



<b>Subject:</b>	<b>Final decision on competing Stationary Street Trading Licence applications for Fountain Street site.</b>
<b>Date:</b>	13 November, 2019
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, Ext 2435
<b>Contact Officer:</b>	James Cunningham, Regulatory Services Manager, Ext. 3375

<b>Restricted Reports</b>	
<b>Is this report restricted?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>If Yes, when will the report become unrestricted?</b>	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

<b>Call-in</b>	
<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 or Summary of main Issues</b>
1.1	Members are reminded that, at your meeting of 14 August 2019, you considered separate Street Trading Licence applications from Mr Sean Donnelly, Mr Francis Brown and Mr Michael Kerr for the designated site on Fountain Street 20ft from the junction with Wellington Place.
1.2	After hearing from the applicants and considering the applications, the Committee agreed that it was minded to grant Mr Donnelly a Stationary Street Trading Licence permitting him to sell tour tickets and tour memorabilia on Monday to Sunday from 9.00 am to 5.00 pm on a one-year trial basis.
1.3	The result of that decision means that the single Designated Street Trading Site is taken and as such there is no suitable location for the other applicants and also there are now sufficient

1.4	<p>traders trading in the street, in the articles, things or services in which the successful applicant wanted to trade.</p> <p>A copy of the minutes from that meeting and a transcript of the audio is attached to this report as Appendix 1.</p>
<b>2.0</b>	<b>Recommendations</b>
2.1	<p>Members must agree either to:</p> <ol style="list-style-type: none"> <li>1. Uphold the initial decision of the 14 August 2019 and grant the licence to Mr Donnelly for a period of 1 year and refuse the other applications, or</li> <li>2. Amend its decision of 14 August 2019.</li> </ol>
2.2	<p>If Members amend their decision of 14 August 2019 it should give the grounds for so doing and a date for a special meeting must be arranged to hear from the applicants again before making the final decision.</p>
2.3	<p>On granting a Licence, Members may attach any reasonable Conditions to it, if they so decide. Committee had agreed in August 2019 that the Licence would only be granted on a 1-year trial basis.</p>
<b>3.0</b>	<b>Main report</b>
3.1	<p><b><u>Key Issues</u></b></p> <p>As a consequence of agreeing that you were minded to grant the Stationary Street Trading Licence to Mr Donnelly, the Committee agreed that it was minded to refuse the applications which had been submitted by Mr Brown and Mr Kerr.</p>
3.2	<p>That decision was on the grounds set out in Sections 9(1) (a) (i) and (iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which they wished to trade was unsuitable and that there were sufficient traders trading at that location in the articles, things or services in which they wished to trade.</p>
3.3	<p>Mr Brown and Mr Kerr have submitted written appeals against your decision. Some of the contents of Mr Kerr's appeal letter have been redacted upon the advice of Legal Services as the comments may be construed to be defamatory.</p>
3.4	<p><b>Mr Brown's Appeal</b> (attached as Appendix 2)</p> <p>Mr Brown believes that Mr Donnelly's application should have been refused for the same reasons as his application was refused.</p>
3.5	<p><b>Mr Kerr's Appeal</b> (attached as Appendix 3).</p> <p>Mr Kerr believes his presentation was the best and makes a number of points and allegations as part of his appeal submission, namely:</p> <ol style="list-style-type: none"> <li>1. Mr Kerr states that he submitted an email to the Council on 11 August 2019 advising that he was willing to sell all tours and that he was willing to pay his year's Licence fee up front. He believes that email should have been circulated to Members along with the letter that he had submitted and was read out by the Committee Clerk at your meeting. Mr Kerr</li> </ol>

	<p>believes that since Members did not ask him questions, it hindered his application as he had assumed you had his email.</p> <ol style="list-style-type: none"> <li>2. Mr Donnelly had misled the Committee because he stated that the only outlet for the 'City Tours Belfast' bus tour tickets he intends selling is Visit Belfast. Mr Kerr has provided evidence that SS Moore sports shop and the Post Office in Howard Street both sell 'City Tours Belfast' tour tickets.</li> <li>3. The reason why there is controversy over the sale of bus tour tickets is because the other two applicants will only sell bus tour tickets for single companies. Whilst he will sell for all companies and that he would offer the best experience to tourists.</li> <li>4. Due to Mr Kerr's experience working in the industry for over 10 years he knows that 'City Sightseeing' do not own any stalls.</li> <li>5. He questions why Members asked Mr Donnelly questions and not him or Mr Brown?</li> <li>6. He asks why give the Licence to Mr Donnelly on the basis of his mix of commodities over him?</li> <li>7. He also believes that Committee were not impartial towards him as they believed he would be the same as his brother, Joseph Kerr, who Committee considered a report to revoke his Street Trading Licence during the same meeting.</li> </ol>
3.6	<p>Committee are advised that Officers had discussed his email of 11 August with Mr Kerr. This email was sent 3 days before your meeting and after the report was published. Mr Kerr was advised that, as part of his presentation to Committee, he should take the opportunity to reiterate to Members the points in his email.</p>
3.7	<p>Mr Sean Donnelly, the applicant to whom you are minded to grant the Street Trading Licence, has no convictions. As part of the application process, applicants are required to provide a Criminal Record Check.</p>
3.8	<p>Officers have checked with Companies House, Mr Donnelly is the sole director of Diamond Leisure Transport Ltd. the company who owns 'City Tours Belfast'.</p>
3.9	<p>Committee will be well aware of the issues around the bus companies and the sale of tickets from a number of previous meetings of the Licensing Committee.</p>
3.10	<p>Committee may wish to note that Officers have checked through inspection reports for this site where Mr Michael Kerr was employed by his brother to work the stall. On the 10th September 2014, a trailer unit was found on site branded in City Sightseeing livery. Michael Kerr had been working this site up to this point for his brother (Joseph Kerr) the then Licensee.</p>
3.11	<p>When the Licensee was questioned about the trailer he advised Officers that he had not given permission for this to be placed on his site. Michael Kerr then stopped working at the site around this date.</p>
	<p><b><u>Financial &amp; Resource Implications</u></b></p>
3.12	<p>If the Committee grants a licence, the Street Trading Licence fee is as follows:</p> <ul style="list-style-type: none"> <li>• Application Fee of £150, and</li> <li>• A Licence fee, for Monday to Sunday, of £1250 per annum</li> </ul>

3.13	<p><b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b></p> <p>There are no issues associated with this report.</p>
<b>4.0</b>	<b>Appendices – Documents Attached</b>
	<ul style="list-style-type: none"> <li>• Appendix 1 – Minutes and transcript of the audio from Committee meeting of 14 August 2019.</li> <li>• Appendix 2 – Mr Brown’s letter of appeal</li> <li>• Appendix 3 - Mr Kerr’s letter of appeal</li> </ul>