

Licensing Committee

Thursday, 10th November, 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, Copeland, Dudgeon, Groves,
Heading, Hutchinson, Magennis, McConville
and McDonough-Brown.

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

Welcome

The Chairperson welcomed to the meeting Councillors Copeland and McDonough-Brown, who had recently replaced Councillors Craig and Jones respectively on the Licensing Committee.

Minutes

The minutes of the meeting of 19th October 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 November, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

The Chairperson (Councillor Armitage) and Alderman Sandford declared an interest in respect of the application for the Grant of a Seven-day Annual Outdoor Entertainments Licence for C. S. Lewis Square, in that they were members of the Board of the EastSide Partnership, which had developed the Connswater Community Greenway, and left the meeting whilst it was under consideration.

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 and permits which had been issued under the Council's Scheme of Delegation.

**Applications for the Renewal of Entertainments
Licences with Previous Convictions**

The Building Control Manager informed 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.

With that in mind, he drew the Members' attention to applications which had been received for the renewal of a Seven-Day Annual Indoor Entertainments Licence for the Glenowen Inn, 108 Glen Road and for Seven-day Annual Indoor and Outdoor Entertainments Licences for T13, Queen's Road.

He reported that the licensee of the Glenowen Inn had, on 24th May, 2016, been fined £600 and ordered to pay £66 in costs, following an inspection by Council officers whilst entertainment had been taking place, which had found that a rear exit had been blocked by combustible material, the alleyway leading from the rear exit had been partially blocked by a vehicle, several fire safety signs had not been illuminated and the premises' log book had not been completed.

He reported further that the licensee of T13 had, on 7th May, 2013, been convicted of failing to provide the required notice, to submit an Event Management Plan and to agree the maximum occupancy figure for an event involving children and to make available the premises' log book for inspection. On 21st June, 2016, he had been convicted also of providing entertainment beyond the time permitted on the premises' Entertainments Licence. The licensee had been fined in total £300 and instructed to pay combined costs of £181 as a result of those convictions.

The Building Control Manager explained that this was the first time that the application for the Glenowen Inn had been placed before the Committee, as it had been renewed previously under the Council's Scheme of Delegation. In terms of T13, he pointed out that the Committee had, in January 2014, upon being advised of the applicant's first conviction, agreed to renew the Entertainments Licence and that it had, in September, 2015, having been informed that a further prosecution was pending, renewed the Indoor Entertainments Licence and granted an Outdoor Entertainments Licence.

He informed the Members that, following those offences, officers had met with each licensee in order to review their management procedures and had discussed with them the arrangements in place for ensuring the safety of patrons, performers and staff, particularly in the event of an emergency. Subsequent inspections, which had been undertaken in relation to the current applications, had confirmed that the management procedures within each venue were now being implemented effectively. 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 the Seven-Day Annual Indoor Entertainments Licence in respect of the Glenowen Inn, 108 Glen Road and the Seven-Day Annual Indoor and Outdoor Entertainments Licences for T13, Queen's Road.

Application for the Grant of a Seven-day Annual Outdoor Entertainments Licence - C.S. Lewis Square

The Committee was advised that an application had been received from the Council's City and Neighbourhood Services Department for the grant of a Seven-day Annual Outdoor Entertainments Licence for C. S. Lewis Square, based upon the Council's standard conditions to provide outdoor musical entertainment.

The Building Control Manager explained that the Square, which was the focal point of the Connswater Community Greenway project, was maintained by the Parks Service and that it intended to make it available for small community type events. The first such event was due to take place on 22nd November to mark the opening of the venue.

He pointed out 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. No written representation had been received in respect of the application and neither the Northern Ireland Fire and Rescue Service nor the Police Service of Northern Ireland had offered any objection. However, they would each be consulted in advance of any proposed events, as would the Council's Environmental Protection Unit in relation to any potential noise issues. Discussions had taken place between officers of the Building Control Service, the Parks Service and representatives of the EastSide Partnership around the opening of the Square, its long-term use and appropriate events. In addition, organisers and other relevant parties would be advised of the need to submit the required documentation and meet all safety and technical requirements in advance of events taking place.

The Committee agreed, in its capacity as Licensing Authority, to grant a Seven-day Annual Outdoor Entertainments Licence in respect of C. S. Lewis Square.

Application for the grant of a Stationary Street Trading Licence - Lombard Street

The Building Control Manager reported that an application had been received from Mr. T. O'Kane for the grant of a Stationary Street Trading Licence to sell telecommunications products and services from a designated site in Lombard Street, at its junction with Rosemary Street. The applicant was seeking to trade from Monday to Saturday between 9.00 a.m. and 6.30 p.m. and on a Sunday between 11.00 a.m. and 4.00 p.m., using a gazebo style stall measuring 2 metres x 2 metres. He pointed out that, whilst the stall was larger than that which had been recommended within the Council's Stall Design Policy, the Policy did allow the Committee to approve a design which varied from the standard stall and that it had, previously, granted licences for larger pitches in other streets within the City centre.

He reported that, although the Police Service of Northern Ireland and Transport NI had offered no objection to the application, Belfast City Centre Management had objected, on the basis that there were already two businesses selling similar items in

the vicinity of that site, the proposed stall was not in keeping with the style of the street and a traders' group representing local businesses was seeking to either remove or reduce the size of the air quality monitoring unit in Lombard Street and was opposed to another structure being placed there.

He reminded the Committee that the Street Trading Act (Northern Ireland) 2001 placed a statutory duty upon a council to grant an application for a Street Trading Licence, unless there were sufficient grounds on which to refuse it. However, Section 9(1) (a) of the Act made provision for an application to be refused if the location was unsuitable, if there were already sufficient traders trading in the vicinity in the articles or things in which the applicant wished to trade or if the sale or preparation for sale of those articles or things would adversely affect the general amenity of the area.

The Committee agreed that it would be beneficial to offer the applicant the opportunity to address concerns which had been raised by several Members around the nature and safety of his stall and to clarify the type of goods and services which he was proposing to sell. Accordingly, Mr. O'Kane, who was accompanied by Ms. G. O'Brien, were welcomed by the Chairperson.

Ms. O'Brien informed the Committee that Mr. O'Kane had been required to provide, as part of his application process, a sample design for his stall and that he would, in light of Members' concerns, be willing to submit an alternative design for a more robust and secure stall, which might be better suited to the location. She explained that Mr. O'Kane would be operating on behalf of a business which had secured a franchise from a prominent telecommunications company and that he would be required to undertake appropriate training and adhere to a code of practice in relation to the operation of the business. That required him, amongst other things, to remain close to or within the confines of the stall whilst trading. She concluded by pointing out that Mr. O'Kane's business differed from others in that area in that he was selling a home phone broadband and television service, rather than mobile phones.

Mr. O'Kane and Ms. O'Brien were thanked by the Chairperson.

During discussion, several Members again voiced their concerns in terms of the type of stall which had been proposed by the applicant and its potential impact upon adjacent businesses and the amenity of the area and suggested that, in view of the significant expenditure which had, in recent years, been allocated to improving the public realm and of the Council's ongoing plans for developing the City, this would be an opportune time to review all aspects of the street trading function.

However, other Members pointed out that the site was available currently and that the list of commodities which the applicant was proposing to sell complied fully with the designating resolution. Any delay in the processing of his application to allow for the completion of the aforementioned review would, therefore, impact upon his business.

After further discussion, it was

Moved by Councillor Boyle,
Seconded by Councillor Hutchinson,

That the Committee, in its capacity as Licensing Authority, agrees to defer consideration of an application by Mr. T. O’Kane for a Stationary Street Trading Licence for a designated site in Lombard Street, at its junction with Rosemary Street, to allow for a review to be undertaken of the street trading function generally, including the designation process and the Stall Design Policy, and that the Planning Service should be consulted as part of that review.

Amendment

Moved by Councillor Collins,
Seconded by Councillor Bell,

That the Committee, in its capacity as Licensing Authority, agrees to grant to Mr. T. O’Kane a Stationary Street Trading Licence permitting him to sell telecommunications products and services from Monday to Saturday between 9.00 a.m. and 6.30 p.m. and on a Sunday between 11.00 a.m. and 4.00 p.m. from a designated site in Lombard Street, at its junction with Rosemary Street, subject to the submission of the required documentation and the appropriate licence fee.

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

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

The Committee noted that it would receive from officers information on all sites across the City which had, to date, been designated under the street trading legislation.

Non-Delegated Matters

Fees Chargeable for the Licensing of Pavement Cafes

The Committee considered the following report:

“1.0 Purpose of Report/Summary of main Issues

To report on the outcome of the public consultation on the proposed fees for a Pavement Café Licence and the period for which a licence should be granted.

1.2 Members will recall that, at your meeting on 15th June 2016, the Committee agreed to initiate the consultation in relation to Pavement Café fees on the basis of the costing estimates presented, and to include within the consultation, options around the cost and duration of a licence and an indication that the Committee favours a five year fee, which would equate to an annual cost of £242.

1.3 The Committee agreed also that officers include within the consultation document information on the fees being charged by councils of a similar size to Belfast and whether the fees were being subsidised by those councils.

2.0 Recommendations

2.1 The Committee is requested to consider the contents of the report and, taking into account any representations received, agree:

1. to set the fees for Pavement Café Licences at the level outlined in the public consultation, or
2. to set the fees for Pavement Café Licences at a lower level, or
3. that there should be no fees for Pavement Café Licences and that the cost of administering the function should be rate borne, or
4. that further options for fees for Pavement Café Licences arising from your discussions be developed for your next meeting.

2.2 Members are also required to determine the period for which a licence will be granted.

3.0 Main Report

Key Issues

3.1 Members are reminded that the Licensing of Pavement Cafés Act (NI) 2014 gives the Council the power to set sufficient fees to allow it to recover the full costs of administering the Pavement Cafe Licence Scheme. However, the Council has the discretion to charge a reduced fee or to waive all charges.

3.2 Consultation on the proposed fees commenced on the 6th September and closed on 3rd October, after the statutory 28 day period, as required by the Act.

3.3 Notice of the consultation was published in the three main newspapers and over 1,000 letters were sent to businesses

across Belfast notifying them of the new Act and the proposed fees consultation.

- 3.4 The consultation sought the views from interested parties and a statement outlining how the fees were prepared was published and made available on the Council's website and at the Building Control offices.
- 3.5 Members are reminded that we have engaged extensively with a range of stakeholders throughout the process since the Act was introduced.
- 3.6 The matter has been a regular agenda item for our Licensing Customer Forum panel, we have published articles in City Matters, sent e-mails to existing licensees and attended various trade forum meetings including those of Belfast City Centre Management (BCCM) and Belfast Chamber of Trade and Commerce (BCTC) regarding our plans for the implementation of the Act and the proposed fees.
- 3.7 As a result of the consultation, a total of 19 responses were received which, based solely on the letters that we sent to potential licensees, equates to a response rate of less than 2% and only 1.5% from individual businesses.
- 3.8 A synopsis of the responses received, which includes a return from Hospitality Ulster, has been circulated to the Committee.

Summary of Responses

Response from:	Total	Percent
Members of the public	7	37%
Business owners	9	47%
A group or organisation	3	16%

- 3.9 Of these:
- all of the business owners indicated that their business would be affected by the proposals.
 - 60% of respondents felt that a licence should be for a period of five years or more, with most favouring five years.
 - of the businesses owners who responded, five operated businesses in the City centre, whilst three operated in East Belfast.
 - Strandtown Traders' Association and Hospitality Ulster responded online.

- 3.10** The majority of respondents to the consultation disagreed with the proposed licence fees, with most favouring a zero fee structure. The respondents, who did suggest an alternative fee, recommended an amount significantly lower than the proposed fee.
- 3.11** When asked about how the cost of administering the legislation should be met, opinion was mixed. Most respondents thought it should be added to the commercial rates and others were more concerned about the impact this and/or the fees in general would have on businesses.
- 3.12** BCCM expressed general concern that a proposed 'one size fits all' approach to pavement cafe licensing fees will not be viewed as proportionate and balanced across the hospitality sector. It disagreed with the fees because they do not consider the contrasting financial resources of the multi-national and independently owned businesses.
- 3.13** In its view:
- fees should be commensurate to the status of the business i.e. less for independently owned businesses and more for multinationals; or
 - a payment plan should be introduced for independently-owned businesses to minimise impact on cash flow.
 - fees should be based upon the quantities of tables/chairs which would give businesses a degree of control over their outlay and (in general) be proportionate, relative to independent and multi-nationally owned businesses.
- 3.14** It stated also that:
- the full cost associated with administering the Act should be recovered from the fees, and
 - Licences should be issued for five years.
- 3.15** A copy of BCCM's response has been forwarded to the Committee.
- 3.16** We have also consulted with BCTC and are currently awaiting their response. However, Officers will endeavour to obtain a response from them for your meeting.
- 3.17** Whilst the remaining businesses may believe that their views are being represented by trade bodies, such as Hospitality

Ulster, the level of return is unexpectedly low given the concerns that some had expressed about the proposed fees.

- 3.18 To remind the Committee, below is a summary of the proposed fees you provisionally agreed at your meeting on 15th June 2016:

	2016/2017
Grant Application Fee – Non refundable	£660
Renewal Application or Variation Fee – Non refundable	£4235
Licensed Fee (Annual)	£110

Comparisons

- 3.19 Research on the cost of a Pavement Café Licence in other larger local authorities across Great Britain and Ireland has been undertaken and a summary of findings has been circulated to the Committee.
- 3.20 Northern Ireland is unique in that we are the first region to have specific legislation for the licensing of Pavement Cafés. Other areas use highway permissions and effectively rent the land to the licensee.
- 3.21 This has made it difficult to give accurate comparisons but the following example may be of assistance. For a Pavement Café Licence, based on 3 tables and 12 chairs, in an area measuring 4m x 2m the annual (or equivalent annual fee) for other Cities is set out below.

Council	Annual (or equivalent annual) fee
Dublin (city centre pedestrian zone)	£880
Edinburgh	£800
Glasgow (city centre)	£450
Liverpool	£283(equivalent annual)
Manchester	£437
Southwark	£978
Sheffield	£95
Surrey County	£104
Newcastle	£363 (equivalent over 5 years)
Oxford	£700
Birmingham	£750

- 3.22 As reported at your meeting on 15th June, if Pavement Café Licences were to be granted for five years, the total licensing cost over that period would be £1210, with the greatest expense occurring in the first year due to application processing costs. This would be the equivalent of £242 per year. From the table above, only Sheffield and Surrey County Council have a lower fee.

3.23 The table below is an extract from the report of 15th June which may also assist Members in deciding the appropriate period of the licence.

	Year 1	Year 2	Year 3	Year 4	Year 5	Total	Average cost
1 Year Licence	£770	£545	£545	£545	£545	£2,950	£590
3 Year Licence	£770	£110	£110	£545	£110	£1,645	£329
5 Year Licence	£770	£110	£110	£110	£110	£1,210	£242

3.24 The other Councils in Northern Ireland are currently setting their fees for Pavement Café Licences and their latest proposed fees and period of licence are set out below.

District	Grant	Renewal	Variation	Licence Duration
Antrim and Newtownabbey	Free	Free		3
Ards and North Down	£225	£150	£150	3
Armagh, Banbridge and Craigavon	£213*	£111	£111	3
Belfast	£660	£435	£435	5
Causeway Coast and Glens	£375	£285	£285	3
Derry and Strabane	tbc	tbc	tbc	tbc
Fermanagh and Omagh	£375	£285		3
Lisburn and Castlereagh	£480	£360	£85	tbc
Mid and East Antrim	Free	Free		3
Mid-Ulster	£370	£285	£285	3
Newry, Mourne and Down	£375	£280	£280	3

***ABC Council fee will be up to a maximum of £831 if planning permission is also required.**

3.25 Whilst all the other councils have opted for, or are considering, three year licences, their equivalent annual licence cost is less than that proposed for Belfast and two councils have decided to waive fees completely.

Financial and Resource Implications

- 3.26 There are significant financial and resource implication associated with this report.
- 3.27 The proposed Pavement Café Licence fees will ensure the cost of the operational and administration processes are proportionate to the licensing scheme. Details outlining the costings associated with administering Pavement Café Licences have been forwarded to the Committee.

Equality or Good Relations Implications

- 3.28 The Council's Equality and Diversity Officer has been consulted to ensure there are no issues with regards to the setting of fees."

The Building Control Manager provided an overview of the report and, whilst providing clarification on a number of issues which had been raised by Members, confirmed that the Council had a statutory responsibility for enforcing the Licensing of Pavement Cafés Act (Northern Ireland) 2014, which precluded it from employing an external organisation to undertake the administration of the licensing process on its behalf.

After a lengthy discussion, it was

Moved by Alderman Spence,
Seconded by Councillor Boyle,

That the Committee agrees to adopt the following charging structure for Pavement Cafés Licences:

- | | | |
|------|---|---------|
| i. | Grant Application Fee | £225.00 |
| | (No Licence Fee should be payable in the first year) | |
| ii. | Annual Licence Fee | £55.00 |
| iii. | Variation/Renewal | £112.50 |
| iv. | Licences should cover a period of five years, with fees being reviewed on an annual basis | |
| v. | Applicants should be offered the opportunity to avail of a payment plan to assist them in meeting the cost of licensing their premises. | |

Amendment

Moved by Councillor McDonough-Brown,
Seconded by Councillor Heading,

That the Committee agrees to defer until its next meeting consideration of the fees to be applied to Pavement Café licences, to enable officers to consider in greater detail the charging structure which had been proposed by Alderman Spence and to review the costs to be incurred by the Building Control Service in administering the Payment Café licensing process, with a view to formulating further options, which should take into account the comments which had been received during the public consultation exercise from Belfast City Centre Management, as set out within paragraphs 3.13 and 3.14 of the report.

On a vote by show of hands eleven Members voted for the amendment and four against and it was declared carried.

The amendment was thereupon put to the meeting as the substantive motion when thirteen Members voted for and four against and it was declared carried.

Update on Review of Entertainments Licensing Legislation

The Committee was reminded that, at its meeting on 17th August, it had agreed that a letter be forwarded to Mr. P. Givan MLA, Minister for Communities, seeking an update on the progress of the review of entertainments licensing and when the public consultation on more detailed proposals to amend the legislation would be likely to commence. The Committee had agreed also that the letter should include a request that the sentencing guidelines for breaches of the entertainment licensing legislation should be reviewed and that regulated entertainment included in all licensing applications which referred to circuses should forbid the use of animals.

The Building Control Manager reported that the Minister had, within his response, acknowledged the significant work which had been undertaken to date by the Entertainments Licensing Review Group, which had been established by Mr. M. H. Durkan MLA, the former Minister for the Environment. Minister Givan had confirmed that he was considering currently both the report on entertainments licensing which had been compiled by the Review Group and the Departmental response to the public consultation on that report, with a view to determining if further work was required to update the licensing regime. The Minister had indicated also that he would be considering both the sentencing guidelines for breaches of the entertainment licensing legislation and the licensing of circuses with animals.

After discussion, the Committee noted the response from the Minister for Communities and agreed that its letter, which had initiated that response, should be

forwarded to the Committee for Communities, which was seeking comments currently as part of the overall process for reviewing the licensing legislation.

Chairperson