



Subject:	Two competing Stationary Street Trading Licence applications for the designated site at Boucher Crescent.
Date:	16th September, 2015
Reporting Officer:	Trevor Martin, Head of Building Control, Ext 2450
Contact Officer:	Stephen Hewitt, Building Control Manager, Ext 2435

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	To consider two separate and competing Stationary Street Trading Licence applications to sell hot food and non alcoholic beverages from the vacant designated site in Boucher Crescent.
1.2	Committee will recall that you previously considered competing applications for this site at your meeting of the 21 st January 2015. However, the site has since become vacant and none of the previous unsuccessful applicants are interested in the site.
1.3	The applicant who was granted the licence did not utilise it and has since advised us that he no longer wishes to operate from the site and wants to cancel his licence.
1.4	Both of the applications comply with the designating resolution for the site.
1.5	Details of the applications are outlined below:
1.6	Applicant 1 Miss Kathy Finn has applied to sell hot food and non alcoholic beverages from a hot food trailer measuring 5.5m by 2.15m. The proposed times of trading are Monday to Saturday from 9.00am to 6.00pm.
1.7	Miss Finn is not currently registered as a food premises and does not hold a Food Hygiene Rating. She has previously held temporary licences to trade at the 12 th July parades in Belfast and has been inspected and approved by the Council's Environmental Health Officers on the day of trading. Miss Finn does not trade anywhere on a permanent basis.
1.8	Applicant 2 Mr Christopher Hamill has applied to sell hot food and non alcoholic beverages from a hot food trailer measuring 6m by 2.20m. The proposed times of trading are Monday to Saturday 7.00am to 4.00pm.

1.9	Mr Hamill currently operates inside the B&Q car park on Boucher Road and as such does not require to be licensed. B&Q have informed him that they are closing the premises at Boucher Road and he will no longer be permitted to operate at this location. He has not been informed of the date of closure.
1.10	Mr Hamill is currently registered as a Food Business Premises with Belfast City Council and holds a Food Hygiene rating of 5.
1.11	The Service has had no enforcement issues with either applicant.

2.0	Recommendations
2.1	Based on the submissions presented and considering any amendments to the applications, the Committee is requested to consider each application in turn, taking into account Section 5 of the Street Trading Licensing Policy outlined in paragraph 3.5, and decide whether it is minded to: <ol style="list-style-type: none"> 1. Grant and approve the Licence to Miss Kathy Finn; or 2. Grant and approve the Licence to Mr Christopher Hamill; or 3. Grant and approve the Licence to one of the applicants with additional Conditions, and then; 4. Refuse the licence application, under the discretionary grounds as outlined at paragraph 2.3 above, of the applicant who has not been granted a licence.
2.2	Members may attach any reasonable conditions when granting a licence.
2.3	When minded to refuse a licence application the applicant must be informed that they will be permitted to make representation regarding the refusal to the Council, with such representations to be made not less than 21 days from the date of notice.
2.4	As a consequence, the actual decision to grant and refuse the licences will be considered at a meeting on a later date. There is a right of appeal to the Magistrate's Court against any refusal on these grounds.

3.0	Main report
	<u>Key Issues</u>
3.1	The Street Trading Act (Northern Ireland) 2001 (the Act) places a statutory obligation on a district council to grant an application for a Street Trading Licence unless there are sufficient grounds to refuse it.
3.2	Section 8 of the Act sets out circumstances in which an application must be refused, however there are no such grounds of refusal applicable to these licence applications.
3.3	Section 9 of the Act sets out discretionary grounds under which a district council may refuse to grant an application. <ol style="list-style-type: none"> a. That – <ol style="list-style-type: none"> i. The location at which the applicant wishes to trade as a stationary trader is unsuitable;

- ii. The space in the designated street in which the applicant wishes to trade as a stationary trader is inadequate for the applicant to do so without causing undue interference or inconvenience to persons or vehicles using the street;
- iii. The area or areas of the district in which the applicant wishes to trade as a mobile trader are unsuitable for the applicant to do so without causing undue interference or inconvenience to persons or vehicles in the area or areas;
- iv. There are sufficient traders trading in the street, or at premises adjoining it, in the articles, things or services in which the applicant wishes to trade;
- v. The nature of the articles, things or services in which the applicant wishes to trade is such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area in which the applicant wishes to trade;
- b. That the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;
- c. That the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;
- d. That the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;
- e. That the applicant has at any time been granted a street trading licence by the council, which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to the council in respect of the licence;
- f. That the applicant has failed to provide the particulars required by the council to deal with the application;
- g. That the applicant has failed to provide or identify suitable or adequate arrangements for storing any articles, things or receptacles in or with which he proposes to trade.

3.4 There is a right of appeal to the Magistrate's Court against any refusal on these grounds.

3.5 Members are reminded that the Council, in March 2011, agreed an amended Street Trading Licensing Policy to allow for circumstances where there are two or more applications for the same designated pitch within the City. Section 5 of the Policy provides guidance on how to deal with competing licence applications and states that without prejudice to the discretionary grounds for refusing an application the Council may also take the following into account:

1. The suitability of the application in the context of the area or street;
2. The suitability of allowing more than one application in the area or street;
3. The commodities or services which each applicant intends to sell or supply;
4. The merits of each application in the context of the character and appearance of the proposed area;

<p>3.6</p> <p>3.7</p> <p>3.8</p> <p>3.9</p>	<p>5. Whether a mobile trader/a number of mobile traders will affect the character and appearance of the proposed area;</p> <p>6. Any potential adverse impact caused to the character and appearance of the proposed location by the application, by a mobile trader or by a number of mobile traders;</p> <p>7. The extent to which the sale of the commodity will provide a useful service not otherwise provided in the area.</p> <p>The applicants have been invited to appear before Committee and make a brief presentation on matters such as how the business will be operated, the design of the stall, how the commodities they propose to sell will add to the area and address any concerns with their proposals.</p> <p>After considering representations from the applicants you will then be required to make a minded to decision to grant one of the applications and refuse the other.</p> <p><u>Financial & Resource Implications</u></p> <p>If the Committee grants a licence, the Street Trading Licence fee is as follows:</p> <ul style="list-style-type: none"> • Application Fee of £100, and • A Licence fee, for Monday to Saturday £800. <p><u>Equality or Good Relations Implications</u></p> <p>There are no equality or good relations issues.</p>
---------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>4.0</p>	<p>Appendices – Documents Attached</p>
	<ul style="list-style-type: none"> • Appendix 1: Mr Hamill’s trailer.