



<b>Subject:</b>	<b>Application for the Grant of a Seven-day Annual Entertainments Licence - Beckett's Bar, 241 Stewartstown Road</b>
<b>Date:</b>	16th December, 2015
<b>Reporting Officer:</b>	Trevor Martin, Head of Building Control, ext. 2450
<b>Contact Officer:</b>	Stephen Hewitt, Building Control Manager, ext. 2435

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

<b>1.0</b>	<b>Purpose of Report/Summary of main Issues</b>						
1.1	Members will recall that, at your meeting on 12 <sup>th</sup> November, you agreed, in view of the public safety concerns which had been raised by the Head of Building Control, and by the Divisional Solicitor's representation in terms of the management of other premises operated by the applicant's family, to consider this application at your December meeting. It was agreed also, in light of the Head of Building Control's comments under public safety, that the Northern Ireland Fire and Rescue Service (NIFRS) and the applicant be invited to attend.						
1.2	<p>An application for the grant of a Seven-day Annual Entertainments Licence for Beckett's Bar was received on 15<sup>th</sup> July 2015, based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.</p> <table border="0"><tr><td><b>Premises and Location</b></td><td><b>Ref. No.</b></td><td><b>Applicant</b></td></tr><tr><td>Beckett's Bar, 241 Stewartstown Road, Dunmurry, BT17 0LA.</td><td>WK/2015/00780</td><td>Carol Hughes, Sharp NI Ltd, 60 Limehill Road, Lisburn, BT27 5LR.</td></tr></table>	<b>Premises and Location</b>	<b>Ref. No.</b>	<b>Applicant</b>	Beckett's Bar, 241 Stewartstown Road, Dunmurry, BT17 0LA.	WK/2015/00780	Carol Hughes, Sharp NI Ltd, 60 Limehill Road, Lisburn, BT27 5LR.
<b>Premises and Location</b>	<b>Ref. No.</b>	<b>Applicant</b>					
Beckett's Bar, 241 Stewartstown Road, Dunmurry, BT17 0LA.	WK/2015/00780	Carol Hughes, Sharp NI Ltd, 60 Limehill Road, Lisburn, BT27 5LR.					
1.3	A copy of the Application Form is attached at Appendix 1.						
1.4	A location map is attached at Appendix 2.						
1.5	Members will be aware that the premises are located within an area of the former Lisburn City Council which transferred over to Belfast City Council under Local Government Reform (LGR).						

<b>2.0</b>	<b>Recommendations</b>
2.1	<p>Taking into account the information presented and any representations received you are required to consider the application in light of the pending legal proceedings and to:</p> <ol style="list-style-type: none"> <li>1. approve the application for the grant of the Seven-day Annual Entertainments Licence, or</li> <li>2. approve the application for the grant with special conditions, in addition to the standard conditions, or</li> <li>3. refuse the application for the grant of the Seven-day Annual Entertainments Licence.</li> </ol>
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>
<b>3.0</b>	<b>Main report</b>
	<p><b><u>Key Issues</u></b></p> <p>3.1 Prior to this application being made, it came to our attention that entertainment was being advertised at the premises. This was despite the fact that, when dealing with the transfer of premises into Belfast under Local Government Reform, the Service undertook considerable engagement with all those premises transferring, including Beckett's Bar.</p> <p>3.2 As part of our engagement and management of premises coming into Belfast under LGR, on 5<sup>th</sup> June 2015, an officer of the Service hand delivered a welcome letter and application pack at a meeting with the management of the premises to help explain our application process and procedures. A copy of our letter to the premises is attached at Appendix 3.</p> <p>3.3 During this visit, it was explained that Beckett's Bar no longer held an Entertainments Licence and we advised that no entertainment was to be held on the premises until such times as a valid Licence was in place, otherwise legal proceedings may be initiated.</p> <p>3.4 Subsequent meetings and discussions were held between an officer of the Service, Mr. Eugene Hughes and the Bar Manager, Mr. Mark Skillen, on 10<sup>th</sup>, 18<sup>th</sup>, 23<sup>rd</sup> and 29<sup>th</sup> June 2015. Further discussions were again held on 2<sup>nd</sup>, 3<sup>rd</sup> and 6<sup>th</sup> July 2015.</p> <p>3.5 On each of these occasions we advised that we had observed entertainments being advertised on the Beckett's Bar Facebook page, despite there being no Entertainments Licence in force. They were reminded of our application process and we stressed the importance of not providing entertainment until a valid Entertainments Licence was issued.</p> <p>3.6 Despite our warnings, it was further observed that outdoor entertainment was being advertised at the premises and was proposed to take place on 10<sup>th</sup> July 2015.</p> <p>3.7 Accordingly, officers of the Service conducted a monitoring inspection at the premises on 10<sup>th</sup> July 2015 and witnessed entertainment taking place both outside, within the car park and on the first floor of the main premises, without valid Entertainments Licences being in place.</p> <p>3.8 In addition to entertainment being provided without a licence, on inspection of the premise the officers noted the following problems:</p>

- fire doors to the First Floor main stairwell/exit were being held open with fire extinguishers allowing fire/smoke potentially to spread within the building;
- items of equipment from the music event held within the car park were stored on the Ground Floor area of the main stairwell/exit route. This would have prevented effective means of escape from the premises;
- the escape stairs to the front of the building were obstructed with disused catering equipment at ground floor level which would have prevented effective means of escape from the premises;
- the final exit door from the front escape stair at Ground Floor level was locked by means of a padlock and chain attached to the doors panic bar and the handrail of the stairs. This would have prevented effective means of escape from the premises;
- the front escape stair had considerable pieces of broken glass and other items discarded throughout the area;
- the front escape stair also had no lighting available to show the changes in level to the exit route. This would also have prevented effective means of escape from the premises;
- the emergency exit signage/lighting was not maintained/illuminated as required in order to facilitate escape from the area and premises;
- an area of the fire resistant ceiling to the Ground Floor Store/Keg area had been removed. Stores should be enclosed in 30 minute fire resisting construction to prevent the fire spreading into other areas of the premises;
- the Fire Alarm Panel was showing a number of faults;
- no Rules of Management (ROM) or other similar and equivalent documentation were available when requested;
- no pre-event checks had been carried out and a checklist was not available for inspection; and
- the fire extinguishers had not been serviced since 2012 and 2013.

- 3.9 As part of the investigation into the matter and to give the applicant an opportunity to provide an explanation in relation to the offences, we sent the applicant a letter in accordance with the Codes of Practice issued pursuant to the Police and Criminal Evidence (NI) Order 1989 (PACE). A copy of our letter is attached at Appendix 4.
- 3.10 Subsequently, the applicant responded to the letter with an explanation for the breach. In brief, they explained that due to senior members of staff being away on holiday, less experienced staff allowed entertainment to take place in their absence. A copy of their response is attached at Appendix 5.
- 3.11 The matter has now been referred to Legal Services with a recommendation to prosecute the applicant for providing entertainment without a valid Entertainment Licence.
- 3.12 Members are advised that officers of the Service have continued to engage with the applicant's husband and representative, Eugene Hughes, and can confirm that they have

ceased advertising entertainment and continue to operate as a public bar only. The applicant has requested that the Council consider granting the premises an Entertainments Licence prior to the outcome of any legal proceedings in order for them to be able to provide entertainment.

3.13 The applicant also cites that jobs may be at risk as they may not be able to remain open and viably operate without the ability to provide entertainment.

3.14 Members are reminded that the normal process for dealing with Entertainments Licence applications, which are not the subject of objections, is that these will be granted as provided for in the Council's Scheme of Delegation.

3.15 Whilst it must be stressed that the applicant has not been convicted of any offence, in light of the fact that a file has been passed to legal services with a recommendation to prosecute and the applicant has requested the application is determined now, officers felt it was appropriate to refer the application to the Committee for consideration.

### **Premises**

3.16 Currently, the premises mainly operate as a Public Bar and Lounge Bar on the Ground Floor. The applicant has advised the Service that the First Floor is not used for entertainment.

3.17 This premises previously held an Entertainments Licence issued by Lisburn City Council, The applicant/licensee was John Hughes and it expired on 31<sup>st</sup> December 2010. A copy of that licence is attached to this report as Appendix 6.

3.18 The current application is to provide entertainment in the Ground Floor Lounge Bar. The applicant applied for a maximum occupancy of 150 persons, however, this area can accommodate approximately 250 persons. Lisburn City Council also licensed the area for 250 persons.

3.19 The days and hours during which entertainment is proposed to be provided are:

- Monday to Saturday: 12.30 p.m. to 1.00 a.m. the following morning and
- Sunday: 12.30 p.m. to 1.00 a.m. the following morning.

3.20 Layout plans of the proposed premise are attached at Appendix 7.

### **Previous Applications**

3.21 Members may be aware that the Licensing Committee has considered previous applications from other members of the applicant's family, namely Mr. Eugene Hughes, Mr. John Hughes and Mrs. Margaret O'Reilly (formerly Margaret Anne Hughes). Mrs. Carol Hughes is the wife of Eugene Hughes. John Hughes, Eugene Hughes and Margaret O'Reilly are siblings.

3.22 The family have been responsible for other premises within Belfast and the FORMER Lisburn area, such as;

- McEnaney's Bar, Glen Road,
- The Fiddlers Inn, Kennedy Way;
- The Blackstaff Bar, Springfield Road,
- The Sitting Room, Castle Street,
- Tony Romas, University Road,
- The Brook Lodge Bar, Twinbrook and
- Colin Mill Lodge, Poleglass.

3.23	Members may recall that Castle Street Inns Ltd, which operated The Sitting Room, The Blackstaff Bar, Beckett's Bar and The Brook Lodge Bar went into administration in January 2011. Omara Ltd, which operated McEnaney's Bar and Colin Mill Lodge, also went into administration in February 2011. Both of those companies were operated by members of the Hughes family.
3.24	Both companies were involved in protracted disputes with the administrators, KPMG. Members may recall that, just before going into administration, Omara Ltd allegedly entered into a sub-lease with Fernmount Trading Ltd in respect of both McEnaney's Bar and Colin Mill Lodge. Fernmount Trading Ltd then entered into a further sub-lease with Kiltiernan Enterprises Ltd in respect of McEnaney's Bar and Cedarpark Enterprises Ltd in respect of Colin Mill Lodge.
3.25	Emmanuel Hughes, who is the brother of Eugene and John, was a director of Fernmount Trading Ltd. The company is now dissolved after being struck off for not providing accounts.
3.26	The sole director of Kiltiernan Ltd was Emmanuel Hughes. That company is also dissolved after being struck off for not providing accounts.
3.27	The director of Cedarpark Enterprises Ltd at that time was Margaret O'Reilly and she is still currently listed as a director of the company. Eugene Hughes was subsequently appointed as a director on 1 <sup>st</sup> February 2014.
3.28	It would appear that the administrators did not accept that the sub-lease entered into with Fernmount Trading Ltd was lawful. This gave rise to the protracted dispute referred to above which ultimately led to the administrator issuing High Court proceedings for forfeiture of the premises.
3.29	As appears from the Judgment, the transfer of the lease to Fernmount allegedly occurred on 1 <sup>st</sup> October 2010. It made no reference to the liquor licence and it was not until the pleadings were being lodged in the forfeiture proceedings that Fernmount produced a letter dated 21 <sup>st</sup> November 2010 which declared that Omara Ltd also agreed to transfer the liquor licence. It was accepted by all parties to those proceedings that the premises were both trading without the benefit of the liquor licence until the PSNI intervened in October 2011. There had been no payment of rent since the administrator was appointed.
3.30	The court noted that the purported lease had been entered into only 2 months before the administrator was appointed. The administrator also advised the court that the lease had 'been drafted apparently from a website and not through any lawyers'. Whilst the court did not expressly comment on whether the leases were genuine, it did conclude that the company had not obtained the consent of the bank in respect of the lease or any sub lease. It also found that the letter purporting to prove the transfer of the liquor licence was not bona fide (paragraph 17).
3.31	When concluding the case, the Judge ruled that he found Eugene Hughes a "wholly unconvincing and imponderable witness who attempted to mislead the court on a number of salient issues". A copy of the Judgment is attached at Appendix 8.
3.32	Sharp (NI) Ltd currently leases Beckett's Bar from Fernmount Trading (NI) Ltd. Carol Hughes is currently listed as the sole director of Sharp (NI) Ltd. Margaret O'Reilly was also previously listed as a director of that company but resigned on the 1 <sup>st</sup> April 2014. However, Margaret O'Reilly and Carol Hughes are still currently listed as directors of Fernmount Trading (NI) Ltd.

3.33	<p>In 2012, the Licensing Committee refused an application from Margaret O'Reilly for the grant of an Entertainments Licence for The Fiddlers Inn. The application was refused on the following grounds:</p> <ul style="list-style-type: none"><li>• the granting of the Licence would be likely to give rise to noise, nuisance and disturbance, anti-social and criminal behaviour and littering;</li><li>• the Committee is not satisfied that the premises would be operated in a safe manner; and</li><li>• the applicant is not a fit person to hold such a Licence.</li></ul>
3.34	<p>Members may recall that the application had drawn objections from many residents and businesses in the area, including the PSNI.</p>
3.35	<p>Margaret O'Reilly lodged an appeal with the Recorders Court on the 21<sup>st</sup> May 2012 against the Council's decision to refuse the application. The appeal was part heard on the 19<sup>th</sup> December 2012 before being withdrawn.</p>
3.36	<p>The Council also experienced extensive issues regarding McEnaney's Bar throughout the period of its dispute with the administrator and legal proceedings were initiated as a result of noise issues with a generator being used to provide electricity at the premises. There were also food safety and hygiene concerns with food being prepared and served on the premises and allegations of illegal entertainment being held on the premises without a valid Entertainments Licence. The applicant for previous Entertainments Licences at McEnaney's was John Hughes and there had also been previous prosecution papers issued against John Hughes as a result of providing entertainment without a licence in 2009, although they were never served. He was convicted of erecting a smoking shelter at the premises without planning permission.</p>
3.37	<p>Members will note from Appendix 6 that in 2010 John Hughes was granted an Entertainments Licence for Beckett's Bar by Lisburn City Council. This was the last Entertainments Licence issued in respect of the premises as they closed in 2011 due to the parent company, Castle Street Inns Ltd going into administration. KPMG eventually gained control of the premises in July 2012 and it was subsequently sold to Fernmount Trading (NI) Ltd who in turn entered into a lease with Sharp NI Ltd (the applicant).</p>
3.38	<p>An application for the grant of an Entertainments Licence was then received by Lisburn City Council on 17<sup>th</sup> November 2014 in the name of Eugene Hughes of Sharp (NI) Ltd, although he is not a director of that company. The application was never completed and was subsequently returned due to non-payment of the required fee.</p>
3.39	<p>Members may also be aware that on 26<sup>th</sup> September 2000, Lisburn City Council served a contravention notice regarding the structural make-up of the ceiling to the nightclub area of the premises. This was following the collapse of the ceiling on 15<sup>th</sup> September 2000.</p>
3.40	<p>We understand that a prosecution also arose from that incident regarding a Health and Safety matter under the Health and Safety at Work (NI) Order 1978 for failure to provide a safe working environment for employees and members of the public. Lisburn City Council was unable to provide further details in relation to same but we have requested the information from Lisburn Court Office and officers are awaiting a response.</p>
3.41	<p>However, records show that additional information was eventually provided to the Lisburn City Council Building Control Department confirming that the proposed new ceiling detail complied with the relevant technical requirements of the Building Regulations. A Completion Certificate was subsequently issued on 19<sup>th</sup> December 2000.</p>

**Representations**

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

**PSNI**

3.43 The PSNI has been consulted and has confirmed that it has no objection to the application. A copy of its correspondence is attached as Appendix 10.

**NIFRS**

3.44 The NIFRS has been consulted and had initially confirmed that, due to complaints received in relation to fire safety deficiencies of the premises Fire Risk Assessment from Lisburn City Council on 17<sup>th</sup> December 2014 and the recent deficiencies observed by Belfast City Council on 10<sup>th</sup> July and on 29<sup>th</sup> October 2015, it wished to object to the grant of the Entertainments Licence for the premises.

3.45 The NIFRS carried out an audit of the premises on the 10<sup>th</sup> November 2015 and although 3 contraventions were observed, the NIFRS confirmed that it wished to withdraw their objection.

3.46 A copy of the NIFRS original objection and subsequent withdrawal of its objection is attached as Appendix 11.

3.47 As requested at your meeting of 12<sup>th</sup> November 2015, an Officer from the NIFRS will be available at this meeting to answer any queries which you may have in relation to the application and premises.

**Health, safety and welfare inspections**

3.48 Whilst inspecting the premises and collating the required paperwork regarding the current application for Beckett's Bar, Building Control officers have dealt specifically with Eugene Hughes. Previously, Eugene Hughes was the General Manager of Beckett's Bar. When carrying out the entertainment licensing grant inspection, Council officers were accompanied by the Bar Manager, Mark Skillen.

3.49 Officers of the Service have never met the applicant, Carol Hughes.

3.50 On 29<sup>th</sup> October 2015 an Officer inspected the area of the premises where entertainment is proposed to be provided and found that it satisfied the technical requirements necessary to enable an Entertainments Licence to be issued. However no fire safety management documentation was available, such as the fire safety log book and evacuation procedure. Also, no evidence was provided confirming that the advice provided in the Fire Risk Assessment had been completed.

3.51 The Council officer carrying out the grant inspection met with Mark Skillen in the public bar. Members should note that the applicant has not applied for an Entertainments Licence for this area; however whilst he was in the Bar, the officer noted that one of the means of escape led to an enclosed yard. At the time of the inspection, the officer could not identify an escape route from this enclosed yard and passed his findings on to the NIFRS, as noted above.

3.52 On 10<sup>th</sup> November 2015, John Hughes contacted the Service by telephone to confirm that the NIFRS was currently on site and had told him that they were now going to withdraw their objection, as the problems we had identified on 29<sup>th</sup> October 2015 were now addressed. At that time, we had not received any form of contact from the NIFRS to confirm this, either by phone or email. John Hughes also questioned why we would then still have to take their application through Committee.

3.53	On 11 <sup>th</sup> November 2015, a further email was sent by John Hughes to officers of the Service informing us that, from speaking with the fire authorities, it had sent an email withdrawing its objection to their application. He also requested a copy of that email to be forwarded to him and Eugene Hughes.
3.54	The Service received the email in question from the NIFRS withdrawing its objection and duly forwarded it to John Hughes. However, on 12 <sup>th</sup> November 2015, John Hughes replied and stated that he had again spoken to the fire authorities and there was a further email sent confirming the withdrawal of its objection. He then requested us to confirm if this was the case.
3.55	We had not received any such further email from the NIFRS and we thus informed John Hughes of that fact.
3.56	During that time, a member of the Hughes family was also in contact with Democratic Services requesting the same correspondence regarding the NIFRS.
<b>Subject Access Requests (SARs) under the Data Protection Act 1998</b>	
3.57	Members should be aware that, following your meeting on 12 <sup>th</sup> November 2015, the Council received Subject Access Requests from Carol Hughes, Eugene Hughes and John Hughes. All three refer to the Committee meeting on 12 <sup>th</sup> November 2015 and remarks which were made about the Hughes family.
3.58	Carol Hughes has requested any information which the Council holds in relation to her or her business and both Eugene Hughes and John Hughes have requested the Council to disclose any record held on them.
3.59	We are coordinating the responses to these requests across the Council and are liaising with the Council's Records Manager in the process.
<b>Office Meeting</b>	
3.60	An office meeting was arranged and held on 19 <sup>th</sup> November 2015 between Officers of the Service and Eugene Hughes in order to discuss the outstanding technical requirements for the application and premises.
3.61	The applicant, Carol Hughes, was invited but confirmed prior to the meeting that she was unable to attend and that her husband, Eugene Hughes could attend. A summary of the discussion of that meeting is attached at Appendix 12.
<b>Subsequent Inspections</b>	
3.62	A follow up inspection was carried out by the Service on 26 <sup>th</sup> November 2015, which revealed that all of the required fire safety management procedures were being implemented effectively.
3.63	All of the required certification in support of the application has also now been received.
3.64	Four monitoring inspections have been carried out since the alleged offence was detected and no entertainment was witnessed taking place on each occasion.
<b><u>Noise Issues</u></b>	
3.65	The Environmental Protection Unit (EPU) has been consulted in relation to the application and it has confirmed that no complaints have been received since 1 <sup>st</sup> April 2015 relating to noise break out from the premises or due to patron dispersal.



<p>3.66</p> <p>3.67</p> <p>3.68</p> <p>3.69</p> <p>3.70</p> <p>3.71</p>	<p><b><u>Applicant</u></b></p> <p>As part of the new Committee Protocol, the applicant has been asked to submit a Representation Form answering a number of questions to provide the Committee with as much information as possible about the application, the premises and how it may relate to other applications the Council has previously considered from the Hughes family.</p> <p>The submission also includes representations from clubs and organisations that have used Beckett's Bar for their respective functions. It also consists of responses to a number of questions we have posed which we consider relates to the application.</p> <p>A full copy of the Licensee's Representation Form is attached at Appendix 13, as required under the protocol.</p> <p>The applicant, or their representative, will be available at your meeting to answer any queries you may have in relation to the application.</p> <p><b><u>Financial and Resource Implications</u></b></p> <p>Officers regularly carry out inspections on premises but this is catered for within existing budgets.</p> <p><b><u>Equality or Good Relations Implications</u></b></p> <p>There are no equality or good relations issues associated with this report.</p>
<p><b>4.0</b></p>	<p><b>Documents Attached</b></p>
	<p>Appendix 1 – Application form</p> <p>Appendix 2 – Location map</p> <p>Appendix 3 – Copy of our welcome letter to the premises as part of LGR</p> <p>Appendix 4 – PACE letter sent to the applicant</p> <p>Appendix 5 – Response from applicant to PACE letter</p> <p>Appendix 6 – 2010 Entertainments Licence issued by Lisburn City Council</p> <p>Appendix 7 – Layout plans of the premise</p> <p>Appendix 8 – Copy Judgment regarding Omara Ltd and Fernmount Trading Ltd</p> <p>Appendix 9 – Copy of the minutes from meeting of the Licensing Committee of 18<sup>th</sup> April 2012</p> <p>Appendix 10 – PSNI correspondence</p> <p>Appendix 11 – NIFRS correspondences</p> <p>Appendix 12 – Summary of the Office Meeting held on 19<sup>th</sup> November 2015</p> <p>Appendix 13 – Representation Form from the applicant.</p>