



Subject:	Application for the Grant of a Seven-day Annual Entertainments Licence - Hole in the Wall, 1–3 Baltic Avenue
Date:	20th January, 2016
Reporting Officer:	Trevor Martin, Head of Building Control, ext. 2450
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

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

1.0	Purpose of Report/Summary of Main Issues						
1.1	To consider an application for the grant of a Seven-day Annual Entertainments Licence for the Hole in the Wall, based upon the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.						
1.2	Members are reminded that, at the meeting on 16 th December 2015, you agreed to consider the application at your January monthly meeting, to which the objector and the applicant would be invited to attend. <table><thead><tr><th>Premises and Location</th><th>Ref. No.</th><th>Applicant</th></tr></thead><tbody><tr><td>Hole in the Wall 1-3 Baltic Avenue, Belfast BT15 2HR</td><td>WK/2015/01058</td><td>Gerard Conn H.I.T.W. Limited 1-3 Baltic Avenue Belfast</td></tr></tbody></table>	Premises and Location	Ref. No.	Applicant	Hole in the Wall 1-3 Baltic Avenue, Belfast BT15 2HR	WK/2015/01058	Gerard Conn H.I.T.W. Limited 1-3 Baltic Avenue Belfast
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1.3	Members should be aware that an initial application was received on 5 th May 2015 from Mr. Conn, H.I.T.W. Limited,. However that application was not completed and Mr. Conn subsequently resubmitted a further application on 28 th August, 2015. A copy of the application form is attached at Appendix 1.						
1.4	A petition of objections was received on 9 th September from local residents regarding the application within the 28-day statutory consultation period.						
1.5	The reason the application has not been brought before you for consideration until now is that Officers of the Service have attempted to engage with all parties affected by the application to convene liaison meetings and address the issues. However this has proved to be difficult as the objectors do not want to meet with the applicant.						

1.6	A location map is attached at Appendix 2.
2.0	Recommendations
2.1	<p>Taking into account the information presented and representations received in respect of the application you are required to make a decision to either:</p> <ol style="list-style-type: none"> 1. approve the application for the grant of the Seven-day Annual Entertainments Licence, or 2. approve the application for the grant with special conditions, or 3. refuse the application for the grant of the Seven-day Annual Entertainments Licence.
2.2	<p>If the 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 Recorders Court.</p>
3.0	Main report
3.1	<p><u>Key Issues</u></p> <p>Under the terms of the Local Government (Miscellaneous Provisions) (NI) Order 1985, the Committee, when considering an application, must have regard to any representation which is received within the 28 day statutory period.</p> <p><u>Representations</u></p> <p>Public notice of the application was duly placed and a total of 13 signatures in the form of a petition were received. The signatures are all from residents of Baltic Avenue. Members should note that whilst the nature of some of the representations relate to music noise from the premises, Officers of the Service have monitored the premises and observed that it is not music that would require an Entertainments Licence.</p> <p>The general nature of the objections referred to in the petition relate to the following:</p> <ul style="list-style-type: none"> • the premises are located in a residential street and the owner of the premises shows no regard for their neighbours; • loud music can be heard in the street and inside resident homes at weekends; • The noise disturbs their peace and right to enjoy their homes; and • It is very difficult and distressing and impacts both mentally and physically on the health of our families, through stress and lack of sleep. <p>In the petition, the residents make allegations about the lack of response from the Council and refer to the following points:</p> <ul style="list-style-type: none"> • they are afraid of retaliation if they permit officers entry to take noise readings, as we have requested, in order to validate their complaints; despite officers observing music noise levels from the street, which weren't loud enough to warrant enforcement action, that it's still difficult to watch TV with background noise going on 3 days a week; • why do Officers check for doors and openings being open to facilitate noise break out and inform planning, yet how has it not been identified until now that the premise does not have an Entertainments Licence;
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3.5	<p>The petition also refers to other issues they have contacted the PSNI about, as follows:</p> <ul style="list-style-type: none"> • fighting, bottling and arguing on a weekly basis and often on all 3 nights at the weekend; • noise caused by people smashing the windows of the bar; • noise caused by people trying to regain entry when they have been thrown out; The bar kicks them out and closes its doors, leaving the residents to deal with the fall out; • damage to property and cars by drunks; and • residents have had to go out and move their cars down the street away from people throwing things at each other.
3.6	<p>The residents also allege that they have to deal with the following problems:</p> <ul style="list-style-type: none"> • drunks making “polite conversation” with their children and babies; • men urinating in the street, in the afternoon and at night; • drunks, vomiting and littering; • they are unable to walk down their street in the evening because of drunks outside smoking; • they are kept awake until the bar closes and the drunks leave the street; • we have drunks past our houses and cars and it isn’t fair or safe; • the impact on family life is already destructive; and • the nuisances seen to increase when private parties are held or rave music played as these attract a younger crowd.
3.7	<p>The residents state that this is the second letter they have written; however we have not received any other correspondence from the residents regarding the premises since it was previously considered by the Licensing Committee in 2012. A copy of the petition is attached at Appendix 3.</p>
3.8	<p>We can assure the Committee that every complaint has been followed up with both the applicant and complainant and that as part of this application, all 13 residents received an acknowledgement of their objection and notification that Officers of the Service would facilitate a meeting.</p> <p><u>Liaison meetings</u></p>
3.9	<p>As part of due process and to try and resolve the residents’ concerns, Officers of the Service offered to facilitate liaison meetings with all parties. However, when Officers invited residents to attend a meeting, only three of them responded by telephone, to confirm they would be willing to attend a meeting with officers from the Service. All three respondents made it clear that they would not attend any meeting where the applicant and/or the applicant’s representative were present. None of the other ten residents responded or acknowledged our correspondence.</p>
3.10	<p>As a result, Officers agreed to meet with the residents and applicant separately to try and negotiate an agreement and resolve the issues. However, when Officers sent out further invites to attend a meeting at Building Control offices, none of the residents turned up. They also did not send us any apologies or acknowledgements to advise of their absence or failure to attend the meeting.</p>
3.11	<p>Officers have met with the applicant and or his business colleague, Gavin Hawkins on a number of occasions. The applicant has cooperated fully with the Council and appears keen to address residents’ concerns.</p>

3.12	<p>However, as an agreement was unable to be negotiated we subsequently informed all parties that the matter would have to be considered by the Licensing Committee. Following your agreement to consider the application at this month's Committee meeting and as part of the Committee Protocol, we sent each party a copy of the relevant Representation Form and requested it to be provided in advance of the meeting to be presented to the Committee for consideration. The date given to the objectors was the 30th December 2015, 3 weeks in advance of your meeting and in accordance with the Committee Protocol. This is to ensure appropriate time to share the information between all parties and to allow Officers to articulate the points within the report for your consideration.</p>
<p><u>Objectors Representation</u></p>	
3.13	<p>The objectors Representation Form was hand delivered to each of the objectors from Baltic Avenue. The applicant was also provided with a copy of their respective Representation Form.</p>
3.14	<p>Unfortunately, none of the objectors have submitted a completed Representation Form. Officers contacted the objectors and offered to give them further time to make their representation but no representations have been provided to date.</p>
3.15	<p>At the time of writing this report, two objectors have confirmed that they will not be available to attend Committee. The remaining 11 objectors have not confirmed whether they will be available to attend your meeting. Additionally, the objectors who confirmed they would not be available to attend Committee stated that they were confident that the other objectors would also not be attending.</p>
<p><u>Applicants Representation</u></p>	
3.16	<p>The applicant has provided a Representation Form, as required by the protocol, and a copy of his response is attached at Appendix 4. Despite the application being a new grant application, he is willing to adopt the previous terms, conditions and Action Plan, which was drawn up in agreement with the Council, PSNI and residents of Baltic Avenue in 2012.</p>
3.17	<p>Furthermore, despite the objectors not submitting Representation Forms, the applicant agreed to nonetheless provide a copy of his Representation Form to them and at the time of writing this report we have not received any further counter claim or representation from the objectors.</p>
3.18	<p>The applicant and/or their representatives will be available at your meeting to answer any queries you may have in relation to the application.</p>
<p><u>Details of the Premises</u></p>	
3.19	<p>The areas previously licensed to provide entertainment are the:</p> <ul style="list-style-type: none">• Ground floor public bar with a maximum capacity of 70 persons• First floor a maximum capacity of 170 persons• Second floor with a maximum capacity of 70 persons
3.20	<p>As a technical matter, the numbers are being reviewed to consider the reconfiguration and seating layout of the premise. Officers will finalise and deal with this matter if you are of the mind to grant the premises an Entertainments Licence.</p>

3.21	<p>The days and hours during which the premises were licensed to provide entertainment:</p> <ul style="list-style-type: none"> • Monday to Thursday: 11.30 am to 11.00 pm, • Friday and Saturday: 11:30 am to 01:00 am and, • Sunday: 12.30 pm to midnight
3.22	<p>Members should note that this application is for the identical days and hours as was in the previous application.</p>
3.23	<p>The applicant is also content to accept the special conditions attached to the previous Entertainments Licence are as follows:</p> <ul style="list-style-type: none"> • agree to the Action Plan as set out on the reverse of the licence. • entertainment (pool tournaments only) shall be permitted from 11.00pm to midnight on a Monday, Tuesday, Wednesday or Thursday. • entertainment shall be permitted from 11.00 pm to 1.00 am should Valentine's Day, St. Patrick's Day, Easter Monday or Tuesday, Halloween, Christmas Eve or New Year's Eve fall on a Monday, Tuesday, Wednesday or Thursday.
3.24	<p>The Action Plan referred to previously, which the applicant has agreed to adopt, is attached at Appendix 5.</p>
<p>History of the Premises</p>	
3.25	<p>The applicant previously applied for the transfer and renewal of the Entertainments Licence on 18th January 2011 and, at a meeting of the Licensing Committee on 11th April 2011, Members agreed to exercise their discretion to consider 10 letters of objection received from local residents all of which were outside the 28 day statutory representation period.</p>
3.26	<p>The application was subsequently considered at a meeting of the Licensing Committee on 19th September 2012 and Members agreed to grant the transfer and renewal subject to the licensee installing an appropriate noise limiting device and the Council facilitating monthly meetings between the licensee, the police and local residents.</p>
3.27	<p>A copy of the minutes of the Committee decision of 19th September 2012 is attached at Appendix 6.</p>
3.28	<p>The Entertainments Licence was further renewed in 2013 and expired on the 31st August 2014. No objections were received to the renewal of the Entertainments Licence in 2013.</p>
3.29	<p>Since 31st August 2014, when the licence expired, Mr Conn has been made aware that no entertainment should be provided without a valid Entertainments Licence. By way of explanation for the Entertainments Licence not being renewed in August 2014, Mr Conn explained that the premise had been leased from Beannchor Limited and he was in the process of purchasing it from them.</p>
3.30	<p>Members should note that the premises were monitored by the Service during this period and no entertainments were observed taking place.</p>
<p><u>PSNI</u></p>	
3.31	<p>The PSNI has been consulted and have no objection to the grant of the licence.</p>
3.32	<p>The PSNI was involved extensively with the liaison meetings for the transfer and renewal of the Entertainments Licence in 2012 when they previously had concerns with the operation of the premises. A copy of its correspondence is attached at Appendix 7.</p>

<p>3.33</p> <p>3.34</p> <p>3.35</p> <p>3.36</p> <p>3.37</p> <p>3.38</p> <p>3.39</p> <p>3.40</p>	<p><u>Health, safety and welfare inspections</u></p> <p>Upon receipt of the alleged noise complaints and objections to the application, Officers investigated the issues and allegations made. There have been several separate meetings with the applicant and telephone conversations with the objectors.</p> <p>Since the licence expired in August 2014, Officers from the Service have also carried out several monitoring inspections of the premises. Some of the inspections were a follow up to complaints to establish if Entertainment was taking place without a Licence and if there were any noise issues.</p> <p>The other inspections were proactive measures undertaken by the Service to check the same. None of the inspections uncovered entertainment taking place other than music being provided through the premises juke box and Television.</p> <p><u>Noise issues</u></p> <p>The Environmental Protection Unit (EPU) has been consulted in relation to the application and they have confirmed that a total of 30 complaints have been received over the last 12 months relating to noise break out from the premises.</p> <p>On each occasion Officers of the Noise Team endeavoured to respond and investigate the complaints. Officers of the Service also followed these up with the applicant but no evidence was uncovered to confirm that entertainment was taking place and they did not identify any noise issues. Details of complaints are attached as Appendix 8.</p> <p>Members are reminded that the Clean Neighbourhood And Environment Act 2011 gives councils additional powers in relation to the control of entertainment noise after 11.00pm.</p> <p><u>Financial and Resource Implications</u></p> <p>Officers carry out during performance inspections on premises providing entertainment but this is catered for within existing budgets.</p> <p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
<p>4.0</p>	<p>Documents Attached</p>
	<ul style="list-style-type: none"> • Appendix 1 – Application Form • Appendix 2 – Location Map • Appendix 3 – Objection Petition • Appendix 4 – Applicants Representation Form • Appendix 5 – Action Plan agreed in 2012 • Appendix 6 – Minutes from Meeting of 19th September 2012 • Appendix 7 – PSNI Correspondence • Appendix 8 – EPU comments / Noise complaints