

Licensing Committee

Wednesday, 20th April, 2016

MEETING OF LICENSING COMMITTEE

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

In attendance: Mr. J. Walsh, Town Solicitor;
Mr. S. Hewitt, Building Control Manager;
Mr. P. Cunningham, Assistant Building Control
Manager; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies were reported on behalf of Councillors Carroll and Magennis.

Minutes

The minutes of the meeting of 16th March were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council, at its meeting on 4th April, 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.

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 Seven-day Annual Outdoor Entertainments Licence - Writers' Square

The Assistant Building Control Manager informed the Committee that the Department for Social Development had, in the past, held both a Seven-day Annual Outdoor Entertainments Licence and a Seven-day Annual Marquee Entertainments Licence for Writers' Square. However, due to budgetary constraints, those had not been renewed and anyone wishing to avail of the venue had been required to submit their own application to cover their period of use.

He explained that an application had now been received from that Department for the grant of a Seven-day Annual Outdoor Entertainments Licence for the venue and reminded the Committee that, at its meeting on 21st September, 2011, it had agreed that, in future, all such applications be placed before it for consideration. The licence, if granted, would permit entertainment to take place from Monday to Sunday between the hours of 11.30 a.m. and 11.00 p.m. and would include special conditions around occupancy levels, early consultation with residents and businesses, extended hours and addressing complaints. He confirmed that the Department had been granted recently a Seven-day Annual Marquee Entertainments Licence under the Council's Scheme of Delegation and had indicated that it intended to utilise both licences to promote the venue for a range of events.

The Assistant Building Control Manager reported that no written representation had been received in respect of the application and that neither the Northern Ireland Fire and Rescue Service nor the Police Service of Northern Ireland had offered any objection. However, they would be consulted in advance of any proposed events and be invited to participate in any associated meetings. He pointed out that, since the Building Control Service had monitored events which had been organised under previous Entertainments Licences, it was familiar with all of the issues relating to the venue. It would, in advance of events taking place, engage with organisers and other parties to ensure that the appropriate documentation was submitted and that all safety and technical requirements were met.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant a Seven-day Annual Outdoor Entertainments Licence in respect of Writers' Square.

**Application for Extended Hours - Belfast City Blues Festival,
Writers' Square**

The Assistant Building Control Manager drew the Committee's attention to an application which had been received in relation to a number of proposed events which would be taking place within a marquee in Writers' Square, as part of the Belfast City Blues Festival. He explained that the venue was managed currently by the Department for Social Development, which had been granted recently a Seven-day Annual Marquee Entertainments Licence under the Council's Scheme of Delegation, and that it had, earlier in the meeting, obtained a Seven-day Annual Outdoor Entertainments Licence. Under the terms of the Marquee Entertainments Licence, entertainment was permitted to take place from Monday to Sunday between the hours of 11.30 a.m. and 11.00 p.m.

He reported that the Belfast City Blues Festival, which would be taking place from Friday 24th till Sunday 26th June, had been held for the past seven years within a number of licensed premises across the City and that this was the first time that it would be taking place in this venue. The Festival was intended to celebrate the musical heritage of the City and would include over forty-five live performances by local and international blues artists, music workshops and archive footage of local music artists. The organisers had requested that the Committee give consideration to permitting entertainment to run until midnight on all three nights of the Festival in order to offer

patrons every opportunity to maximise their musical experience. The programme of entertainment was in the process of being finalised but would be similar to that of previous years.

The Assistant Building Control Manager pointed out that, since the application related to the extension of the hours permitted under an existing licence condition, rather than the variation of the Entertainments Licence itself, there had been no requirement for it to be advertised. The Northern Ireland Fire and Rescue Service and the Police Service of Northern Ireland had offered no objections to the application and they would, prior to the Festival, be reviewing public safety, traffic management, transport and wider operational issues. He added that the Building Control Service was working closely with the organisers to identify and liaise with those in the area who might be affected by the event, including St. Anne's Cathedral, and were developing an appropriate letter to be issued to local residents providing details around the programme of events and their proposal to operate beyond 11.00 p.m. and would be reviewing the event documentation upon its submission. In terms of noise issues, he indicated that officers would be liaising with the Council's Environmental Protection Unit and the organisers to ensure that an appropriate noise management plan was formulated, which would ensure that noise from the Festival would not cause undue disturbance to local residents and businesses.

The Committee agreed, in its capacity as Licensing Authority, that the standard hours on the Seven-day Annual Marquee Entertainments Licence for Writers' Square be extended to enable entertainment to take place till midnight on Friday 24th, Saturday 25th and Sunday 26th June, as part of the Belfast City Blues Festival, subject to all technical requirements being met to the satisfaction of Council officers.

**Application for the Renewal of a Seven-day Annual Entertainments Licence –
The House, 12 Stranmillis 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 above-mentioned premises, based upon the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.

The Assistant Building Control Manager confirmed that one objection to the renewal of the licence had been received within the twenty-eight day statutory period and that the Committee, when considering the application, had a duty, under the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, to take it into account.

Accordingly, the Committee agreed to consider the objection at a future meeting, to which the objector and the applicant would be invited.

**Application for the Grant of a Seven-day Annual Entertainments Licence –
Malone Rugby Football Club, 8 Gibson Park Avenue**

The Assistant Building Control Manager drew the Committee's attention to an application which had been received for the grant of a Seven-day Annual Indoor

Entertainments Licence in respect of the Malone Rugby Football Club, based upon the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.

He informed the Members that the club's Entertainments Licence had expired on 31st March, 2005 and that the applicant was seeking to renew it in order to provide entertainment in the ground floor and first floor function rooms, which had a combined occupancy of approximately 420 persons. Since it was operating currently as 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 eighty-five occasions in any twelve-month period.

He reported that no written representations had been received in relation to the application and that the Police Service of Northern Ireland and the Northern Ireland Fire and Rescue Service had offered no objection. In such circumstances, it was normal practice for Entertainments Licences to be issued under the Council's Scheme of Delegation, however, since the applicant had been convicted of providing entertainment in the club on 22nd August, 2015 without a valid Entertainments Licence, the application had, as required under the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, been placed before the Committee for consideration. He confirmed that the applicant had received a conditional discharge and been required to pay costs of £69 and that no further offences had been detected during subsequent inspections of the premises.

He explained that the Building Control Service was working with the applicant to agree the final occupancy figure for the two function rooms and assured the Committee that, should it agree to renew the Entertainments Licence, it would not be issued until such time as all works and technical requirements were completed to its satisfaction. He added that the Council's Environmental Protection Unit had indicated that, since May 2015, it had received no complaints around noise nuisance or patron dispersal.

It was reported that Mr. S. Lemon, the President of the club, and Mr. R. Thomas, Secretary, were in attendance and the Committee agreed that it would be beneficial to obtain from them clarification around the application.

Mr. Lemon informed the Committee that the presidency of the club changed on an annual basis, which had contributed primarily to the failure to renew the Entertainments Licence. He confirmed that arrangements had now been put in place to prevent a recurrence, which included allocating responsibility for the administration of the club's licence to a full time bar manager.

Mr. Lemon and Mr. Thomas were thanked by the Chairperson.

The Committee agreed, in its capacity as Licensing Authority, to grant a Seven-day Annual Indoor Entertainments Licence in respect of the Malone Rugby Football Club, 8 Gibson Park Avenue.

**Application for the Grant of a Seven-day Annual Outdoor Entertainments Licence
– Villa, 2-16 Dunbar Street**

The Committee considered the following report:

“1.0 Purpose of Report/Summary of main Issues

- 1.1 To consider an application from Mr Lawrence Bannon for the grant of a Seven-day Annual Outdoor Entertainments Licence for the Smoking Area at the front of Villa Nightclub, based upon the Council’s standard conditions to provide outdoor musical entertainment.**

Premises and Location	Ref. No.	Applicant
Villa 2-16 Dunbar Street Belfast, BT1 2LH	WK/201402386	Mr. Lawrence Bannon Newgate Inns Limited 2-16 Dunbar Street Belfast, BT1 2LH

- 1.2 Members are reminded that, at the Committee meeting on 17th June 2015, you agreed to defer consideration of this application to enable clarification to be sought in relation to possible planning matters.**
- 1.3 This was subsequent to the application being previously deferred at an earlier meeting on 18th March 2015, to enable further information to be obtained regarding the conditions of the lease agreement between the applicant and the owner of the land, the Department for Social Development (DSD), for use of the proposed area outside the premises and to allow for the submission to the Council’s Environmental Protection Unit of further acoustic information.**
- 1.4 Members are advised that the applicant has now been granted a Certificate of Lawfulness of Existing Use or Development by the Planning Service.**
- 1.5 The Planning Service is satisfied that sufficient evidence has been submitted to show that the land constitutes Lawful Development and has been used for the purposes of an outside smoking/seating area for more than five years up to and including the date of the application therefore the time limit for taking enforcement action has expired. A copy of the Certificate of Lawfulness granted by the Planning Service has been made available to the Committee.**
- 1.6 A copy of the application form and the location map has been forwarded to the Committee.**

2.0 Recommendations

2.1 Taking into account the information presented and any representations made in respect of the application you are required to make a decision to either:

- 1. approve the application for the grant of a Seven-day Annual Outdoor Entertainments Licence, or**
- 2. approve the application for the grant with special conditions, or**
- 3. refuse the application for the grant of the licence.**

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

3.0 Main report

Key Issues

3.1 The applicant currently holds a Seven-day Annual indoor Entertainments Licence. The indoor areas licensed to provide entertainment are the:

- Ground floor Bar, with a maximum capacity of 325 persons**
- 1st floor Bar, with a maximum capacity of 200 persons**
- 1st Floor VIP Bar, with a maximum capacity of 50 persons.**

3.2 Members are advised that the number of persons to be accommodated in the new outdoor area is included in the overall maximum occupancy of the indoor area of 575 persons; they are not in addition to this occupancy.

3.3 The days and hours during which the premises are currently licensed to provide indoor entertainment are:

- Monday to Saturday: 11.30 am to 3.00 am the following morning, and**

- Sunday: 12.30 am to 3.00 am the following morning.
- 3.4 The premise operates as a public bar and nightclub with indoor entertainment being provided in the form of DJs and live bands.
- 3.5 The applicant proposes to provide entertainment within the nightclub's Smoking Area, which is located at the front of the building on Dunbar Street.
- 3.6 The proposed area is not covered by a Liquor Licence, therefore the applicant will have measures in place to prevent alcohol being taken into the area and consumed. A layout plan of the proposed outdoor area has been circulated to Members.
- 3.7 The days and hours during which entertainment is proposed to be provided in the new outdoor area is as follows:
- Monday to Sunday: 7.00 pm to 1.00 am the following morning.

Lease Agreement

- 3.8 Members will recall that the area in question is owned by the DSD and as a result, it has a lease agreement in place with the applicant for use of the area; this was renewed on 28th March 2016.
- 3.9 The DSD has also confirmed that it is content to allow any musical entertainment to be provided from the outside area, on condition that it complies with the noise levels imposed by the Council. The noise levels will be incorporated to the new lease agreement.
- 3.10 A copy of the lease agreement and consent from the DSD for any musical entertainment to be provided in the area has been forwarded to the Committee.
- 3.11 The applicant has advised that, if a licence is granted for the area, it is the intention to provide entertainment in the form of an amplified 1–2 piece band.

Representations

- 3.12 Public notices of the application were placed and no written representations were lodged.

PSNI

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

Health, Safety and Welfare Inspections

- 3.14 A total of four during performance inspections have been carried out on the premises by Officers from the Service regarding the provision of indoor entertainment in the past 12 months.
- 3.15 The inspections revealed that the conditions of the Entertainments Licence were being adhered to and Officers were satisfied that all operational and management procedures were being implemented effectively.

Noise Issues

- 3.16 Members may recall from your meeting on the 17th June 2015 that the applicant provided an acoustic report which was assessed by the Environmental Protection Unit (EPU). The Unit are satisfied with the report but due to the application being deferred to enable clarification to be sought in relation to possible planning matters; the Unit still need to validate the level proposed by their consultant of 80Db(A) 1m from the loudspeaker to ensure that it does not give rise to unreasonable disturbance at the nearest residential premises.
- 3.17 Officers will arrange for noise measurement tests to be carried out in due course but Members can be assured that an Entertainments Licence will not be issued until the levels have been verified and agreed with Officers.
- 3.18 Regardless of the outcome, the EPU has recommended that, in the event that an Entertainments Licence being granted, the Committee consider the inclusion of a condition requiring the applicant to maintain a noise monitoring logbook to ensure compliance with the agreed music noise level and to keep a regular check on volume levels at the noise sensitive facades, in particular after 23.00hrs, when outdoor entertainment is being provided.
- 3.19 Members are advised that the applicant has agreed to this condition being added to any Entertainments Licence being granted.

Applicant / Licensee

- 3.20 The current licensee for the premises is Mr. Lawrence Bannon and he has confirmed that Villa is a joint venture between himself and Newgate Inns Limited.
- 3.21 Whilst he is still the owner of the property, he has leased the premises to Newgate Inns Limited for a period of 10 years to help with the business going forward and to provide some financial assistance. Whilst it is a joint venture, he will be the Operations Director, and responsible for the 'day to day' running and management of the business including entertainment licensing and all compliance matters.
- 3.22 Mr Bannon has also confirmed that both he and Newgate Inns Limited will make joint financial decisions including staff appointments and dismissals.
- 3.23 The directors of Newgate Inns Limited are Ms. Andrea Bannon, Ms. Lauren Morton and Ms. Alana Fox, who will all be working in the club. Ms. Lauren Morton is the daughter of Mr Daniel Morton and Ms. Andrea Bannon is the daughter of Mr. Bannon.
- 3.24 The Service has also been advised that Mr. Ryan Morton's only role will be promoting the club and that both Mr. Daniel Morton and Mr. Ryan Morton will play no part in the management of the club.
- 3.25 Mr Bannon will be present at your meeting in order to address the Committee and answer any queries you may have in relation to the application.

Financial and Resource Implications

- 3.26 Officers carry out during performance inspections on premises providing entertainment but this is catered for within existing budgets.

Equality or Good Relations Implications

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

The Committee was advised that Mr. L. Bannon, the applicant, was in attendance and he was invited to provide clarification around his application.

Mr. Bannon informed the Committee that he had submitted his application with a view to providing amplified acoustic entertainment within the Smoking Area at the front of his premises and that he might, at some point in the future, apply for a Liquor Licence if it was deemed to be beneficial for his business and for patrons. He confirmed that door staff would continue to ensure that patrons did not bring their drinks into that area and that he would be agreeable to a condition being placed on the Entertainments Licence to that effect, together with one requiring the monitoring of noise levels, as recommended by the Council's Environmental Protection Unit.

Accordingly, the Committee agreed, in its capacity as Licensing Authority, to grant a Seven-day Annual Outdoor Entertainments Licence in respect of Villa, 2-16 Dunbar Street, on condition that the licensee:

- i takes all reasonable steps to ensure that no alcohol is consumed within the Smoking Area; and
- ii maintains a noise monitoring logbook to ensure compliance with the agreed music noise level and keeps a regular check on volume levels at noise sensitive facades, particularly after 11.00 p.m., when outdoor entertainment is being provided.

**Applications for the Grant of an Amusement Permit –
Twilight Zone Amusement Centres**

The Building Control Manager informed the Committee that EZE Gaming Limited operated currently amusement arcades at 44 Cregagh Road, 191 Kingsway and 13 North Street in the City. He explained that the arcades had been operated previously by a related company and that EZE Gaming Limited was now seeking to have the corresponding Amusement Permits transferred into its name. Since the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 made no provision for the transfer of an Amusement Permit, EZE Gaming Limited had been required to submit a new application for the grant of a Permit for each arcade. The arcades would be operated on the same basis as previously and officers were satisfied that no alterations were being made which would necessitate the submission of a Building Regulations application.

He reminded the Committee that the Amusement Permit Policy, which had been implemented in 2013, assessed applications based upon two components, the first of which took into consideration the legal requirements under the aforementioned Order, in terms of the character, reputation and financial standing of the applicant, the nature of the premises and activity proposed, the opinions of the Police Service of Northern Ireland and submissions from the public. In that regard, he confirmed that the applicant company had submitted references in support of its applications and that no objections had been received from the Police Service or from the public.

He reported that the second component of the Policy set out five criteria to be used when assessing the suitability of a location for the grant of an amusement arcade, based around retail vibrancy and viability, cumulative build-up, image and profile, proximity to residential use and to schools, youth centres and residential institutions for vulnerable people. He pointed out that, if the three applications were to be viewed as new applications, the arcade in Kingsway would fulfil all of those criteria. However, the premises on the Cregagh Road would fail to comply with one criterion, in that it was located within two hundred metres of a primary school, and the arcade in North Street would fail to meet two criteria, on the basis that it was located within the Primary Retail Core of the City Centre, as defined by the 2015 Belfast Metropolitan Area Plan, and that there was a similar business operating within the same commercial block.

In relation to the renewal of Amusement Permits, the Amusement Permit Policy indicated that the assessment of a location should take place only in exceptional circumstances and recognised the fact that premises, such as the three under consideration, were long established and had been operating long before the Policy had been implemented. Moreover, given that they had, some years previously, been granted planning approval, a Court of Appeal decision in June 1999 had stated that the Council, in determining applications for Amusement Permits, may take into account planning considerations but should be slow to differ from the views of the Planning Authority.

The Committee agreed to obtain clarification on the applications and Mr. A. Stranaghan, a Director of EZE Gaming Limited, was welcomed by the Chairperson.

Mr. Stranaghan confirmed that the fact that opening hours differed across each of the three arcades was due to demand at a local level and that it was company policy that no-one under the age of twenty-one be permitted entry to the arcades.

The Chairperson thanked Mr. Stranaghan for his contribution.

During discussion, a Member sought clarification on whether the granting of the Amusement Permits for those premises at 44 Cregagh Road and 13 North Street would set a precedence in terms of the future operation of the Council's Amusement Permit Policy, given that they had each failed to comply with at least one of the criteria used for assessing the suitability of a location, as set out under the Policy.

In response, the Town Solicitor confirmed that, in instances where a premises had been used for a prolonged period of time and where an Amusement Permit was essentially being transferred, albeit that it was deemed to be a grant application, due to a lack of provision under the existing legislation, it would be incumbent upon the Committee, if satisfied that the applicant was a fit and proper person, to grant the Permit. Any failure to do so could be interpreted as a disproportionate interference with the applicant's property rights under Article 1, Protocol 1 of the European Convention on Human Rights. It would not, therefore, create a precedent upon which others could rely on in the future in terms of breaching the Amusement Permit Policy.

Twilight Zone Amusement Centre, 44 Cregagh Road

The Committee agreed, in its capacity as Licensing Authority, to grant an Amusement Permit in respect of the Twilight Zone Amusement Centre, 44 Cregagh Road, with the premises being permitted to operate from Monday to Sunday between the hours of 8.00 a.m. and 10.00 p.m.

Twilight Zone Amusement Centre, 191 Kingsway

The Committee agreed, in its capacity as Licensing Authority, to grant an Amusement Permit in respect of the Twilight Zone Amusement Centre, 191 Kingsway, with the premises being permitted to operate from Monday to Sunday between the hours of 9.00 a.m. and 9.00 p.m.

Twilight Zone Amusement Centre, 13 North Street

The Committee agreed, in its capacity as Licensing Authority, to grant an Amusement Permit in respect of the Twilight Zone Amusement Centre, 13 North Street, with the premises being permitted to operate from Monday to Sunday between the hours of 8.30 a.m. and 10.30 p.m.

**Application for the Provisional Grant of an Amusement Permit –
Roll the Dice, 181 Ormeau Road**

The Committee considered the following report:

“1.0 Purpose of Report/Summary of Main Issues

Premises Location	and Ref. No.	Applicant
Roll the Dice 181 Ormeau Road Belfast BT7 1SQ	WK/2015/01745	Mr James Neeson 141-143 Donegall Pass Belfast BT7 1DS

1.1 To consider an application from Mr James Neeson, for the provisional grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.

1.2 A copy of the application form and location map has been forwarded to the Committee.

2.0 Recommendations

2.1 The current policy, dictated by the governing Order, is that the Committee, in considering the application for the Grant of an Amusement Permit, shall have regard to:

- a) The fitness of the applicant to hold a Permit having regard to his character, reputation and financial standing,
- b) The fitness of any other person by whom the business is to be carried on under the Permit would be managed, or for whose benefit that business would be carried on,
- c) Representation, if any, from the sub-divisional commander of the Police Service of Northern Ireland in whose sub-division the premises are situated, and
- d) Representation, if any, as a result of the public notices of advertisement.

2.2 You are then required to make a decision based on the following options set out under the Order. You must refuse the application unless satisfied that:

- a) The applicant is a fit person to hold an Amusement Permit; and
- b) The applicant will not allow the business proposed to be carried on under the Amusement Permit to be managed by, or carried on for the benefit of, a person other than the applicant who would himself be refused the grant of an Amusement Permit.

2.3 Thereafter:-

1. You may refuse the application after hearing any representations from third parties, or
2. You may grant the application, subject to the mandatory condition that the premises are not to be used for an unlawful purpose or as a resort of persons of known bad character, and

2.4 In the case of premises, that have machines with the maximum cash prize of £25.00, where admission is restricted to persons aged 18 or over that –

- no persons under 18 are admitted to the premises; and
- at any entrance to, and inside any such premises there are prominently displayed notices indicating that access to the premises

is prohibited to persons aged under 18, and in addition

3. You may also grant the application subject to discretionary conditions outlined in the Order relating to the illumination of the premises, advertising of, and window displays on the premises and the display of information notices.
- 2.5 Should you be of a mind to refuse the application for the grant of an Amusement Permit or grant the Permit subject to any discretionary conditions, you are required to advise the applicant of your intention to do so. In this case, you must afford the applicant the opportunity to make representations at a Licensing Committee meeting on the matter before making a final determination of the application.
- 2.6 If, subsequent to hearing the applicant, you refuse the application for the Grant of an Amusement Permit or decide to grant the application subject to discretionary conditions, the applicant may appeal that decision to the County Court.
- 3.0 Main report
- Key Issues
- 3.1 Members are reminded that the Licensing Committee is responsible and has full delegated authority for determining all applications relating to the grant and provisional grant of Amusement Permits.
- Applicant
- 3.2 The applicant has requested to operate the premises under the hours of 10.00am to 11.00 pm Monday to Sunday. However, the planning permission hours of operation are from 10.00 am to 10.00 pm, in the interests of public amenity. However, the applicant has advised that they overlooked this at the time of making their provisional amusement permit application to us and is prepared to comply with the hours approved under the planning permission.
- 3.3 The permit is for a total of 40 gaming machines, all of which are to pay out a maximum all cash prize of £25.00. In the case of premises which have machines with a maximum cash prize of £25.00, admission is restricted to persons aged 18 or over.
- 3.4 Mr Neeson and/or his representatives will be available to discuss any matters relating to the grant of the permit at your meeting.

Previous use as an Amusement Arcade

- 3.5 Members are advised that this site was formerly a snooker hall (Mission snooker hall) and the front part of it operated as an amusement arcade between 1990 and 1999.

Planning Matters

- 3.6 A planning application was made to the Planning Service on 2nd February, 2012 for a change of use from a Retail Unit to an Amusement Arcade and this was granted on 17th December, 2012.
- 3.7 Prior to the premises being approved as a retail unit it was formerly approved for a change of use from a snooker hall to a ground floor retail unit. Before that it was approved for a part change of use of an existing snooker hall to an Amusement Centre.
- 3.8 A copy of the planning permission granted on the 17th December 2012 has been forwarded to Members.
- 3.9 The Committee may be aware that, in an important Court of Appeal decision in June 1999, it was confirmed that the Council, in determining applications for Amusement Permits, may take into account planning considerations but should be slow to differ from the views of the Planning Authority.
- 3.10 The Court also confirmed that the Council can take into account matters such as location, structure, character and impact on neighbours and the surrounding area.

Amusement Permit Policy

- 3.11 Members will be aware that the Council's Amusement Permit Policy was ratified at Council on 1st May 2013. It outlines those matters which may be taken into account in determining any application and indicates that each application must be assessed on its own merits.
- 3.12 The key Policy objectives are to:
1. promote the retail vibrancy and regeneration of Belfast;
 2. enhance the tourism and cultural appeal of Belfast by protecting its image and built heritage;

3. support and safeguard residential communities in Belfast;
4. protect children and vulnerable persons from being harmed or exploited by gambling; and
5. respect the need to prevent gambling from being a source of crime and disorder.

3.13 The Policy consists of two components which are considered below:

1. Legal Requirements under the 1985 Order

3.14 Members must have regard to the legal requirements under the 1985 Order relating to:

(a) The character, reputation and financial standing of the applicant:

3.15 References and additional supporting information for those associated with the application have been circulated to the Committee.

(b) The nature of the premises and activity proposed:

3.16 To ensure that the nature of the premises proposed is suitable for this location Members may consider how the premises are illuminated, the form of advertising and window display, and how notices are displayed on the premises. Whilst the appearance of amusement arcades is considered a Planning matter, Members may still wish to be satisfied that the façade integrates with adjacent frontages.

(c) Opinions of the Police:

3.17 The PSNI has been consulted in relation to the application and has not offered any objection to it. It is also worth noting that, when an amusement arcade previously operated at this address from 1990 until 1999, the Council received no objections from the Police Service.

(d) Submissions from the general public:

3.18 No objections have been received as a result of the public notices placed in the three local newspapers.

2. Assessment criteria for Suitability of a Location

3.19 There are five criteria set out in the Policy which should typically be considered when assessing the suitability of a location for an amusement arcade. These are detailed below as they relate to this application.

(a) Retail vibrancy and viability of Belfast:

3.20 The application premises are a former retail unit that sold electronic cigarettes. Prior to its redevelopment for retail use over a decade ago the planning history of the site indicates that it operated as a snooker club. In 1990 the front part of this snooker hall was granted a change of use planning permission (Z/1990/0719/F) to operate as an amusement centre. An Amusement Permit was subsequently issued and this remained in force for nearly a decade under a number of different permit holders.

3.21 While this vacant shop is located within a shopping and commercial area on the Ormeau Road arterial route, as designated in the Belfast Metropolitan Area Plan (BMAP) 2015, the unit in question is specifically left unzoned as white land. This is most likely due to the fact that it was not trading as a shop at the time of the land use survey for BMAP.

3.22 The unit is bordered on one side by a Turkish barbers, and on the other side, by a bicycle shop, with a shared service access (circa 1.5 metres wide) located between the bicycle shop and application premises. Having regard to the definition of a shop in Appendix D of the Amusement Permit Policy, which is reproduced from the Planning Use Classes Order (NI), the application premises are technically bordered on each side by a retail unit.

3.23 Viewed in this light, it can be concluded that the application would break up a continuous shopping frontage.

3.24 Accordingly, bearing in mind the objective of the Amusement Permit Policy to promote the retail vibrancy of Belfast, together with the limited appeal of amusement centres in generating pedestrian flows, the application runs counter to the Permit Policy. Having stated this, it is worth noting that the planning decision was silent on its impact on the continuous shopping frontage. This is in spite of the fact that this guidance is contained in the Planning Service's own Development Control Advice Note 1 (DCAN 1), which the Amusement Permit Policy sought to be consistent with. Instead, the planning decision chose to attach overriding weight to its location in this mixed use area.

Application does not comply with this criterion.

(b) Cumulative build-up of amusement arcades in a particular location:

- 3.25 There are no other amusement arcades on the commercial frontage to which the application relates and therefore it would not contribute to a cumulative build-up of amusement centres at this location.

Application complies with this criterion.

(c) Impact on the image and profile of Belfast:

- 3.26 The application premises are not located next to a tourism asset and are not located at a Gateway location into Belfast City Centre.

Application complies with this criterion.

(d) Proximity to residential use:

(i) - predominantly residential in character

- 3.27 The application premises are located at ground floor level along the shopping/commercial frontage of Ormeau Road where there is a mix of shopping/commercial units. There are residential units at first floor level immediately above this block of ground floor businesses. These residential units are accessed via Fitzwilliam Square, which is situated to the rear of the premises, off Rugby Avenue. Further residential units are located along the streets leading off the Ormeau Road.

- 3.28 Mindful of the above, the application premises are located along an arterial route into the city centre as defined under BMAP 2015 and the location can therefore be viewed as a 'mixed use' area and not one that is predominantly residential in character.

(ii) – non-residential property that is immediately adjacent to residential property

- 3.29 There is an adjacent apartment situated above the premises, which forms part of the Fitzwilliam Square development that is accessed from the rear via Rugby Avenue. The Amusement Permit Policy states that permits will not be granted in cases where the proposed premises are immediately adjacent to residential use. However, it is important to note from the planning approval that the Council's Environmental Health Service adjudged the proposed use acceptable from a noise impact perspective

and that the planning decision notice restricts opening hours between 10.00 am and 10.00 pm.

- 3.30 On balance, therefore, the location of the unit in a mixed used area, together with the restricted opening hours attached to the planning permission (10.00am-10.00pm) would tend to outweigh the presumption against not granting a permit on the basis of impact concerns for the existing apartment above.

Application complies with this criterion.

(e) Proximity to schools, youth centres, and residential institutions for vulnerable people:

- 3.31 There are no schools, youth centres, or residential institutions for vulnerable people within 200m of the application premises.

Application complies with this criterion.

- 3.32 A copy of the Council's Amusement Permit Policy has been made available to Members.

Conclusion

- 3.33 The application premises do not comply with 1 of the 5 assessment criteria for the suitability of the location for an amusement centre as laid down in the Council's Amusement Permit Policy. This relates to its break up of a continuous shopping frontage, which the permit policy aspires to retain in the interest of promoting shopping in the City.
- 3.34 This notwithstanding, it is important to note that this amusement centre was granted planning permission before the introduction of the Permit Policy and, therefore, there are exceptional circumstances pertaining to this permit application. In this regard, DOE Planning at the time was not aware of the detail of the Council's final Permit Policy and the weight it attached to the maintenance of a continuous shopping frontage. Instead, DOE Planning at the time attached overriding weight to its mixed use location on an arterial route, which is also acknowledged as a very important consideration.
- 3.35 The circumstances of this application lead to a finely balanced determination. However, given that case law has resolved that the determination of a permit application should be slow to differ from that of a planning application and that an amusement permit was in force on the front part

of this site for nearly a decade (between 1990 and 1999) it may be reasonable to conclude that there are exceptional grounds for the Council to depart from its assessment under the Permit Policy and to grant a permit accordingly.

Financial and Resource Implications

- 3.36 There are no financial or resource implications associated with this report.**

Equality or Good Relations Implications

- 3.37 There are no equality or good relations issues associated with this report.”**

The Building Control Manager provided an overview of the application in the context of planning matters and the Council’s Amusement Permit Policy. He pointed out that the applicant had indicated that he wished to operate the arcade from Monday till Sunday between the hours of 10.00 a.m. and 11.00 p.m. However, having been advised that the planning permission for the premises had been granted on the basis that it would operate between 10.00 a.m. and 10.00 p.m., the applicant had, accordingly, agreed to amend the hours of operation.

During discussion, a Member referred to the key policy objectives of the Amusement Permit Policy, as set out within 3.12 of the report, and pointed out that, in her view, the Council, in assessing the application, had failed to take into account the residential nature of the area and the need to protect vulnerable persons from being harmed or exploited by gambling and highlighted the difficulties which had arisen in the nearby Holylands area, where young people had, in the past, been easily influenced in terms of their behaviour. She highlighted the fact that the Court of Appeal had, in June 1999, confirmed that the Council, in determining applications for Amusement Permits, could take into account matters such as location, structure, character and impact upon neighbours and the surrounding area.

The Committee was informed that Dr. T. Quinn, Braniff Associates, who had assisted the Council in the formulation of its Amusement Permit Policy, was in attendance in order to clarify any issues around the Policy and its application and he was welcomed by the Chairperson.

Dr. T. Quinn reminded the Committee that the Amusement Permit Policy, which had been implemented in May 2013, identified areas where there was a presumption against the location of amusement arcades, namely, in the retail core of the City and in residential areas. However, there were parts within the city centre outside the retail core, in non-residential business areas, and, in terms of this application, on designated shopping and commercial areas on arterial routes, which could be open to consideration in terms of where an Amusement Permit could be granted.

He reported that, when assessing the current application, it was evident that it failed to comply with the Amusement Permit Policy, in that it broke up a continuous shopping frontage. However, there were a number of exceptional circumstances to be

considered, as alluded to within the Policy, namely, that it had obtained planning permission in 2012 and, importantly, that that had occurred prior to the implementation of the Policy. He added that it was only when the Policy had been ratified by the Council that engagement had taken place with senior officers within the Planning Service with a view to ensuring consistency in the decision-making process between that Service and the Council. He highlighted also the fact that no objections had been received in relation to the application, which had not been the case for other applications for the grant of Amusement Permits which had been refused previously by the Committee.

In response to a question, Dr. Quinn indicated that the proposed use at this location appeared to breach the applicable Planning Policy DCAN1.

The Chairperson thanked Dr. Quinn and invited Mr. J. Neeson, the applicant, to provide the Committee with details of his application and address the issues which had been raised.

Mr. Neeson informed the Members that he had, approximately twenty years ago, developed the property at 181 Ormeau Road. He reported that the ground floor of the property was comprised of several retail units, some of which had taken a considerable length of time to lease. He highlighted the fact that this particular unit had been occupied for a total of only five years since being developed and confirmed that it was the only one which was vacant currently. That had led him to apply for planning permission for an amusement arcade which it was his intention to operate. He made the point that, since that permission had been obtained prior to the implementation of the Council's Amusement Permit Policy, the Policy should not apply in this case.

Mr. Neeson was thanked by the Chairperson.

After discussion, it was

Moved by Councillor Attwood,
Seconded by Councillor Campbell and

Resolved - That the Committee, in its capacity as Licensing Authority, agrees that it is minded to refuse an application for the provisional grant of an Amusement Permit in respect of Roll the Dice, 181 Ormeau Road, on the grounds that it fails to comply with the Council's Amusement Permit Policy.

The Committee noted that, in accordance with the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, the applicant would be afforded the opportunity to make representation to the Committee regarding its decision at a future meeting.

**Application for the Renewal of a Seven-day Annual Entertainments Licence –
El Divino, May's Meadow**

The Committee considered the following report:

1.0 Purpose of Report/Summary of main Issues

- 1.1 To consider an application for the renewal of a Seven-day Annual Entertainments Licence for El Divino, based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.**
- 1.2 Members are reminded that, at your meeting on 17th February, you agreed to consider the application at your March monthly meeting, to which the objectors and the applicant would be invited to attend.**
- 1.3 At that meeting, you agreed to defer consideration of this application to enable officers to obtain further information from the applicant. The applicant had failed to provide appropriate responses to a number of additional questions posed by officers regarding an individual's alleged involvement in the operation and management of El Divino and the organisational management structure of the other companies and premises the applicant currently has operating within Belfast.**

Premises and Location	Ref. No.	Applicant
El Divino May's Meadow Belfast, BT1 3PH	WK/201501760	Mr Paul Langsford El Divino Belfast Ltd.

- 1.4 The renewal application was received from Mr. Paul Langsford of El Divino Belfast Limited, on 10th December 2015.**
- 1.5 Mr. Langsford is also the licensee of a number of other premises in Belfast, such as Filthy McNasty's and the Perch, Chinawhite, Shiro and Rita's.**
- 1.6 Members are reminded that a total of five objections were received at the time of your previous meeting in February. Two of the objections were received within the 28 day statutory period and the other three outside of the statutory period. One of the latter objectors has since withdrawn their objection.**

- 1.7 Since your February meeting, another objection was received on 2nd March from a resident of a nearby apartment block. There are currently five objections.
- 1.8 The Service has acknowledged the objection received on 2nd March and has advised the objector of our Committee process and Protocol. They were also advised that the Committee would have to decide whether to exercise its discretion to hear the additional objection, as it was received out of time.
- 1.9 It was suggested to this objector that they may wish to join with the other objectors and attend the meeting to form part of their delegation.
- 1.10 However, at the time of writing, we have not received any further details or information from this objector or confirmation if they wish to attend your April Committee meeting. If you wish to consider the objection received on 2nd March, there will be five objections to consider.
- 1.11 Copies of the letters of objection, including the last objection received on 2nd March, have been forwarded to the Committee.
- 2.0 Recommendations
- 2.1 Taking into account the information presented and representations received in respect of the application you are required to make a decision to either:
 - 2.2 approve the application for the renewal of the Seven-day Annual Entertainments Licence, or
 - 2.3 approve the application with special conditions, or
 - 2.4 refuse the application for the renewal of the Seven-day Annual Entertainments Licence.
- 2.5 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 Recorders Court.

3.0 Main Report

Key Issues

- 3.1 All of the objections are from residents of the nearby St John's Wharf apartment block and the nature of these objections relate to concerns regarding the noise arising from entertainment in the nightclub and noise and antisocial behaviour associated with patron dispersal until 3.00 am.**
- 3.2 Following receipt of the objections from the residents of the apartment block, the Service offered to facilitate a liaison meeting between all parties involved in order to discuss the issues in an attempt resolve the matter.**
- 3.3 The objectors did not avail of the offer to attend a liaison meeting. Therefore, the applicant requested the Service to forward correspondence to the objectors advising that as a result of their objections they were willing to only operate the club on Friday and Saturday nights for the foreseeable future.**
- 3.4 The applicant also asked the residents to confirm if they would be willing to withdraw their objections on this basis.**
- 3.5 No objections were withdrawn and the applicant requested if the Service would convene a liaison meeting with the management company and managing agent for the apartment block. This meeting took place on 23rd February, 2016.**

Liaison Meeting

- 3.6 The management company confirmed that it has only received two complaints in the past 12 months and that those could not be specifically attributed to El Divino. The applicant also confirmed that, despite the objectors not being interested in availing of the cancellation of their Thursday night entertainment, they have nevertheless taken the decision to drop this night from their weekly schedule to try and appease residents, despite it being a lucrative night for the business.**
- 3.7 The management company advised the club management that, in its view, the cleanliness of the area and the profile of the security company had declined over the past few months. The applicant explained that the security firm they had been using since they started operating the venue had gone into administration in October 2015 and they had had to change security company.**

- 3.8 The previous security company had a very strong visual presence, as its vehicles were similar to those of the PSNI. The security guards were also familiar with their role. He confirmed that since the new security firm had been appointed there had been a few teething problems but that they have all been rectified. He confirmed that they would ensure that the security vehicle would be fitted with signage to make it more visible to patrons and residents.
- 3.9 The management company requested that the applicant forward correspondence to the objectors regarding the outcome of the meeting and their proposals.
- 3.10 Subsequent to this correspondence being sent, one of the objectors then withdrew their objection, as previously noted.
- 3.11 The applicant and objector have completed a Representation Form in advance of your meeting and in accordance with the Committee Protocol. This enables all relevant information to be shared between all parties and to allow officers to verify and investigate, if necessary, any points raised by the parties.

Objectors' Representation

- 3.12 One of the objectors has advised the Service that they will be representing three of the other objectors, which has been confirmed by the three objectors in question. As a result, they have completed and submitted an Objectors Representation Form in consultation with the others. A full copy of their Representation Form has been provided to the applicant, as required under the protocol.
- 3.13 The general nature of their objections received relate to:
- disturbance and antisocial behaviour caused by patrons arriving and leaving the premises.
 - noise arising from entertainment emanating from El Divino.
 - lewd behaviour in the vicinity of El Divino.
 - traffic congestion and rubbish on the Laganbank Road.
 - disturbance having a detrimental effect on the residents.
 - it being unreasonable to have a nightclub on a road due to residential accommodation, office accommodation and the new Waterfront Conference Centre.

3.14 Further to providing the objectors with a copy of the applicants' Representation Form, the objector submitted a counter representation with some additional information. In the counter representation, the objector states the following:

- **without knowing who complained, it is impossible to verify all of the assertions made by the club but from their own experiences, not all of their contacts received replies;**
- **sometimes, due to the time it takes the Noise Team to respond to a call, (as a result to being in another area of the City) they gave up phoning and instead emailed both them and the Building Control Service. Although, they admit that only one in ten occasions the club actually caused problems because they have work and family life and no one has time to report everything;**
- **further problems of noise and anti-social behaviour from the premise and the disturbance having a detrimental effect on the residents who pay mortgages and rent;**
- **they dispute the applicant's comments that the security at the premises is as diligent and effective and alleges to have recently witnessed a group of young patrons screaming, crying and shouting for a ten minute period outside the gates of St John's Wharf and no one from the security appeared to stop them;**
- **they are certain the PSNI was recently involved after a marketing tactic of leaving parking tickets on people's cars on Laganbank Road during the day advertising a club night;**
- **it would be interesting to see the club accounts to see where profits are made and is the running cost of a weekday club night being paid back by the people attending;**
- **if there is sufficient patronage to maintain several club nights during the week as well as at the weekend;**
- **if El Divino were not there, then these drunk, fighting, screaming young people would not be anywhere near those residential developments;**

- Why does the premises still need a Seven-day Entertainments Licence to 3.00 am and why are they applying for it, especially as they are selling the club?;
- is the presence of a blanket licence being seen as a selling point for the club on the open market?; and
- the St John's Wharf Residents Committee and Management Company are there for operational matters and are not the conduit for all residents' voices for the spokesperson for residents on matters for personal distress.

3.15 A delegation of objectors and/or their representatives will be available to discuss any matters relating to their objection should they arise during your meeting.

Applicant's Representation

3.16 The applicant's Representation Form notes the occasions when they were made aware of disturbances by Belfast City Council and residents, confirming the action taken to alleviate the specific issues. It also highlights the measures which the management has undertaken to try and reduce noise emanating from the premises and the impact of patron dispersal, such as:

- only operating on Friday and Saturday nights.
- monitoring noise levels.
- providing a security team that patrol the Laganbank Road, paying particular attention to reduce the congregation of patrons in the vicinity of St John's Wharf.

3.17 A full copy of the applicant's Representation Form has been circulated to the Committee and has been provided to the objectors as required by the protocol.

3.18 Further to providing the applicant with a copy of the objectors Representation Form, the applicant has submitted a counter representation. The counter representation provides details of the action taken by the applicant in response to complaints and to alleviate some of the resident's concerns; providing a dedicated phone to deal with resident's complaints, traffic control measures to reduce traffic congestion, bin collections to be after 10.00

am/midday, CCTV coverage of Laganbank Road adjacent to the premises, the security company patrolling the Laganbank Road to prevent any antisocial behaviour and ensure the cleanliness of the area, and a Noise limiter fitted to the sound system in the nightclub.

Additional Questions

- 3.19 In addition to the objections, another bar operator in the City raised concerns about the involvement of Mr. Mark Beirne with these premises and others operated by the applicant. They allege that Mr. Beirne had been convicted of a number of liquor licensing offences, was previously declared bankrupt and is disqualified from acting as a company director.
- 3.20 In light of those concerns, officers carried out some background research and posed a number of additional questions to the applicant which we consider relevant to the application.
- 3.21 operation and management of El Divino and the organisational management structure of the other companies and premises the applicant currently has operating within Belfast.
- 3.22 Members will recall that you subsequently agreed to defer consideration of the application at your March meeting due to the applicant failing to provide the appropriate responses to those questions.
- 3.23 Responses have now been provided to those questions.
- 3.24 The applicant and/or his representatives will be available to discuss any matters relating to the renewal of the licence should they arise during your meeting.

Details of the Premises

- 3.25 The areas currently licensed to provide entertainment are the:
- Ground Floor Bar, with a maximum capacity of 330 persons.
 - 1st Floor Green Room, with a maximum capacity of 80 persons.
 - 1st Floor Small Disco, with a maximum capacity of 220 persons.
 - 2nd Floor Disco, with a maximum capacity of 350 persons.

3.26 The days and hours during which the premises are currently licensed to provide entertainment are:

- **Monday to Saturday:** 11.30 am to 2.00 am the following morning,
- **Friday and Saturday:** 11.30 am to 3.00 am the following morning, and
- **Sunday:** 12.30 pm to 12.00 midnight

3.27 The following special conditions are attached to the licence:

- Entertainment may be provided on Sunday until 2.00 am the following morning on the occasions where the following day is a Bank or Public Holiday.

3.28 The premise operates as a public bar and nightclub with entertainment being provided on all floors, on Friday and Saturday until 2.00 am, in the form of DJs and live bands.

PSNI

3.29 The PSNI has been consulted and has no objection to the application and has been informed of the liaison meetings.

3.30 An Inspector will be available at your meeting to answer any queries you may have in relation to the application.

Health, Safety and Welfare Issues

3.31 A total of two during performance inspections have been carried out on the premises by Officers from the Service since the last renewal. The inspections revealed that the conditions of the Entertainments Licence were being adhered to with the exception of some minor issues such as fire safety signage being missing at the time of one of the inspections.

3.32 Through the Entertainment Licensing renewal inspection, officers have also been satisfied that all operational and management procedures are being implemented effectively.

NIFRS

3.33 The Northern Ireland Fire and Rescue Service has been consulted in relation to the application and confirmed that it has no objections to the application.

Noise Issues

- 3.34 The Environmental Protection Unit (EPU) has been consulted in relation to the application and confirmed that it has received a total of three noise complaints within the past 12 months.
- 3.35 The complaints related to noise emanating from the premises and noise arising from patron dispersal.
- 3.36 The applicant was notified of these complaints but no further action was deemed necessary.
- 3.37 Members are reminded that the Clean Neighbourhood And Environment Act 2011 gives councils additional powers in relation to the control of entertainment noise after 11.00 pm.
- 3.38 The EPU report detailing the complaints has been forwarded to Members.

Financial and Resource Implications

- 3.39 Officers carry out during performance inspections on premises providing entertainment but this is catered for within existing budgets.

Equality and Good Relations Implications

- 3.40 There are no equality or good relations issues associated with this report.”

The Building Control Manager reviewed the background to the application and highlighted the fact that, since the Committee meeting on 17th February, a further objection had been received from a resident of a nearby apartment block. He pointed out that the objection had been received outside the twenty-eight day statutory period and that, under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Committee, when considering an application, could exercise its discretion and agree to consider the objection, although it did not have a duty to do so.

The Committee agreed to exercise its discretion in this instance and consider the objection.

It was reported that Dr. C. King, one of the objectors to the application, was in attendance and she was welcomed to the meeting.

Dr. King informed the Members that she was acting on behalf of a number of residents of St. John's Wharf and drew the Members' attention to two issues contained within the Committee report which she wished to address. She pointed out, firstly, that

the report had indicated that the Council's Environmental Protection Unit had, within the past twelve months, received a total of three noise complaints in relation to El Divino and explained that additional complaints had been submitted to the Noise Team in writing. Secondly, the Building Control Service had, over the years, organised a number of liaison meetings, however, residents had not attended the last one as they had felt that all of the issues had been covered in previous meetings.

She then referred to the issues which had been experienced by residents over the past three years, in terms of noise and nuisance from El Divino, and confirmed that those had occurred as recently as the previous Saturday night when they had been awoken by patrons screaming and shouting as they made their way from the premises along the Laganbank Road.

Dr. King highlighted the fact that it had been confirmed recently that the premises had been advertised for sale and that the objectors had contacted the vendor in order to obtain clarification on a number of issues, one of which was whether any prospective buyer would be made aware of complaints which had been made against El Divino. The vendor had advised only that potential buyers would be required to carry out their own due diligence exercise, which, as far as she was aware, differed from the process governing the sale of domestic properties. She made the point that residents were concerned that, in the event of the applicant securing the renewal of the Seven-day Annual Entertainments Licence, it could be used to promote the sale of El Divino, as it was being offered with the premises, and a new licensee could create additional difficulties by utilising the licence on each night of the week. She highlighted the innumerable complaints which had been submitted to both the Building Control Service and the Environmental Protection Unit in relation to the premises and stressed that any improvements had been achieved only after continual requests from residents, rather than being initiated or offered by the licensee. She concluded by stating that the St. John's Management Company was responsible for the operational management of the residential block and was not reflective of the views of residents.

In response to several queries from the Members, Dr. King indicated that she had met with Mr. M. Beirne and the manager both in the premises and in the offices of the Building Control Service. More recently, residents had telephoned and emailed the premises to raise issues around, for example, the emptying of bottles at 6.30 a.m., which had been addressed by the licensee. She confirmed that it was normal practice for only one resident to attend liaison meetings and that she had attended at least two such meetings. She pointed out she had been one of a number of residents who had, in the early hours, contacted the Council's Night Time Noise Team to complain about noise emanating from the premises and had been advised that it was dealing with issues at other venues and would respond in due course. She suggested that, in the majority of those instances, by the time that the Noise Team had reached the location, the residents had either not waited up or the noise had ceased. She added that the management of El Divino had provided residents with mobile telephone numbers on which to contact them should issues arise. However, the telephones had not always been answered and, on those occasions that she had spoken with a representative from the premises to highlight noise issues, she had been informed that the matter would be addressed, although there had been little improvement.

The Chairperson thanked Dr. King for her contribution and welcomed to the meeting Mr. P. Langsford, the applicant, together with Mr. P. Kelly, the manager of El Divino, and Mr. R. McLaughlin, his legal representative.

Mr. Langsford informed the Members that, since El Divino had opened in 2011, it had played a major role in the resurgence of the hospitality sector in Belfast. The premises currently provided employment for fifty persons directly and another one hundred indirectly as, for example, promoters and ambassadors and had attained a number of awards and attracted some of the world's most celebrated performers. Approximately 300,000 patrons had visited the venue since it had opened, many of whom had been tourists, who, in turn had contributed to the economy of the City.

Mr. Langsford recognised that the success of El Divino had created difficulties for a small number of local residents and explained that considerable time and resources had been allocated to resolving those issues. He explained that management had a close working relationship with the management company of the St. John's Wharf complex, the St. John's Wharf Residents' Association, the Police Service of Northern Ireland and the Building Control Service and had been willing participants in liaison meetings with those groups and had always sought to address fully any issues which had been raised by residents. He pointed out that, at the last liaison meeting, it had been agreed that further meetings should take place only if requested by residents if issues persisted and that, as far as he was aware, since the Entertainments Licence had last been renewed, the management of El Divino had been the only party to request such a meeting. That had occurred in December 2015, when the Building Control Service had been invited to arrange a meeting with residents to enable the licensee to put forward a proposal to remove a Thursday night from its entertainment programme, with a view to alleviating residents' concerns.

He stressed that Thursday nights in El Divino were one of the most popular student nights in the City and that the cessation of entertainment on that night had had a significant impact upon the income generated by the premises and its reputation within the club scene. Unfortunately, the request had been declined by the residents and a meeting had taken place with the management company and the Residents' Association at which the proposal to remove a Thursday night had been confirmed. The Residents' Association had identified issues around, for example, litter and signage and action had been taken almost immediately by the licensee to resolve the matters and communicated in writing to residents. He highlighted the fact that the licensee had voluntarily put in place a number of other measures to minimise disruption locally, which included operating to 2.00 a.m. on a Friday and Saturday night, as opposed to 3.00 a.m. on the Entertainments Licence, not opening on a Sunday night before a Bank Holiday and staggering the dispersal of patrons when the venue was operating at or near full capacity. Other measures had included the deployment of a private outside security team, the use of the Community Rescue Service on busy nights, the provision of body cameras for door staff, the placing of notices outside and inside the venue requesting patrons to keep noise levels to a minimum and the provision of a dedicated mobile telephone number for the exclusive use of the residents of St. John's Wharf. Mr. Langsford pointed out that he was the licensee of a number of other premises across the City and confirmed that, in terms of El Divino, he would continue to work with the Building Control Service, residents and others to address fully all issues arising from

the operation of the premises. He concluded by highlighting the contents of an email which had been received from a resident of the nearby St. John's Wharf complex commending the management of El Divino on the manner in which the premises were being operated.

Mr. Kelly explained that either he or Mr. Langsford ensured that they responded promptly to all complaints received from customers or residents and that he was unaware of any complaints which had not been addressed. Residents had been provided with details in writing of a mobile telephone number which was held at all times by the Duty Manager, however, he had yet to receive a call from them during the fifteen months in which it had been in operation. In terms of the difficulties with early bin collection, he pointed out that those had been due to a route change by the company and had been remedied once highlighted by a resident of St. John's Wharf. In addition, no security vehicle had ever blocked the entrance to the apartment block.

The deputation then addressed a number of questions which had been raised by the Members.

Mr. Kelly confirmed that there were no issues with mobile telephone coverage in the premises and that he had obtained a breakdown of the calls and messages which had been received on the dedicated mobile phone, none of which had involved complaints from residents. In terms of the operation of a new security company, he confirmed that all initial difficulties had been resolved and that, arising from one of the liaison meetings, luminous signage had been fitted to the security company's vehicle to increase its visibility.

In terms of the operation of El Divino, Mr. McLaughlin confirmed that Mr. Langsford was a Director of the business and that he and Mr. Kelly were responsible for its day-to-day operation. He added that Mr. M. Beirne was one of three owners of the business and that he was consulted periodically on issues such as drinks promotions and entertainment provision.

Mr. Langsford confirmed that the premises had always held a Seven-day Annual Entertainments Licence and that he would be opposed to any restrictions being placed upon the licence to exclude a Thursday or any other night.

The Chairperson thanked the deputation for their contribution.

After discussion, it was

Moved by Councillor Armitage,
Seconded by Councillor Mullan,

That the Committee agrees, in its capacity as Licensing Authority, to renew an Annual Indoor Entertainments Licence for El Divino, May's Meadow, with the following conditions being attached to the Licence:

- i entertainment shall be permitted to take place only on a Friday and Saturday or on any Bank Holiday or Public

Holiday that falls on any day other than a Friday or Saturday;

- ii entertainment may be provided from 11.30 a.m. to 3.00 a.m. the following morning on those days;
- iii when the maximum occupancy level of the premises is reached, the current arrangement for dispersing patrons from each of the licensed areas on a phased basis will be maintained; and
- iv quarterly meetings shall be held, if required, between the Building Control Service, the licensee, residents, the St. John's Wharf Management Company, the Police Service of Northern Ireland and other relevant parties.

Amendment

Moved by Councillor Hussey,
Seconded by Alderman L. Patterson,

That the Committee agrees, in its capacity as Licensing Authority, to renew a Seven-day Annual Indoor Entertainments Licence for El Divino, May's Meadow.

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

The original proposal was thereupon put to the meeting when seven Members voted for and two against and it was declared carried.

**Application for the Renewal of a Seven-day Annual Entertainments Licence -
Thompsons Garage, 3 Patterson's Place**

Prior to this item being considered, the Chairperson informed the Committee that he had been advised by the Town Solicitor of the need, in accordance with the legal requirements contained within the Local Government Act (Northern Ireland) 2014, to restrict the information surrounding the application.

Accordingly, with the exception of those parties associated with the application, all persons seated within the public area of the room were excluded from the meeting to enable the matter to be considered in private.

Arising from discussion, a Member highlighted the fact that the Committee had, in the past, deferred consideration of applications until the outcome of legal proceedings had been determined and sought clarification on the impact upon the premises' Entertainments Licence, should it defer this application.

In response, the Town Solicitor explained that, since the applicant was seeking to renew his Entertainments Licence, he could continue to operate under the terms of his current licence. Whilst confirming that it was a matter for the Committee to decide on how to proceed, he pointed out that it might wish to take into account the fact that the legal case which was being progressed by the Police Service of Northern Ireland related to an alleged incident which had occurred in the premises on 12th March, 2015, which was now over one year ago. He added that the applicant's legal representative had indicated that his client was content for his application to proceed and that the licence, although treated as subsisting, had expired some months previously.

The Committee was advised that Constable John Guinness, Police Service of Northern Ireland, was in attendance and it agreed to obtain clarification from him around the aforementioned case.

Constable Guinness reported that the Investigating Officer had advised him that a file on the alleged incident which had occurred on 12th March, 2015 had been forwarded to the Public Prosecution Service for its consideration. However, the officer had been unable to confirm the date on which it had been submitted and had yet to receive a response from the Public Prosecution Service.

Constable Guinness was thanked by the Chairperson.

The Committee agreed to consider the application and, accordingly, the Building Control Manager reviewed the report which had been formulated in relation to the premises. He pointed out that the sole objection to the application had been received outside the twenty-eight day statutory period and that, under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Committee, when considering an application, could exercise its discretion and agree to receive the objector, although it did not have a duty to do so.

The Committee agreed to exercise its discretion in this instance and consider the objection.

During further discussion, several Members expressed concern around the implications of determining the application in advance of the outcome of any legal proceedings being publicised, following which it was:

Moved by Councillor Campbell,
Seconded by Councillor Mullan and

Resolved - That the Committee, in its capacity as Licensing Authority, agrees to defer consideration of the application for the renewal of an Entertainments Licence in respect of Thompsons Garage, Patterson's Place for a period of one month, to enable officers to obtain clarification from the Public Prosecution Service and the Police Service of Northern Ireland on the status of the potential prosecution arising from the alleged incident in the premises on 12th March, 2015.

Chairman