

Licensing Committee

Wednesday, 15th February, 2017

MEETING OF LICENSING COMMITTEE

Members present: Councillor Armitage (Chairperson);
Aldermen Sandford and Spence; and Councillors
Bell, Boyle, Clarke, Collins, Copeland, Dudgeon,
Groves, Heading, Hutchinson, McConville and Milne.

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

Apologies

Apologies for inability to attend were reported on behalf of the Deputy Lord Mayor (Councillor Campbell), Aldermen McCoubrey and L. Patterson and Councillor Magennis.

Minutes

The minutes of the meeting of 18th January were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st February, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

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

Application for the Grant of a Seven-day Annual Outdoor Entertainments Licence - Blanchflower Playing Fields

The Committee was informed 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 the Blanchflower Playing Fields, based upon the Council's standard conditions to provide outdoor musical entertainment.

The Assistant Building Control Manager explained that it was proposed that the venue be used for small community-type events and that the licence, if granted, would

permit those 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. He pointed out that officers of the Building Control Service and the Parks Service had held discussions around the long-term use of the venue and that organisers and other relevant parties would, in advance of events taking place, be advised of the need to submit the relevant event documentation and to meet all safety and technical requirements.

The Committee agreed, in its capacity as Licensing Authority, to grant a Seven-Day Annual Outdoor Entertainments Licence in respect of the Blanchflower Playing Fields, Holywood Road.

**Application for Extended Hours – Belfast
Craft Beer Festival, Custom House Square**

The Assistant Building Control Manager informed the Members that Custom House Square was managed currently by the Department for Communities and that it held both a Seven-Day Annual Outdoor Entertainments Licence and a Seven-Day Annual Marquee Entertainments Licence, which were transferred to promoters for the duration of their events. Each licence permitted entertainment to take place from Monday to Sunday between the hours of 11:30 a.m. and 11.00 p.m. and had conditions attached in relation to occupancy levels, early consultation with residents and businesses, extended hours and addressing complaints.

He reminded the Committee that it had, in the past, granted approval for a number of events and festivals to operate beyond 11.00 p.m. within the venue and highlighted, in particular, its decision of 16th March, 2016, to extend the standard hours on the Seven-Day Annual Marquee Entertainments Licence to allow entertainment to take place till midnight on the nights of 22nd and 23rd April, as part of the inaugural Belfast Craft Beer Festival.

He reported that this year's festival would once again be taking place within a marquee within Custom House Square from Thursday, 25th till Monday, 29th May and that the organisers had sought the Committee's approval to operate till midnight on each of those nights, with a view to maximising their patrons' experience of the various foods and beers on offer.

The Assistant Building Control Manager pointed out that, since the application related to the extension of the hours permitted under an existing licensing condition, rather than the variation of the Entertainments Licence itself, there had been no requirement for it to be advertised. In terms of statutory consultees, neither the Northern Ireland Fire and Rescue Service nor the Police Service of Northern Ireland had offered objections and they each would be working closely with the organisers, the Council and other organisations to address any issues in the lead up to the festival.

He informed the Members that discussions had already taken place with the organisers and with representatives of the Department for Communities around the documentation to be submitted in advance of the event and the need to meet all technical requirements. In addition, the organisers were working with Council officers to ensure that appropriate measures were put in place to protect public safety and reduce the potential for noise disturbance and nuisance and were developing an appropriate letter to be forwarded to local residents advising them of the programme of events and the nights on which they planned to operate beyond 11.00 p.m.

The Committee agreed, in its capacity as Licensing Authority, that the standard hours on the Seven-Day Annual Marquee Entertainments Licence for Custom House Square be extended to enable entertainment to take place till midnight from Thursday, 25th till Monday, 29th May, as part of the Belfast Craft Beer Festival, subject to all technical requirements being met to the satisfaction of Council officers.

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

The Committee considered the following report:

“1.0 Purpose of Report/Summary of Main Issues

1.1 To consider applications for Entertainments Licences where the applicant has been convicted of an offence under the Local Government Miscellaneous Provisions (NI) Order 1985 (the Order) within the previous five years.

2.0 Recommendations

2.1 Taking into account the information presented, the Committee is requested to:

- 1. approve the applications, or**
- 2. should you be of a mind to refuse any of the applications, or approve any applications with additional special conditions, an opportunity of appearing before and of being heard by the Committee must be given to the applicants.**

3.0 Main Report

Key Issues

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

3.2 However, as each applicant has been found guilty of committing an offence within five years of the application for a licence being submitted to the Council, you are required to consider the following applications:

Premises and Location	Applicant	Application Type	Offence Details	Date of Conviction and Penalty
<p>Dundela Football Athletic and Social Club</p> <p>Wilgar Street Belfast BT4 3BL</p>	<p>Susan Gilmore (Secretary)</p>	<p>Renewal</p>	<p>24th November 2012</p> <p>Overcrowding Obstructed Emergency Exit Route</p>	<p>23rd July 2013</p> <p>£400 and £69 Court costs</p>
<p>Hole In The Wall</p> <p>1-3 Baltic Avenue Belfast BT15 2HR</p>	<p>H.I.T.W Limited</p>	<p>Renewal</p>	<p>13th February 2016</p> <p>An exit route from the side of the bar was blocked with a speaker and a fridge.</p> <p>A mag lock was installed to a final exit door, which prevented the door from being opened, a final exit within the smoking area was locked and a push bar had been replaced with a tea spoon on another fire exit door.</p> <p>An exit route to the fire panel and a final exit was blocked with tables and chairs and a door leading to an exit route was locked.</p>	<p>On appeal 25th November 2016</p> <p>£6000 and £66 Court costs.</p> <p>Original penalty was £9000 but following Appeal by the applicant it was reduced to £6000.</p>

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			<p>There were no 'Fire Exit Keep Clear' signs fitted to doorsets, as required, and break glass fire action signs were missing.</p> <p>The emergency exit signs were not illuminated throughout the premises.</p> <p>No evidence of any pre-event log book checks being carried out.</p> <p>No evacuation procedures were in place.</p> <p>Staff were not instructed or trained on the action to be taken in the event of a fire.</p> <p>The noise limiting device was not operating when entertainment was being provided.</p>	
<p>The Cuckoo 149 Lisburn Road Belfast BT9 7AJ</p>	<p>North Down Leisure Limited</p>	<p>Renewal</p>	<p>24th August, 2012 Locked Exit door</p>	<p>26th March, 2013 £400 and £69 Court costs.</p>

3.3 Notwithstanding the possibility of refusing an Entertainments Licence on any other grounds, the Council may refuse an application on the grounds that the applicant has been convicted of an offence under the Order.

Application History

Dundela Football Athletic and Social Club

- 3.4 Previous renewal applications for the premises were brought before the Committee on 19th February 2014, 21st January 2015 and 15th June 2016 and, after consideration, you agreed to renew the licence on each occasion.
- 3.5 Since then, the premises have been subject to two further during performance inspections as well as the recent renewal inspection to ensure that there has been no recurrence of these or any other safety issues and we have found that management procedures are being implemented effectively.

Hole In The Wall

- 3.6 Members will recall that, at your meeting last month, you agreed to defer consideration of this application due to the applicant not being present or providing any reason as to his non-attendance.
- 3.7 The applicant has given an assurance that he will be attending this month's meeting and apologised for not attending your January meeting and advised that he had fallen ill.
- 3.8 These are the first offences committed by the applicant and, therefore, this is the first time since the applicant was convicted that the Committee has an opportunity to take them into account in considering the application for the renewal of the licence.
- 3.9 Due to the seriousness of the offences, officers met with the applicant on several occasions to ensure that the problems were resolved and revised measures were put in place to prevent further problems. The meetings involved a critical analysis of the passive and active safety measures as well as the management procedures that the applicant had in place for the premises.
- 3.10 Since then, the premises have been subject to two further during performance inspections as well as a renewal inspection to ensure that there has been no recurrence of these or any other safety issues and we have found that management procedures are being implemented effectively.

The Cuckoo

- 3.11 Previous renewal applications for the premises were brought before the Committee on 18th September 2013, 15th April

2015 and 12th November 2015 and, after consideration, you agreed to grant the licence on each occasion.

- 3.12 The premises has also been subject to three further during performance inspections as well as the renewal inspection to ensure that there has been no recurrence of these or any other safety issues and we have found that management procedures are being implemented effectively.

Representations

- 3.13 Notice of the applications has been advertised and no written representations have been received.

PSNI

- 3.14 The PSNI has confirmed that it has no objections to the applications.

NIFRS

- 3.15 The Northern Ireland Fire Rescue Service has been consulted in relation to each of the applications and has confirmed that it has no objections.

Applicants

- 3.16 The applicants and/or their representatives will be available at your meeting to answer any queries which you may have in relation to their respective applications.

- 3.17 Copies of the respective application forms for each of the premises have been circulated to the Committee.

Financial and Resource Implications

- 3.18 Officers carry out during performance inspections on premises providing entertainment which is catered for within existing budgets.

Equality and Good Relations Implications

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

Dundela Football Athletic and Social Club, Wilgar Street

The Committee agreed, in its capacity as Licensing Authority, to renew a Seven-Day Annual Indoor Entertainments Licence for the Dundela Football Athletic and Social Club, Wilgar Street.

Hole in the Wall, 1-3 Baltic Avenue

The Committee agreed that it would be beneficial to obtain further information on this application from the applicant and, accordingly, Mr. G. Conn was welcomed by the Chairperson.

Mr. Conn informed the Committee that he had been unable to attend its meeting on 15th January due to illness and proceeded to address the issues which had given rise to his conviction. He explained that, because of personal reasons, he had been absent from the premises in the period leading up to the inspection by Council officers on 13th February, 2016 and had been under the impression that they were still being managed effectively. However, that had not been the case and, as the licensee, he accepted full responsibility for the offences.

He outlined a number of measures which had since been put in place to improve the overall operation of the bar, which had included the removal of the manager who had been covering for him in his absence, together with a number of other staff. Those staff who remained had been fully briefed on the Council's Rules of Management for places of indoor entertainment and he would, in future, be present on all occasions on which entertainment was taking place. In addition, a pool table had been removed from the bar area to provide additional space and only traditional or acoustic music would be provided, in order to keep noise levels to a minimum. Mr. Conn concluded by highlighting the significant financial and other pressures which had been placed upon both him and his business as a result of his conviction and assured the Committee that he would continue to work with Council officers to address any issues and had no difficulty with them undertaking regular inspections of the premises.

In response to a question from a Member, Mr. Conn pointed out that the items which had been found to be blocking exit routes had been moved there during refurbishment work which was being carried out on the floor above, which had since been completed.

The Chairperson thanked Mr. Conn for his contribution.

During discussion, the Assistant Building Control Manager confirmed that, since the offences had been detected, officers of the Building Control Service had worked closely with the applicant to improve the overall operation of the premises and, at this point in time, they were content with the progress which had been made. He assured the Committee that, should the Entertainments Licence be renewed, officers would continue to implement a robust inspection programme to prevent a recurrence of the issues which had arisen previously.

The Divisional Solicitor reminded the Committee that, should it renew the licence, on the basis of the assurances which had been provided by the applicant, and he be convicted of further offences, he would, in line with the new approach which it had adopted at its meeting on 18th January, be invited to appear before the Committee to offer reasons why his licence should not be revoked, rather than having to wait until it was due for renewal, as had been the case previously.

After further discussion, the Committee agreed, in its capacity as Licensing Authority, to renew a Seven-Day Annual Indoor Entertainments Licence in respect of the Hole in the Wall Bar, 1 – 3 Baltic Avenue.

The Cuckoo, 149 Lisburn Road

The Committee agreed, in its capacity as Licensing Authority, to renew a Seven-Day Annual Indoor Entertainments Licence in respect of The Cuckoo, 149 Lisburn Road.

Responses from Statutory Consultees

At the request of a Member, the Committee agreed that a report be submitted to a future meeting providing information on the responses by statutory consultees to applications for licences/permits which had been processed by the Building Control Service during the past year.

Non-Delegated Matters

Update on Outcome of Judicial Review Applications

The Assistant Building Control Manager reminded the Committee that, at its meetings on 19th March and 6th October, 2014, it had granted Amusements Permits for Mavericks, 24 – 28 Bradbury Place and Onassis Amusements, 25 – 41 Botanic Avenue, respectively.

He explained that Oasis Retail Services Limited, which operated an amusement arcade close to both locations, had sought leave to apply for a judicial review of those decisions, in the context of the Council's Amusement Permit Policy and, specifically, that criterion relating to cumulative build-up, which sought to control arcade numbers within any given location and encourage other forms of retail development. The matter had been heard by Judge Maguire on 23rd and 24th June, 2016 and judgement had been handed down on 13th January.

He reported that, in relation to the Botanic Avenue application, leave to apply for judicial review had been granted but the challenge had been dismissed, as the court had not been satisfied that the Council had failed to consider the issue of cumulative impact/proliferation of permits in relation to the character and amenity of the area or of the issue of the fitness of the applicant. In terms of the Bradbury Place application, leave to apply for judicial review had been refused but it had been stated that, should it have been granted, the outcome would have been the same as that for the Botanic Avenue application.

The Assistant Building Control Manager pointed out that, in dismissing the challenges, Judge Maguire had raised concerns around the current wording of the Amusement Permit Policy. He confirmed that a review of the Policy, which had been delayed pending the outcome of the judicial review proceedings, would now commence and would involve officers from the Building Control Service and the Legal Services Section, together with Dr. T. Quinn, who had assisted in the formulation of the

document. The Committee would be advised in due course of the outcome of that review and any potential amendments.

The Committee noted the information which had been provided and that a copy of the Court Judgement was available on the Mod.gov site.

Provision of Training for the Licensing Committee

The Assistant Building Control Manager reminded the Committee that it had delegated authority for determining applications for Amusement Permits, Entertainments Licences, pavement cafés, sex establishments and street trading and for commenting on those relating to Liquor Licences and the registration of clubs. It was responsible also for the consideration of all policies and legislation governing licensing issues, with any recommendations requiring approval by the Strategic Policy and the Resources Committee and by the Council.

He reported that, at previous meetings, Members had raised concerns around the Committee's decision-making processes and the associated implications and it had been suggested that it would be beneficial to obtain training to assist it in discharging its responsibilities.

Accordingly, the Committee agreed that Members should advise the Divisional Solicitor of any topics which they would wish to have included within that training and noted that a report would be submitted to a future meeting providing details on a proposed training programme, which would be available to all Members of the Council.

Chairperson