licence to facilitate the provision of entertainment on St. Patrick's Day.

The Building Control Manager pointed out that no written representations had been received in relation to the application and the Police Service of Northern Ireland had offered no objection. He added that officers of the Building Control Service had, since August 2015, conducted three inspections of the premises, none of which had found entertainment to be taking place, and the Council's Environmental Protection Unit had, since that time, received no complaints around noise nuisance or patron dispersal.

It was reported that Mr. B. Murray, the Chairman of the club, and Mr. P. Crossan, the Vice Chairman, were in attendance and the Committee agreed that it would be beneficial to obtain from them clarification around the application.

Mr. Murray highlighted a number of issues surrounding the previous management of the Casement Social Club, one of which had been the failure in 2008 to renew the Entertainments Licence. When he had assumed the role of Chairman in 2013, he had been unaware of the need to renew the Licence. He pointed out that the premises were used on a number of nights each week by bands from the local community as a base to practice and that the entertainment which had taken place on the night of 4th August, 2015 had been organised to coincide with a presentation being made by the club to a young handball player who was due to travel to Calgary to compete in the World Handball Championships. He concluded by claiming that almost all of the five complaints which the Council had received since the current management had assumed control of the club had been malicious in nature.

The Chairperson thanked Mr. Murray for his contribution.

After discussion,

It was

Moved by Councillor Magennis,
Seconded by Councillor Bell,

That the Committee, in its capacity as Licensing Authority, agrees to grant a Seven-day Annual Indoor Entertainments Licence in respect of the Casement Social Club, 88 – 100 Andersonstown Road.

Amendment

Moved by Councillor Dudgeon,
Seconded by Councillor Bunting,

That the Committee, in its capacity as Licensing Authority, agrees in view of the pending legal proceedings, to defer consideration of the application for the Casement Social Club, with the proviso that:

- (i) should the applicant on 1st March be found not guilty of the offences, the Entertainments Licence be issued under the Council's Scheme of Delegation; and
- (ii) should the applicant on 1st March be found guilty of the offences, or in any other eventuality, the application be placed before the Committee on 16th March for further consideration.

On a vote by show of hands five Members voted for the amendment and eight against and it was declared lost.

The original proposal standing in the name of Councillor Magennis and seconded by Councillor Bell was thereupon put to the meeting and passed.

Application for Extended Hours - Colaiste Feirste, Falls Road

The Committee noted that the above-mentioned application had been withdrawn at the request of the applicant.

Application for the Grant of a Seven-day Annual Indoor Entertainments Licence - Beckett's Bar, 241 Stewartstown Road

The Committee considered the undernoted report:

“1.0 Purpose of Report/Summary of main Issues

- 1.1 Members will recall, from your meeting on 20th January, that you considered a request from the applicant to address the Committee regarding your decision of 16th December to defer consideration of the application for Beckett’s Bar until the outcome of pending legal proceedings and the applicant had had the opportunity to fully consider the Council’s response to three subject access requests.**
- 1.2 The Committee was informed that all subject access requests had subsequently been withdrawn. After agreeing to the applicant’s request and hearing from Mr Eugene Hughes, husband of the applicant, you affirmed your decision of 16th December to defer consideration of the application until the outcome of the pending legal proceedings.**
- 1.3 At the time of the January meeting, the summonses had been issued and the matter was due to be heard on 9th February. However, they were unable to be served on the applicant.**
- 1.4 The summonses have since been served on and the case has been listed for hearing on 16th February in Lisburn Magistrates Court.**
- 1.5 The applicant has advised that, due to the amount of trade which they have lost, the cancellation of bookings and loss of potential earnings, it has placed a significant pressure upon the business to remain financially viable and in operation. They further advise that the granting of an Entertainments Licence is crucial to the continued operation of the business and, without one, a significant number of jobs would be put at risk.**
- 1.6 The applicant has respectfully requested that the Committee now consider their application, taking into account the outcome of the Court proceedings of 16th February 2016.**

- 1.7 Members are reminded that the application for the grant of a Seven-day Annual Entertainments Licence for Beckett's Bar was received on 15th July 2015, based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.

Premises and Location	Ref. No.	Applicant
Beckett's Bar, 241 Stewartstown Road, Dunmurry, BT17 0LA.	WK/2015/00780	Carol Hughes, Sharp NI Ltd, 60 Limehill Road, Lisburn, BT27 5LR.

2.0 Recommendations

- 2.1 Taking into account the information presented and any representations received you are required to consider the application in light of the legal proceedings. Officers will update you on the outcome of the court hearing listed for the 16th February at your meeting and should the matter be concluded, you are required to make a decision to either:

1. approve the application for the grant of the Seven-day Annual Entertainments Licence, or
2. approve the application for the grant with special conditions, in addition to the standard conditions, or
3. refuse the application for the grant of the Seven-day Annual Entertainments Licence.

- 2.2 If the 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 Recorders Court.

3.0 Main report

Key Issues

- 3.1 As this matter has been placed before the Committee on two previous occasions, the main content and key issues of the report has not altered and is attached at Appendix 1. It is appreciated that the amount of information relating to this application is extremely large and complex however it is important that the Committee is fully advised of all information held by officers. Officers have advised the applicant that this is the basis for the volume of information in the previous reports but that it is for the Committee to determine whether information about the Hughes family and its corporate

structures is relevant to its decision, and in particular the issues of fitness and credibility.

- 3.2** After the December Committee papers were received, additional information was provided by the applicant in form of a number of emails and a second Court Judgement. Officers were not aware of this decision until after the Committee papers were published for December's Committee.
- 3.3** A copy of the emails and Judgement was forwarded to the Committee by Democratic Services on 16th December. A further copy, together with a brief summary of their content, has been circulated.
- 3.4** As appears within those emails, the applicant has challenged the validity and relevance of some of the points documented within the Committee report and has alleged that Council Officers engineered the report and supporting information to castigate the character of her husband Eugene Hughes.
- 3.5** The applicant also claimed that officers failed to inform the Committee that there was a second Judgement from The Right Honourable Justice Deeny which involved the same bank, KBC Bank Ireland PLC, and the same company, Omara Ltd. Carol Hughes further claimed that the Hughes Family position against the bank was clarified and they were exonerated by the Judgement (Page 4 Paragraph 1). She has further claimed that the Hughes family were already taking legal action against this Bank in 2010 over misrepresentation and mis-selling and that the bank appointed an Administrator to frustrate this. No detail as to the outcome of that legal action has been provided.
- 3.6** The initial Judgement, which was contained within December's Committee papers, relates to whether the bank consented to the sub-lease of premises and the transfer of the premises' liquor licence. The second Judgement relates to setting aside a statutory demand issued on foot of debts allegedly incurred by John and Eugene Hughes in the form of personal guarantees for loans. Members are also advised that the second Judgement was concerned with whether the debt allegedly owed was disputed on substantial grounds and was not an adjudication on the substantive issue of the debt itself.
- 3.7** Members may also note the difference in format between the initial Judgement and the second one provided by the applicant. Officers believe it may be a transcription of a

recording, although Members may wish to seek clarification in that regard.”

APPENDIX 1

“1.0 Purpose of Report/Summary of main Issues

- 1.1 Members will recall that, at your meeting on 12th November, you agreed, in view of the public safety concerns which had been raised by the Head of Building Control, and by the Divisional Solicitor’s representation in terms of the management of other premises operated by the applicant’s family, to consider this application at your December meeting. It was agreed also, in light of the Head of Building Control’s comments under public safety, that the Northern Ireland Fire and Rescue Service (NIFRS) and the applicant be invited to attend.
- 1.2 An application for the grant of a Seven-day Annual Entertainments Licence for Beckett’s Bar was received on 15th July 2015, based on the Council’s standard conditions to provide music, singing, dancing or any other entertainment of a like kind.

Premises and Ref. No.	Applicant
Location Beckett’s Bar, 241 Stewartstown Road, Dunmurry, BT17 0LA.	WK/2015/00780 Carol Hughes, Sharp NI Ltd, 60 Limehill Road, Lisburn, BT27 5LR.

- 1.3 Members will be aware that the premises are located within an area of the former Lisburn City Council which transferred over to Belfast City Council under Local Government Reform (LGR).

2.0 Recommendations

- 2.1 Taking into account the information presented and any representations received you are required to consider the application in light of the pending legal proceedings and to:
1. approve the application for the grant of the Seven-day Annual Entertainments Licence, or
 2. approve the application for the grant with special conditions, in addition to the standard conditions, or

3. refuse the application for the grant of the Seven-day Annual Entertainments Licence.

2.2 If the 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 Recorders Court.

3.0 Main report

Key Issues

3.1 Prior to this application being made, it came to our attention that entertainment was being advertised at the premises. This was despite the fact that, when dealing with the transfer of premises into Belfast under Local Government Reform, the Service undertook considerable engagement with all those premises transferring, including Beckett's Bar.

3.2 As part of our engagement and management of premises coming into Belfast under LGR, on 5th June 2015, an officer of the Service hand delivered a welcome letter and application pack at a meeting with the management of the premises to help explain our application process and procedures.

3.3 During this visit, it was explained that Beckett's Bar no longer held an Entertainments Licence and we advised that no entertainment was to be held on the premises until such times as a valid Licence was in place, otherwise legal proceedings may be initiated.

3.4 Subsequent meetings and discussions were held between an officer of the Service, Mr. Eugene Hughes and the Bar Manager, Mr. Mark Skillen, on 10th, 18th, 23rd and 29th June 2015. Further discussions were again held on 2nd, 3rd and 6th July 2015.

3.5 On each of these occasions, we advised that we had observed entertainments being advertised on the Beckett's Bar Facebook page, despite there being no Entertainments Licence in force. They were reminded of our application process and we stressed the importance of not providing entertainment until a valid Entertainments Licence was issued.

3.6 Despite our warnings, it was further observed that outdoor entertainment was being advertised at the premises and was proposed to take place on 10th July 2015.

- 3.7** Accordingly, officers of the Service conducted a monitoring inspection at the premises on 10th July 2015 and witnessed entertainment taking place both outside, within the car park and on the first floor of the main premises, without valid Entertainments Licences being in place.
- 3.8** In addition to entertainment being provided without a licence, on inspection of the premise the officers noted the following problems:
- fire doors to the First Floor main stairwell/exit were being held open with fire extinguishers allowing fire/smoke potentially to spread within the building;
 - items of equipment from the music event held within the car park were stored on the Ground Floor area of the main stairwell/exit route. This would have prevented effective means of escape from the premises;
 - the escape stairs to the front of the building were obstructed with disused catering equipment at ground floor level which would have prevented effective means of escape from the premises;
 - the final exit door from the front escape stair at Ground Floor level was locked by means of a padlock and chain attached to the doors panic bar and the handrail of the stairs. This would have prevented effective means of escape from the premises;
 - the front escape stair had considerable pieces of broken glass and other items discarded throughout the area;
 - the front escape stair also had no lighting available to show the changes in level to the exit route. This would also have prevented effective means of escape from the premises;
 - the emergency exit signage/lighting was not maintained/illuminated as required in order to facilitate escape from the area and premises;
 - an area of the fire resistant ceiling to the Ground Floor Store/Keg area had been removed. Stores should be enclosed in 30 minute fire resisting

construction to prevent the fire spreading into other areas of the premises;

- the Fire Alarm Panel was showing a number of faults;
- no Rules of Management (ROM) or other similar and equivalent documentation were available when requested;
- no pre-event checks had been carried out and a checklist was not available for inspection; and
- the fire extinguishers had not been serviced since 2012 and 2013.

3.9 As part of the investigation into the matter and to give the applicant an opportunity to provide an explanation in relation to the offences, we sent the applicant a letter in accordance with the Codes of Practice issued pursuant to the Police and Criminal Evidence (NI) Order 1989 (PACE).

3.10 Subsequently, the applicant responded to the letter with an explanation for the breach. In brief, they explained that due to senior members of staff being away on holiday, less experienced staff allowed entertainment to take place in their absence.

3.11 The matter has now been referred to Legal Services with a recommendation to prosecute the applicant for providing entertainment without a valid Entertainment Licence.

3.12 Members are advised that officers of the Service have continued to engage with the applicant's husband and representative, Eugene Hughes, and can confirm that they have ceased advertising entertainment and continue to operate as a public bar only. The applicant has requested that the Council consider granting the premises an Entertainments Licence prior to the outcome of any legal proceedings in order for them to be able to provide entertainment.

3.13 The applicant also cites that jobs may be at risk as they may not be able to remain open and viably operate without the ability to provide entertainment.

3.14 Members are reminded that the normal process for dealing with Entertainments Licence applications, which are not the subject of objections, is that these will be granted as provided for in the Council's Scheme of Delegation.

- 3.15 Whilst it must be stressed that the applicant has not been convicted of any offence, in light of the fact that a file has been passed to legal services with a recommendation to prosecute and the applicant has requested the application is determined now, officers felt it was appropriate to refer the application to the Committee for consideration.

Premises

- 3.16 Currently, the premises mainly operate as a Public Bar and Lounge Bar on the Ground Floor. The applicant has advised the Service that the First Floor is not used for entertainment.
- 3.17 This premises previously held an Entertainments Licence issued by Lisburn City Council, The applicant/licensee was John Hughes and it expired on 31st December 2010.
- 3.18 The current application is to provide entertainment in the Ground Floor Lounge Bar. The applicant applied for a maximum occupancy of 150 persons, however, this area can accommodate approximately 250 persons. Lisburn City Council also licensed the area for 250 persons.
- 3.19 The days and hours during which entertainment is proposed to be provided are:
- Monday to Saturday: 12.30 p.m. to 1.00 a.m. the following morning and
 - Sunday: 12.30 p.m. till midnight

Previous Applications

- 3.20 Members may be aware that the Licensing Committee has considered previous applications from other members of the applicant's family, namely Mr. Eugene Hughes, Mr. John Hughes and Mrs. Margaret O'Reilly (formerly Margaret Anne Hughes). Mrs. Carol Hughes is the wife of Eugene Hughes. John Hughes, Eugene Hughes and Margaret O'Reilly are siblings.
- 3.21 The family have been responsible for other premises within Belfast and the FORMER Lisburn area, such as;
- McEnaney's Bar, Glen Road,
 - The Fiddlers Inn, Kennedy Way;
 - The Blackstaff Bar, Springfield Road,
 - The Sitting Room, Castle Street,
 - Tony Romas, University Road,
 - The Brook Lodge Bar, Twinbrook and
 - Colin Mill Lodge, Poleglass.
- 3.22 Members may recall that Castle Street Inns Ltd, which operated The Sitting Room, The Blackstaff Bar, Beckett's Bar and The Brook Lodge Bar went into administration in

January 2011. Omara Ltd, which operated McEnaney's Bar and Colin Mill Lodge, also went into administration in February 2011. Both of those companies were operated by members of the Hughes family.

- 3.23 Both companies were involved in protracted disputes with the administrators, KPMG. Members may recall that, just before going into administration, Omara Ltd allegedly entered into a sub-lease with Fernmount Trading Ltd in respect of both McEnaney's Bar and Colin Mill Lodge. Fernmount Trading Ltd then entered into a further sub-lease with Kiltiernan Enterprises Ltd in respect of McEnaney's Bar and Cedarpark Enterprises Ltd in respect of Colin Mill Lodge.
- 3.24 Emmanuel Hughes, who is the brother of Eugene and John, was a director of Fernmount Trading Ltd. The company is now dissolved after being struck off for not providing accounts.
- 3.25 The sole director of Kiltiernan Ltd was Emmanuel Hughes. That company is also dissolved after being struck off for not providing accounts.
- 3.26 The director of Cedarpark Enterprises Ltd at that time was Margaret O'Reilly and she is still currently listed as a director of the company. Eugene Hughes was subsequently appointed as a director on 1st February 2014.
- 3.27 It would appear that the administrators did not accept that the sub-lease entered into with Fernmount Trading Ltd was lawful. This gave rise to the protracted dispute referred to above which ultimately led to the administrator issuing High Court proceedings for forfeiture of the premises.
- 3.28 As appears from the Judgment, the transfer of the lease to Fernmount allegedly occurred on 1st October 2010. It made no reference to the liquor licence and it was not until the pleadings were being lodged in the forfeiture proceedings that Fernmount produced a letter dated 21st November 2010 which declared that Omara Ltd also agreed to transfer the liquor licence. It was accepted by all parties to those proceedings that the premises were both trading without the benefit of the liquor licence until the PSNI intervened in October 2011. There had been no payment of rent since the administrator was appointed.

- 3.29 The court noted that the purported lease had been entered into only 2 months before the administrator was appointed. The administrator also advised the court that the lease had 'been drafted apparently from a website and not through any lawyers'. Whilst the court did not expressly comment on whether the leases were genuine, it did conclude that the company had not obtained the consent of the bank in respect of the lease or any sub lease. It also found that the letter purporting to prove the transfer of the liquor licence was not bona fide (paragraph 17).
- 3.30 When concluding the case, the Judge ruled that he found Eugene Hughes a 'wholly unconvincing and imponderable witness who attempted to mislead the court on a number of salient issues'.
- 3.31 Sharp (NI) Ltd currently leases Beckett's Bar from Fernmount Trading (NI) Ltd. Carol Hughes is currently listed as the sole director of Sharp (NI) Ltd. Margaret O'Reilly was also previously listed as a director of that company but resigned on the 1st April 2014. However, Margaret O'Reilly and Carol Hughes are still currently listed as directors of Fernmount Trading (NI) Ltd.
- 3.32 In 2012, the Licensing Committee refused an application from Margaret O'Reilly for the grant of an Entertainments Licence for The Fiddlers Inn. The application was refused on the following grounds:
- the granting of the Licence would be likely to give rise to noise, nuisance and disturbance, anti-social and criminal behaviour and littering;
 - the Committee is not satisfied that the premises would be operated in a safe manner; and
 - the applicant is not a fit person to hold such a Licence.
- 3.33 Members may recall that the application had drawn objections from many residents and businesses in the area, including the PSNI.
- 3.34 Margaret O'Reilly lodged an appeal with the Recorders Court on the 21st May 2012 against the Council's decision to refuse the application. The appeal was part heard on the 19th December 2012 before being withdrawn.
- 3.35 The Council also experienced extensive issues regarding McEnaney's Bar throughout the period of its dispute with the administrator and legal proceedings were initiated as a result of noise issues with a generator being used to provide electricity at the premises. There were also food safety and

hygiene concerns with food being prepared and served on the premises and allegations of illegal entertainment being held on the premises without a valid Entertainments Licence. The applicant for previous Entertainments Licences at McEnaney's was John Hughes and there had also been previous prosecution papers issued against John Hughes as a result of providing entertainment without a licence in 2009, although they were never served. He was convicted of erecting a smoking shelter at the premises without planning permission.

- 3.36 Members will note that in 2010 John Hughes was granted an Entertainments Licence for Beckett's Bar by Lisburn City Council. This was the last Entertainments Licence issued in respect of the premises as they closed in 2011 due to the parent company, Castle Street Inns Ltd going into administration. KPMG eventually gained control of the premises in July 2012 and it was subsequently sold to Fernmount Trading (NI) Ltd who in turn entered into a lease with Sharp NI Ltd (the applicant).
- 3.37 An application for the grant of an Entertainments Licence was then received by Lisburn City Council on 17th November 2014 in the name of Eugene Hughes of Sharp (NI) Ltd, although he is not a director of that company. The application was never completed and was subsequently returned due to non-payment of the required fee.
- 3.38 Members may also be aware that on 26th September 2000, Lisburn City Council served a contravention notice regarding the structural make-up of the ceiling to the nightclub area of the premises. This was following the collapse of the ceiling on 15th September 2000.
- 3.39 We understand that a prosecution also arose from that incident regarding a Health and Safety matter under the Health and Safety at Work (NI) Order 1978 for failure to provide a safe working environment for employees and members of the public. Lisburn City Council was unable to provide further details in relation to same but we have requested the information from Lisburn Court Office and officers are awaiting a response.
- 3.40 However, records show that additional information was eventually provided to the Lisburn City Council Building Control Department confirming that the proposed new ceiling detail complied with the relevant technical requirements of the Building Regulations. A Completion Certificate was subsequently issued on 19th December 2000.

Representations

- 3.41 Public notice of the application has been placed and no written representation has been lodged as a result of the advertisement.

PSNI

- 3.42 The PSNI has been consulted and has confirmed that it has no objection to the application.

NIFRS

- 3.43 The NIFRS has been consulted and had initially confirmed that, due to complaints received in relation to fire safety deficiencies of the premises Fire Risk Assessment from Lisburn City Council on 17th December 2014 and the recent deficiencies observed by Belfast City Council on 10th July and on 29th October 2015, it wished to object to the grant of the Entertainments Licence for the premises.
- 3.44 The NIFRS carried out an audit of the premises on the 10th November 2015 and although 3 contraventions were observed, the NIFRS confirmed that it wished to withdraw their objection.
- 3.45 As requested at your meeting on 12th November 2015, an Officer from the NIFRS will be available at this meeting to answer any queries which you may have in relation to the application and premises.

Health, Safety and Welfare Inspections

- 3.46 Whilst inspecting the premises and collating the required paperwork regarding the current application for Beckett's Bar, Building Control officers have dealt specifically with Eugene Hughes. Previously, Eugene Hughes was the General Manager of Beckett's Bar. When carrying out the entertainment licensing grant inspection, Council officers were accompanied by the Bar Manager, Mark Skillen.
- 3.47 Officers of the Service have never met the applicant, Carol Hughes.
- 3.48 On 29th October 2015 an Officer inspected the area of the premises where entertainment is proposed to be provided and found that it satisfied the technical requirements necessary to enable an Entertainments Licence to be issued. However no fire safety management documentation was available, such as the fire safety log book and evacuation procedure. Also, no evidence was provided confirming that the advice provided in the Fire Risk Assessment had been completed.

- 3.49 The Council officer carrying out the grant inspection met with Mark Skillen in the public bar. Members should note that the applicant has not applied for an Entertainments Licence for this area; however whilst he was in the Bar, the officer noted that one of the means of escape led to an enclosed yard. At the time of the inspection, the officer could not identify an escape route from this enclosed yard and passed his findings on to the NIFRS, as noted above.
- 3.50 On 10th November 2015, John Hughes contacted the Service by telephone to confirm that the NIFRS was currently on site and had told him that they were now going to withdraw their objection, as the problems we had identified on 29th October 2015 were now addressed. At that time, we had not received any form of contact from the NIFRS to confirm this, either by phone or email. John Hughes also questioned why we would then still have to take their application through Committee.
- 3.51 On 11th November 2015, a further email was sent by John Hughes to officers of the Service informing us that, from speaking with the fire authorities, it had sent an email withdrawing its objection to their application. He also requested a copy of that email to be forwarded to him and Eugene Hughes.
- 3.52 The Service received the email in question from the NIFRS withdrawing its objection and duly forwarded it to John Hughes. However, on 12th November 2015, John Hughes replied and stated that he had again spoken to the fire authorities and there was a further email sent confirming the withdrawal of its objection. He then requested us to confirm if this was the case.
- 3.53 We had not received any such further email from the NIFRS and we thus informed John Hughes of that fact.
- 3.54 During that time, a member of the Hughes family was also in contact with Democratic Services requesting the same correspondence regarding the NIFRS.

Subject Access Requests (SARs) under the Data Protection Act 1998

- 3.55 Members should be aware that, following your meeting on 12th November 2015, the Council received Subject Access Requests from Carol Hughes, Eugene Hughes and John Hughes. All three refer to the Committee meeting on

12th November 2015 and remarks which were made about the Hughes family.

- 3.56 Carol Hughes has requested any information which the Council holds in relation to her or her business and both Eugene Hughes and John Hughes have requested the Council to disclose any record held on them.
- 3.57 We are coordinating the responses to these requests across the Council and are liaising with the Council's Records Manager in the process.

Office Meeting

- 3.58 An office meeting was arranged and held on 19th November 2015 between Officers of the Service and Eugene Hughes in order to discuss the outstanding technical requirements for the application and premises.
- 3.59 The applicant, Carol Hughes, was invited but confirmed prior to the meeting that she was unable to attend and that her husband, Eugene Hughes could attend.

Subsequent Inspections

- 3.60 A follow up inspection was carried out by the Service on 26th November 2015, which revealed that all of the required fire safety management procedures were being implemented effectively.
- 3.61 All of the required certification in support of the application has also now been received.
- 6.62 Four monitoring inspections have been carried out since the alleged offence was detected and no entertainment was witnessed taking place on each occasion.

Noise Issues

- 3.63 The Environmental Protection Unit (EPU) has been consulted in relation to the application and it has confirmed that no complaints have been received since 1st April 2015 relating to noise break out from the premises or due to patron dispersal.

Applicant

- 3.64 As part of the new Committee Protocol, the applicant has been asked to submit a Representation Form answering a number of questions to provide the Committee with as much

information as possible about the application, the premises and how it may relate to other applications the Council has previously considered from the Hughes family.

- 3.65 The submission also includes representations from clubs and organisations that have used Beckett's Bar for their respective functions. It also consists of responses to a number of questions we have posed which we consider relates to the application.
- 3.66 The applicant, or their representative, will be available at your meeting to answer any queries you may have in relation to the application.

Financial and Resource Implications

- 3.67 Officers regularly carry out inspections on premises but this is catered for within existing budgets.

Equality or Good Relations Implications

- 3.68 There are no equality or good relations issues associated with this report."

The Divisional Solicitor informed the Members that the legal case had been heard on 16th February and that the business operator, Sharp N.I., together with Mr. E. Hughes, the manager of the premises, had pleaded guilty to the offence of providing entertainment on 10th July, 2015 without a valid Entertainments Licence. Each had been fined £1,000 and ordered to pay costs of £166 and an offender levy of £15. The defendants' case had centred upon the fact that the entertainment which had taken place on 10th July had been organised without their knowledge, as they had been away from the premises on that weekend, and it had been highlighted that they had incurred a significant loss due to the absence of an Entertainments Licence. She confirmed that she had made the Court aware that the entertainment had been advertised on the venue's Facebook page as far back as June, 2015 and that tickets were being sold in the off-licence area of the premises.

The Building Control Manager provided an overview of the application. In response to a question from a Member, he confirmed that officers had, both before and after 10th July, 2015, held a number of meetings around entertainments licensing, which had involved primarily Mr. E. Hughes, and not, as far as he was aware, the applicant, Mrs. C. Hughes. In terms of the fire safety offences which had been identified on the aforementioned night, he stressed that they were of such significance that, should the premises have held an Entertainments Licence, the Building Control Service would have recommended a series of prosecutions under the entertainments licensing legislation and could have gone as far as seeking the Committee's approval to suspend the Licence. He added that a representative of the Northern Ireland Fire and Rescue Service was in attendance, should the Committee wish to obtain clarification around those issues.

The Committee agreed that it would be beneficial to hear from the representative and, accordingly, Group Commander G. Somerville was welcomed by the Chairperson.

Group Commander Somerville informed the Members that, from 2010, fire safety legislation had changed to the extent that employers and people in control of premises were required to manage fire safety by taking all reasonable steps to reduce the risk of fire and ensure that people could escape safely in the event of an emergency. Premises were required to hold a current fire risk assessment and to address any significant findings arising from that assessment and the Northern Ireland Fire and Rescue Service undertook regular audits to confirm compliance with the fire safety legislation. In addition, the Fire and Rescue Service had signed a Memorandum of Understanding with local councils, which allowed the councils to undertake fire safety inspections as part of their routine licensing inspection regime and reduced the burden on licensees, as they now needed to liaise only with council officers. However, should a fire safety issue be identified by a council which necessitated the assistance of the Fire and Rescue Service, a fire safety complaint would be generated by the Service.

Group Commander Somerville then reviewed the five complaints which had, over the past ten years, been received in relation to Beckett's Bar. He reported that the first two complaints, which had been received in March, 2006 and in July, 2010, had related to the use of fire doors and had resulted in verbal advice being provided to management. On 10th December, 2014, a complaint had been received from Lisburn City Council which had identified possible fire safety concerns. Following an initial visit, a full fire safety audit had been undertaken early in January, 2015, which had found, amongst other things, that the fire risk assessment and the fire safety policy had not been available, fire extinguishers had not been tested and there had been inadequate fire safety training. A Notice of Deficiencies had been issued, although he confirmed that had not been followed up as it was regarded by the Fire and Rescue Service as being one of the lowest levels of non-compliance.

He reported further that, on 28th July, 2015, he had met with Councils officers to discuss the fire safety issues which they had detected on 10th July around blocked fire exits, fire doors being locked shut or propped open and a fault in the fire alarm system, which the Council had been seeking to ensure would be remedied. On 30th October, the Fire and Rescue Service had received a further complaint from the Council regarding the means of escape from a bar, which had been rectified by fitting an easy opening device to a door. Based upon that and the previous history of the premises, he had submitted an objection to the grant of the Entertainments Licence, until such time as the Fire and Rescue Service had had an opportunity to carry out a full fire safety inspection of the premises. That had been undertaken on 10th November, following which a further Notice of Deficiencies had been issued to address issues with fire doors, the electrical cupboard and evacuation drills. However, as those were deemed to be insufficient grounds on which to object to the grant of the Entertainments Licence, he had advised the Council subsequently that the Fire and Rescue Service had withdrawn its objection.

Group Commander Somerville concluded by stating that the recent complaints had demonstrated that the licensee had not taken reasonable steps earlier to comply with legislative requirements and had adopted a poor attitude towards fire safety. It had only been through the intervention of the Fire and Rescue Service and the Council that

corrective action had been taken to bring Beckett's Bar up to the required fire safety standard, which had resulted in the withdrawal of the Service's objection to the granting of the Entertainments Licence.

In response to several questions from the Members, Group Commander Somerville confirmed that, had the Fire and Rescue Service, on 10th July, 2015, detected the same issues as the Council, it would, in view of the serious risk posed to patrons in the event of a fire, have initiated legal proceedings against the licensee. He stated that a successful prosecution for fire safety offences normally resulted in a summary conviction, including the imposition of a fine, but could, in more serious cases, mean imprisonment, although he would have to check the legislation in that regard. He stressed, however, that the withdrawal of the objection for Beckett's Bar had been based upon the fire safety arrangements in place currently and that it was operating and being managed effectively.

The Chairperson thanked Group Commander Somerville for his contribution and welcomed to the meeting Mrs. C. Hughes, the applicant, together with Mr. E. Hughes, her husband.

Mr. Hughes informed the Committee that the event which had taken place on 10th July had been organised by the local community with a view to keeping young people away from a local interface area. An igloo structure had been placed in the car park to facilitate the holding of a foam party and a community worker had been informed that no entertainment was to take place inside the premises and had provided an assurance in that regard. However, when Council officers had observed the structure, the organisers had it removed and had sought and been granted permission by a young employee to move to a room inside the premises. He confirmed that neither he nor his wife had authorised the use of that room and had not been available on that weekend to prevent it from being used, which had accounted for the fire exit being locked. He pointed out that the fire safety log stipulated that that door should be open when the room was being used, which would have been the case under normal circumstances. Mr. Hughes added that the both he and his wife realised the seriousness of the fire safety issues which had been detected previously within the bar and pointed out that inspections which had been undertaken recently had indicated that they were complying with all fire safety legislation. He concluded by stating that the events of 10th July had represented an error of judgment on their part, which had now been addressed with the conclusion of the legal proceedings.

Mrs. Hughes pointed out that she and her husband had had invested significant savings in the business and that the absence of an Entertainments Licence would lead to its closure and have a detrimental impact upon not only on them but on the local community generally, including the sports groups which were based there. She confirmed that she was prepared to take all necessary advice from Council officers to improve the operation and management of the premises and requested that the Committee consider granting the Entertainments Licence.

Mr. and Mrs. Hughes then provided clarification around a number of issues which had been raised by the Members. Mr. Hughes explained that the Facebook page which had been used to advertise the event on 10th July belonged to the community worker, who had acted as the organiser, and that it provided details of other events

which were not associated with Beckett's Bar. He explained that Mr. P. Skillen, the bar manager, operated an official Facebook page on behalf of the bar, which was endorsed by the applicant and which had carried details of entertainment taking place within the venue. He confirmed that, upon being advised by the Council, following the event on 10th July, that no entertainment should be taking place without a valid Licence, all advertised events had been cancelled, with the exception of a funfair day and a Hallowe'en party, neither of which required an Entertainments Licence. The only event which had taken place without an Entertainments Licence had been that of 10th July, where the organiser had provided an assurance that no entertainment would be taking place. He pointed out that a significant number of meal bookings had had to be cancelled, particularly over Christmas and St. Valentine's Day, because accompanying entertainment could not be provided. He added that he was the Chairman of a local football club, which was sponsored by the bar, and which necessitated his presence there on a Monday, Wednesday, Saturday and Sunday. In addition, two managers with considerable experience were employed on a full-time basis.

Mrs. Hughes informed the Committee that a number of companies operated by the Hughes family had gone into administration, which had led to a group of bars being forfeited. As a consequence, she and her husband had been faced with losing their home and she had had to use her pension from her previous employment and other savings to establish the current business, with a view to preventing that from occurring. She highlighted the fact that Beckett's Bar was the only licensed business in which she had ever been involved and that it was operated by her and her husband, with no input from either Mr. J. Hughes or Mrs. M. O'Reilly. She explained that the Entertainments Licence was being sought to provide entertainment in the form of, for example, a two-piece band and that it was not the intention to operate as a nightclub.

Mr. Hughes then provided details around the two Court Judgements in which he had been involved and pointed out that Lord Justice Deeny, within the second Judgement, which had come from a higher court, had found in his favour against KBC Bank Ireland PLC and had indicated that the comments made by Lord Justice Gillen within the first Judgement in terms of his character had not impacted upon his credibility. He added that his case had been the only one in Northern Ireland since the economic recession had begun in 2008 which had been brought against a bank by an individual on a personal guarantee which had been won.

The Divisional Solicitor provided clarification on the Court Judgements and advised the Members that both decisions were material to the application, therefore, it was a matter for them to decide if they wished to take them into consideration when determining the application.

Finally, Mr. Hughes confirmed that he would be agreeable to the Entertainments Licence being granted for a period of six months and he and his wife were thanked by the Chairperson.

After discussion, it was

Moved by Councillor Magennis,
Seconded by Councillor Bell,

That the Committee, in its capacity as Licensing Authority, agrees to grant for a period of six months a Seven-day Annual Indoor Entertainments Licence in respect of Beckett's Bar, 241 Stewartstown Road.

Amendment

Moved by Councillor Attwood,
Seconded by Councillor Bunting,

That the Committee, in its capacity as Licensing Authority, agrees to refuse an application for the grant of an Entertainments Licence in respect of Beckett's Bar, 241 Stewartstown Road, on the grounds that:

- (i) it was clear that the application involved Mr. Eugene Hughes and that he was operating the premises, which related to his fitness to hold an Entertainments Licence;
- (ii) issues had been encountered at other premises operated by the Hughes family in terms of liquor and entertainments licensing; and
- (iii) both the applicant and Mr. Eugene Hughes had been convicted of providing entertainment without a valid Entertainments Licence.

On a recorded vote, nine Members voted for the amendment and nine against, with the votes being cast as follows:

<u>For 9</u>	<u>Against 9</u>
Councillor Hussey (Chairperson); The Deputy Lord Mayor (Alderman Spence); Alderman L. Patterson; Councillors Armitage, Attwood, Brown, Bunting, Craig and Sandford.	Councillors Bell, Campbell, Carroll, Clarke, Dudgeon, Groves, Jones, Magennis and McConville.

The Chairperson (Councillor Hussey) exercised his second and casting vote in favour of the amendment and it was accordingly carried.

The amendment was thereupon put to the meeting and passed.

Update on Sightseeing Bus Tours

The Committee was advised that the former Licensing Committee, at its meetings on 16th April, 2014 and 18th March, 2015, had deferred consideration of applications to vary the designation resolutions for sites at Castle Place (opposite Donegall Arcade) and the Castle Junction Kiosk respectively, to provide for the sale of

bus tour tickets, pending the outcome of a review which was being undertaken by the Development Department into sightseeing coach provision in the City.

The Building Control Manager reported that the Development Department had undertaken research with a view to determining the operating framework within which the bus companies operated, the current sales policy governing those wishing to purchase tickets and the views of tourists on the services being provided. The outcome of that research had, on 14th October, 2015, been presented to the City Growth and Regeneration Committee, which had agreed:

- (i) to note the update on issues relating to tourist bus operators in the City;
- (ii) to support the development of a code of conduct for operators and work with partners and the operators to explore how this can be managed; and
- (iii) that the issues in relation to better enforcement and legislative change be referred to the Licensing Committee and suggested that the DVA could be invited in to a future meeting of that Committee.

The Building Control Manager reviewed the aforementioned decision in the context of the Licensing Committee and explained that neither the Council nor that Committee had any legislative authority or responsibility for the licensing of bus tours within the City. He suggested, in light of the progress being made around the operation of tourist buses, that the Committee might wish to revisit those applications relating to the sites at Castle Place (opposite Donegall Arcade) and the Castle Junction Kiosk which had been deferred previously.

He reminded the Committee that, at its meeting on 16th September, 2015, it had renewed a Stationary Street Trading Licence for a designated site in Donegall Quay but had deferred an accompanying application for the variation of the Licence to allow for the sale of Wee Tram tour tickets, pending the outcome of the aforementioned review. He confirmed that the Licence holder had since cancelled his Licence as he no longer wished to trade at that location.

After discussion, the Committee agreed:

- (i) to note the decision of the City Growth and Regeneration Committee of 14th October, 2015;
- (ii) that, rather than invite the DVA to a future meeting, it be included on the list of consultees, should the Council propose to pass a designating resolution or a resolution to rescind or vary a designating resolution; and

- (iii) to initiate a new designation process in relation to those applications to vary the designating resolutions at sites in Castle Place (opposite Donegall Arcade) and the Castle Junction Kiosk.

Chairperson