

**Application for the Renewal of a Seven-day Annual Entertainments Licence –
El Divino, May's Meadow**

The Committee considered the following report:

1.0 Purpose of Report/Summary of main Issues

- 1.1 To consider an application for the renewal of a Seven-day Annual Entertainments Licence for El Divino, based on 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 your meeting on 17th February, you agreed to consider the application at your March monthly meeting, to which the objectors and the applicant would be invited to attend.**
- 1.3 At that meeting, you agreed to defer consideration of this application to enable officers to obtain further information from the applicant. The applicant had failed to provide appropriate responses to a number of additional questions posed by officers regarding an individual's alleged involvement in the operation and management of El Divino and the organisational management structure of the other companies and premises the applicant currently has operating within Belfast.**

Premises and Location	Ref. No.	Applicant
El Divino May's Meadow Belfast, BT1 3PH	WK/201501760	Mr Paul Langsford El Divino Belfast Ltd.

- 1.4 The renewal application was received from Mr. Paul Langsford of El Divino Belfast Limited, on 10th December 2015.**
- 1.5 Mr. Langsford is also the licensee of a number of other premises in Belfast, such as Filthy McNasty's and the Perch, Chinawhite, Shiro and Rita's.**
- 1.6 Members are reminded that a total of five objections were received at the time of your previous meeting in February. Two of the objections were received within the 28 day statutory period and the other three outside of the statutory period. One of the latter objectors has since withdrawn their objection.**

- 1.7 Since your February meeting, another objection was received on 2nd March from a resident of a nearby apartment block. There are currently five objections.
- 1.8 The Service has acknowledged the objection received on 2nd March and has advised the objector of our Committee process and Protocol. They were also advised that the Committee would have to decide whether to exercise its discretion to hear the additional objection, as it was received out of time.
- 1.9 It was suggested to this objector that they may wish to join with the other objectors and attend the meeting to form part of their delegation.
- 1.10 However, at the time of writing, we have not received any further details or information from this objector or confirmation if they wish to attend your April Committee meeting. If you wish to consider the objection received on 2nd March, there will be five objections to consider.
- 1.11 Copies of the letters of objection, including the last objection received on 2nd March, have been forwarded to the Committee.
- 2.0 Recommendations
- 2.1 Taking into account the information presented and representations received in respect of the application you are required to make a decision to either:
 - 2.2 approve the application for the renewal of the Seven-day Annual Entertainments Licence, or
 - 2.3 approve the application with special conditions, or
 - 2.4 refuse the application for the renewal of the Seven-day Annual Entertainments Licence.
- 2.5 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 Records Court.

3.0 Main Report

Key Issues

- 3.1** All of the objections are from residents of the nearby St John's Wharf apartment block and the nature of these objections relate to concerns regarding the noise arising from entertainment in the nightclub and noise and antisocial behaviour associated with patron dispersal until 3.00 am.
- 3.2** Following receipt of the objections from the residents of the apartment block, the Service offered to facilitate a liaison meeting between all parties involved in order to discuss the issues in an attempt resolve the matter.
- 3.3** The objectors did not avail of the offer to attend a liaison meeting. Therefore, the applicant requested the Service to forward correspondence to the objectors advising that as a result of their objections they were willing to only operate the club on Friday and Saturday nights for the foreseeable future.
- 3.4** The applicant also asked the residents to confirm if they would be willing to withdraw their objections on this basis.
- 3.5** No objections were withdrawn and the applicant requested if the Service would convene a liaison meeting with the management company and managing agent for the apartment block. This meeting took place on 23rd February, 2016.

Liaison Meeting

- 3.6** The management company confirmed that it has only received two complaints in the past 12 months and that those could not be specifically attributed to El Divino. The applicant also confirmed that, despite the objectors not being interested in availing of the cancellation of their Thursday night entertainment, they have nevertheless taken the decision to drop this night from their weekly schedule to try and appease residents, despite it being a lucrative night for the business.
- 3.7** The management company advised the club management that, in its view, the cleanliness of the area and the profile of the security company had declined over the past few months. The applicant explained that the security firm they had been using since they started operating the venue had gone into administration in October 2015 and they had had to change security company.

- 3.8 The previous security company had a very strong visual presence, as its vehicles were similar to those of the PSNI. The security guards were also familiar with their role. He confirmed that since the new security firm had been appointed there had been a few teething problems but that they have all been rectified. He confirmed that they would ensure that the security vehicle would be fitted with signage to make it more visible to patrons and residents.
- 3.9 The management company requested that the applicant forward correspondence to the objectors regarding the outcome of the meeting and their proposals.
- 3.10 Subsequent to this correspondence being sent, one of the objectors then withdrew their objection, as previously noted.
- 3.11 The applicant and objector have completed a Representation Form in advance of your meeting and in accordance with the Committee Protocol. This enables all relevant information to be shared between all parties and to allow officers to verify and investigate, if necessary, any points raised by the parties.

Objectors' Representation

- 3.12 One of the objectors has advised the Service that they will be representing three of the other objectors, which has been confirmed by the three objectors in question. As a result, they have completed and submitted an Objectors Representation Form in consultation with the others. A full copy of their Representation Form has been provided to the applicant, as required under the protocol.
- 3.13 The general nature of their objections received relate to:
- disturbance and antisocial behaviour caused by patrons arriving and leaving the premises.
 - noise arising from entertainment emanating from El Divino.
 - lewd behaviour in the vicinity of El Divino.
 - traffic congestion and rubbish on the Laganbank Road.
 - disturbance having a detrimental effect on the residents.
 - it being unreasonable to have a nightclub on a road due to residential accommodation, office accommodation and the new Waterfront Conference Centre.

3.14 Further to providing the objectors with a copy of the applicants' Representation Form, the objector submitted a counter representation with some additional information. In the counter representation, the objector states the following:

- without knowing who complained, it is impossible to verify all of the assertions made by the club but from their own experiences, not all of their contacts received replies;**
- sometimes, due to the time it takes the Noise Team to respond to a call, (as a result to being in another area of the City) they gave up phoning and instead emailed both them and the Building Control Service. Although, they admit that only one in ten occasions the club actually caused problems because they have work and family life and no one has time to report everything;**
- further problems of noise and anti-social behaviour from the premise and the disturbance having a detrimental effect on the residents who pay mortgages and rent;**
- they dispute the applicant's comments that the security at the premises is as diligent and effective and alleges to have recently witnessed a group of young patrons screaming, crying and shouting for a ten minute period outside the gates of St John's Wharf and no one from the security appeared to stop them;**
- they are certain the PSNI was recently involved after a marketing tactic of leaving parking tickets on people's cars on Laganbank Road during the day advertising a club night;**
- it would be interesting to see the club accounts to see where profits are made and is the running cost of a weekday club night being paid back by the people attending;**
- if there is sufficient patronage to maintain several club nights during the week as well as at the weekend;**
- if El Divino were not there, then these drunk, fighting, screaming young people would not be anywhere near those residential developments;**

- Why does the premises still need a Seven-day Entertainments Licence to 3.00 am and why are they applying for it, especially as they are selling the club?;
- is the presence of a blanket licence being seen as a selling point for the club on the open market?; and
- the St John's Wharf Residents Committee and Management Company are there for operational matters and are not the conduit for all residents' voices for the spokesperson for residents on matters for personal distress.

3.15 A delegation of objectors and/or their representatives will be available to discuss any matters relating to their objection should they arise during your meeting.

Applicant's Representation

3.16 The applicant's Representation Form notes the occasions when they were made aware of disturbances by Belfast City Council and residents, confirming the action taken to alleviate the specific issues. It also highlights the measures which the management has undertaken to try and reduce noise emanating from the premises and the impact of patron dispersal, such as:

- only operating on Friday and Saturday nights.
- monitoring noise levels.
- providing a security team that patrol the Laganbank Road, paying particular attention to reduce the congregation of patrons in the vicinity of St John's Wharf.

3.17 A full copy of the applicant's Representation Form has been circulated to the Committee and has been provided to the objectors as required by the protocol.

3.18 Further to providing the applicant with a copy of the objectors Representation Form, the applicant has submitted a counter representation. The counter representation provides details of the action taken by the applicant in response to complaints and to alleviate some of the resident's concerns; providing a dedicated phone to deal with resident's complaints, traffic control measures to reduce traffic congestion, bin collections to be after 10.00

am/midday, CCTV coverage of Laganbank Road adjacent to the premises, the security company patrolling the Laganbank Road to prevent any antisocial behaviour and ensure the cleanliness of the area, and a Noise limiter fitted to the sound system in the nightclub.

Additional Questions

- 3.19 In addition to the objections, another bar operator in the City raised concerns about the involvement of Mr. Mark Beirne with these premises and others operated by the applicant. They allege that Mr. Beirne had been convicted of a number of liquor licensing offences, was previously declared bankrupt and is disqualified from acting as a company director.
- 3.20 In light of those concerns, officers carried out some background research and posed a number of additional questions to the applicant which we consider relevant to the application.
- 3.21 operation and management of El Divino and the organisational management structure of the other companies and premises the applicant currently has operating within Belfast.
- 3.22 Members will recall that you subsequently agreed to defer consideration of the application at your March meeting due to the applicant failing to provide the appropriate responses to those questions.
- 3.23 Responses have now been provided to those questions.
- 3.24 The applicant and/or his representatives will be available to discuss any matters relating to the renewal of the licence should they arise during your meeting.

Details of the Premises

- 3.25 The areas currently licensed to provide entertainment are the:
- Ground Floor Bar, with a maximum capacity of 330 persons.
 - 1st Floor Green Room, with a maximum capacity of 80 persons.
 - 1st Floor Small Disco, with a maximum capacity of 220 persons.
 - 2nd Floor Disco, with a maximum capacity of 350 persons.

3.26 The days and hours during which the premises are currently licensed to provide entertainment are:

- **Monday to Saturday: 11.30 am to 2.00 am the following morning,**
- **Friday and Saturday: 11.30 am to 3.00 am the following morning, and**
- **Sunday: 12.30 pm to 12.00 midnight**

3.27 The following special conditions are attached to the licence:

- **Entertainment may be provided on Sunday until 2.00 am the following morning on the occasions where the following day is a Bank or Public Holiday.**

3.28 The premise operates as a public bar and nightclub with entertainment being provided on all floors, on Friday and Saturday until 2.00 am, in the form of DJs and live bands.

PSNI

3.29 The PSNI has been consulted and has no objection to the application and has been informed of the liaison meetings.

3.30 An Inspector will be available at your meeting to answer any queries you may have in relation to the application.

Health, Safety and Welfare Issues

3.31 A total of two during performance inspections have been carried out on the premises by Officers from the Service since the last renewal. The inspections revealed that the conditions of the Entertainments Licence were being adhered to with the exception of some minor issues such as fire safety signage being missing at the time of one of the inspections.

3.32 Through the Entertainment Licensing renewal inspection, officers have also been satisfied that all operational and management procedures are being implemented effectively.

NIFRS

3.33 The Northern Ireland Fire and Rescue Service has been consulted in relation to the application and confirmed that it has no objections to the application.

Noise Issues

- 3.34 The Environmental Protection Unit (EPU) has been consulted in relation to the application and confirmed that it has received a total of three noise complaints within the past 12 months.
- 3.35 The complaints related to noise emanating from the premises and noise arising from patron dispersal.
- 3.36 The applicant was notified of these complaints but no further action was deemed necessary.
- 3.37 Members are reminded that the Clean Neighbourhood And Environment Act 2011 gives councils additional powers in relation to the control of entertainment noise after 11.00 pm.
- 3.38 The EPU report detailing the complaints has been forwarded to Members.

Financial and Resource Implications

- 3.39 Officers carry out during performance inspections on premises providing entertainment but this is catered for within existing budgets.

Equality and Good Relations Implications

- 3.40 There are no equality or good relations issues associated with this report.”

The Building Control Manager reviewed the background to the application and highlighted the fact that, since the Committee meeting on 17th February, a further objection had been received from a resident of a nearby apartment block. He pointed out that the objection had been received outside the twenty-eight day statutory period and that, under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Committee, when considering an application, could exercise its discretion and agree to consider the objection, although it did not have a duty to do so.

The Committee agreed to exercise its discretion in this instance and consider the objection.

It was reported that Dr. C. King, one of the objectors to the application, was in attendance and she was welcomed to the meeting.

Dr. King informed the Members that she was acting on behalf of a number of residents of St. John's Wharf and drew the Members' attention to two issues contained within the Committee report which she wished to address. She pointed out, firstly, that

the report had indicated that the Council's Environmental Protection Unit had, within the past twelve months, received a total of three noise complaints in relation to El Divino and explained that additional complaints had been submitted to the Noise Team in writing. Secondly, the Building Control Service had, over the years, organised a number of liaison meetings, however, residents had not attended the last one as they had felt that all of the issues had been covered in previous meetings.

She then referred to the issues which had been experienced by residents over the past three years, in terms of noise and nuisance from El Divino, and confirmed that those had occurred as recently as the previous Saturday night when they had been awoken by patrons screaming and shouting as they made their way from the premises along the Laganbank Road.

Dr. King highlighted the fact that it had been confirmed recently that the premises had been advertised for sale and that the objectors had contacted the vendor in order to obtain clarification on a number of issues, one of which was whether any prospective buyer would be made aware of complaints which had been made against El Divino. The vendor had advised only that potential buyers would be required to carry out their own due diligence exercise, which, as far as she was aware, differed from the process governing the sale of domestic properties. She made the point that residents were concerned that, in the event of the applicant securing the renewal of the Seven-day Annual Entertainments Licence, it could be used to promote the sale of El Divino, as it was being offered with the premises, and a new licensee could create additional difficulties by utilising the licence on each night of the week. She highlighted the innumerable complaints which had been submitted to both the Building Control Service and the Environmental Protection Unit in relation to the premises and stressed that any improvements had been achieved only after continual requests from residents, rather than being initiated or offered by the licensee. She concluded by stating that the St. John's Management Company was responsible for the operational management of the residential block and was not reflective of the views of residents.

In response to several queries from the Members, Dr. King indicated that she had met with Mr. M. Beirne and the manager both in the premises and in the offices of the Building Control Service. More recently, residents had telephoned and emailed the premises to raise issues around, for example, the emptying of bottles at 6.30 a.m., which had been addressed by the licensee. She confirmed that it was normal practice for only one resident to attend liaison meetings and that she had attended at least two such meetings. She pointed out she had been one of a number of residents who had, in the early hours, contacted the Council's Night Time Noise Team to complain about noise emanating from the premises and had been advised that it was dealing with issues at other venues and would respond in due course. She suggested that, in the majority of those instances, by the time that the Noise Team had reached the location, the residents had either not waited up or the noise had ceased. She added that the management of El Divino had provided residents with mobile telephone numbers on which to contact them should issues arise. However, the telephones had not always been answered and, on those occasions that she had spoken with a representative from the premises to highlight noise issues, she had been informed that the matter would be addressed, although there had been little improvement.

The Chairperson thanked Dr. King for her contribution and welcomed to the meeting Mr. P. Langsford, the applicant, together with Mr. P. Kelly, the manager of El Divino, and Mr. R. McLaughlin, his legal representative.

Mr. Langsford informed the Members that, since El Divino had opened in 2011, it had played a major role in the resurgence of the hospitality sector in Belfast. The premises currently provided employment for fifty persons directly and another one hundred indirectly as, for example, promoters and ambassadors and had attained a number of awards and attracted some of the world's most celebrated performers. Approximately 300,000 patrons had visited the venue since it had opened, many of whom had been tourists, who, in turn had contributed to the economy of the City.

Mr. Langsford recognised that the success of El Divino had created difficulties for a small number of local residents and explained that considerable time and resources had been allocated to resolving those issues. He explained that management had a close working relationship with the management company of the St. John's Wharf complex, the St. John's Wharf Residents' Association, the Police Service of Northern Ireland and the Building Control Service and had been willing participants in liaison meetings with those groups and had always sought to address fully any issues which had been raised by residents. He pointed out that, at the last liaison meeting, it had been agreed that further meetings should take place only if requested by residents if issues persisted and that, as far as he was aware, since the Entertainments Licence had last been renewed, the management of El Divino had been the only party to request such a meeting. That had occurred in December 2015, when the Building Control Service had been invited to arrange a meeting with residents to enable the licensee to put forward a proposal to remove a Thursday night from its entertainment programme, with a view to alleviating residents' concerns.

He stressed that Thursday nights in El Divino were one of the most popular student nights in the City and that the cessation of entertainment on that night had had a significant impact upon the income generated by the premises and its reputation within the club scene. Unfortunately, the request had been declined by the residents and a meeting had taken place with the management company and the Residents' Association at which the proposal to remove a Thursday night had been confirmed. The Residents' Association had identified issues around, for example, litter and signage and action had been taken almost immediately by the licensee to resolve the matters and communicated in writing to residents. He highlighted the fact that the licensee had voluntarily put in place a number of other measures to minimise disruption locally, which included operating to 2.00 a.m. on a Friday and Saturday night, as opposed to 3.00 a.m. on the Entertainments Licence, not opening on a Sunday night before a Bank Holiday and staggering the dispersal of patrons when the venue was operating at or near full capacity. Other measures had included the deployment of a private outside security team, the use of the Community Rescue Service on busy nights, the provision of body cameras for door staff, the placing of notices outside and inside the venue requesting patrons to keep noise levels to a minimum and the provision of a dedicated mobile telephone number for the exclusive use of the residents of St. John's Wharf. Mr. Langsford pointed out that he was the licensee of a number of other premises across the City and confirmed that, in terms of El Divino, he would continue to work with the Building Control Service, residents and others to address fully all issues arising from

the operation of the premises. He concluded by highlighting the contents of an email which had been received from a resident of the nearby St. John's Wharf complex commending the management of El Divino on the manner in which the premises were being operated.

Mr. Kelly explained that either he or Mr. Langsford ensured that they responded promptly to all complaints received from customers or residents and that he was unaware of any complaints which had not been addressed. Residents had been provided with details in writing of a mobile telephone number which was held at all times by the Duty Manager, however, he had yet to receive a call from them during the fifteen months in which it had been in operation. In terms of the difficulties with early bin collection, he pointed out that those had been due to a route change by the company and had been remedied once highlighted by a resident of St. John's Wharf. In addition, no security vehicle had ever blocked the entrance to the apartment block.

The deputation then addressed a number of questions which had been raised by the Members.

Mr. Kelly confirmed that there were no issues with mobile telephone coverage in the premises and that he had obtained a breakdown of the calls and messages which had been received on the dedicated mobile phone, none of which had involved complaints from residents. In terms of the operation of a new security company, he confirmed that all initial difficulties had been resolved and that, arising from one of the liaison meetings, luminous signage had been fitted to the security company's vehicle to increase its visibility.

In terms of the operation of El Divino, Mr. McLaughlin confirmed that Mr. Langsford was a Director of the business and that he and Mr. Kelly were responsible for its day-to-day operation. He added that Mr. M. Beirne was one of three owners of the business and that he was consulted periodically on issues such as drinks promotions and entertainment provision.

Mr. Langsford confirmed that the premises had always held a Seven-day Annual Entertainments Licence and that he would be opposed to any restrictions being placed upon the licence to exclude a Thursday or any other night.

The Chairperson thanked the deputation for their contribution.

After discussion, it was

Moved by Councillor Armitage,
Seconded by Councillor Mullan,

That the Committee agrees, in its capacity as Licensing Authority, to renew an Annual Indoor Entertainments Licence for El Divino, May's Meadow, with the following conditions being attached to the Licence:

- i entertainment shall be permitted to take place only on a Friday and Saturday or on any Bank Holiday or Public

Holiday that falls on any day other than a Friday or Saturday;

- ii entertainment may be provided from 11.30 a.m. to 3.00 a.m. the following morning on those days;
- iii when the maximum occupancy level of the premises is reached, the current arrangement for dispersing patrons from each of the licensed areas on a phased basis will be maintained; and
- iv quarterly meetings shall be held, if required, between the Building Control Service, the licensee, residents, the St. John's Wharf Management Company, the Police Service of Northern Ireland and other relevant parties.

Amendment

Moved by Councillor Hussey,
Seconded by Alderman L. Patterson,

That the Committee agrees, in its capacity as Licensing Authority, to renew a Seven-day Annual Indoor Entertainments Licence for El Divino, May's Meadow.

On a vote by show of hands three Members voted for the amendment and seven against and it was declared lost.

The original proposal was thereupon put to the meeting when seven Members voted for and two against and it was declared carried.

**Application for the Renewal of a Seven-day Annual Entertainments Licence -
Thompsons Garage, 3 Patterson's Place**

Prior to this item being considered, the Chairperson informed the Committee that he had been advised by the Town Solicitor of the need, in accordance with the legal requirements contained within the Local Government Act (Northern Ireland) 2014, to restrict the information surrounding the application.

Accordingly, with the exception of those parties associated with the application, all persons seated within the public area of the room were excluded from the meeting to enable the matter to be considered in private.

Arising from discussion, a Member highlighted the fact that the Committee had, in the past, deferred consideration of applications until the outcome of legal proceedings had been determined and sought clarification on the impact upon the premises' Entertainments Licence, should it defer this application.