



Subject:	Update on Outcome of Judicial Review Applications by Oasis Retail Services Ltd.
Date:	15th February, 2017
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext 2435
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, Ext. 6446

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/Summary of Main Issues
1.1	<p>To advise Members of the outcome of an application by Oasis Retail Services Ltd. for leave to apply for judicial review regarding the following decisions made by Belfast City Council:</p> <ul style="list-style-type: none">on 19th March 2014 to grant an Amusement Permit to Belfast Leisure Company Ltd. for Mavericks, 24-28 Bradbury Place, andon 6th October, 2014 to grant an Amusement Permit to Hazeldene Enterprises Ltd. for Onassis Amusements, 2nd Floor, 25-41 Botanic Avenue.
2.0	Recommendation
2.1	The Committee is requested to note the contents of the report.
3.0	Main Report
	<u>Key Issues</u>
3.1	The matter was heard by His Honour Judge Maguire on 23rd and 24th June, 2016, with submissions being provided by legal representatives acting on behalf of the applicant and the Council. At the heart of the leave applications was the challenge from Oasis Retail Ltd. to the Council's Amusement Permit Policy and, in particular, that it did not adequately assess or consider the issue of cumulative build up nor was there account taken of the effect of larger numbers of amusement arcades on the character of the neighbourhood.
3.2	Judgment was subsequently handed down on 13th January 2017 and the court decided that, in respect of the:

<p>3.3</p> <p>3.4</p> <p>3.5</p> <p>3.6</p> <p>3.7</p> <p>3.8</p> <p>3.9</p> <p>3.10</p>	<p><u>Botanic Avenue Application</u></p> <p>Leave to apply for judicial review was granted but the challenge was dismissed as the court was not satisfied that the Council had failed to consider the issue of cumulative impact/proliferation of permits in relation to the character and amenity of the area or of the issue of the fitness of the applicant.</p> <p><u>Bradbury Place Application</u></p> <p>Leave to apply for judicial review was refused but, should leave have been granted, the court would have substantively decided the case in the same way as it had for the Botanic Avenue application.</p> <p>Whilst dismissing the challenges, His Honour Judge Maguire raised some concerns regarding the current wording of the Amusement Permit Policy.</p> <p>Members are advised that a review of the Policy is overdue but was delayed pending the outcome of the judicial review proceedings. A review will now be commenced in conjunction with Legal Services and the consultant, Dr Quinn, who assisted in the original formulation of the policy.</p> <p>The outcome of this review and any potential amendments that may be required will be brought to your attention for consideration in due course.</p> <p>A copy of the Judgment is attached.</p> <p><u>Financial and Resource Implications</u></p> <p>There are no financial implications as the Judge awarded costs to the council arising from the Judicial Review proceedings.</p> <p><u>Equality or Good Relations Implications</u></p> <p>There are no equality or good relations issues.</p>
<p>4.0</p>	<p>Document Attached</p>
	<p>Copy of Court Judgement</p>