

Licensing Committee

Wednesday, 15th February, 2023

MEETING OF THE LICENSING COMMITTEE

HELD IN THE LAVERY ROOM AND REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Matt Collins (Chairperson); and
Councillors Bradley, Bunting, Canavan, Doran, Gormley,
Howard, Hutchinson M. Kelly, T. Kelly, Magee, McAteer,
McCann, McCullough, McKeown, Nelson and Smyth.

In attendance: Ms. N. Largey, Interim City Solicitor/Director of Legal and
Civic Services;
Mr. S. Hewitt, Building Control Manager;
Ms. K. Bentley, Director of Planning and Building Control
Ms. V. Donnelly, City Protection Manager;
Mr. K. Bloomfield, HMO Unit Manager;
Ms. L. Hillis, Principal Building Control Surveyor;
Mr. J. Cunningham, Senior Licensing Officer;
Mr. C. McLaughlin, Solicitor (Regulatory And Planning)
Mr. J. Hanna, Senior Democratic Services Officer; and
Ms. V. Smyth, Democratic Services Officer.

Apologies

Apologies were reported on behalf of Alderman Sandford.

Minutes

The minutes of the meeting of 14th December 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.

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.

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**Application for a New Licence to Operate a
House of Multiple Occupation for Apartment 2,
14 Fitzroy Avenue, Belfast, BT7 1HW**

The HMO Unit Manager informed the Committee that an application had been received for a new Licence to operate a House of Multiple Occupation (HMO) for 14 Fitzroy Avenue. He advised that the Applicant was Mr. A. Dodds and the Managing Agent was Ballygowan Limited trading as Belvoir South Belfast.

He reported that on the 31st January 2023, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ("the 2016 Act"), officers issued a Notice of Proposed Decision. The Notice of Proposed Decision stated that the Council proposed to refuse the licence on the grounds of overprovision. A statement of reasons for the proposal was included in the Notice of Proposed Decision. If the application was refused, the Applicants had a right of appeal to the County Court. An appeal must be lodged within 28 days of formal notification of the Council's decision.

The HMO Unit Manager provided the Members with background to the property which had the benefit of an HMO licence through the Northern Ireland Housing Executive in the name of the existing owner but which had expired on 14th August 2019. Further to this, on the 12th April 2019 a reminder letter was sent to Mr. Dodds informing him of the need to apply to renew the licence.

An inspection of the property took place on the 5th July 2019 in anticipation of an application being submitted, during which the Managing Agent was in attendance, however, the Council did not receive an application to renew the licence.

On 12th October 2022 an application for a Temporary Exemption Notice "TEN" was received and subsequently approved on the 19th October 2022, an extension to the TEN was approved on the 17th January 2023 which would expire on the 17th April 2023. No further extension to the TEN were permitted under the 2016 Act.

On the 27th September 2022 an HMO licence application was received from the owner of the accommodation.

The HMO Unit Manager explained that, as this was a new application, the HMO Unit had consulted with the Council's Planning Service which confirmed that on the 20th August 2007 permission was granted for "Change of use from existing HMO to 2 no. self-contained flats (1 no. HMO) and alterations" with the planning reference Z/2006/2887/F.

Further to this, The HMO Unit Manager added that for the purpose of determining whether or not the granting of a licence would result in an overprovision of HMOs in the locality of the accommodation and, in order to ensure consistency was both a planning and licensing authority, the locality was defined as being HMO Policy Area "HMO 2/22 Botanic, Holylands and Rugby" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015. He reported that Legal Services had advised that there was a clear requirement in section 8 of the 2016

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Act upon the Council to be satisfied that the granting of a licence would not result in overprovision.

The HMO Unit Manager advised that on the date of the assessment, 4th January 2023, there was a total of 1,112 licensed HMOs in HMO policy area "HMO 2/22 Botanic, Holylands, Rugby". This equated to 46.16% of the total dwelling units of 2409 within the policy area which in turn exceeded the 30% development limit as set out at Policy HMO 1. The 1,112 licensed HMOs had a capacity of 4951 persons.

On 25th January 2023 out of 39 premises available for rent within the BT7 area on the website PropertyNews.com there was 9 licensed HMOs which, from the information presented on the website, represented 41 bed spaces. The availability of the HMO accommodation ranged from immediately to August 2023. Anecdotal evidence from previous conversations with HMO managing agents suggested that there was currently a lack of HMO accommodation available in this locality.

He reported that, on 7th December 2022, the Ulster University Director of Campus Life told members of the Council's City Growth and Regeneration Committee that there was an "increase in competition for HMO's particularly from the NIHE, Immigration Services and statutory agencies and there were increasing accommodation issues across the housing sector which required a holistic view and should include the consideration of international student families and graduates looking for professional accommodation."

However, the QUB Director of Student Plus had confirmed to Members that the current trend indicated a significant move of students away from areas such as the Holylands, which had seen a fall in student numbers by 35 percent to purpose-built student accommodation blocks. She had told members that there were 7,000 purpose built managed student accommodation (PBMSA) rooms in the city – the majority built since 2018 and approximately 5,000 in the city centre.

He further reported that, in November 2022, monitoring information produced by the Council's Planning Services for PBMSA indicated that 2154 bedspaces were currently under construction with 646 bedspaces becoming operational in September 2023. With the continued expansion of the PBMSA sector and students transitioning from private rentals in the HMO 2/22 Botanic, Holylands, Rugby policy area to PBMSAs, it was too early to tell whether the increased competition from non-students for HMOs was a temporary problem (which could be managed by the contraction in students residing in existing HMO accommodation within the locality) or evidence of an emerging long-term supply issue.

The HMO Unit Manager added that, in assessing the number and capacity of licenced HMOs as well as the need for HMO accommodation in the locality, officers could not be satisfied that the granting of the HMO licence would not result in overprovision of HMO accommodation in the locality of the accommodation for the purpose of section 8(2)(d) of the 2016 Act.

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The Applicant and Managing Agent had confirmed that they had not been convicted of any relevant offences, and that there had been no relevant enforcement action taken with regard to day or night-time noise, rubbish accumulation, litter or waste.

The HMO Unit Manager referred to Representations on behalf of the Applicant dated 3rd February 2023 and the officer's response to representations made on 3rd February 2023. He provided details and timelines which were contained within the documentation and communications set out in the appendices. Subsequent representations had been submitted from both the Applicant and Managing Agent which had been circulated by Democratic Services to the Members in advance of the Committee meeting. He reported an issue whereby the Applicant had claimed that, in relation to the new application, an officer from HMO Services had told Mr. Dodds via email that the file had been completed on 26th October 2022. The HMO Unit Manager had consulted with the officer and checked the records and stated that there was no evidence that this communication had been sent. The Managing Agent had been asked to supply a copy of the correspondence but it had not been forthcoming. He explained the importance of this because if the file had been completed by 26th October then the Council would have had 3 months to make a determination of the application and as that time had lapsed a deemed licence would have automatically been issued.

The Chairperson welcomed the Applicant, Mr. A. Dodds and the Managing Agent, Mr. S. Hewlett to the meeting.

Mr. Dodds provided the Members with details of the property and described it as a quality property which was lightly occupied for the footprint of the building. He referred to the email that could not be traced and advised that that he had been working on the premise that the property was an HMO. He informed the Committee that he had religiously kept up to date with the requirements of HMO legislation. He added that the situation was galling as he had invested over £100,000 into the property. Mr. Dodds informed the Committee that he had received a grant for the property and the decision to refuse the licence would be counterintuitive. He concluded that he hoped common sense would prevail.

Mr S. Hewlett added that the lack of licence prevailed under the banner of Steve Hewlett Associates. He referred to a 'doorstep' conversation with a Council Technical Officer in 2019. He steadfastly repeated that the officer said that 'the licence would not be a problem' and stated that this could have been a misunderstanding or lack of HMO training during the transition period from the Northern Ireland Housing Executive and Belfast City Council. He also referred to a conversation which he claimed had taken place between an HMO Technical Officer and a member of Mr. Dodds' staff on 9th November 2022 whereby the officer apparently stated that he could see that the application had been uploaded on 20th to 24th October and didn't know why he was not notified. On that basis Mr. Hewlett felt that the 3-month period of grace had expired when the Council issued the Statement of Refusal at the end of January. He requested to adjourn the decision to give him time to review the paperwork and launch a formal appeal.

The Interim City Solicitor/Director of Legal and Civic Services clarified the legal process in relation to the request to defer the decision. She reminded the Members of

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their obligations as a quasi-judicial Committee in that they would have to engage with the request to defer and it was a matter for the Committee to decide how to engage.

A Member referred to the time given to the Applicant and Managing Agent to provide the information requested. The HMO Unit Manager confirmed that the Notice of Proposed Decision had been issued on 31st January 2023 and engagement had taken place with Mr. Dodds and Mr. Hewlett through correspondence. Another Member also questioned the 3 years which had lapsed since the potential administration error.

The Committee agreed to refuse the application on the basis that granting the licence would result in overprovision.

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 14-Day Occasional Outdoor Entertainments Licence for Drumglass Park

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

"1.0 Purpose of Report or Summary of main Issues

1.1 To consider an application for the grant of a 14-day Occasional Outdoor Entertainments Licence in respect of Drumglass Park.

| <u>Area and Location</u> | <u>Ref. No.</u> | <u>Applicant</u> |
|--|-----------------|--|
| Drumglass Park Lisburn Road Belfast, BT9 6JF | WK/2022/01411 | Mr David Sales City and Neighbourhood Services Department Belfast City Council |

1.2 A location map is attached as 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 grant of the 14-Day Occasional Outdoor Entertainments Licence, or
- b) Approve the application for the grant with special conditions, or
- c) Refuse the application for the grant of the 14-Day Occasional Outdoor Entertainments Licence.

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

3.1 Drumglass Park is owned by Belfast City Council and was previously licensed to provide outdoor entertainment until the 7 Day Annual Licence expired on 31 July 2015.

3.2 Belfast City Council currently holds a 14-Day Occasional Indoor Entertainments Licence for a marquee in respect of Drumglass Park.

Application and representations

3.3 As for all licences associated with Council parks the applicant is the Director of City and Neighbourhood Services.

3.4 The standard days and hours for an Outdoor Entertainments Licence are:

- Monday to Sunday: 11.30am to 11.00pm.

3.5 In addition, Special Conditions are attached to Outdoor Entertainments Licences related to setting limits on maximum numbers and implementing a robust system of dealing with complaints.

Representations

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

PSNI

3.7 The Police Service of Northern Ireland have been consulted and has confirmed that they have no objection to the application.

3.8 A copy of their correspondence is attached at Appendix 2.

NIFRS

- 3.9 The Northern Ireland Fire and Rescue Service have been consulted in relation to the application and has confirmed that they have no objection to the application.

Health, safety and welfare

- 3.10 Officers from the Service will engage with the applicant and event organisers in the lead up to events to ensure all documentation and technical information is in place.
- 3.11 Additionally, officers will inspect the site during the build of the event space and following its completion to ensure they are satisfied all safety and management procedures are in place.

Noise

- 3.12 The applicant will be required to provide a Noise Management Plan for events which will be provided to the Environmental Protection Unit (EPU) for evaluation. Council Officers work with the promoter in order to assess the noise that may be generated from the event and to minimise the potential for noise disturbance.
- 3.13 Members will also recognise that noise generated by outdoor concerts is likely to lead to some level of disturbance for local residents. Even if guideline levels are met there is no guarantee that complaints will not be received. Conversely, if a recommended level is exceeded this may not necessarily lead to complaints as people may be prepared to tolerate the event because it will only last for a limited period of time.

Applicant

- 3.14 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

- 3.15 None.

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

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

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The Committee approved the application for the grant of the 14-Day Occasional Outdoor Entertainments Licence.

**Application for the Grant of a 7-Day Annual
Outdoor Entertainments Licence for Páirc
Nua Chollann, Stewartstown Road**

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

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 in respect of Páirc Nua Chollann, Stewartstown Road.

| <u>Area and Location</u> | <u>Ref. No.</u> | <u>Applicant</u> |
|---|-----------------|---|
| Páirc Nua Chollann, Stewartstown Road Belfast, BT17 | WK/202002613 | Mr David Sales City and Neighbourhood Services Department Belfast City Council |

- 1.2 A location map is attached as 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 grant of the 7-Day Annual Outdoor Entertainments Licence, 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.

- 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

- 3.1 Páirc Nua Chollann is a newly developed community event space located on Stewartstown Road which will be operated

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by Belfast City Council. The community event space includes an outdoor gym, an education zone, a cycle 'pump track' and walking and cycling routes.

3.2 The application for the grant of an Entertainments Licence at the venue is to support community events which are to be hosted in park.

3.3 A site plan for Páirc Nua Chollann is attached as Appendix 2.

Application and representations

3.4 As for all licences associated with Council parks the applicant is the Director of City and Neighbourhood Services.

3.5 The standard days and hours for an Outdoor Entertainments Licence are:

- Monday to Sunday: 11.30am to 11.00pm.

3.6 In addition, Special Conditions are attached to Outdoor Entertainments Licences related to setting limits on maximum numbers and implementing a robust system of dealing with complaints.

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 have been consulted and has confirmed that they have no objection to the application.

3.9 A copy of their correspondence is attached at Appendix 3.

NIFRS

3.10 The Northern Ireland Fire and Rescue Service have been consulted in relation to the application and has confirmed that they have no objection to the application.

Health, safety and welfare

- 3.11 Officers from the Service will engage with the applicant and event organisers in the lead up to future events to ensure all documentation and technical information is in place.
- 3.12 Additionally, officers will inspect the site during the build of the event space and following its completion to ensure they are satisfied all safety and management procedures are in place.

Noise

- 3.13 All event organisers seeking to host musical entertainment at the event space will be required to provide a Noise Management Plan which will be provided to the Environmental Protection Unit (EPU) for evaluation. Council Officers work with the promoter in order to assess the noise that may be generated from the event and to minimise the potential for noise disturbance.
- 3.14 Members should also recognise that noise generated by outdoor concerts is likely to lead to some level of disturbance for local residents. Even if guideline levels are met there is no guarantee that complaints will not be received. Conversely, if a recommended level is exceeded this may not necessarily lead to complaints as people may be prepared to tolerate the event because it will only last for a limited period of time.

Applicant

- 3.15 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

- 3.16 None.

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

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

The Committee approved the application for the grant of the 7-Day Annual Outdoor Entertainments Licence.

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Non-Delegated Matters

Designation of New Street Trading Sites

The Building Control Manager informed the Members that under the provisions of the Street Trading Act (NI) 2001 a district council had powers to designate and rescind the designation of specific streets or parts of streets as being suitable for street trading. The Act also allowed a council to vary a previous designating resolution in relation to the commodities or services to be supplied in specific streets. He explained that, if a street or the commodity to be offered had not been designated under the Act, the Council could not issue a licence for street trading from a stationary position in that street. The process of considering and reviewing the designation of streets was therefore an essential part of the legal framework within which the Council was enabled to regulate street trading in the City.

The Building Control Manager advised the Members that the Act set down the procedures which must be followed in considering a designating resolution, including the types of trading which may or may not take place in that street. The main steps the Council must undertake were summarised as follows:

- a) Give public notice of the proposed resolution;
- b) Consult with the PSNI and the Department for Infrastructure and other persons it considered appropriate;
- c) Consider any representations relating to the proposed resolution which it had received;
- d) After the Council had considered those representations it may, if it thought, pass the designating resolution; and
- 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 resolution would come into effect.

The Building Control Manager advised that a further report would be brought before the Committee at a future meeting detailing the outcome of the process of consultation. He added that, at that stage, Members would be able to determine the designation of the street along with any restriction on the commodity to be sold and any recommendations regarding the restriction on the times of trading.

Proposed Sites

| Location | Proposed Commodities/Services |
|--------------------------|--------------------------------------|
| Writers Square (6 sites) | Commodities to be determined |

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| | |
|------------------------------|--|
| Annadale Embankment in layby | Hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities. |
|------------------------------|--|

The Committee considered the applications that had been received for the creation of new designated sites and approved:

- The publication of the statutory 28-day notice of the proposed resolution; and
- To commence consultation with statutory bodies and other persons who may have an interest in the proposals.

Chairperson