

Licensing Committee

Wednesday, 19th April, 2017

MEETING OF LICENSING COMMITTEE

Members present: Councillor Armitage (Chairperson);
The Deputy Lord Mayor (Councillor Campbell);
Aldermen L. Patterson, Sandford and Spence;
and Councillors Bell, Boyle, Bunting, Clarke,
Collins, Copeland, Groves, Heading, Magennis,
McConville, McDonough-Brown and Milne.

In attendance: Mr. S. Hewitt, Building Control Manager;
Ms. N. Largey, Divisional Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported on behalf of Aldermen McCoubrey and Councillor Dudgeon.

Minutes

The minutes of the meeting of 15th March were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 3rd April, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were reported.

THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF THE POWERS DELEGATED TO IT UNDER STANDING ORDER 37(d)

Licences issued under Delegated Authority

The Committee noted a list of licences which had been issued under the Council's Scheme of Delegation.

Application for the Grant of a Seven-Day Annual Entertainments Licence with a Recent Conviction

Crusaders Football, Athletic and Sports Club, 59 – 63 Shore Road

The Building Control Manager reminded the Committee that, at its meeting on 18th January, it had agreed that, in future, should a person applying for the renewal,

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variation or grant of an Entertainments Licence be convicted of an offence under the Entertainments Licensing legislation, they would be invited immediately to appear before the Committee to outline the reasons why their application should be approved.

He drew the Members' attention to an application which had been received for the grant of a Seven-Day Annual Indoor Entertainments Licence for Crusaders Football, Athletic and Sports Club. He explained that the club had, in the past, been licensed to provide both indoor and outdoor entertainment, however, the Indoor Licence had expired in March, 2013 and officers had been informed by representatives that they did not wish to have it renewed. An inspection of the club in July, 2016 had found entertainment to be taking place, which had resulted in the Secretary and the Treasurer being convicted on 14th March of that offence. They had each been given an Absolute Discharge and been instructed to pay costs of £138.

He reported that no written representations had been received in relation to the application and that neither the Northern Ireland Fire and Rescue Service nor the Police Service of Northern Ireland had offered objections. Since the aforementioned offence had been detected, officers had met with management to discuss the future operation of the club, to outline the application process for the grant of the licence and to provide advice on fire safety procedures and the safe evacuation of patrons in the event of an emergency.

The Committee was informed that Mr. A. Cromie and Mr. T. Whiteside, the Secretary and the Treasurer of the Crusaders Football, Athletic and Sports Club, respectively, were in attendance to discuss their application and they were welcomed by the Chairperson.

Mr. Whiteside informed the Members that both he and Mr. Cromie had, on 14th March, pleaded guilty to the offence of providing entertainment without an Entertainments Licence. He pointed out that the club still held a valid Outdoor Entertainments Licence and that the failure to obtain an Indoor Licence had been due to the appropriate documentation not being in place, rather than to avoid the payment of fees or to circumvent the legislation. He stressed that, in future, responsibility for processing the licence would rest with five club officials, rather than one, as had been the case previously, and thanked those Council officers who had assisted the club throughout the application process.

The Chairperson thanked Mr. Cromie and Mr. Whiteside for attending the meeting.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to grant a Seven-Day Annual Indoor Entertainments Licence for Crusaders Football, Athletic and Sports Club, 59 – 63 Shore Road.

**Application for the Renewal of Seven-Day Annual
Entertainments Licences with Previous Convictions**

**Teach na Monagh, 2a Monagh Grove
The Spaniard, 3 Skipper Street**

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The Committee was reminded that, under the terms of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, it was required, when considering any application for the grant, renewal or transfer of an Entertainments Licence, to take into account any convictions of the applicant relating to an offence under the Order which had occurred within a five-year period immediately preceding the date on which the application had been made.

Accordingly, the Building Control Manager drew the Members' attention to applications which had been received for the renewal of Seven-day Annual Indoor Entertainments Licences in respect of the above-mentioned premises. He reported that, following an inspection in May 2012 of Teach na Monagh by officers, which had found that a fire exit had been locked, a means of escape had been obstructed and the log book had not been available, the applicant had, on 29th January, 2013, been fined £800 and ordered to pay £66 in costs. He pointed out that the Committee had, on each occasion following that conviction, agreed to renew the venue's Entertainments Licence and that, in the past year, it had been inspected four times, all of which had confirmed that management procedures were being implemented effectively.

In terms of The Spaniard, he explained that the licensee had, on 11th August, 2015, been fined £150 and instructed to pay costs of £69, as a result of an inspection in December 2014 by officers, which had revealed that entertainment was taking place within an area which was not covered by the Entertainments Licence. The Committee had, in 2016, renewed the licence after being advised of the applicant's conviction and three inspections which had been undertaken over the course of the past year had indicated that the premises were being operated in accordance with the Entertainments Licensing legislation.

The Building Control Manager confirmed that no written representations had been received in relation to the applications and that neither the Northern Ireland Fire and Rescue Service and the Police Service of Northern Ireland had offered an objection.

The Committee agreed, in its capacity as Licensing Authority, to renew the Seven-Day Annual Indoor Entertainments Licences in respect of Teach na Monagh, 2a Monagh Grove and The Spaniard, 3 Skipper Street.

**Application for Extended Hours – Belfast
City Blues Festival, Custom House Square**

The Building Control Manager reminded the Committee that Custom House Square was managed currently by the Department for Communities and that it held both a Seven-Day Annual Outdoor Entertainments Licence and a Seven-Day Annual Marquee Entertainments Licence, which were transferred to promoters for the duration of their events. Each licence permitted entertainment to take place from Monday to Sunday between the hours of 11.30 a.m. and 11.00 p.m. and had conditions attached in relation to occupancy levels, early consultation with residents and businesses, extended hours and addressing complaints. The Committee had, in the past, granted approval for a number of events to operate beyond 11.00 p.m. within the venue, such as the Belfast Craft Beer Festival and the Cathedral Quarter Arts Festival, both of which had been permitted to provide entertainment till midnight on a number of nights.

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He reported that an application had been received from the organisers of the Belfast City Blues Festival seeking approval to have the standard hours on the Seven-day Annual Marquee Entertainments Licence for Custom House Square extended to enable entertainment to take place till midnight on Friday 23rd, Saturday 24th and Sunday 25th June. The event, which was now in its ninth year, had, in 2016, been accommodated within a marquee in Writers' Square, for which approval had been obtained from the Committee to operate till midnight on three nights. However, the organisers had been unable to book that venue for this year and had selected Custom House Square as an alternative.

He explained that the festival was intended to celebrate the musical heritage of the City and that, whilst the programme of entertainment for this year had yet to be finalised, it would include over forty-five live performances by local and international blues artists, music workshops and archive footage of local music artists. The organisers had requested that the Committee give consideration to permitting entertainment to run until midnight on all three nights of the festival in order to enable patrons to maximise their musical experience and avail of the wide range of local restaurants and other establishments.

The Building Control Manager pointed out that, since the application related to the extension of the hours permitted under an existing licence condition, rather than the variation of the Entertainments Licence itself, there had been no requirement for it to be advertised. The Northern Ireland Fire and Rescue Service and the Police Service of Northern Ireland had offered no objections to the application, however, they would be attending pre-event meetings to comment upon public safety, traffic management, transport and wider operational issues. He added that the Building Control Service was working closely with the organisers to ensure that the requisite documentation was submitted and that an appropriate letter would be issued to local residents providing details of the festival. In terms of noise issues, he indicated that officers would be liaising with the Council's Environmental Protection Unit and the organisers to ensure that an effective noise management plan was put in place to avoid undue disturbance to local residents and businesses. He concluded by pointing out that officers had undertaken inspections of previous Belfast City Blues Festivals and had identified no issues around health, safety or welfare management.

The Committee agreed, in its capacity as Licensing Authority, that the standard hours on the Seven-day Annual Marquee Entertainments Licence for Custom House Square be extended to enable entertainment to take place till midnight on Friday 23rd, Saturday 24th and Sunday 25th June, as part of the Belfast City Blues Festival, subject to all technical requirements being met to the satisfaction of Council officers.

Applications for the Variation of Seven-Day Annual Indoor Entertainments Licences – Botanic Inn and Wellington Park Hotel / Application for the Grant of a Seven-Day Annual Outdoor Entertainments Licence - Wellington Park Hotel

The Committee was informed that applications had been received for the variation of Seven-Day Annual Indoor Entertainments Licences for the Botanic Inn and the

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Wellington Park Hotel and for the grant of a Seven-Day Annual Outdoor Entertainments Licence for the Wellington Park Hotel.

The Building Control Manager confirmed that, whilst no objections had been received within the twenty-eight day statutory period, the Lower Malone Residents' Association had submitted objections to all three applications outside that timeframe. He outlined the nature of those objections and confirmed 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 objections, although it did not have a duty to do so.

He reminded the Committee that, at its meeting on 18th January, it had agreed to implement new criteria for dealing in future with such objections, which would take into account, amongst other things, whether the objector could provide a reasonable explanation for their delay in making their representation. In terms of the objections relating to the Botanic Inn and the Wellington Park Hotel, the Chairperson of the Lower Malone Residents' Association had pointed out that the applications had been advertised in a local weekly newspaper, rather than in the three recognised local daily newspapers, and that it was one which they did not regularly scan for those type of advertisements. The chairperson had stressed that, had the Residents' Association been informed of the applications earlier in the process, it would have submitted its objections immediately.

After discussion, the Committee agreed, in view of the explanation which had been provided by the Residents' Association and its history of making representation around both premises, to exercise its discretion and to consider the objections at a future meeting, to which the objectors and the applicant would be invited.

**Designating Resolutions for New Street Trading Sites
and the Variation of Existing Commodities and Services**

The Building Control Manager submitted for the Committee's consideration the following report:

“1.0 Purpose of Report/Summary of Main Issues

- 1.1 An important feature of the licensing provisions in the Street Trading Act (NI) 2001 is the power of a district council to designate specific streets or parts of streets as being suitable for street trading. The Act also allows a council to vary a previous Designating Resolution in relation to the commodities or services to be supplied in specific streets.**
- 1.2 If a street or the commodity to be offered has not been designated under the Act the Council cannot issue a licence for street trading from a stationary position in that street.**
- 1.3 The process of considering and reviewing the designation of streets is, therefore, an essential part of the legal framework**

within which the Council is enabled to regulate street trading in the City.

2.0 Recommendations

- 2.1** The Committee is requested to consider the applications which have been received for the creation of new designated sites and for the variation of commodities and services at current designated sites and, subject to any amendments you may have, permission is sought to allow the publication of the statutory 28-day notice of the proposed resolution and to commence consultation with statutory bodies and other persons who may have an interest in the proposals.

3.0 Main Report

Key Issues

- 3.1** The Act sets down the procedures which must be followed in considering a Designating Resolution, including the types of trading which may or may not take place in that street. The main steps the Council must undertake may be summarised as follows:
- a) Give public notice of the proposed resolution in 2 or more newspapers in the district;
 - b) Consult with the PSNI and the Department for Infrastructure and other persons it considers appropriate;
 - c) Consider any representations relating to the proposed resolution which it has received;
 - d) After the Council has considered those representations it may, if it thinks fit, pass the Designating resolution;
 - e) Publish notice of the outcome for 2 consecutive weeks in 2 or more newspapers, giving not less than 28 days between the date of the publication and the date set out by the Council when the resolution will come into effect.
- 3.2** A further report will be brought to a future meeting of the Committee, detailing the outcome of the process of consultation. At this stage, Members will be able to determine the designation of the streets, along with any restriction on the commodity to be sold and any recommendations regarding the restriction on the times of trading.
- 3.3** Members are aware that the Committee has previously considered a number of locations throughout the City and

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determined their appropriateness for designation. There are currently approximately 60 streets or parts of streets designated as being suitable for Stationary Street Trading.

Proposed New Streets or Part Thereof

3.4 Designation applications or expressions of interest have been received for the creation of new designated sites in streets at various locations throughout the City as listed below:

	Location	Commodity
1	Lisburn Road outside premises of Café Maud's, 555 Lisburn Road.	Ice cream and non-alcoholic beverages.
2	Balmoral Road, situated outside the now closed B&Q site on the left-hand side of the road.	Hot and cold food and non-alcoholic beverages or similar commodities.
3	Oldpark Road, in lay-by 45ft from the junction with Hillview Road.	Hot and cold food and non-alcoholic beverages or similar commodities.
4	Gordon Street, at junction with Dunbar Street beside metal artwork for night time trading.	Hot and cold food and non-alcoholic beverages or similar commodities.
5	Bridge Street, in lay-by outside 12-16 Bridge Street for night time trading.	Hot and cold food and non-alcoholic beverages or similar commodities.
6	Donegall Street, in parking bay near the junction with Waring Street for night time trading.	Hot and cold food and non-alcoholic beverages or similar commodities.
7	Cupar Way	Tourist souvenirs or similar commodities.
8	The Arc, Titanic Quarter (5 sites)	Hot and cold food and non-alcoholic beverages or similar commodities. Gifts and souvenirs.
9	Hamilton Dock, Titanic Quarter (4 sites)	Hot and cold food and non-alcoholic beverages or similar commodities. Gifts and souvenirs.
10	Titanic Plaza, Titanic Quarter (3 sites)	Hot and cold food and non-alcoholic beverages or similar commodities. Gifts and souvenirs.

Variation of Commodities and Services to be Provided

3.5 The Act also allows the Council to vary a Designating Resolution in relation to the part of the street where trading is

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permitted, this includes consideration of the commodities or services which can be offered at that location. The procedures that must be followed for varying a Designating Resolution are the same as those for making the designation in the first place.

- 3.6 Applicants have asked for the Council to consider the variation of the commodities and services which are permitted to be offered at the following designated sites where they are already licensed:**

	Location	Current Commodity	Proposed Variation to include:
1	Lower Garfield Street, at the junction with North Street	Commodity is to be determined but excludes the sale of hot food.	Hot food to include crepes, waffles, roasted nuts, sandwiches, paninis and hot pastries.
2	Donegall Square North, at front of City Hall	Ice cream and hot and cold non-alcoholic beverages from an ice cream tricycle	Hot food to include crepes, wraps and other artisan foods
3	Castle Junction Kiosk	Hot and cold non- alcoholic beverages, confectionery, ice cream and cold food or similar commodities including the sale of theatre and event tickets	Bus tour tickets
4	Castle Place, opposite Donegall Arcade	Commodity is to be determined but excludes the sale of hot food and tour tickets.	Bus tour tickets

Financial and Resource Implications

- 3.7 The cost of all notices is included in current revenue budgets. The required notice to confirm the designation will cost**

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approximately £5,000 as our policy states that it must be placed in three newspapers for two consecutive weeks.

Equality or Good Relations Implications

3.8 There are no equality or good relations issues.”

The Committee granted approval to initiate the statutory process for the designation of the new street trading sites and for the variation of the commodities and services, as set out within paragraphs 3.4 and 3.6 of the report respectively.

Application for the Renewal of a Seven-Day Annual Entertainments Licence – Thompson’s Garage, 3 Patterson’s Place

(Prior to this item being considered, the Chairperson informed the Committee 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 and the Council’s Communications Officer, all persons seated within the public area of the room were excluded from the meeting to enable the matter to be considered in private.)

The Committee was reminded that, at its meetings on 20th April and 18th May, 2016, it had agreed to defer consideration of an application by Endless Music Limited for the renewal of a Seven-Day Annual Entertainments Licence for Thompson’s Garage, pending the outcome of a prosecution arising from an incident which had occurred in the premises on 12th March, 2015. It was reminded further that, at its meeting on 19th October, it had obtained clarification from both the applicant and the objector around the delay in hearing that case and associated issues and had again agreed to defer the application until the case had been determined.

The Building Control Manager reported that the case had centred upon an allegation of assault which had been made by the objector to the application against door staff and a former director of the applicant company. He explained that the case had been concluded on 6th April and that all charges against the defendants, including the former director, had been dismissed. The company was now keen to have its application considered by the Committee, given that it had been deferred on a number of occasions and that its plans for the expansion of the business had been delayed and had arranged for representatives to attend this meeting. However, the objector, who had confirmed that he still wished to object to the application and to address the Committee, was unable to attend the meeting due to travel commitments and had provided evidence to that effect. The Building Control Manager highlighted the fact that the objector had already addressed the Committee and that his representation form was appended to the report and pointed out that it was a matter for Members to decide if they wished to consider the application in his absence.

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The Divisional Solicitor provided further details around the factors which had contributed to the judge dismissing the case, which had been obtained from the Public Prosecution Service, following which the Committee agreed to consider the application, despite the absence of the objector.

The Building Control Manager provided an overview of the application and outlined the nature of the objection which had been received, which related to the owner's fitness to hold an Entertainments Licence and the issues which the objector had experienced on the night of 12th March, 2015.

He informed the Members that Thompson's Garage was licensed currently to provide entertainment from Monday to Sunday between the hours of 11.30 a.m. and 3.00 a.m. in the ground floor bar and the mezzanine floor, which had a maximum capacity of 225 and 190 persons respectively. The applicant company had informed officers that it was in the process of refurbishing the premises and was working to secure a lease for an adjoining property which, when completed, would enable patrons to enter and leave via Upper Arthur Street, rather than Patterson's Place, as had been the case previously. Those proposals, which would be subject to both Planning and Building Control approval, had been discussed with representatives of the Police Service of Northern Ireland and the company was of the view that they would assist in eradicating some of the problems which had existed previously.

He explained that the Police Service of Northern Ireland had indicated that it had no objection to the application, on the basis that it had been liaising closely with the applicant company throughout the application process and that it had been involved in discussions with the company and with representatives of the Council and the Security Industry Authority around the operation of the premises generally. The Northern Ireland Fire and Rescue Service had indicated also that it had no issues with the application and that it would, at any time, be willing to meet with the applicant company to discuss, for example, the proposed alterations to the venue.

The Building Control Manager reported that the Security Industry Authority, which had been consulted in relation to the provision of door supervisors at the premises, had confirmed that it had, over the years, engaged with the applicant company on a number of occasions to address concerns around the conduct of door staff and had provided advice and recommendations around the re-training of some staff. It had highlighted two incidents of note, in June and October, 2015, relating to allegations of assault which had been made by members of the public against door supervisors. Those had required investigation by the Security Industry Authority, in partnership with the Police Service of Northern Ireland, following which it had been determined that only the incident of October, 2015, could be attributed to the premises. A number of door supervisors who had had their licences suspended whilst those investigations had been taking place had since been reinstated and Council officers understood that they were still employed at the premises and held valid licences.

He reported further that, since the Entertainments Licence for Thompson's Garage had last been renewed, the Council had received only one complaint of noise breakout from the premises. That had been caused by a fire door being used temporarily by staff to remove empty bottles and had been resolved following discussions with

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management. He added that, since the current application had been considered initially, officers had visited Thompson's Garage on seven occasions whilst entertainment had been taking place and had, each time, found that it was being operated in accordance with the Entertainments Licensing legislation.

The Building Control Manager reminded the Committee that, under the provisions of the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985, it was required, when considering any application for the grant, renewal or transfer of an Entertainments Licence, to have regard to any convictions of the applicant relating to an offence under the Order which had occurred within a five-year period immediately preceding the date on which the application had been made.

With that in mind, he drew the Committee's attention to the fact that Mr. S. Boyd and Endless Music Limited had each been convicted on 13th May, 2014 and 24th May, 2016 of two offences under the Order. On the first occasion, officers had found that management had failed to adhere to the permitted occupancy levels between licensed areas and, on the second occasion, had found the second floor to be overcrowded. They had each been fined £800 and £750 and been instructed to pay court costs of £69 and £66 for the respective offences. He pointed out that, following those offences, representatives of the applicant company had met with officers and, in addition to accepting full responsibility for the breaches, had outlined new measures which would be implemented to prevent a recurrence. They had indicated also that, should their application be approved by the Committee, they would be agreeable to a special condition being attached to the Entertainments Licence requiring them to attend, as and when required, meetings with the Police Service of Northern Ireland, the Security Industry Authority and other relevant parties, which would be facilitated by the Council, to discuss any issues arising from the operation of the premises.

The Committee agreed that it would be beneficial to obtain further details on the application from the representatives of Endless Music Limited and Mr. S. Boyd, Director, and Mr. L. Murray, its legal representative, were welcomed by the Chairperson.

Mr. Murray highlighted the detrimental impact which the continued delay in determining the application had had upon his client's business. He drew the Committee's attention to the fact that the case arising from an allegation of assault against door staff and a former director of Endless Music Limited had now been dismissed and stressed that there was now nothing to prevent it from determining the application. He added that, given that the objector had made those allegations, the Committee should disregard his representation.

He then outlined the extent of the measures which had been taken by the company to address issues which had been raised over the course of the application, which had included the removal of a former Director from the company and from the day-to-day management of the business. In terms of the two previous convictions which had been highlighted by the Building Control Manager, he pointed out that the company had acknowledged the seriousness of the offences and had engaged external advisors to ensure that the appropriate systems and processes were now in place. In addition, it had organised training for staff, through the Security Industry Authority and other external providers, and had acquired a lease for an adjoining property, which would address the migration issues which had been experienced in the past. However, despite a significant

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investment, the company had not been able to provide entertainment in that area, due to the ongoing delay in processing its application. Mr. Murray concluded by again requesting the Committee to determine the application at this meeting in order to prevent the company from incurring a further loss in revenue and indicated that, should it be granted, it would be agreeable to a condition being imposed requiring it to attend regular meetings with the Police Service of Northern Ireland, the Security Industry Authority and other relevant parties and for those to be facilitated by the Council.

Mr. Boyd and Mr. Murray then provided clarification on a number of issues which had been raised by the Members, particularly, around the financial impact which the failure to have the Entertainments Licence renewed had had upon the company and the utilisation of the new area to date, and were thanked by the Chairperson.

The Chairperson then welcomed to the meeting two representatives of the Police Service of Northern Ireland, namely, Inspector J. Hughes and Constable S. O'Hare.

Constable O'Hare confirmed that he met with Mr. Boyd on a regular basis and that he had always been helpful in providing, for example, statements, evidence or CCTV footage. He provided information on the number of assaults and other incidents which had been recorded in and around Thompson's Garage in recent years, some of which were still ongoing, and highlighted the fact that, since Patterson's Place was linked for recording purposes with Donegall Square East and Upper Arthur Street, not all of those could be attributed directly to that venue.

Inspector Hughes informed the Committee that, in the opinion of the Police Service, the company had implemented all possible measures to address the issues which had been raised previously around door supervisors, including the use of body cameras and the provision of training and, on that basis, it could offer no objections to the renewal of the Entertainments Licence.

The representatives were thanked by the Chairperson for their contribution.

After discussion, the Committee agreed, in its capacity as Licensing Authority, to renew a Seven-Day Annual Indoor Entertainments Licence in respect of Thompson's Garage, 3 Patterson's Place, with a condition to be attached requiring the licensee to attend, as and when required, meetings with the Police Service of Northern Ireland, the Security Industry Authority and other relevant parties, to be facilitated by the Council, to discuss any issues arising from the operation of the premises.

Non-Delegated Matters

Fees for Street Trading Licences

The Committee agreed to defer until its next meeting a report in respect of proposed fees for Street Trading Licences to allow for Members to give it further consideration and for officers to provide additional information, including the number of traders registered currently under each licence type.

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Chairperson