

Licensing Committee

Wednesday, 17th December, 2014

MEETING OF LICENSING COMMITTEE

- Members present: Councillor M. E. Campbell (Deputy Chairman)
(in the Chair);
Aldermen Browne, R. Patterson, Rodgers, Stalford
and Webb;
Councillors Attwood, Clarke, Cunningham,
Groves, Hussey, Hutchinson, Magee, Mullan,
Ó Donnghaile, Reynolds and Spence.
- In attendance: Mrs. S. Toland, Lead Operations Officer/Head of
Environmental Health;
Mr. T. Martin, Head of Building Control;
Ms. N. Largey, Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies were reported on behalf of the Chairman (Alderman Ekin), Alderman McCoubrey and Councillor McCarthy.

Minutes

The minutes of the meetings of 6th and 22nd 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 3rd November, 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.

Non-Delegated Matters

Review of Procedures Governing the Licensing Committee

“1 Relevant Background Information

- 1.1 The Committee will recall that, at the meeting on 20th August, it endorsed a report on the outcome of Party briefings on a protocol to be used as a guide for this Committee in exercising its functions and that Officers should now proceed to develop detailed proposals which will include guidelines on:

- (i) arranging, making provision for and managing the meetings;

- (ii) rules on submission of representations to Council;
- (iii) rules on exchange of submissions between relevant parties; and
- (iv) guidance on the role of the Chairman

2 Key Issues

2.1 Officers from Building Control, Democratic Services and Legal Services met subsequently to discuss the development of the protocol and the procedures governing the operation of the Licensing Committee.

2.2 A draft protocol which is proposed for use by the Licensing Committee has been forwarded to the Committee. It should be read alongside relevant provisions of the Council's Standing Orders and the Code of Conduct for Councillors and is not intended to replace either document. The key aims of the protocol are to ensure that:

- those who apply for, or object to, licences or permits before the Committee are able to make informed representations and know the case which they have to meet; and
- the Committee makes decisions in an unbiased way.

2.3 The protocol is designed to ensure consistency of approach and place the Council in a stronger position to resist any potential legal challenge relating to the transparency of our decision making process.

2.4 The draft protocol consists of 4 sections under the headings:

2.5 Representations to Committee

This section outlines the process for hearing from deputations in relation to licensing applications and provides that all parties to an application may be present to hear all representations to an application at Committee. Given that Transition Committee meetings are open to the public and that all Committee meetings will be required to be so after March 2015, it is the intention that all parties remain present during the decision making process.

2.6 Submission of representations to the Council

This section outlines how information for consideration by Committee must be submitted within agreed timescales and

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provides for the sharing of information between all parties prior to the meeting taking place.

2.7 Role of the Committee Chairman

This section reinforces the role of the Chair particularly in relation to the hearing of deputations and in maintaining order during the meeting.

2.8 Role of Committee Members

This section reinforces the role of the Members of Committee and is included to aid decision making which is soundly based, lawful, fair and transparent.

- 2.9** Given that the governance arrangements for the new Council and its Committees are under review as part of the Local Government Reform process, the foregoing proposals will only apply until 31st March, 2015. However, should Members be minded to implement the draft protocol, those aspects of it that are deemed to work successfully can be incorporated into the governance arrangements for the new Council.

3 Resource Implications

Financial

- 3.1** None

Human Resources

- 3.2** None

Assets and other Implications

- 3.3** None

4 Equality Implications

- 4.1** There are no equality and good relations issues.

5 Recommendations

- 5.1** The Committee is requested to consider the draft protocol proposed for use by the Licensing Committee and, subject to any amendments arising from your discussions, recommend that the protocol be implemented. ”

The Head of Building Control provided an overview of the draft protocol and pointed out that it would be normal practice from 1st April, 2015, for Standing Committees to meet in public, with all parties, including applicants and objectors, being present during the presentation by officers of reports and the decision-making process. He suggested that the Committee should give consideration to either implementing that process in full within the

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intervening period in order to familiarise itself with the process or, alternatively, delaying its implementation until April. Any decision taken by the Committee would, he pointed out, require to be ratified by the Council at its meeting on 5th January and would, therefore, apply to meetings being held during the months of February and March.

During discussion, Members raised a number of concerns around the proposal to hold the Licensing Committee's meeting in public in advance of April, 2015. The point was made that, rather than implement the proposal in full at this stage, the Committee should use the opportunity to ensure that it was fully conversant with the process and that appropriate training was provided, if required. It would provide an opportunity also for any logistical or other issues, including the ongoing discussions around the recording of meetings, to be resolved.

In response, the Council's Solicitor suggested that, in view of the concerns which had been expressed, the Committee might wish to implement in the lead up to April, 2015, a third option, whereby it would, in considering an application, be briefed initially in private by officers and afforded an opportunity to obtain clarification on any issue. Deputations would then be admitted jointly to the meeting but would be required to leave in advance of the Committee reaching its decision.

After discussion, the Committee approved the draft protocol, subject to that part under the heading 'Representations to the Committee' being amended to reflect the suggestion which had been proposed by the Council's Solicitor. The Committee noted that a copy of the draft protocol was available on the Mod.gov site.

Update on Review of Street Trading and Pedlary Laws

The Committee considered the undernoted report:

"1 Relevant Background Information

- 1.1 The European Union Services Directive 2006/123/EC (the Services Directive), implemented into UK domestic law by the Provision of Services Regulations 2009, aims to make it easier for businesses to set up and sell goods anywhere in the European Union. Specifically, the Services Directive prohibits competent authorities (for example, a district council) from adopting procedures which are in fact barriers to the freedom of trade.**
- 1.2 Committee is reminded that a joint consultation with the UK Government, Northern Ireland Executive and Scottish Government was published in November 2012 and sought views on draft regulations which would ensure that the law regulating pedlar and street trading activity throughout the UK was in compliance with the requirements of the Services Directive. The Council made a response which is attached.**
- 1.3 The Department for Social Development (DSD) response to the consultation to repeal the Pedlars Acts and make changes to**

street trading legislation in Northern Ireland was published on the 7th November, 2014 and can be found at:

<http://www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2013/street-trading-and-pedlar-laws.htm>

- 1.4 Currently, The Pedlars Act of 1871 allows the police, of the area where the licence has been applied for, to grant a Pedlar's Certificate when an application is made. A Pedlar's Certificate lasts for one year and entitles the holder to act as a Pedlar anywhere within the UK.
- 1.5 To be eligible for a Pedlar's Certificate, the pedlar must have lived in the area in which they are applying for the certificate for at least one month before applying, be over 17 years of age, be a person of good character and in good faith intend to carry on the trade of a Pedlar. A fee of £12.25 is charged.

2 Key Issues

- 2.1 The Council has already responded to previous consultations on this matter and Members will, no doubt, be concerned to learn that our previously expressed views, and in particular those regarding Pedlars, do not appear to have been given sufficient weight by the Department in developing the current proposals.
- 2.2 While understanding the Government's dilemma in dealing with these matters, in the context of the requirements of the European Services Directive, the proposals as put forward will cause serious problems, in particular within the City centre.
- 2.3 DSD Minister Mervyn Storey has decided that the following changes, affecting Northern Ireland, should be made and implemented by Spring 2015:

Changes to the Pedlars Acts 1871 and 1881 (which have UK wide application)

- 2.4 *Proposal: Remove the current residency requirement and introduce a new good character check.*
- 2.5 The Police Service is responsible for the licensing of pedlars and it has been clear for many years that the police are not in a position to properly monitor and supervise the provisions of the current pedlar's legislation. The PSNI in the original consultation stated that pedlars should be licensed by councils as mobile street traders. No substantive response was received from any N. Ireland pedlar regarding this proposal.

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- 2.6** In this respect there are concerns as to whether the police will be in a position to deal effectively with the proposed new requirements regarding checks on good character. Indeed there is potential for the situation to get much worse with the prospect of large numbers of pedlars coming to the UK from abroad as the residency requirement “*of at least one month before applying*” will be removed.

Changes to the Street Trading Act (Northern Ireland) 2001 in relation to pedlars

- 2.7** *Proposal: Remove the current house to house restriction placed on pedlar trading in the Street Trading (Northern Ireland) Act 2001 (the Street Trading Act) and provide a power in the Street Trading Act to allow councils to designate areas as unsuitable for pedlars, to carry out trading. This power can be relied on in relation to pedlars pushing or pulling a receptacle and thereby causing undue nuisance or inconvenience to persons or vehicles using such an area.*
- 2.8** The proposed removal of the ‘house to house’ restriction regarding pedlars in N. Ireland is a cause of concern, particularly in Belfast, and it could undermine the existing Street Trading regime which was introduced in 2001 to counter serious problems associated with an over-proliferation of street trading in the City. In effect these proposals will allow a pedlar to trade in the City centre even if the City Council has designated prohibited areas, as long as the pedlar isn’t pushing or pulling a trolley; they can trade from a bag, sell flowers or trade from a tray worn around the neck.
- 2.9** Members will be fully aware of the City centre problems regarding Tour Bus ticket sellers. With a Pedlars certificate ticket sellers will be free to trade wherever they want as long as they aren’t using a push/pull receptacle.
- 2.10** Our concern is that Pedlars, who are in reality Mobile Street Traders, will effectively become un-regulated in what they sell and where they go. These traders should be licensed as Mobile Street Traders as per the Street Trading Act (N.I.) 2001, as it would be perverse that a person selling from their person or from a receptacle that they can carry in the street should not be subject to the same licensing controls as a person selling from a larger trolley or vehicle or a fixed street trading position in the same street.
- 2.11** In our view, for this to have any chance of working, as a proposal, the proposed changes need to remove the reference to “*pushing or pulling a receptacle*”.

Changes to the Street Trading Act (Northern Ireland) 2001 in relation to street traders

- 2.12 *Proposal: Ensure an application for a street trading licence (not processed in time) will not be deemed to have been granted where mandatory grounds for refusing a licence apply.*
- 2.13 This proposal is agreed and was a matter we had raised with the Department.
- 2.14 *Proposal: Give councils the discretion of granting street trading licences for extended periods (as long as this does not create a barrier to trade in localities where there is excess demand for street trading pitches) – currently the regime allows licences to be granted for a period of up to 3 years.*
- 2.15 It is essential in the public interest that there is fair access for all those wishing to trade to have the opportunity to apply for a licence should they wish to do so, which is also a fundamental right under EU law. The Council is therefore unlikely to grant a licence for a longer period than 3 years.
- 2.16 Members will be well aware of the number of times the Council has considered competing applications for the same site or mobile route, if the licence was for an indefinite period new applicants would be disadvantaged. A finite licence period also allows for trading activity to be formally monitored by means of a regular application/renewal process to ensure compliance with other relevant legislation (food safety for example).
- 2.17 *Proposal: Allow electronic applications for street trading licences and in the case of electronic applications, one photo can be submitted rather than two – currently the legislation specifies two photos to be submitted with an application made in writing.*
- 2.18 Agreed – applications have been available on the Council's website for many years.
- 2.19 *Proposal: Remove the requirement that an applicant for a street trading licence is an individual.*
- 2.20 Agreed.
- 2.21 *Proposal: reduce the number of discretionary grounds that a council has in regards to refusing or revoking a street trading licence.*

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- 2.22** Section 9(1) (a) (iv) of the Street Trading Act provides that a council may refuse an application on the grounds that there are already enough shops or street traders who are trading in the applicant's goods. This ground is widely used by this Council when determining multiple applications for a particular street trading pitch as a means of refusal. The Council had requested during the consultation that the Street Trading Act is amended to take into account situations where there are multiple applications for the same stationary pitch or for a number of mobile traders in the same area.
- 2.23** Despite support during the original consultation for maintaining this ground of refusal DSD do not believe it can be justified under the Directive and therefore Section 9(1) (a) (iv) of the Street Trading Act will be removed.
- 2.24** Section 9(1) (d) and Section 10(1) (c) of the Street Trading Act provides that a street trading licence may be refused or revoked if the licence is not being used to its full extent. We still maintain that these grounds are not incompatible with the Directive and that these grounds are necessary and justified to ensure that prime pitches are fully utilised.
- 2.25** These grounds will be maintained for established traders who reside in the United Kingdom. However traders who reside outside the UK, for example in the Republic of Ireland and are referred to as 'temporary' traders, will be exempt from having a licence refused or revoked for insufficient use.
- 2.26** We still maintain that this provision should apply to both 'temporary' and local traders. Expressly preventing these grounds from applying to temporary traders is viewed as being discriminatory against established UK based operators.
- 2.27** *Proposal: Remove the requirements that a temporary licence is limited to 7 days and may only be granted to an applicant up to 5 times in any year.*
- 2.28** Agreed – this is a positive move as on a number of occasions temporary street traders who have wanted to trade for more than 7 consecutive days have had to apply for multiple temporary licences and have been penalised by the cost of making multiple applications. It also allows the council to 'test the water' with a proposed new site before entering into the long and complex process of designation.
- 2.29** *Proposal: It is expected the regulations will come into force in Spring 2015.*

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- 2.30 DSD need to be mindful that in Spring 2015 there a number of significant changes taking place with the reorganisation of local government.**
- 2.31 It is officers' opinion that the proposed amendments go far beyond that which is required to ensure conformity with the Directive and have the potential to jeopardise the ability of this Council to regulate street trading generally, in particular where trading takes place and how that trade is conducted.**
- 2.32 The Committee is advised that Belfast Chamber of Trade and Commerce has written to Minister Storey over the proposed changes, as they have grave concerns for the impact which they will have on the retail centre of Belfast.**

3 Resource Implications

- 3.1 It is anticipated that local authorities will be responsible for enforcement of any new legislation regulating Street Trading and Pedlars in Northern Ireland. The exact extent of the impact of this is, at this stage, not possible to assess.**

4 Equality and Good Relations Considerations

- 4.1 There are no equality or good relations issues.**

5 Recommendation

- 5.1 The Committee is requested to consider the comments on the various proposals in this report and to consider writing to the Minister raising the Council's concerns on the proposed changes along with any amendments arising from your discussion."**

After discussion, the Committee endorsed the comments set out within the report and agreed, in addition to writing to the Minister for Social Development to express its concerns at the proposed changes to the legislation, that the Minister be invited to meet with an All-Party delegation from the Committee to discuss the matter.

Update on Licensing Customer Forum

The Committee was informed that the Building Control Service had, in March, 2014, established a Customer Forum, comprised of licensees with responsibility for bars, hotels, nightclubs and registered clubs, in order to provide them with an opportunity to discuss with the Service any licensing issues. The Head of Building Control reported that the Forum had met on three occasions and that it had covered a range of topics, including proposed amendments to applications forms and Entertainments Licence certificates, fire risk assessments and the introduction of legislation governing pavement cafés. He added that

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the Forum had provided the Building Control Service with an opportunity also to discuss with licensees the ongoing review of Entertainments Licensing legislation.

Noted.

Update on Applications for Sex Establishment Licences

The Committee was reminded that, at its meeting on 22nd October, it had agreed that the Council be recommended to determine that the appropriate number of Sex Establishments in the Gresham Street locality should remain as nil, as had been agreed by the Health and Environmental Services Committee on 29th April, 2003. The Head of Building Control reported that the recent decision, which had been ratified by the Council at its meeting on 3rd November, had been taken on the grounds that the presence of such premises would have an adverse impact upon the current and envisaged character of the area, following representations which had been made at the meeting by applicants seeking Sex Establishment Licences for two premises in Gresham Street, together with the objectors to those applications and Council officers.

He explained that the applicants had since been informed of the aforementioned decision and had been requested to indicate if they still wished to have their applications considered by the Committee. He confirmed that both applicants had now withdrawn their applications and that they would, in line with Council policy, each be entitled to a refund of £500 out of the £3,000 fee which they had submitted with their application. He added that the Building Control Service was continuing to monitor all sex establishments which had been the subject of enforcement in recent months and that it was working closely with the Legal Services Section in that regard.

The Committee noted the information which had been provided.

Invitation to Address the Licensing Committee

The Committee agreed that Mr. Stephen McGowan, one of Scotland's leading legal practitioners on alcohol, gambling and civic licensing matters, be invited to attend its monthly meeting in February in order to provide information on the acclaimed Scottish licensing model.

Application for the Renewal of a Seven-day Annual Entertainments Licence – El Divino, Mays Meadows

The Committee was advised that an application had been received for the renewal of a Seven-day Annual Entertainments Licence in respect of the above-mentioned premises. The Head of Building Control reported that one objection to the application had been received within the twenty-eight day statutory period for the receipt of such objections. However, a further objection had been received outside that timeframe. He pointed out that, under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Committee, when considering an application, must have regard to any representation which had been received within the twenty-eight day statutory period. Where objections had been received outside that period, the Committee could exercise its discretion and agree to receive the objectors, but did not have a duty to do so.

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The Committee agreed, in view of the relevance of the objections which had been received and the proximity of the objectors to El Divino, to exercise its discretion and consider both objections at its monthly meeting in February, to which the objectors and the applicant would be invited.

**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF
THE POWERS DELEGATED TO IT BY THE COUNCIL AT ITS MEETING ON
1st MAY, 2007 IN ACCORDANCE WITH STANDING ORDER 46**

Licences Issued under Delegated Authority

The Committee noted a list of licensing applications which had been granted under the Council's Scheme of Delegation.

Application for Extended Hours – Féile an Earraigh, Writers' Square

The Committee considered the undernoted report:

“1.0 Relevant Background Information

- 1.1 A request has been received from the organisers of Feile An Earraigh to hold a 4 day music event at Writers' Square, to be held within a marquee, running from Saturday 14th March to Tuesday 17th March, 2015.
- 1.2 The event is organised by Feile An Phobail who are responsible for the annual Feile An Phobail event that operates in August. Feile An Earraigh is also an annual event that would normally have operated from Bank Square over the St Patricks Day period. However, Bank Square is undergoing considerable renovation work at present and alternative arrangements require to be made.
- 1.3 Writers Square currently has an Annual Outdoor Entertainments Licence and a Seven-day Annual Marquee Entertainments Licence and both have been used to hold various types of events. The Licences are held by the Department for Social Development (DRD) and authority to use the licence is assigned to the promoter for the duration of their event.
- 1.4 A location map has been forwarded to Members.
- 1.5 The standard days and hours during which Writers Square is currently licensed to provide entertainment are:

Monday to Sunday: 11.30 a m to 11.00 p m.
- 1.6 In addition, the following conditions are attached to both Entertainments Licences:

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- 1. maximum numbers will be agreed at the discretion of the Building Control Service and will vary depending upon individual concert set up proposals;**
- 2. prior to any event taking place the promoters are required to demonstrate evidence of early consultation and have in place a robust system of dealing with any complaints, which has been agreed in advance with the Council;**
- 3. any requests to provide entertainment later than 23:00hrs must be considered by the Licensing Committee and therefore must be made at least 3 months in advance of the proposed event;**
- 4. should the Council receive a significant number of noise complaints for any event which has successive nights of entertainment permitted beyond 23:00hrs or if a complaint about an event beyond 23:00hrs is of major concern, then those successive nights with later hours may be subject to reduction and the promoter should have appropriate arrangements in place should this occur.**

2.0 Key Issues

- 2.1 The group which is responsible for Feile An Earraigh and Feile An Phobail has been established since 1988 and has a number of aims; including providing events and entertainment for the community at affordable costs.**
- 2.2 A range of events will be held at the venue including live music, debates, drama and exhibitions. A Liquor Licence and catering facilities will also be in place for the duration of the event.**
- 2.3 The organisers have requested that entertainment be permitted to run beyond 11.00 pm to 12.00 am for 3 nights of the event. The particular nights to be considered are Friday 13th March, Saturday 14th March and Monday 16th March.**

Rationale for additional hours

- 2.4 The organisers have advised that the 3 nights for which the extension in hours relates will provide an enhanced experience for patrons attending the event and allow them to compete with other surrounding premises for the short time of the event at the Square.**
- 2.5 The organisers have also advised that additional time on the relevant nights enables them to add local support acts to the bill and give them the opportunity to support a headline festival act.**

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Being able to support such acts is a priceless opportunity for local bands, helping them to reach new audiences, build experience and ultimately achieve greater success.

- 2.6 As this is not an application to vary the terms of the licence, but a request for Council's permission to extend the hours under an existing licence condition, there is no requirement for public advertisement in this case.
- 2.7 A copy of the letter from the organiser outlining the background to the event and reasons for requesting the extended hours to 12.00 am has been circulated to Members.
- 2.8 Representatives from the organisers will be available at your meeting should you wish to seek further information on their proposals.

PSNI

- 2.9 The PSNI has been consulted in relation to the event and they have confirmed that the organisers have already been in contact with them about it. The Police Service has also been informed of the proposed extension of hours.
- 2.10 Members are advised that, as with all such events, a series of detailed planning meetings will be held and key agencies, such as the police will be invited. These meetings will be coordinated and led by the Service to look at traffic management, transport and any wider operational policing issues.

NIFRS

- 2.11 The Northern Ireland Fire and Rescue Service, as with other similar events, will be invited to a pre-event meeting and provided with relevant documentation in advance of that meeting.

Health, Safety and Welfare Issues

- 2.12 Officers from the Service have previously carried out during performance inspections over the duration of other previous Feile An Earraigh events and indeed those which operated under Feile An Phobail. Officers have always found the organisers to be professional in their approach and have had no issues with the health, safety and welfare management of the events during that time.
- 2.13 Officers from the Service will liaise with the organisers to ensure that all technical requirements will be met and that an Event Management Plan and other relevant event details are provided and agreed.

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- 2.14 The organisers are keen to seek approval at this stage to permit them to liaise with local residents and surrounding businesses well in advance of the event.**

Noise issues

- 2.15 The Service has notified the Environmental Protection Unit (EPU) of the event and their request for late night entertainment to 12.00 am.**
- 2.16 The Unit is supportive of all events aimed at improving the attractiveness and diversity of the City. They are committed to working with licensees to ensure these events are successful and to achieve a balance between the rights of residents, the event, the promotion of the city and the wider benefits to the local economy.**
- 2.17 Given the cumulative impact of several late consecutive nights and potential sleep disturbance to nearby residents, Officers are concerned that there is a greater potential for complaints after 11.00 pm. Members are reminded that the Clean Neighbourhood And Environment Act 2011 gives councils additional powers in relation to entertainment noise after 11.00pm.**
- 2.18 Organisers will be required to provide a noise assessment report in conjunction with a detailed Noise Management Plan well in advance of the event. This must satisfy the relevant standards enforced by EPU and the Council.**
- 2.19 The organisers have confirmed that residents within the vicinity of the venue will be provided with information regarding all activities associated with the festival. This information will include details relating to the actual event and the pre and post setup arrangements. Details of the finish times for each night's entertainment will be highlighted. A copy of the letter to be sent to all residents has been circulated to members.**
- 2.20 Due to the proximity of St Anne's Cathedral, the Council will also liaise with them and the promoter to ensure Services at the Cathedral are not disrupted and provision made where necessary.**
- 2.21 An officer from EPU will be available at your meeting to advise on any concerns regarding the proposed event.**

3.0 Resource Implications

Financial

- 3.1 Officers will be required to carry out inspections at the event but this is catered for within existing budgets.**

Human Resources

- 3.2 None.**

Asset and Other Implications

- 3.3 None.**

4.0 Equality and Good Relations Considerations

- 4.1 There are no equality or good relations issues.**

5.0 Recommendations

- 5.1 Having considered this information and any representations received you are then required to determine, subject to all technical requirements being met:**

- if any or all of the proposed 3 nights for Feile An Earraigh in March 2015 should be permitted to take place beyond the standard hours of licence and, if so;**
- determine an appropriate finishing time for each of the proposed extended nights of the event.”**

After discussion, during which the Head of Building Control confirmed that officers would work with the applicant to ensure that the events would not impact upon local churches, educational establishments and residents, the Committee agreed, in its capacity as Licensing Authority, that, subject to all technical requirements being met, the standard hours on the Marquee Entertainments Licence for the Writers' Square be extended to enable entertainment to take place on Friday 13th, Saturday 14th and Monday 16th March, 2015 till midnight.

Application for the Renewal of a Stationary Street Trading Licence

The Committee was reminded that, at its meeting on 20th August, it had considered an application from Mr. M. Gulusen for the renewal of a Stationary Street Trading Licence for a designated site in Berry Street, 36 feet from its junction with Royal Avenue. The Committee had, in renewing the Licence in November, 2012, acceded to Mr. Gulusen's request to sell additional commodities and to trade from a custom made trailer type stall, on

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condition that leather goods make up 50% of those commodities and that the trailer be removed from the site at the end of each day's trading.

The Head of Building Control reminded the Committee that, at its meeting on 20th August, it had been advised that Mr. Gulusen had breached continually the conditions of his Licence and had failed consistently to cooperate with Council officers, despite assurances around his future conduct which had been provided in the past by his legal representative. It had been pointed out at that meeting that complaints had been received from a business located on the junction of Berry Street and Royal Avenue advising that the licensee's trailer was being left in Berry Street overnight and that he was operating in front of their premises, some distance from his designated site. Complaints had been received also from the Roads Service and from members of the public regarding Mr. Gulusen's failure to remove his trailer. The officers had confirmed also that he had been trading away from his designated site and that he had not been offering for sale any leather goods, as required under the terms of his Street Trading Licence. In addition, he had continued to trade despite failing to make payment to the Council for the use of a subsistence licence whilst his application was being processed.

On that basis, the Committee had agreed that it was minded to refuse the application submitted by Mr. M. Gulusen for the renewal of his Stationary Street Trading Licence, on the discretionary grounds as set out within Section 9 (1) (c) of the Street Trading Act (Northern Ireland) 2001, in that he was, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a Street Trading Licence.

The Committee was informed that Mr. Gulusen had been advised of the Committee's decision and, as required under the aforementioned Act, been afforded the opportunity to make representation in writing to the Council. However, subsequent to that notification, officers had, on 8th November, observed him selling umbrellas from a small table approximately twenty feet from his licensed site. That was in direct contravention of the conditions of his Street Trading Licence, which required him to use either his approved stall or a custom made trailer type stall and to offer for sale a proportion of leather goods. Formal action had since been initiated by the Council regarding that infringement.

The Head of Building Control reported that the licensee and his legal representative were in attendance in order to address the issues which had led to the Committee's decision of 20th August. Accordingly, Mr. M. Gulusen, together with Mr. K. Gribben, Barrister, were welcomed to the meeting.

Mr. Gribben explained that his client's original stall had been rendered unusable due to repeated vandalism and that he had been required to use other stalls whilst a replacement, costing £500, was being commissioned. His client accepted that he should have sought the Council's approval to use those stalls during the interim period. He stated that Mr. Gulusen had, on only one occasion, been fined by the Council for operating away from his designated site and that he had been under the impression that that was the point at which his site commenced. That fine had been paid in full, as would be the case also in relation to those fees owing to the Council for the use of a subsistence licence.

In terms of breaching the licensing condition stipulating that 50% of the goods sold should be made from leather, it was pointed out that Mr. Gulusen had had goods stolen from

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his trailer whilst it had been left overnight on the street. Given that the leather goods were crafted by him and that he had had sustained serious injuries to his arms as a result of an assault, it had taken some time for him to replenish his stock. As the stall was his only source of income, he had had no alternative but to continue trading and sell other commodities, however, it was still his intention to sell leather goods from his stall. It was pointed out also that Mr. Gulusen had, on two occasions, arranged for a friend to remove his trailer from his site once trading had ceased. However, that person had failed to adhere to the arrangement or to contact Mr. Gulusen, which meant that the trailer had remained on the site on those nights. Mr. Gribben concluded by stating that his client refuted the allegation that he had failed consistently to cooperate with Council officers.

The Chairman thanked Messrs. Gulusen and Gribben for being in attendance and they left the meeting.

During discussion, the Head of Building Control informed the Members that Mr. Gulusen had, for many years, failed on a repeatedly to operate in accordance with the terms of his Street Trading Licence, particularly around the commodities offered for sale, the type of stall used and its removal from the site at the end of trading. He pointed out that officers had attempted to draw those issues to Mr. Gulusen's attention, by way of letters and by telephone and had met with him in person, however, those issues had been ignored consistently and remained to be addressed. He added that, should the Committee rescind its decision of 20th August to revoke his Licence, it would convey a negative message to those traders who operated in accordance with the Street Trading Act (Northern Ireland) 2001.

After discussion, it was

Moved by Councillor Hutchinson,
Seconded by Alderman Webb and

Resolved – That the Committee agrees, in its capacity as Licensing Authority, to affirm its decision of 20th August to refuse the application submitted by Mr. M. Gulusen for the renewal of his Stationary Street Trading Licence, on the discretionary grounds as set out within Section 9 (1) (c) of the Street Trading Act (Northern Ireland) 2001, in that he was, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a Street Trading Licence.

The Committee noted that the applicant could, at any time before the expiration of the period of twenty-one days from the date on which notice of the decision was given by the Council, appeal the decision through the Magistrate's Court.

Revocation of a Mobile Street Trading Licence

The Committee was reminded that, at its meeting on 17th September, it had agreed that it was minded to revoke a Mobile Street Trading Licence held by Mr. Angelo Morelli permitting him to sell ice cream, confectionery and non-alcoholic beverages from Monday to Sunday in the Ardoyne, Cliftonville, Duncairn, Falls, Fortwilliam and Oldpark areas of the City. That decision had been taken on the grounds that the licensee had, without reasonable explanation, failed to pay fees or charges due to the Council under Section 10 of the Street Trading Act (Northern Ireland) Act 2001.

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The Head of Building Control reported that Mr. Morelli had been informed of the decision and, in line with the requirements of the aforementioned Act, had been invited to either make written representation to the Council or attend a future meeting of the Licensing Committee. He explained that Mr. Morelli had since informed the Council in writing that his failure to trade, pay the requisite licence fee and communicate with officers had been due to a number of personal reasons, including two family bereavements. The Head of Building Control confirmed that Mr. Morelli had now paid in full all licence fees owed to the Council.

Accordingly, the Committee agreed, in its capacity as Licensing Authority, to rescind its decision of 17th September to revoke the Mobile Street Licence held by Mr. Angelo Morelli permitting him to trade in the Ardoyne, Cliftonville, Duncairn, Falls, Fortwilliam and Oldpark areas of the City.

Chairman