

Licensing Committee

Wednesday, 21st September, 2016

MEETING OF LICENSING COMMITTEE

Members present: Councillor Armitage (Chairperson);
the Deputy Lord Mayor (Councillor Campbell);
Aldermen McCoubrey, L. Patterson, Sandford
and Spence; and Councillors Bell, Boyle, Brown,
Clarke, Collins, Craig, Dudgeon, Groves, Heading,
Hutchinson, Magennis and McConville.

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

Minutes

The minutes of the meeting of 17th August were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st September, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were reported.

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

Licences/Permits Issued Under Delegated Authority

The Committee noted a list of licences/permits which had been issued under the Council's Scheme of Delegation.

Applications for the Grant/Renewal of Entertainments Licences with Associated Convictions

Annex Bar, 480 - 482 Shore Road

Chester Park Inn, 466 - 468 Antrim Road

Sliabh Dubh, 79 Whiterock Road

Corner House, 167 - 177 Oldpark Road

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

Accordingly, he drew the Members' attention to applications which had been received for the renewal/grant of Seven-Day Annual Indoor Entertainments Licence in respect of the following premises:

- **Annex Bar** (renewal of Entertainments Licence) – the licensee had, on 24th April, 2012, been convicted of having a locked final exit and had been fined £800 and ordered to pay £72 in costs;
- **Chester Park Inn** (renewal of Entertainments Licence) – the applicant had, on 22nd March, 2016, received a conditional discharge for providing entertainment in an outdoor area without an Entertainments Licence;
- **Sliabh Dubh** (renewal of Entertainments Licence) – the licensee had, on 8th March, 2016, been fined £200 and ordered to pay £69 in costs for having a locked final exit and obstructing a means of escape at another venue; and
- **Corner House** (grant of Entertainments Licence) – the applicant had, on 13th September, 2016, received a conditional discharge for providing entertainment whilst his previous licence had expired.

The Building Control Manager reported that, following those offences, officers had met with the licensee of each premises in order to review their management procedures and were now satisfied that they were operating in accordance with the Entertainments Licensing legislation. He added that no written representations had been received in relation to the applications and that the Northern Ireland Fire and Rescue Service and the Police Service of Northern Ireland had offered no objections.

The Committee agreed, in its capacity as Licensing Authority, to renew Seven-Day Annual Indoor Entertainments Licences in respect of the Annex Bar, 480 - 482 Shore Road, the Chester Park Inn, 466 - 468 Antrim Road and Sliabh Dubh, 79 Whiterock Road and to grant a Seven-Day Annual Indoor Entertainments Licence in respect of the Corner House, 167 - 177 Oldpark Road.

Breaches of Entertainments Licensing Legislation

Arising from discussion around the level of penalties associated with some of the aforementioned applications, the Committee agreed that a report be submitted to a future meeting providing information on breaches and associated convictions and penalties resulting from inspections which had, during the past five years, been undertaken by Council officers under the Entertainments Licensing legislation. The Committee agreed also that the report should outline the enforcement approach undertaken by the Council, depending upon the nature of the offence detected, together with proposals for enabling it to review those applications where there had been a conviction for a breach of the legislation which had posed a serious risk to the safety of patrons.

Application for Extended Hours – The Marcus Ward, 1 Bankmore Square

The Committee considered the following report:

“1.0 Purpose of Report or Summary of Main Issues

- 1.1 To consider an application from Mr. Lawrence Bannon of Tobar Inns Limited for permission to provide entertainment to 3.00 am at The Marcus Ward.**

Premises and Location	Ref. No.	Applicant
The Marcus Ward 1 Bankmore Square Belfast, BT7 1DH	WK/201601335	Mr Lawrence Bannon Tobar Inns Ltd 1 Bankmore Square Belfast, BT7 1DH

- 1.2 Mr Bannon is also the licensee for Villa, 2-16 Dunbar Street, Belfast, BT1 2LH.**

- 1.3 A copy of the application form and a location map has been forwarded to Members.**

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 to provide entertainment to 3.00 am, or**
- 2. approve the application to provide entertainment to 3.00 am with special conditions, or**
- 3. refuse the application to provide entertainment to 3.00 am.**

- 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 County Court. In the case that the applicant subsequently decides to appeal, entertainment may not be provided to the later hour until any such appeal is determined.**

3.0 Main Report

Key Issues

3.1 Members are advised that this premises was previously known as Stiff Kitten and it held an Entertainments Licence until 31st March 2014 before ceasing trading. Previously entertainment was permitted on Monday to Saturday from 11.30 am to 3.00 am and on Sunday from 12.30 pm to 3.00 am.

3.2 The areas where entertainment is provided are as follows:

- Public Bar, with a maximum capacity of 520 persons
- Dance Club, with a maximum capacity of 360 persons

3.3 The applicant has applied to provide entertainment on the following days and hours:

- Monday to Saturday: 11.30 am to 3.00 am the following morning, and
- Sunday: 12.30 pm to 3.00 am the following morning.

3.4 Members are reminded that applications to provide entertainment later than 1.00 am are subject to consideration by Committee.

3.5 The applicant has advised that the premise will operate as a public bar and nightclub with indoor entertainment being provided in the form of DJs and live bands.

3.6 Layout plans of the premises have been made available to the Committee.

Representations

3.7 Public notice of the application was placed and an objection was received by email within the 28-day period from the property management company acting on behalf of the residents and shareholders of Park Avenue Apartments, Bankmore Street. The nature of the objection related to concerns when entertainment was provided in the venue, previously known as Stiff Kitten, such as:

1. noise pollution, especially at closing time.
2. antisocial behaviour, especially at closing time

3. abusive and violent behaviour directed toward apartment residents and visitors
 4. revellers urinating and vomiting at private entrance lobbies to apartments.
- 3.8 A copy of the email of objection has been circulated to the Committee.
- 3.9 Following receipt of the objection, the Service offered to facilitate a liaison meeting between all parties involved in order to discuss the issues and attempt to resolve the matter. However, the residents and management company acting on their behalf did not avail of the offer for a meeting.
- 3.10 The applicant then requested the Service to forward correspondence to the management company and the residents to advise them of the measures which they would be willing to implement to alleviate their concerns.
- 3.11 In response to one of the resident's further concerns, regarding the smoking area and patron dispersal, the applicant has produced a management policy outlining how he intends to address these for the premises. The applicant has agreed also to have his acoustic consultant present on the first night that they open and, as and when required, to ensure the sound system and resultant noise levels are appropriate.
- 3.12 As a result of this correspondence, the objection has now been withdrawn.

Licence

- 3.13 The applicant has carried out refurbishment works to the premises which have been completed to the satisfaction of the Service. Following the resolution of the objectors concerns and withdrawal of the objection an Entertainments Licence was issued under the Council's Scheme of Delegation with the standard hours of operation, as follows:
- Monday to Sunday: 11.30 am to 1.00 am the following morning.
- 3.14 However, the applicant has applied to operate the premises under the hours of the previous Entertainments Licence to 3.00 am, hence the matter has been brought before Committee for consideration.

PSNI

- 3.15 The PSNI has been consulted and has confirmed that it has no objection to the application to operate till 3.00 am.

Health, Safety and Welfare Inspections

- 3.16 Officers have held meetings with the applicant as part of the application process and to resolve the objector's initial concerns. A number of inspections and meetings have also been held as a result of the Building Regulations application for the refurbishment works.
- 3.17 Officers are satisfied that all operational and management procedures are in place. The premises will continue to be inspected as part of our During Performance Inspection regime and will be subject to further monitoring to ensure the applicant adheres to the measures he has agreed to undertake.

NIFRS

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

Noise Issues

- 3.19 The Environmental Protection Unit (EPU) has been consulted in relation to the application and has raised no concerns in relation to it.
- 3.20 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.

Applicant / Licensee

- 3.21 The applicant and/or their representatives will be available at your meeting to answer any queries you may have in relation to the application.

Financial and Resource Implications

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

Equality or Good Relations Implications

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

The Committee agreed, in its capacity as Licensing Authority, since the applicant had addressed the concerns which had been raised by the objectors and that there were a number of other premises in that area which provided entertainment till 3.00 a.m., that the standard hours on the Seven-day Annual Indoor Entertainments Licence for the Marcus Ward, 1 Bankmore Square, should be extended to enable entertainment to take place till 3.00 a.m. on each night of the week.

**Application for the Grant of an Amusement Permit –
Players, 22-23 Shaftesbury Square**

The Committee considered the following report:

“1.0 Purpose of Report/Summary of Main Issues

1.1 The Committee is reminded that, at your meeting on 15th June, it considered an application for the grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (‘the 1985 Order’).

Premises and Location	Ref. No.	Applicant
Players Ground Floor 22-23 Shaftesbury Square Belfast BT2 7DB	WK/20160593	Ms Kerry Boyle KB Shaft Ltd.

1.2 After consideration, the Committee, in its capacity as Licensing Authority, agreed that it was minded to refuse the application on the grounds that it fails to comply with the Council’s Amusement Permit Policy.

1.3 However, the Committee also noted that, in accordance with the Order, the applicant would be afforded the opportunity to make representation to the Committee regarding its decision at a future meeting.

1.4 A copy of the minutes from the meeting on 15th June has been forwarded to the Committee.

2.0 Recommendations

2.1 The Committee is required to decide, on hearing from the applicant, whether to:

- **approve the application for the grant an Amusement Permit, or**
- **refuse the application for the grant of an Amusement Permit.**

2.2 If, subsequent to hearing the applicant, you refuse the application, 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 The current policy, dictated by the governing Order, is that the Committee, in considering the application, must afford the applicant the opportunity to make representations at a specified Licensing Committee meeting on the matter before making a final determination of the application.

Amusement Permit Policy

3.2 Members are reminded that the Council's Amusement Permit Policy 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.

3.3 In considering this application at your meeting in June two of the five criteria set out in the Policy, which should be considered when assessing the suitability of a location for an amusement arcade, were not met. These are detailed below:

Cumulative build-up of Amusement Arcades in a Particular Location:

3.4 In addition to the existing Players arcade at No. 22 Shaftesbury Square, which forms part of this application, there is another amusement arcade operator on this commercial frontage, namely Oasis Gaming. It operates from a number of units located at 14 Shaftesbury Square and 1-7 Donegall Road. This amounts to the largest concentration of Amusement Centres found within a commercial block in Belfast.

3.5 In the desire to promote retailing and regeneration in the City Centre, as per the first key objective of the Amusement Permit Policy, the Council is keen to avoid a clustering of

Amusement Centres at a given location. Accordingly, it restricts new openings to one per commercial frontage and one per shopping centre. It also restricts the ground floor extension of an existing establishment into an adjoining unit.

- 3.6 While the Council recognises that this commercial block currently has two vacant units (including the application site at No.23) the Council also acknowledges that it is a Gateway location with landmark development potential (see next criterion), an element of which could involve retailing.
- 3.7 Mindful of the above, therefore, this application to extend an existing Amusement Centre into a vacant shop unit runs counter to the cumulative build-up criterion.

Does not comply with this criterion.

Impact on the Image and Profile of Belfast:

- 3.8 As noted above, the application premises are located at a key entrance junction (Gateway) to the City Centre, as identified in the BMAP 2015. This is one of 11 Gateway locations at the edge of Belfast City Centre which, as recognised in the Development Plan, presents the visitor with an initial impression that can influence their overall perception of the City. Accordingly, BMAP considers these locations suitable for landmark development capable of raising the profile of Belfast. Indeed, one of the four elements of BMAP's tourism strategy reads as follows:

“enhancing the urban environment generally and, in particular, “first impression” points at major gateways, and in city and town centres.”

- 3.9 Within this context, and in recognition of the Amusement Permit Policy's objective to enhance the appeal of Belfast by protecting its image, the Council considers the granting of Amusement Permits at ground floor level as inappropriate for this and other Gateway locations.

Does not comply with this criterion.

- 3.10 In considering any application it is the case that Members may take into account any matter which is deemed relevant. Members may also depart from the Policy where it is appropriate to do so, although it is envisaged that this should only happen in exceptional circumstances.

Planning Permission

- 3.11 Members may recall 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.
- 3.12 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. A copy of that decision has been made available to the Committee.

Applicant

- 3.13 The applicant has been informed of the Committee's decision and has submitted further information in support of their application.
- 3.14 The applicant has submitted a supporting statement with additional information outlining the reasons why the application should be granted. These are summarised below.
- It is clear from the papers and records of the process that the grounds for refusing the application due to the cumulative build-up of amusement arcades in a particular location and the impact on the image and profile of Belfast have been fully considered and implemented by the relevant bodies.
 - Referring to the Planning Case Officer's Report the applicant argues that, when the application was considered by the Belfast Planning Office, it considered and consulted all the available policy and material documents.
 - The planning application was dealt with in a full and comprehensive way and that all relevant factors were taken into consideration by the Planning Authorities.
 - The application meets all the requirements of the Planning Authority and fulfils the conditions contained within the Council's Amusement Permit Policy,
 - The final conclusion drawn by the Planning Case Officer before granting planning approval would appear to suggest that the Planning Service would prefer that the maximum concentration of Arcades would be reached by

way of this approval rather than by the granting of additional permits thus increasing the number of outlets.

- The applicant also argues that the application proposal is not in a retail frontage, listing a number of other businesses and outlets operating along the same frontage.

- 3.15 The applicant has also included a proposed floor plan and elevations to show how the extension of the business would look like alongside the existing retail frontage.
- 3.16 A copy of the applicant's submission has been forwarded to the Committee.
- 3.17 The applicant and their representatives will be available to discuss any matters relating to the grant of the permit at your meeting.

Comments on the Applicant's Submission

- 3.18 Whilst the Council should be slow to depart from the decision of the Planning Authority, the Ava Leisure case clearly establishes that the Council is entitled to look at planning considerations and can depart from the decision of the Planning Authority.
- 3.19 Relevant to considering whether to depart from the decision of the then Planning Authority may be the fact that the Council has assessed the application against its Permit Policy which was adopted in 2013, in addition to the Planning Authority's documents, which include DCAN 1 (1983), which must be considered dated as it is now over 30 years old. Importantly, the Council's Permit Policy has regard to both planning and non-planning considerations and its detailed preparation was extensively researched and consulted upon.
- 3.20 The applicant selects various extracts of the planner's report in an effort to demonstrate that all relevant issues were addressed by the Planning Authority. However, the same report demonstrates that concerns for the vitality and image of the City Centre were also considered important by planners.
- 3.21 This commercial frontage consists of a mix of uses and it is the case that retail units no longer form part of it. However, as noted in the planner's report, the build-up of gambling establishments may also affect other businesses, such as restaurants, which add to the vitality and viability of this part of the City Centre.
- 3.22 The planner's report would appear to suggest that, because the application was for an extension, the planning authority saw fit to allow it this time but urged caution thereafter.

However, viewed in conjunction with the Gateway status of this location, which is suitable for landmark development, the application is contrary to the Amusement Permit Policy which aims to avoid increasing the proliferation of amusement centres in this area via the development of the adjoining vacant shop unit.

- 3.23 Members are advised that a number of planning applications have been granted in the last 12-15 months for this area including an application for 8 storey purpose built student accommodation at 78-86 Dublin Road and a 5 storey extension to the Benedict's Hotel complex on the corner of Bradbury Place and Donegall Road.

Financial and Resource Implications

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

Equality or Good Relations Implications

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

The Committee was informed that Ms. K. Boyle, the applicant, together with Mr. F. O'Reilly, her legal representative, and Mr. I. Foster, Planning Consultant, were in attendance and they were invited to address the Committee.

Mr. O'Reilly commenced by outlining the circumstances which had led him to direct an inappropriate comment towards the Divisional Solicitor at the end of the Committee meeting on 15th June and apologised unreservedly to her. In terms of his client's application, he pointed out that, firstly, there were currently two amusement arcades in Shaftesbury Square and that, should his client's application be refused, those would continue to operate. Secondly, Ms. Boyle's proposal to extend her business would enhance not only the adjacent vacant unit but Shaftesbury Square in general, given that it was one of the main gateways into the City centre. Finally, the Masterplan for Northern Ireland, which had been developed by the former Department for Social Development and which included Belfast, had made no reference to Shaftesbury Square being earmarked for redevelopment at any time in the future.

Mr. Foster provided a brief summary of the additional information which had been submitted by the applicant following the Committee meeting on 15th June. He pointed out that it was clear from the documentation available that the Planning Service, in approving this application, had taken into consideration all representations, including those which had been made by the Council around its Amusement Permit Policy. In relation to the term "Gateway", as alluded to within that Policy and by Dr. Quinn at the meeting on 15th June, he explained that it was merely a means of accessing the City centre and that the Planning Service, which had defined the term initially, did not view this application as being an obstacle to its ambitions to create a gateway into the City

centre. He added that, whilst there were major developments planned for the other side of Shaftesbury Square, there were no plans for that part where Ms. Boyle's arcade was located, other than those for the vacant premises into which she had applied to extend her business. Therefore, given the diverse nature of businesses and organisations which were operating there currently, it would be unlikely that that side of Shaftesbury Square would, in the foreseeable future, become a retail frontage. Mr. Foster concluded by stating that the Planning Service had, in his view, indicated that, should the Committee grant this application, it would in effect be approving the extension of an existing shop frontage and that the Planning Service would adopt a policy to refuse any future application for this location, on the basis of cumulative build-up.

The Chairperson thanked the deputation for their contribution.

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 and it agreed to seek clarification from him on issues which had been raised by the Members around the policy. Dr. Quinn confirmed that:

- the policy prohibited the extension of an arcade into an adjacent premises but might not necessarily prohibit upward expansion within an existing arcade;
- should this application be granted, there would be nothing to prevent other operators from submitting a similar application as a way of extending their business;
- each application should be assessed on its own merit and it was a matter for an applicant to draw to the Committee's attention any exceptional circumstances which would warrant their application being granted;
- the level of vacancy on the frontage in Shaftesbury Square was only slightly less than the average for frontages in other parts of the City centre;
- the Planning Service had been advised by the Council that this application did not comply with two of the criteria set out within its Amusement Permit Policy but had approved it by attaching weight to other issues, such as the adjacent premises being vacant and the fact that it was situated within a City centre location; and
- the Betting, Gaming, Lotteries and Amusements Order (Northern Ireland) 1985 limited an operator's ability to advertise their amusement arcade through, for example, the use of screening. As a consequence, their facades tended to be bland in appearance and, therefore, a cumulative build-up of arcades at a gateway location such as Shaftesbury Square could create a negative impression for visitors entering the City.

The Chairman thanked Dr. Quinn for his contribution and, in accordance with the protocol governing the operation of the Committee, afforded the deputation the opportunity to rebut any factual inaccuracies which might have arisen during Dr. Quinn's representation.

Mr. O'Reilly confirmed that the deputation had no issues to raise in that regard.

After discussion, it was

Moved by Councillor Craig,
Seconded by Councillor Brown,

That the Committee agrees, in its capacity as Licensing Authority, to affirm its decision of 15th June to refuse the application for the grant of an Amusement Permit in respect of Players, 22 – 23 Shaftesbury Square, on the grounds that it fails to comply with two of the five criteria set out within the Council's Amusement Permit Policy in terms of (i) the cumulative build-up of amusement arcades in a particular location and (ii) the impact of the arcade upon the image and profile of Belfast.

On a vote by show of hands thirteen Members voted for the proposal and none 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 matter being discussed, the Chairperson informed the Committee that he had been advised by the Divisional Solicitor of the need, in accordance with the legal requirements contained within the Local Government Act (Northern Ireland) 2014, to restrict the information surrounding this application.

Accordingly, with the exception of the Council's Communications Officer, all persons seated within the public area of the room were excluded from the meeting to enable the matter to be considered in private.)

The Divisional Solicitor reminded the Committee that, at its meeting on 18th May, it had agreed to defer consideration of an application for the renewal of a Seven-day Annual Indoor Entertainments Licence in respect of Thompson's Garage until such time as the outcome of a prosecution arising from an alleged incident which had taken place within the premises in March, 2015 had been determined.

She reported that that case had since been adjourned and that the applicant had, earlier that day, submitted correspondence from his accountant which had highlighted the detrimental impact which any continued delay in considering the application for the renewal of the Entertainments Licence would have upon his business. The applicant had requested an opportunity to appear before the Committee in order to outline in greater detail the issues which had been raised within the correspondence, with a view to having his application expedited.

The Committee agreed that the applicant and/or his representatives be invited to attend its next monthly meeting for that purpose.

Non-Delegated Matters

Update on the Licensing of Pavement Cafes Act (Northern Ireland) 2014

The Committee considered the following report:

“1.0 Purpose of Report/Summary of Main Issues

1.1 The Committee is reminded that the Licensing of Pavement Cafes Act (NI) 2014 (the Act) will come into operation on 1st October 2016. From that point onwards, the operation of a pavement café will be subject to a licence granted by the council.

1.2 The purpose of this report is to outline progress to date and to:

- provide an update on engagement with our stakeholders;
- outline the fees setting process;
- review the role of Committee in the decision making process; and
- seek an agreed interim position on enforcement from 1st October.

2.0 Recommendation

2.1 The Committee is requested to note the content of the report and take such action as may be required arising from discussion at the meeting.

3.0 Main Report

Key Issues

3.1 Members are reminded that the Department for Social Development (‘DSD’), after it had carried out an appraisal of the impact of pavement cafés in Northern Ireland, concluded that a common, clear and transparent legislative framework would be required in order to enable a café culture to develop and hence the Licensing of Pavement Cafés (Northern Ireland) Act 2014 (‘the Act’) was introduced in the Northern Ireland Assembly.

- 3.2 The legislation makes provision for the regulation by district councils of the placing in public areas of furniture for use for the consumption of food or drink and comes into force on 1st October 2016.
- 3.3 The Service is mindful of the businesses which are currently placing tables and chairs on the pavement in the City and are very keen to develop a fair and reasonable approach to the enforcement and administration of the legislation within Belfast; an approach which is similarly shared by officers in the other Councils with whom we have been engaging.
- 3.4 Through the Licensing Forum Northern Ireland, officers have been examining the operational issues that introducing the Act will create for local government and exploring ways to reduce the administrative burden on business. Officers from the Building Control Service have taken a lead role in this work.

Planning Permission

- 3.5 One aspect that has been discussed relates to the need for planning permission for a pavement cafe. Should a planning application be required, this will result in a significant increase in the cost to businesses and may, potentially, act as a deterrent to applying for a Pavement Café licence, thus negating the intent of the legislation.
- 3.6 Despite discussions with the Heads of Planning Group, we have been unable to establish a unanimous view in this regard, as the requirement for planning permission will depend on a number of factors, including the scale and degree of the proposed development.
- 3.7 The Licensing Forum has brought this matter to the attention of The Society of Local Authority Chief Executives (Solace), suggesting that it write to the Minister for Infrastructure requesting that the Planning Order be amended to provide permitted development rights for Pavement Cafes. This would clarify the situation and ensure that there was a consistent approach to planning across all councils.

Engagement with Stakeholders

- 3.8 The Service has been operating a Customer Forum for some time and, through this, we have been raising awareness of the introduction of the Act, we will continue this engagement over the coming months.

- 3.9 We have also engaged with and sought input from Hospitality Ulster, Belfast City Centre Management, Belfast City Council Retail Forum, Imtac, RNIB, Disability Action, Guide Dogs NI, Transport NI and the PSNI.
- 3.10 Articles have been published in City Matters and information is also available on the Council's website.
- 3.11 A letter has been sent to all pavement café operators advising them of the legislation and the application process. In addition officers from the Service have begun visiting premises with staff from Transport NI to start the process of assessing the current pavement cafes we have in the City and how the licence application process will impact on business.

Fees

- 3.12 Notice of the proposed fees has been published in the Belfast Telegraph, Irish News and Newsletter seeking views from interested parties. A statement outlining how the fees have been prepared is available for inspection in the Building Control reception and has also been published on the Council's website
<http://www.belfastcity.gov.uk/buildingcontrol-environment/licences-permits/pavement-cafes.aspx>.
Comments on the proposed fees can be made via our online consultation forum entitled 'Citizen space'
<https://yoursay.belfastcity.gov.uk/>
- 3.13 Through the consultation, we are also seeking views on the length of time for which a licence should be granted.
- 3.14 The consultation closes on 3rd October and a summary of the responses to the proposed fees will then be brought to Committee for consideration.

Role of Committee in the Decision-Making Process

- 3.15 The Council needs to ensure that the necessary governance arrangements, processes and policies are put in place to administer this function and to minimise the potential risks to the Council.
- 3.16 Discussions are ongoing with the Legal Services Section to consider any necessary amendments which may be required to the Council's Standing Orders and Scheme of Delegation. In respect of other licensing matters, the Licensing Committee has delegated authority for determining matters such as the grant, renewal, transfer or variation of licences

where objections are received and the suspension and revocation of licences.

- 3.17 Under the Scheme of Delegation, the Director of Planning and Place is responsible for exercising all powers in relation to the issue, but not refusal, of permits and licences, except in the case of Entertainments Licences where representations have been made. For Pavement Café licences, the scope of delegated authority for the Director must be agreed.
- 3.18 A further report will shortly be brought to Committee to consider the proposed governance arrangements for implementing the Act.

Initial Approach to Enforcement of the Act

- 3.19 As stated, the Act will come into operation on 1st October, meaning that any person placing a pavement café on the street will require to be licensed by the Council.
- 3.20 The DSD, now the Department for Communities, when introducing the Act, stated that its aim was to create 'light touch' legislation aimed at encouraging the creation of a cafe culture.
- 3.21 In line with the Council's Regulation and Enforcement Policy, it is, therefore, the intention to adopt a compliance based approach to enforcement, particularly during the early period after the introduction of the Act. This is consistent with the principles set out in the Government's Better Regulation agenda aimed at improving compliance with legislation while minimising the burden on businesses, individuals, organisations and the Council.
- 3.22 Initially, this will involve helping and encouraging pavement cafe owners to understand their legal requirements via mailshots, dissemination of advice and guidance, follow-up visits by staff and seeking further feedback from stakeholders to refine and improve our procedures.
- 3.23 After allowing sufficient time for applications to be received and processed, we will, in consultation with the Legal Services Section, adopt a risk based approach to determining when to use the sanctions contained in the Act for failure to comply.

Financial and Resource Implications

- 3.24 None associated with this report.

Equality or Good Relations Implications

- 3.25 We have been assessing the equality and good relations implications with the introduction of the legislation and are continuing to liaise with the Council's Equality and Diversity Officer to ensure all potential issues are appropriately addressed."

After discussion, the Committee noted the contents of the report and that it would, at a future meeting, be afforded the opportunity to discuss, amongst other things, the outcome of the consultation exercise on the proposed fees to be charged for a Pavement Café Licence. In addition, the Committee endorsed the initial approach to be adopted by the Building Control Service around the enforcement of the legislation, as set out within the report.

**Licensing of Entertainment Venues/
Requests to Operate Beyond 11.00 p.m.**

The Committee noted the contents of a report which provided information on those venues across the City which held an Outdoor Entertainments Licence and/or a Marquee Entertainments Licence, on events which had, since 2012, been licensed to take place beyond the standard hours of 11.00 p.m. within those venues and on licensing arrangements for similar venues across a number of other councils in Northern Ireland.

Chairperson