

Licensing Committee

Wednesday, 14th December, 2022

MEETING OF THE LICENSING COMMITTEE

HELD IN THE COUNCIL CHAMBER AND REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Matt Collins (Chairperson); and
Councillors Bradley, Gormley, Howard, Hutchinson,
M. Kelly, Magee, McAteer, McCann, McKeown, Murray,
Smyth and Thompson.

In attendance: Ms. N. Largey, Interim City Solicitor/Director of Legal and
Civic Services;
Mr. S. Hewitt, Building Control Manager;
Ms. V. Donnelly, City Protection Manager;
Mr. K. Bloomfield, HMO Unit Manager;
Mr. D. McCamphill, Lead Building Control Surveyor;
Ms. L. Hillis, Principal Building Control Surveyor;
Mr. J. Cunningham, Senior Licensing Officer;
Mr. C. McCullough, Marketing and Communications
Coordinator;
Mr. H. Downey, Democratic Services Officer; and
Ms. V. Smyth, Democratic Services Officer.

Apologies

Apologies were reported on behalf of Councillors Canavan, T. Kelly and McCusker.

Minutes

The minutes of the meeting of 16th November 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 December, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor McKeown declared an interest in the review of Pavement Café Licence for City Picnic, Fountain Street (item 2d) in that he had advocated on their behalf to find a resolution in correspondence to the Department for Infrastructure (DfI). He excluded himself from any vote but advised that he would remain in attendance as a representative for the area.

Delegated Matters

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

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

The Committee noted a list of licences for Houses in Multiple Occupation which had, since its last meeting, been issued under the Council's Scheme of Delegation.

Applications approved under Delegated Authority

The Committee noted a list of applications for licences which had, since its last meeting, been approved under the Council's Scheme of Delegation.

**Application for the Grant of a Seven-Day Annual
Indoor Entertainments Licence with Extended Hours –
The Rusty Saddle and Shake or Stir, 21 Howard Street**

The Building Control Manager submitted for the Committee's consideration the following report:

“1.0 Purpose of Report/Summary of Main Issues

To consider an application for the grant of a Seven-Day Annual Indoor Entertainments Licence with extended hours for The Rusty Saddle and Shake or Stir.

<u>Area and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
The Rusty Saddle and Shake or Stir 21 Howard Street Belfast BT1 6NB	WK/2020/02106	Mr. Eamonn Diamond 21 Howard Street Belfast BT1 6NB

1.2 A location map is attached at Appendix 1.

2.0 Recommendations

2.1 Taking into account the information presented and any representations received Members are required to consider the application and to:

- a) Approve the application for the provision of entertainment to 2.00am on Friday and Saturday, or
- b) Approve the application with special conditions, or
- c) Refuse the application for the provision of entertainment to 2.00am on Friday and Saturday.

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

3.0 Main Report

Key Issues

Grant of a licence

3.1 In relation to the Entertainments Licence, all statutory consultations have been completed satisfactorily and the certificates pre-requisite to the grant of licence have been received.

3.2 The Committee is reminded that the normal process for dealing with Entertainments Licence applications which are not the subject of objections is that the Director of Planning and Building Control will grant the Licence as provided for in the Council's Scheme of Delegation.

3.3 Under the Scheme of Delegation, the Director of Place and Economy has authority to issue any application for the grant of a licence where there are no representations in respect of it and the hours of operation applied for do not exceed 1.00am.

3.4 However, applications to provide indoor entertainment beyond 1.00 a.m. are subject to consideration by the Committee and the premises has applied for the following days and hours of use:

- Sunday: 12.30 am to 1.00 am the following morning
- Monday to Thursday: 11.30 am to 1.00 am the following morning
- Friday and Saturday: 11:30 am to 2:00 am the following morning

3.5 To assist the premises in the circumstances where the building is ready to provide entertainment in advance of consideration of this application for an extension in hours to 2.00 am, the Entertainment Licence has been issued permitting the premises to operate to 1.00 am.

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- 3.6** The Committee is, therefore, only being asked to consider whether the provision of entertainment to 2.00 am may be permitted.

Details of the Premises and Proposals

- 3.7** The areas proposed to be licensed to provide indoor entertainment and their maximum occupancies are:

- The Rusty Saddle (Ground floor) - 200
- Shake or Stir (First floor) - 220

- 3.8** The days and hours during which entertainment is proposed to be provided, are:

- Sunday: 12.30am to 1.00 am the following morning
- Monday to Thursday: 11.30 am to 1.00 am the following morning
- Friday and Saturday: 11:30 am to 2:00 am the following morning

- 3.9** The applicant has stated that the extension of hours to 2.00 am on Friday and Saturday is because the 1st floor is a nightclub.

- 3.10** Members are advised that the previous Entertainment Licence for this premises permitted entertainment to be provided to 3.00am the following morning from Monday to Sunday.

Representations

- 3.11** Public notice of the application has been placed and no written representation has been received as a result of this advertisement.

PSNI

- 3.12** The Police Service of Northern Ireland has been consulted and has confirmed that it has no objection to the application. Its response is attached at Appendix 2.

NIFRS

- 3.13** The Northern Ireland Fire and Rescue Service has been consulted and has confirmed that it has no objection to the application.

Health, Safety and Welfare

- 3.14 The premises has been inspected by the Building Control Service and it is now complete for the purposes of the Building Regulations.

Noise

- 3.15 No noise complaints have been received in relation to the premises in the last 12-month period.
- 3.16 The Committee is 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

- 3.17 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

- 3.18 None.

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

- 3.19 There are no issues associated with this report.”

It was reported that Mr. B. Davison, Company Accountant, was in attendance to represent The Rusty Saddle and Shake or Stir.

The Committee approved the application for the provision of entertainment to 2.00 a.m. on Friday and Saturday.

**Review of Pavement Café Licence –
City Picnic, Fountain Street**

The Chairperson informed the Committee that the Review of Pavement Café Licence – City Picnic, Fountain Street (Item 2d) and Review of Pavement Café Licence – Voodoo, Fountain Street (2e) would be heard together. It was reported that Mr. D. McFarlane, Divisional Roads Manager, and Mr. G. Lawther, Development Control Manager, were in attendance on behalf of DfI-Roads, as were Mr. A. McAnerney, the Licensee, and his business partner Mr G. Gregg.

The Building Control Manager reminded the Committee that, at its meeting on 16th November, it had considered the review of 2 Temporary Pavement Café Licences in Fountain Street.

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DfI-Roads had notified the Council that, in its view, the Temporary Pavement Cafés needed to be removed or relocated to facilitate the safe movement of traffic in Fountain Street, following its reopening to vehicular traffic. The Committee, after hearing from DfI-Roads and representatives from City Picnic and Voodoo (the licensees), had deferred making any decision to enable further information to be obtained.

At the meeting in November, the Committee had asked for more information from DfI-Roads, which would provide an analysis of road safety in the area, to enable it to properly consider the request to revoke the pavement café licences. The Committee had also asked for confirmation from DfI-Roads on whether Castle Street (portion between Fountain Street and Castle Junction) would remain pedestrianised.

In response to these queries DfI Roads had commented as follows:

“The Department’s view on the café licences for both Voodoo and City Picnic is that they present a danger to vulnerable road users especially pedestrians. This is because they are both placed across a section of Fountain Street that would, ordinarily, be open to two-way traffic. This section of road leads into another section, behind the bollards on Fountain Street, that is pedestrianised save for 6 pm to 11 am. The Cafés obstruct this part of the road. This has led to a number of loading vehicles being forced to reverse to exit both Fountain Street and Castle Street, whereas previously they could have driven through this section. Vehicles, which cannot perform a ‘u-turn’ on Castle Street can only leave the street by reversing through the traffic light-controlled junction at Queens Street. The Department is concerned that the reversing that the structures require vehicles to undertake could cause a danger to vulnerable road users, such as pedestrians and cyclists, as well as other mechanically propelled road traffic. Additionally, the cafes’ structures block access to a car park that is incorporated into the Norwich Union Building, do not facilitate cyclists and may not address specific issues encountered by disabled drivers.

Due to the foregoing, the Department would urge the Council to not renew the licences on Fountain Street.

If the Council does not agree with the Department on this question, the Department would then request the structure and associated café furniture would not be in place between the hours of 6 pm and 11 am to mirror the times when Fountain Street pedestrianised zone is open to loading traffic. This will allow the free flow of traffic for loading vehicles, important to other businesses in the area, and reduce the risk for vulnerable road users.

The Department would ask that, in making its decision, the Council fully considers the impacts on disabled people and cyclists and is informed by a public safety risk assessment that fully considers all the safety issues associated with the pavement café license applications.

In relation to your query about traffic volumes, I can confirm that the Department does not have either vehicle or pedestrian counts for the periods before or after the closure.

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In relation to the pedestrianisation of Castle Street, in front of City Picnic, I can confirm that the Department has currently restricted all vehicles from using Castle Street between Royal Avenue to Fountain Street with the exception of cyclists under the powers conferred on it by Article 7 of the Road Traffic Regulations (Northern Ireland) Order 1997. This restriction will last until 1 April 2024 however this can be superseded or changed if it becomes necessary.

As a final point the Department notes from the legislation that the structures should be capable of being taken away within 20 minutes and urge the Council to ensure that any licence that it grants ensures that the permitted structures can be taken down within that timeframe”.

The Building Control Manager advised that officers had engaged with DfI-Roads in relation to its comments and requested that a public safety risk assessment be provided in support of its representation, however, this had not been carried out by the Department. He further advised that City Picnic had submitted an application for a new location in Castle Street with which DfI-Roads was generally content. The public notice period for objections had expired and officers were awaiting comments from the PSNI in relation to the new location which would determine the outcome of the temporary licence application in Castle Street.

From a political perspective, a Member relayed frustration in relation to how the matter had been dealt with by DfI and asked what the Committee could do to support the businesses over the Christmas period.

A Member, acting as a representative for the area, referred to the unreasonable and unfair pressure which had initially been put on the businesses to remove the street furniture before the Council had considered the issue. The Member criticised DfI's vehicle-first approach to the city centre despite the Council having made it clear it wanted to see transformation. In the absence of the Stormont Assembly, the Member stated that DfI were ignoring the biggest democratic, elected body in the region and the mandate the Members had been given. He agreed that peoples' safety should be paramount but did not accept that this could only be achieved by reopening the street to traffic. The Member asked the Committee to continue to enable the businesses to continue operating outdoors; and invited senior DfI officials to address the Committee on what steps they were taking to enable more pavement licences to be granted in the city centre, and what plans it had for more pedestrianised zones which would provide for cafes, street markets and entertainment in line with the expressed will of the Council.

The Chairperson referred to the public safety risk assessment and asked why DfI-Roads had not carried out the assessment given it was the expert in road safety. The Chairperson invited DfI-Roads to respond.

In response, Mr. D. McFarlane, Divisional Roads Manager reported that DfI-Roads had been working closely with the Council on a range of measures throughout the city centre including on the issue around active travel and public transport. He continued that there was a lot happening and there was still a lot to happen under the remit of the Climate Change Act. In terms of these 2 pavement café licences, he advised that DfI-

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Roads had been acting as consultees to provide a roads input in relation to roads safety which was effectively what had been done. He stated that the pavement café opportunity had been a temporary measure as a result of the Primark fire which had closed the road, however, the road had been reopened creating road safety issues. Mr. McFarlane reiterated DfI-Road's concerns and assessment of public risk referred to in its response. In relation to the public safety risk assessment, he stated that the Council might wish to get an independent view of the risks given that some of the Members had not accepted DfI's analysis.

The Chairperson welcomed Mr. A. McAnerney and Mr. G. Gregg from City Picnic and invited them to make their representation.

Mr. Gregg advised that he and Mr. McAnerney were extremely fearful as he expected that in 6 months the business would be asked to move to allow for the area to be opened up to buses. He stressed that times were tough for the business and that it was a sad indictment of what was going on in Belfast. He stated that businesses needed this help. He continued that the reversing of cars and deliveries had been going on in the area for 8 years.

Mr. D. McFarlane, Divisional Roads Manager was invited to respond to the points raised by Mr. G. Gregg. He referred to the climate crisis and the model shift from the private car to public transport and active travel. He stated that there were no plans for buses in the area, however, he couldn't provide certainty but there was a need to be cognisant of the climate challenge. He disagreed with Mr. Gregg's statement about the 8-years and reiterated DfI-Road's concerns around road safety.

The Committee agreed to defer the review of the Pavement Café Licence until the application for the new location in Castle Street was complete. In addition, Members requested representatives from DfI Roads be invited to attend the Committee to outline their plans for the development of the city centre and for officers to ascertain what plans Translink had for the area.

**Review of Pavement Café Licence –
Voodoo, Fountain Street**

The Chairman welcomed Mr. Feargal Smyth, Manager of Santeria, who joined the meeting to represent Voodoo on behalf of Mr. Ciaran Smyth. Due to his inability to attend the Committee, Mr. C. Smyth had sent a written submission which had been circulated to the Members in advance of the meeting. The Chairperson invited Mr. F. Smyth to deliver his representation.

Mr. F. Smyth highlighted the importance of the outside area as an extension to Voodoo which was essentially a music venue as well as a bar and that it would not be good for the business if it was taken away. He stated that the business would move the outside area to the new proposed area, however, the business would need 21 days over the Christmas period as it would be difficult to move it in such a busy period. He further stressed the importance of the outside area.

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The Building Control Manager informed the Committee that the application for Voodoo was at the preliminary stage and until an application was received the Council could not formally consult with DfI-Roads. He clarified the legislative process around the 21 days notice period that the Council were required to give a licensee if it was minded to revoke their licence.

The Committee agreed to defer the review of the Pavement Café Licence until a formal application was submitted by Voodoo for a new location adjacent to Norwich Union House and that agreement was reached with DfI on the suitability of this location. In addition, Members requested representatives from DfI Roads be invited to attend the Committee to outline their plans for the development of the city centre and for officers to ascertain what plans Translink had for the area.

Non-Delegated Matters

Fees for Entertainments Licences

The Building Control Manager informed the Committee of the decision of the Department for Communities that fees for the renewal of Entertainments Licences would, on 6th April 2023, revert to pre-April 2021 levels.

He advised that in February 2021, the Department for Communities determined that a reduced fee of £1 would apply to applications for the renewal of all categories of Entertainments Licence, both indoor and outdoor, received on or after 6th April, 2021.

This reduction was introduced to alleviate the hardship being experienced by the hospitality industry because of COVID-19 restrictions. In March 2022, the Department informed the Council that the nominal fee of £1 for renewal applications would remain for the 2022/23 financial year, subject to a further review later this year. Additional funding of some £17m provided by the Executive for council losses incurred as a result of the COVID-19 pandemic included provision to cover any loss of income resulting from the reduction in fees for the renewal of Entertainment Licences for 2022/23.

In a letter to the Council, dated 15th November 2022, the Department for Communities, having carried out a further review, had advised of its determination of the fees for Entertainment Licences. In that letter, the Department had acknowledged that reduced licence fees had, undoubtedly, helped ease some of the financial burden for businesses in the hospitality industry, however, with the removal of all remaining COVID-19 restrictions earlier this year, licence holders would by April 2023 have had a year to return to a normal trading footing.

The Building Control Manager informed the Licensing Committee that the Department was of the view that there was no need to continue with this easement beyond the end of the 2022/23 financial year and, therefore, fees for renewal entertainment licences would, with effect from 6th April, 2023, revert to pre-April 2021 levels. Details of the revised fees, effective from 6th April, 2023, were set out in the Department for Communities formal determination.

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The Committee noted the decision of the Department for Communities that fees for the renewal of entertainment licences would, with effect from 6th April, 2023, revert to pre-April 2021 levels.

Chairperson