

**Licensing Committee,
Wednesday, 15th March, 2017**

**E
417**

full. He concluded by stating that his mother had since died and that he now wished to commence trading again.

The Chairperson thanked Mr. Seenan for his contribution.

The Committee agreed, in its capacity as Licensing Authority, to grant to Mr. T. Seenan a Mobile Street Trading Licence permitting him to sell from a van confectionery, ice cream, groceries and non-alcoholic beverages from Monday to Sunday between the hours of 12.00 p.m. and 9.00 p.m. in the Andersonstown, Dunmurry, Finaghy, Ladybrook, Poleglass, Suffolk, Turf Lodge and Twinbrook areas of the City.

Application for the Grant of a Seven-Day Annual Entertainments Licence - The Hawthorn Bar, 1- 3 Hawthorn Street

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

1.0 Purpose of Report/Summary of Main Issues

1.1 To consider an application for the Grant of a Seven-Day Annual Entertainments Licence for the Hawthorn Bar, based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind.

1.2

Premises and Location	Ref. No.	Applicant
Hawthorn Bar, 1- 3 Hawthorn Street, Belfast, BT12 7AQ	WK/201602055	Mr Philip McCann, 84 Glen Road, Belfast, BT11 8BU

1.3 The grant application was received from Mr Philip McCann on 30th September 2016. A copy of the application form has been circulated to the Committee.

1.4 A location map of the premises has been forwarded to Members.

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:

- 1. approve the application for the Grant of the Seven-Day Annual Entertainments Licence, or**
- 2. approve the application for the Grant with special conditions, or**

3. refuse the application for the Grant of the 7-Day Annual Entertainments Licence.

2.2 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 County Court.

3.0 Main Report

Key Issues

3.1 Members are reminded that written representation objecting to the application was received outside the 28-day statutory period, in the form of a petition with 10 signatures.

3.2 At your meeting on 14th December, the Committee exercised its discretion and agreed to consider the late objections at a future meeting to which the objectors and the applicant would be invited to attend.

3.3 A copy of the petition of objection has been circulated to the Committee.

3.4 Members are reminded that the petition of objection is from residents of Cavendish Street and the nature of their objections relate to the following:

- the premises are situated in a highly populated residential area;
- the premises already offer live entertainment without a licence; and
- the number of patrons, music and taxis already create an unacceptable, problematic amount of noise in this residential area.

3.5 In their petition of objection, the objectors further advise that they have met with the applicant, one of his employees and community representatives to discuss the above issues along with other members of the community, the PSNI and the Council. They also state that many of the issues have not yet been resolved; despite promises made by the applicant.

3.6 The objectors also state that granting a licence will not only add to the current problems and issues concerned but will create further issues.

Liaison Meetings

- 3.7 Following receipt of the petition of objection, the Service offered to facilitate a liaison meeting between all parties involved in order to discuss the issues in an attempt to try and resolve them.
- 3.8 The objectors did not wish to attend joint meetings with the applicant and, therefore, officers convened separate meetings with the objectors and the applicant but were not able to reach a resolution.
- 3.9 As required by the Committee Protocol, the applicant and each of the objectors were requested to provide their representation in advance of the meeting for consideration.
- 3.10 This was requested to ensure that there was appropriate time to share the information between all parties and to allow officers to incorporate the points raised in the report for your consideration.

Objectors' Representation

- 3.11 The objectors Representation Forms have been forwarded to Members and they have been provided to the applicant, as required by the protocol.
- 3.12 In general, the representations relate to concerns as follows:
- noise issues in a built up residential area coming from the provision of amplified music, sound of taxi horns and noisy patrons;
 - the applicant disobeying the law in relation to both Liquor and Entertainment Licensing;
 - antisocial behaviour in the alleyway including public urination and drinking;
 - residents subject to verbal abuse and foul language from staff; and
 - problems with vermin, rubbish and storage in the alleyway.
- 3.13 Further to providing the objectors with a copy of the applicants' Representation Form, they each submitted a counter representation with additional supporting information.
- 3.14 In the counter representations, the objectors reiterate the issues previously raised and challenge the points made by

the applicant. They have also included photographic evidence to support their argument. Copies of the counter representations have been made available to the Committee.

- 3.15 Each of the objectors has stated that they are objecting on their own behalf and they are not canvassing for objections. However, they are prepared to coordinate a joint representation regarding the application and attendance at your meeting.
- 3.16 A delegation of three residents' representatives will be available to attend your meeting to discuss any matters relating to their objections should they arise during your meeting.

Applicant's Representation

- 3.17 The applicant has provided their Representation Form, as required by the Protocol, and a copy of his response has been circulated to the Committee. The applicant has highlighted the measures which have been undertaken to try and address residents' concerns.
- 3.18 The applicant's Representation Form has also been provided to the objectors, as required by the protocol.
- 3.19 A summary of the applicant's representation is as follows:
- he has worked very hard to build and promote good and sound relationships with the residents and will continue to do so;
 - he has always made himself available to engage in discussions with the relevant agencies, in regards to any concerns or complaints raised by residents in relation to the operations within the bar;
 - he has also attended meetings with the objectors and local representatives and groups, but with no success
 - he has always made himself and remains in contact with Sgt James Duffy and is content and committed to continue to work with the local PSNI in relation to the premises;
 - he has not and does not intend to provide any form of amplified music, dancing or like kind within the premises;
 - the premises do not lend itself to large numbers of people; so, the motivation to promote any sort of event is restricted due to the limited space;
 - he states that the live music referred to by the objectors is in relation to the in-house CD music system;

- he has advised that, if the Committee is minded to grant an Entertainments Licence, he would only have non-amplified session musicians without the need or use of powered amps, thereby reducing the potential for any noise outbreak from within the premises; and
- the number of taxis called to the bar is not and cannot be down to the Hawthorn Bar.

3.20 Further to providing the applicant with a copy of the objectors Representation Form, the applicant has advised that he did not wish to submit a counter representation, as he was satisfied with what he has already submitted within his initial Representation Form.

3.21 However, the applicant has further advised that, if the Committee were of the mind to grant an Entertainments Licence, he would be willing to accept it for a shorter six-month period and allow the Committee to restrict the nights permitted for entertainments to only a Thursday, Friday and Saturday.

3.22 He has also advised officers that he will implement the following changes to help ease residents' concerns:

- cleaning around the perimeter of the premises;
- ensure bottles and glasses are no longer permitted to be disposed of by staff at closing times; and
- furnishing residents with a direct contact number for the individual responsible for door staff.

3.23 As part of our ongoing negotiations with all parties, these suggestions from the applicant have been conveyed back to the objectors to try and reach an agreement. However, at the time of writing this report, the objectors have confirmed that they still wish to object to the premises getting any form of Entertainments Licence.

3.24 The applicant and/or their representatives will be available at your meeting to answer any queries you may have in relation to the application.

Details of the Premises

3.25 The area the applicant wishes to be licensed to provide entertainment is the:

- Ground floor bar with a maximum capacity of 40 persons.

3.26 The days and hours during which the applicant wishes to provide entertainment are:

- Monday to Saturday: 11.30 am to 1.00 am and
- Sunday: 12.30 pm to midnight

3.27 The applicant is also agreeable to the inclusion of the following special conditions to the Entertainments Licence:

1. the licensee to attend meetings, as and when required, with the PSNI and representative groups drawn from local residents, chaired by the Council, to discuss issues relating to entertainments licensing; and
2. no amplified music to be played on the premises.

PSNI

3.28 The PSNI has been consulted and has confirmed that it has no objection to the application.

3.29 However, due to the nature of the objections, a letter was sent to the PSNI consisting of a number of additional questions regarding the issues raised within the objector's representations. The PSNI has also been provided with a copy of the various representations made by the objectors and the applicant, in order to help them form their response.

3.30 The PSNI has advised that it has not received any complaints for the premises regarding public safety or overcrowding problems. However, it has stated that it has received complaints in recent years regarding noise or general nuisance, but they are more related to alleged breaches of licensing hours, selling and consuming alcohol outside of permitted hours and providing entertainment.

3.31 It has received a total of 23 calls for service in regards to licensing type offences since 2014. In 2014 there were 3 complaints, 2015 there were 9 complaints, 2016 a total of 9 complaints were made and this year, 2 complaints have been made.

3.32 Whilst the Police Service has cautioned the licensee for selling alcohol at 9.30 am on 30th October 2015, it has not objected to the grant application.

3.33 A copy of our letter with questions and the response from the PSNI has been circulate to Members. The PSNI response also consists of a breakdown of the calls and complaints lodged against the premises.

- 3.34 The Area Inspector and Constable from the Local Neighbourhood Policing Team will be available at your meeting to answer any queries you may have in relation to the application.

Health, Safety and Welfare Inspections

- 3.35 The Service became aware of residents' concerns with the premises in 2014 when complaints were made through the Councils Noise Hotline Service alleging that entertainment was being held on the premises and residents were being disturbed by noise from music and patrons in and around the premises.
- 3.36 Through the Licensed Premises Group (LPG), coordinated inspections to monitor the premises were carried out by the Councils Noise Team. Throughout this time, officers of the Noise Team also responded to a number of complaints made by residents of the area.
- 3.37 As a result of the complaints, a number of planned During Performance Inspections were carried out at the premises. In summary, a total of 11 inspections were carried out by officers of the Service since October 2014.
- 3.38 3 monitoring inspections have been carried out on the premises by officers from the Service since the Entertainment Licensing application was received in September. No entertainment was witnessed during the course of these inspections.
- 3.39 At the time of writing this report, we have found no entertainment being provided at the premises but further monitoring inspections have been planned. A breakdown of these inspections carried out by officers is included in the tables of inspections carried out by the Council has been circulated to the Committee.

NIFRS

- 3.40 The Northern Ireland Fire Rescue Service has also been consulted in relation to the application and has confirmed that it has no objection to the application.
- 3.41 Allegations regarding the premises have also been forwarded to it for investigation and it has confirmed that it has observed no breaches in relation to fire safety. A copy of its correspondence has been forwarded to the Committee.

Noise Issues

- 3.42 As noted above, complaints have been made against the premises since 2014 and through the LPG, a considerable number of reactive and planned inspections have been carried out by officers of the Council's Night Time Noise Team in that time.
- 3.43 A total of 10 noise complaints have been received since the application was made in September 2016. When responding to the complaints and attending the area, officers of the Noise Team did not witness any excessive noise levels that warranted action. However, as with all complaints received against the premises, each of these complaints were forwarded to the applicant for his information.
- 3.44 The applicant has been asked to provide an acoustic report to determine if any works need to be carried out to the premises to prevent noise breakout based on the type of entertainment proposed by the applicant.
- 3.45 The report will be assessed by the Environmental Protection Unit and, should Members be of a mind to grant a licence, any works identified in the report will be required to be carried out to the satisfaction of the Council prior to a Licence being issued.
- 3.46 Members are reminded that the Clean Neighbourhood and Environment Act 2011 gives council's additional powers in relation to the control of entertainment noise after 11.00 pm.
- 3.47 A breakdown of the reactive and planned inspections carried out by the Night Time Noise Team is included in the tables of inspections carried out by the Council, which has been circulated to the Committee.

Cleansing

- 3.48 Issues regarding cleansing matters, which were raised within the objector's representations, relating to the alleyway at the rear of the premises have been reported to the Council's Cleansing Department.
- 3.49 Officers of the Cleansing Service have confirmed that they conduct regular checks of the rear alleyway at least once a week. At the time of writing this report, officers have confirmed that the staff are continuing to comply with their agreement.

Financial and Resource Implications

- 3.50 Officers carry out monitoring inspections on premises receiving complaints but this is catered for within existing budgets.**

Equality and Good Relations Implications

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

The Building Control Manager circulated for the Committee's information a document setting out ten conditions which had been drafted by officers of the Building Control Service in the lead up to the meeting. The applicant had agreed to adhere to those conditions, should his application be approved and they had, subsequently, been approved by the objectors to the application. In summary, the applicant had accepted that an Entertainments Licence would be granted for a period of six months and would permit him to provide entertainment till 1.00 a.m. on a Thursday, Friday and Saturday night for up to a maximum of forty patrons within the ground floor bar. In addition, he would be obliged to attend meetings, when required, with representatives of the Council, the Police Service of Northern Ireland and the local community, to provide relevant contact details and to implement measures in relation to cleaning, bottle and glass disposal and noise minimisation.

The Committee was informed that Mr. P. McCann, the applicant, together with Mr J. McGuigan, his licensing consultant, were in attendance and they were welcomed by the Chairperson.

Mr. McGuigan informed the Committee that Mr. McCann had no issues with the ten conditions, as proposed, being attached to his Entertainments Licence, should it be granted, and that he would comply fully with those.

The Chairperson then welcomed Mr. T. McShane and Ms. R. Shannon, two objectors to the application.

Ms. Shannon informed the Members that she and Mr. McShane were acting on behalf of objectors to the application, all of whom lived in the streets surrounding the Hawthorn Bar. She explained that, following consultation with those objectors, a decision had been taken, in view of the significant stress which had been placed upon the local community throughout the application process, to withdraw their objection and to accept the proposed conditions, although it was regrettable that the issues which they had highlighted consistently in the past could not have been addressed at an earlier stage. Having held discussions with officers of the Building Control Service, the objectors had been reassured that, should the Entertainments Licence be granted with the ten conditions attached, it would form the basis for resolving those issues.

Mr. T. McShane then outlined the difficulties which had been faced by residents living around the Hawthorn Bar over the years and the efforts which they had made to

have them addressed, following which he and Ms. R. Shannon were thanked by the Chairperson.

During discussion, the Building Control Manager confirmed that, should the licence be granted and problems still occur, residents would, in the first instance, be encouraged to contact the licensee, with a view to having those resolved. Should that approach fail, Council officers would facilitate a meeting between both parties. In addition, the premises would be monitored on a regular basis by officers of the Building Control and the Night Time Noise Services and any issues which had been identified over the term of the Entertainments Licence would be brought to the Committee's attention when it was due for renewal.

After further discussion, the Committee agreed, in its capacity as Licensing Authority, to grant a Seven-Day Annual Entertainments Licence for the Hawthorn Bar, 1– 3 Hawthorn Street, with the following conditions, as agreed by the applicant and the objectors, being attached:

- (i) the licence will operate for a period of six months;
- (ii) entertainment will be restricted to a Thursday, Friday and Saturday, with the hours of operation being 11.30 am to 1.00 am. the following morning;
- (iii) a maximum of 40 persons will be permitted in the ground floor bar whilst entertainment is taking place;
- (iv) the licensee will attend meetings, as and when required, with the Police Service of Northern Ireland and representative groups drawn from local residents, with those to be chaired by Council officers;
- (v) the licensee will proactively clean around the perimeter of the premises;
- (vi) the licensee will ensure that bottles and glasses are not disposed of by staff at closing times;
- (vii) the licensee will provide residents with a direct point of contact and the contact number of the person responsible for managing door staff;
- (viii) the licensee will erect and maintain signage inside the premises and in the rear external area requesting patrons to respect local residents and keep noise levels to a minimum;
- (ix) the licensee will ensure compliance with the requirements of the Noise Report, to the satisfaction of the Council, and the Entertainments Licence will be issued only when all technical matters have been addressed; and

- (x) taxi notices will be kept and maintained on the premises and will warn patrons and taxi firms that undue noise or disturbance will not be permitted and that the licensee shall take such action, including legal action, if necessary, to enforce that requirement.

Update on an Appeal against the Refusal of an Amusement Permit - Players, 22-23 Shaftsbury Square

The Building Control Manager reminded the Committee that, at its meeting on 21st September, 2016, it had agreed to refuse an application by KB Shaft Limited for the grant of an Amusement Permit in respect of Players, 22 – 23 Shaftsbury Square. That decision had been taken on the grounds that the application had failed to comply with two of the five criteria set out within the Council’s Amusement Permit Policy in terms of (i) the cumulative build-up of amusement arcades in a particular location and (ii) the impact of the arcade upon the image and profile of Belfast.

He explained that, following that decision, a Notice of Appeal had been lodged on behalf of the applicant with the County Court and that the appeal had, on 5th January, been brought before Judge Devlin to allow for papers to be served upon the relevant parties. Judge Devlin had agreed to list the case for review on 16th January, to allow sufficient time for an application by Oasis Retail Services Limited for a judicial review of the Committee’s decisions of 19th March and 6th October, 2014, to grant Amusements Permits for Mavericks, 24 – 28 Bradbury Place and Onassis Amusements, 25 – 41 Botanic Avenue, respectively, to be determined.

The Building Control Manager reminded the Committee that the judge who had heard the application by Oasis Retail Services Limited had, on 17th January, ruled in favour of the Council. Following that ruling, KB Shaft Limited’s legal representative had confirmed that their client would be withdrawing their appeal against the Committee’s decision to refuse the application for the grant of an Amusement Permit for its premises in Shaftsbury Square and that it would meet the Council’s legal costs.

The Committee noted the information which had been provided.

Non-Delegated Matters

Proposed Extension of Sunday Trading Hours

The Committee was reminded that the Strategic Policy and Resources Committee, at its meeting on 21st October, 2016, had granted approval for the Council to consult, by way of a public notice, on designating the entire area of Belfast City Council or specific parts thereof as a ‘holiday resort’ under Article 6 of the Shops (Sunday Trading &c.) (Northern Ireland) Order 1997.

The Building Control Manager reported that the effect of that designation would be to extend the Sunday trading hours for large shops, of 280 m² or more, on up to 18 Sundays, other than on Easter Sunday, between 1st March and 30th September in any calendar year. The proposal had been made in response to calls, primarily by the Belfast Chamber of Trade and Commerce, to improve the tourism offering in Belfast,