



<b>Subject:</b>	<b>Competing Applications for a Stationary Street Trading Licence - Donegall Street</b>
<b>Date:</b>	19th October, 2016
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, Ext 2435
<b>Contact Officer:</b>	Patrick Cunningham, Assistant Building Control Manager, Ext 6446

<b>Is this report restricted?</b>	Yes <input type="checkbox"/>	No <input checked="" 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>
<b>1.1</b>	To consider two separate and competing Street Trading Licence applications to trade at the site in Donegall Street, opposite the Kremlin nightclub, selling hot food and non-alcoholic beverages.
<b>1.2</b>	One of the applicants currently operates at the site and has applied for the renewal of their Stationary Street Trading Licence. The other is applying for the pitch as a new operator and has never previously held a Street Trading Licence in Belfast.
<b>1.3</b>	Members are reminded that the normal process for dealing with competing Street Trading Licence applications is that the Service will bring the matter to your attention for consideration.
<b>1.4</b>	Both the applications comply with the designation resolution for the site.
<b>1.5</b>	Details of the applications are outlined below:  <b>Applicant 1</b>
<b>1.6</b>	Mr. Sydney McCallum is the current licensed street trader operating at the designated site in Donegall Street. He is applying for the renewal of his Stationary Street Trading Licence to sell hot food and non-alcoholic beverages from a hot food trailer measuring 5m by 2m. The proposed times of trading are Monday to Sunday from 9.00 pm to 4.00 am.
<b>1.7</b>	Mr. McCallum is currently registered as a Food Business Premises with Belfast City Council and holds a Food Hygiene Rating of 3.

<p><b>1.8</b></p> <p><b>1.9</b></p> <p><b>1.10</b></p> <p><b>1.11</b></p> <p><b>1.12</b></p> <p><b>1.13</b></p> <p><b>1.14</b></p>	<p>Mr. McCallum has held the Stationary Street Trading Licence at this site since January 2000. The Service has no compliance or enforcement issues with Mr McCallum.</p> <p>A photograph of Mr. McCallum’s trailer is attached at Appendix 1.</p> <p><b>Applicant 2</b></p> <p>Mrs. Linsey Swift has applied for the grant of a Stationary Street Trading Licence at the designated site in Donegall Street to sell hot food and non-alcoholic beverages from a hot food trailer measuring 6m by 2m. The proposed times of trading are Monday to Sunday from 9.00 pm to 3.00 am.</p> <p>Mrs Swift is currently registered as a Food Business Premises with Ards and North Down Borough Council and holds a Food Hygiene Rating of 5.</p> <p>Mrs Swift has not previously held a Street Trading Licence in Belfast. A photograph of her trailer is attached at Appendix 2.</p> <p><b><u>Food Hygiene Ratings</u></b></p> <p>Members will be aware that, from 1st October, 2016, it is compulsory that all food businesses within the scope of the Food Hygiene Rating Scheme must display their food hygiene rating.</p> <p>Prior to this, the display of food ratings was voluntary but, under the new legislation, it allows for ratings that have been given under the voluntary scheme to be transferred to the new statutory scheme.</p>
<p><b>2.0</b></p>	<p><b>Recommendations</b></p>
<p><b>2.1</b></p> <p><b>2.2</b></p> <p><b>2.3</b></p> <p><b>2.4</b></p>	<p>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 2.5, and decide whether it is minded to:</p> <ol style="list-style-type: none"> <li>1. grant and approve the Licence to Mr Sydney McCallum; or</li> <li>2. grant and approve the Licence to Mrs Linsey Swift</li> <li>3. grant and approve the Licence to one of the applicants with additional Conditions, and then;</li> <li>4. refuse the licence application, under the discretionary grounds as outlined at paragraph 2.3 above, of the applicants who have not been granted a licence.</li> </ol> <p>Members may attach any reasonable conditions when granting a Street Trading Licence.</p> <p>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.</p> <p>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.</p>

<b>3.0</b>	<b>Key Issues</b>
<b>3.1</b>	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.
<b>3.2</b>	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.
<b>3.3</b>	<p>Section 9 of the Act sets out discretionary grounds under which a district council may refuse to grant an application.</p> <p>a. That –</p> <ul style="list-style-type: none"> <li>i. The location at which the applicant wishes to trade as a stationary trader is unsuitable;</li> <li>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;</li> <li>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;</li> <li>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;</li> <li>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;</li> </ul> <p>b. That the applicant has, in connection with the application, made a statement which he knows to be false in a material particular;</p> <p>c. That the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;</p> <p>d. That the applicant has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous street trading licence;</p> <p>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;</p> <p>f. That the applicant has failed to provide the particulars required by the council to deal with the application;</p> <p>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.</p>

3.4	There is a right of appeal to the Magistrate's Court against any refusal on these grounds.
3.5	<p>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:</p> <ol style="list-style-type: none"> <li>1. The suitability of the application in the context of the area or street;</li> <li>2. The suitability of allowing more than one application in the area or street;</li> <li>3. The commodities or services which each applicant intends to sell or supply;</li> <li>4. The merits of each application in the context of the character and appearance of the proposed area;</li> <li>5. Whether a mobile trader/a number of mobile traders will affect the character and appearance of the proposed area;</li> <li>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;</li> <li>7. The extent to which the sale of the commodity will provide a useful service not otherwise provided in the area.</li> </ol>
3.6	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.
3.7	After considering representations from the applicants you will then be required to grant one of the applications and refuse the other.
	<b><u>Financial and Resource Implications</u></b>
3.8	<p>If the Committee grants a Licence, the Stationary Street Trading Licence fee is as follows:</p> <ul style="list-style-type: none"> <li>• Application Fee of £100, and</li> <li>• A Licence fee, for Monday to Sunday, of £1017 per annum.</li> </ul>
	<b><u>Equality or Good Relations Implications</u></b>
3.9	There are no equality or good relations issues associated with this report.
4.0	<b>Documents Attached</b>
	<p>Appendix 1 – Photograph of Mr. McCallum's trailer</p> <p>Appendix 2 – Photograph of Mrs. Swift's trailer</p>