

Licensing Committee

Wednesday, 19th August, 2020

MEETING OF LICENSING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Alderman Sandford; and
Councillors Baker, Bunting, Michael Collins,
Groves, Hussey, M. Kelly, T. Kelly, Magee,
Magennis, McAteer. McCullough, McKeown
and McReynolds.

In attendance: Mr. A. Thatcher, Director of Planning
and Building Control;
Mr. S. Hewitt, Building Control Manager;
Ms. N. Largey, Divisional Solicitor;
Mr. J. Cunningham, Regulatory Services Manager;
Mr. K. Bloomfield, HMO Unit Manager; and
Ms. E. McGoldrick, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported from Alderman Copeland and Councillors Howard, Hutchinson and Whyte.

Declarations of Interest

No declarations of interest were reported.

Delegated Matters

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

Application for the Grant of a 7-Day Annual Outdoor Entertainments Licence for Pug Uglys, 21 Bedford Street

The Committee considered the following application:

“1.0 Purpose of Report or Summary of main Issues

- 1.1 To consider an application for the grant of a 7-Day Annual Outdoor Entertainments Licence and for permission to provide entertainment after 11.00 pm in respect of Pug Uglys based on the Council’s standard conditions to provide outdoor musical entertainment.**

Area and Location	Ref. No.	Applicant
Pug Uglys Car park to the rear of 29 Bedford Street Belfast BT2 7EJ	WK/202000697	Mr Paul Langsford Bedford Taverns Limited, 21 Bedford Street, Belfast, BT2 7EJ

- 1.2 A location map is available on the Council's Website.
- 1.3 Members are reminded that all applications for the grant of Outdoor Entertainments Licences must be brought before Committee for consideration.
- 2.0 Recommendations
- 2.1 The Committee is requested, having heard from the applicant, to:
- a) Approve the application for the grant of the 7-Day Annual Outdoor Entertainments Licence and for permission to provide entertainment to the hours after 11.00 pm requested, or
 - b) Approve the application for the grant with special conditions, or
 - c) Refuse the application for the grant of the 7-Day Annual Outdoor Entertainments Licence and for permission to provide entertainment after 11.00 pm.
- 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 has applied to provide outdoor entertainment within a carpark to the rear of 29 Bedford Street.
- 3.2 The applicant has also proposed to provide entertainment within the new outdoor area beyond 11.00pm. The day and hours proposed are:
- Monday to Saturday: 12.00pm to 01.00am the following morning, and
 - Sunday: 12.30pm to midnight

- 3.3 Members are reminded that applications to provide outdoor entertainment beyond 11.00pm are subject to consideration by Committee.
- 3.4 The days and hours during which entertainment may be provided under the terms of the indoor Entertainments Licence are:
- Monday to Saturday 11.30am to 3.00am, and
 - Sunday 12.30pm to 3.00am.
- 3.5 The applicant proposes to provide entertainment within the new outdoor area in the form of DJs and live bands. Due to restrictions on licensed premises arising from Covid 19 the outdoor area will be used to increase capacity for the venue whilst adhering to social distancing requirements.
- 3.6 Layout plans of the new outdoor area are available on the Council's Website.

Representations

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

PSNI

- 3.8 The Police Service of Northern Ireland has been consulted and has confirmed that they have no objection to the application. A copy of their response are available on the Council's Website.

NIFRS

- 3.9 The Northern Ireland Fire and Rescue Service have been consulted in relation to the outdoor application. We are currently awaiting their comments on the proposals.

Health, safety and welfare

- 3.10 The outdoor area (to be known as the Bone Yard) has been designed to allow patrons to socially distance. The applicant has created an event management plan outlining how the area will be managed to ensure the health and safety of their patrons and staff. Included within this are policies on customer social distancing, staff social distancing, PPE, hand washing and waiter service.

- 3.11 The Building Control Service has provided a copy of the applicant's proposals to mitigate the spread of COVID-19 to the Health and Safety section of City and Neighbourhood Services for their consideration.
- 3.12 The site has been inspected during the build of the event space and following its completion. No health and safety concerns were found to exist.

Noise

- 3.13 No noise complaints have been received in relation to the premises in the last 12 month period.
- 3.14 The applicant has been requested to provide the Service with an acoustic report for the outdoor area. This is being developed and will be provided to our Environmental Protection Unit (EPU) for evaluation.
- 3.15 Members are reminded that the Clean Neighbourhood And Environment Act 2011 gives the council additional powers in relation to the control of entertainment noise after 11.00 pm.

Applicant

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

A supplementary letter from the applicant outlining their reasons for applying for an outdoor licence is available on the Council's Website.

Financial and Resource Implications

- 3.17 None.

**Equality or Good Relations Implications/
Rural Needs Assessment**

- 3.18 There are no issues associated with this report."

The Building Control Manager advised that, since the report had been published, an Acoustic Report had been received and sent to the Environmental Protection Unit for consideration. He also advised that the NIFRS have confirmed they had no objection to the application.

The Committee received a representation from the applicant Mr. P. Langsford. He explained that the requirement to provide outdoor entertainment within a carpark to the rear of 29 Bedford Street was due to the impact of Covid-19 on the business and it was not viable to open the premises with only the inside space in use. He highlighted that the lease had been agreed with the landlord in the short-term and an investment had been made to develop the car park. He stated that an Entertainments Licence was required to ensure staff were retained and remained off furlough, to compete with other city centre venues, together with providing entertainment for local and tourist customers. In response to a comment made by a Member, he clarified that he was no longer involved with Filthy McNastys Bar, but reported that it also had an outdoor Entertainment's License for its beer garden.

During Members questions in relation to noise levels impacting residential amenities, the Building Control Manager confirmed that the applicant's Acoustic Report stated that the music would be monitored and the appropriate levels set, and if there were complaints regarding noise disturbance, they could be adjusted as appropriate.

The Committee agreed to grant the Seven-Day Annual Outdoor Entertainments Licence for Pug Uglys, 21 Bedford Street, thereby permitting entertainment to take place from Monday to Saturday: 12.00 pm to 1.00 am the following morning, and Sunday: 12.30 pm to midnight, subject to the outcome of the Environmental Protection Unit's assessment of the Acoustic Report and any recommendations arising being complied with.

Applications for the Grant of a 7-Day Annual Outdoor Entertainments Licence for Whites Tavern, 2-4 Winecellar Entry

The Building Control Manager informed the Committee that an application had been received for the grant of a 7-Day Annual Outdoor Entertainments Licence in respect of Whites Tavern for permission to provide entertainment after 11.00 pm based on the Council's standard conditions to provide outdoor musical entertainment.

He reported that the current Indoor Entertainments Licence granted to the premises is a 7-Day Annual Licence which extends to 2.00 am.

He advised that the applicant had applied to provide outdoor entertainment within 14-16 High Street and a new opening had been formed between Whites Tavern and this building with the roof being removed to create an external space. He reported that the building works to create this external space were ongoing and were planned to be completed by the end of August. He confirmed that, if the Committee were minded to grant the Outdoor Entertainments Licence, it would not be issued until such time as all works and technical requirements were completed to the satisfaction of the Service.

The Building Control Manager confirmed that the applicant had proposed to provide entertainment within the new outdoor as follows:

- Monday to Saturday: 12.00 pm to 2.00 am the following morning,
and
- Sunday: 12.30 pm to 1.00 am the following morning.

He pointed out that the applicant had stated that the main reason they wished to provide outdoor entertainment was due to restrictions on licensed premises arising from

Covid 19 and the outdoor area would be used to increase capacity for the venue whilst adhering to social distancing requirements.

The Building Control Manager confirmed that no written representation had been received in relation to the application and that the Northern Ireland Fire and Rescue Service and the Police Service of Northern Ireland had not objected.

He highlighted that a copy of the applicant's proposals to mitigate the spread of COVID-19 had been provided to the Health and Safety section of City and Neighbourhood Services for their consideration.

He advised that no noise complaints had been received in relation to the premises in the last 12 months and there did not appear to be any residential premises in the vicinity, therefore it was unlikely that noise from the area of the premises would adversely impact on nearby noise sensitive premises. However, as the applicant proposed to provide outdoor entertainment to 2.00 am an acoustic report had been requested for the outdoor area and would be provided to the Environmental Protection Unit for evaluation.

The Committee agreed to grant the Seven-Day Annual Outdoor Entertainments Licence for unit to the rear of Whites Tavern, 14-16 High Street, thereby permitting entertainment to take place from Monday to Saturday: 12.00 pm to 2.00 am the following morning, and Sunday: 12.30 pm to 1.00 am the following morning, subject to the completion of building works and technical requirements to the satisfaction of the Building Control Service.

Stationary Street Trading Licence application for Cornmarket site including the sale of bus tour tickets

The Committee was reminded that, at its meeting on the 19th September, 2018, it had been agreed that any further applications to sell bus tour tickets would be considered by the Committee and, if approved, be granted on a one-year trial basis.

The Building Control Manager informed the Committee that an application had been received from Mr. M. Kerr for the grant of a Stationary Street Trading Licence at the available designated site in Cornmarket, which would permit him to sell tour tickets (including bus tours), art work, clothing, clothing accessories, confectionery, flowers and plants, jewellery, jokes, novelty items, seasonal items, souvenirs, wrapping paper and cards. Mr. Kerr was proposing to operate his business from Monday till Sunday between the hours of 6.00 am and 10. 00 pm.

He reminded the Committee that Mr. Kerr already had a Stationary Street Trading Licence to trade at the designated site in Fountain Lane, selling similar commodities including bus tour tickets. However, since being granted that Licence, Mr Kerr had not been able to trade due to Covid 19 restrictions.

He reported that neither Transport NI nor the Police Service of Northern Ireland, who had been consulted on the application, had offered any objections.

The Committee agreed, in its capacity as Licensing Authority, to grant to Mr. M. Kerr a Street Trading Licence for a designated site in Cornmarket, permitting him to sell tour tickets (including bus tours), art work, clothing, clothing accessories, confectionery,

flowers and plants, jewellery, jokes, novelty items, seasonal items, souvenirs, wrapping paper and cards, from Monday to Sunday from 6.00 am to 10.00 pm, on a one-year trial basis.

**Houses in Multiple Occupation (HMO) Licenses
Issued Under Delegated Authority**

The Committee noted the applications that had been issued under the Council's Scheme of Delegation.

**Minded opinion on the renewal of a Licence to
operate a House in Multiple Occupation at 93B University
Avenue, Belfast, BT7 1GX**

The Committee was reminded that, at its June meeting, it was asked to consider whether it would be minded to grant or refuse the application for the renewal of a Licence permitting the use of premises as a House in Multiple Occupation (HMO) at 93B University Avenue.

It was reported that, the Chief Executive's decisions that were taken under delegated authority for the Licensing Committee in June, stated that, due to no consensus from the Committee, the application would be referred to committee for determination at the earliest opportunity.

The Committee was reminded that Section 8 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ("the 2016 Act") stated that the council may grant a renewal application if it was satisfied that the applicant and their managing agent were fit and proper persons, and in assessment of this, the Council must have regard to any relevant convictions, including any offences which relate to the operation of HMOs.

The HMO Unit Manager advised that the applicant had submitted an application to renew the HMO licence for the aforementioned premises which was deemed valid on 24th April, 2020.

He highlighted that, pursuant to the 2016 Act, the applicant was required to declare any offences committed. As outlined under the Application History of the report, one of the applicants had failed to declare an offence in relation to the operation of HMOs in 2013. Therefore officers felt it was necessary to seek members' views on whether they would be minded to either grant or refuse the licence, so that the applicant could be notified prior to the application being determined. He confirmed that the applicant was entitled to make representations in respect of the proposed decision before a final decision was made.

The HMO Unit Manager advised that, pursuant to the 2016 Act, the Council may only grant a renewal application if it was satisfied of the following:

- The owner, and any managing agent of it, are fit and proper persons;***
a) the applicant and their managing agent are a fit and proper person;
b) the proposed management arrangements are satisfactory; and
c) the living accommodation is fit for human habitation and—

*(i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or
(ii) can be made so suitable by including conditions in the licence.*

The HMO Unit Manager highlighted that as this was a renewal application planning permission and over provision could not be taken into account.

He advised that, in considering the question of fitness, the Council must have regard to whether the person had committed any offence involving –

- a) Fraud or other dishonesty,
 - b) Violence
 - c) Drugs,
 - d) Human trafficking, or
 - e) A firearm (within the meaning of Article 2(2) of the Firearms (Northern Ireland) Order 2004);
 - f) an offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
 - g) practised unlawful discrimination in, or in connection with, the carrying on of any business;
 - h) contravened any provision of the law relating to housing or of landlord and tenant law;
- or
- i) acted otherwise than in accordance with an approved code of practice.

The council must have regard to whether any associate or former associate of the applicant has engaged in any of the above conduct where it is considered relevant as to the fitness of the applicant.

The Council is also entitled to take into account any other matter which it considers to be relevant.

He advised that no objections had been received, however a small number of noise complaints had been received, the most recent being 10th March, 2020.

He informed the Committee that, due to data protection issues which had recently arisen, PSNI had not been accepting or responding to notification of these applications but Officers were continuing to engage with PSNI to find a resolution to this issue. He stated that Officers were not aware of any other issues relevant to the applicant's fitness.

After discussion, the Committee agreed that it was minded to grant the application for the renewal of a Licence to operate a House in Multiple Occupation at 93B University Avenue.

Minded opinion on the renewal of a Licence to operate a House in Multiple Occupation at 17 Colenso Parade, Belfast, BT9 5AN

The Committee was reminded that, at its June meeting, it was asked to consider whether it would be minded to grant or refuse the application for the renewal of a Licence permitting the use of premises as a House in Multiple Occupation (HMO) at 17 Colenso Parade.

It was reported that, the Chief Executive's decisions that were taken under delegated authority for the Licensing Committee in June, stated that, due to no consensus from the Committee, the application would be referred to committee for determination at the earliest opportunity.

The HMO Unit Manager provided an overview of the application and explained that the application must be considered by the Committee, pursuant to the 2016 Act and aforementioned legal advice.

He advised that the applicant had submitted an application to renew the HMO licence for the aforementioned premises which was deemed valid on 23rd March, 2020.

He highlighted that, pursuant to the 2016 Act, the applicant was required to declare any offences committed. As outlined under the Application History of the report, the applicant had failed to declare an offence in relation to the operation of HMOs in 2014. Therefore officers felt it was necessary to seek members' views on whether they would be minded to either grant or refuse the licence, so that the applicant could be notified prior to the application being determined. He confirmed that the applicant was entitled to make representations in respect of the proposed decision before a final decision was made.

He advised that one objection had been received and a single noise complaint had also been received in respect of the property in March, 2017.

He reiterated that, due to data protection issues, the PSNI had not responded to the notification, but stated that Officers were not aware of any other issues relevant to the applicant's fitness.

During discussion, one Member raised general concerns in regards to HMO's in the area in relation to overprovision, complaints from residents, anti-social behaviour, and the impact on local families.

After discussion, the Committee agreed that it was minded to grant the application for the renewal of a Licence to operate a House in Multiple Occupation at 17 Colenso Parade.

Minded opinion on the renewal of a Licence to operate a House in Multiple Occupation at 29 Stranmillis Park, Belfast, BT9 5AU

The Committee was reminded that, at its June meeting, it was asked to consider whether it would be minded to grant or refuse the application for the renewal of a Licence permitting the use of premises as a House in Multiple Occupation (HMO) at 29 Stranmillis Park.

It was reported that, the Chief Executive's decisions that were taken under delegated authority for the Licensing Committee in June, stated that, due to no consensus from the Committee, the application would be referred to committee for determination at the earliest opportunity.

The HMO Unit Manager provided an overview of the application and explained that the application must be considered by the Committee, pursuant to the 2016 Act and aforementioned legal advice.

The HMO Unit Manager advised that the applicant had submitted an application to renew the HMO licence for the aforementioned premises which was deemed valid on 28th February, 2020.

He highlighted that, pursuant to the 2016 Act, the applicant was required to declare any offences committed. As outlined under the Application History of the report, the applicant had failed to declare an offence in relation to the operation of HMOs in 2014 and 2015. Therefore officers felt it was necessary to seek members' views on whether they would be minded to either grant or refuse the licence, so that the applicant could be notified prior to the application being determined. He confirmed that the applicant was entitled to make representations in respect of the proposed decision before a final decision was made.

He advised that no objections or recent noise complaints had been received in respect of the property.

He reiterated that, due to data protection issues the PSNI had not responded to the notification, but stated that Officers were not aware of any other issues relevant to the applicant's fitness.

The Committee received a representation from Mrs. J. Crawford. She advised that the failure to disclose the convictions on the application form had been an oversight on her behalf. She explained that, due to ill health and her husband previously dealing with the property management, she had not remembered the convictions, therefore did not fill in the form correctly. She reported that the house had been in their ownership for the last 25 years.

During Members questions, Mrs Crawford explained that she intended to get an agent to help manage the property but would always be on hand to assist. She also advised that they maintained close contact with tenants and their parents and had implemented behaviour policies and maintenance standards.

After discussion, the Committee agreed that it was minded to grant the application for the renewal of a Licence to operate a House in Multiple Occupation at 29 Stranmillis Park.

Non-Delegated Matters

Review of Designation of street trading sites policy timeframe

The Committee considered the undernoted report:

“1.0 Purpose of Report or Summary of Main Issues

- 1.1 The Street Trading Act (NI) 2001 (the Act) provides district councils with the power to designate or to rescind the designation of specific streets or parts of streets as being suitable for street trading.
- 1.2 If a street has not been Designated under the Act the Council cannot issue a Licence for street trading from a stationary position in that street.
- 1.3 At present, as previously decided by Committee, the designation process will be undertaken every 2 years to reduce the costs to the Council.
- 1.4 At your meeting of June 2019 the Committee granted approval to initiate the statutory process for the designation of a new street trading site. Therefore any new proposed street trading sites will not be considered by the Council before June 2021.

2.0 Recommendations

- 2.1 Members are asked to consider if they wish to deviate from the current policy regarding street trading designation time frames and agree that a new designation process be commenced.

3.0 Main Report

Key Issues

Background

- 3.1 The Act sets down the procedures which must be followed in considering whether to designate a site or rescind a designation. The steps the Council must undertake are summarised as follows:
 - a) Give public notice of the proposed resolution;
 - b) Consult with the PSNI, Department for Infrastructure, licence holders (if any) and other persons it considers appropriate;

- c) Consider any representations relating to the proposed resolution which it has received;
 - d) After the Council has considered those representations it may, if it thinks fit, pass the Designating Resolution;
 - e) Publish notice of the outcome for 2 consecutive weeks in 2 or more newspapers, giving not less than 28 days between the date of the publication and the date set out by the Council when the Designating Resolution will come into effect.
- 3.2 The Council has received two applications for new sites as well as a number of other enquiries about designating new sites.
- 3.3 Officers have advised those enquiring about the Council's policy on carrying out designation every two years and that any new proposed street trading sites will not be considered by the Council before June 2021.
- 3.4 Given the current situation and the impact it has had on the economy this advice has been met with disappointment by prospective applicants.
- 3.5 In an effort to assist permission is sought to deviate from the agreed policy and to engage with those who have made enquires and to bring back a report detailing the proposed sites for designation to a future meeting of the Committee.

Financial and Resource Implications

- 3.6 There are direct financial costs such as the cost of publishing statutory notices in newspapers, attached to the designation process. We estimate the cost of the required notices to be £3,500. These costs are included in the existing revenue budget.

Equality or Good Relations Implications/ Rural Needs Assessment

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

The Committee noted the deviation from the current policy regarding street trading designation time frames and agreed that a new designation process be commenced, as outlined in the report.

Issues Raised in Advance by Members

**Circulation of Applications Received
(Councillor McKeown to Raise)**

Councillor McKeown suggested that, to raise awareness of new applications received by the Service, Building Control could implement a process to circulate a list to all councillors. He suggested that this could be sent out electronically, on a fortnightly basis, with applications identified by type, address, and DEA, with contact information for members who wished to seek further details or raise objections to an application.

The Committee agreed that Building Control implement a process to circulate an electronic list of Entertainments Licence, Amusement Permit, Street Trading, Pavement Licence and Road Closure applications that are received by the Service, to all Members, from week commencing 7th September, 2020.

Chairperson