

LICENSING COMMITTEE

Minute of Meeting of 15th December, 2021

Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021

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 provide the Committee with an update on the recent changes to the liquor licencing laws in Northern Ireland and to establish a position in relation to any objections which the Council may wish to lodge in relation to applications arising from the amended legislation.

2.0 Recommendation

- 2.1 Having considered the key issues outlined, the Committee is recommended to review the options outlined in the undernoted sections of the report and establish a position in relation to any objections which the Council may wish to lodge arising from notification of various liquor licence applications arising from the amended legislation.

3.0 Background

- 3.1 The Committee, at its meeting on 20th October, agreed to defer consideration of a report on the Licensing and Registration of Clubs (Amendment) Act (NI) 2021 to a special meeting and agreed also that, in the interim, applications which had been notified to the Council would be dealt with under delegated authority, thereby permitting the Strategic Director of Place and Economy, in consultation with the City Solicitor, to lodge objections to notices of applications received under liquor licensing legislation. The Member who proposed the special meeting is content, due to the lack of business, for the issue to be considered at this meeting.
- 3.2 The report from the meeting of 20th October has been circulated to the Committee.
- 3.3 The Licensing (Northern Ireland) Order 1996 (the Licensing Order) sets out the general licensing systems, including procedures governing the granting or renewal of licences by county/magistrates' courts, permitted hours for the sale of alcoholic drinks, conduct of premises, conditions pertaining to the presence of children in licensed premises, and enforcement. The Registration of Clubs (Northern Ireland)

Order 1996 does the same for the supply of alcoholic drinks in private members' clubs.

3.4 Enforcement of all matters relating to the sale and supply of alcohol is the responsibility of the PSNI.

4.0 Key issues

Legislation

4.1 The Licensing and Registration of Clubs (Amendment) Act (NI) 2021 amends the Licensing Order and the Registrations of Clubs (NI) 1996.

The key changes, which will take effect in phases, include:

- All additional restrictions on opening hours over Easter weekend will be removed;
- Opening hours on Sunday evenings will be the same as any other night;
- Pubs and Hotels can apply to open until 2 am up to 104 nights per year (instead of 1a.m.);
- Smaller pubs will be able to open to 1 am up to 104 nights per year;
- Drinking-up time will be increased to 1 hour (allowing pubs to stay open until 3 am);
- There will be flexibility around opening hours for bars at major events;
- A new category of licence will be created for local producers of craft beers, ciders and spirits (allowing drink producers to obtain a licence to sell off-sales alcohol and, in limited circumstances, open taprooms so customers can buy drink alcohol on site);
- Cinemas will be able to apply for a liquor licence and serve drink to customers;
- Sporting clubs will be able to use their grounds for functions up to 6 times per year;
- Registered clubs will be able to open to 1am up to 104 nights per year;
- Self-service of alcohol and sales by vending machines will be prohibited;

- Restrictions will be placed on off-sales drinks promotions; and
- Loyalty schemes will not be able to award or redeem points for the sale of alcoholic drinks.

Implications for the Council

- 4.3 There are a number of changes which came into force on 1st October 2021 which will impact on matters relating to entertainments licensing. It is, therefore, important that the Committee establish a position in relation to those matters and, if necessary, clarify circumstances regarding any objections the Council may wish to lodge to liquor licence applications.
- 4.4 Notwithstanding the financial pressures the hospitality sector was already facing, the impact of COVID has been unprecedented and the Council will seek, where possible, to assist the recovery of the sector. However, it is recognised that this must be balanced against the right of local residents not to be subject to unacceptable disturbance.
- 4.5 In the following sections the changes to the legislation are outlined, along with how this impacts on existing and future entertainments licences. Options in relation to these matters are then provided for consideration.
- 4.6 The new Article 44A gives a court power to extend later opening until 2.00 am in pubs or hotels which are structurally adapted to provide entertainment and/or substantial refreshment and which already hold a licence for later opening under Article 44 of the Licensing Order. The amendments introduced in October extend 'drinking up time' from 30 minutes to an hour. The net effect of these changes is that alcohol can be consumed until 3.00 am in those premises which have both an Article 44 and Article 44A licence.
- 4.7 Musical or other entertainment and/or substantial refreshment must be provided throughout the later opening. For most premises in Belfast they are permitted to sell alcohol to later hours by virtue of providing entertainment. For those who wish to apply for further additional permitted hours they will be required to produce a copy of their entertainments licence for the courts.
- 4.8 A licence granted under an Article 44A may only be issued for a maximum of 104 days in any twelve-month period, except for Christmas Day.

- 4.9** Notice of the application must be published in local newspapers and a notice displayed on or near the premises and served upon both the PSNI and the Council.
- 4.10** The Court can revoke, modify or place terms and conditions on an Article 44A licence for the following reasons,
- 1.** the business was conducted in such a manner to cause undue inconvenience to local residents, or
 - 2.** that the hours caused undue inconvenience to local residents, or
 - 3.** that the part of the premises mentioned in the order wasn't being used for the purposes of providing entertainment and/or substantial refreshment.

Issues for Consideration

- 4.11** Whilst most city centre pubs have entertainment licences to 3.00am, this does not always extend to every night of the week and for pubs located in residential areas many of them only have entertainment licences to 1.00 am.
- 4.12** As a notice party to Article 44A extension applications the Council should be sensitive to potential nuisance issues for local residents, particularly where there have been objections to Entertainment licences in the past and restricted licences arising.
- 4.13** However, it is also the case that these application must be published in local newspapers and a notice displayed on or near the premises thereby providing local residents with the opportunity to make their own representations to the courts on any applications for later hours.

Pubs and Hotels – City Centre Locations

- 4.14** Since your meeting in October a number of Article 44A extension applications have been received by the Council and, in responding to these, Council officers have had regard to the following:

- location of the premises,
- the proximity of residential areas,
- any restrictions placed upon the premises by virtue of its Entertainment Licence,
- any history of complaints regarding the operation of the premises,
- Building Regulation issues, and
- Complaints regarding anti-social behaviour in and around the premises.

4.15 Most of the applications received to date have related to city centre venues. These premises fall into two categories:

- 1. Those that have entertainments licences which permit entertainment to 3.00am every night of the week, and**
- 2. Those that have entertainments licences which permit entertainment to 3.00am only on specified nights of the week.**

4.16 Members are reminded that, in all these cases, where the applicant wishes to provide entertainment later than 1.00 am, these licences will have been subject to consideration and approval by the Licensing Committee.

4.17 The response offered under delegated authority by the Council to these applications has been:

- 1. To offer no objection to Article 44A extension applications which have been received to serve alcohol to 2.00am for city centre venues where they are in possession of an entertainments licence which permits entertainment to 3.00am every night of the week, and**
- 2. To confirm that, in principle, the Council has no objection to Article 44A extension applications which have been received to serve alcohol to 2.00am for city centre venues where they are in possession of an entertainments licence which permits entertainment to 3.00am only on specified nights of the week but advising the Court of the fact that the Entertainments Licence does not permit entertainment to 3.00am on some of the dates to which the extension applications relate.**

Pubs and Hotels – non-City Centre Locations

- 4.18 Since the Committee meeting in October, the Council has been consulted on two applications for premises outside the city centre and, given their proximity to residential areas, officers advised the Court that it is considered more appropriate for Committee to determine how best to respond to such applications and asked that any hearing is postponed until such times as the Committee has had an opportunity to consider these applications.
- 4.19 Members are therefore requested to consider a suitable response for the Article 44A applications in respect of the undernoted two premises.

Biddy Duffy's, 133 Andersonstown Road.

Entertainments Licence

- 4.20 The entertainments licence is held by Mr. Peter Teague and the areas where entertainment may be provided are the:
- Ground Floor, with a maximum capacity of 50 persons.
 - First Floor, with a maximum capacity of 120 persons.
- 4.21 The days and hours during which entertainment may be provided are:
- Monday to Thursday: 11.30 am to 1.00 am the following morning,
 - Friday and Saturday: 11.30 am to 2.00 am the following morning, and
 - Sunday: 12.00 pm to midnight.
- 4.22 There is also a special licence condition that Entertainment is permitted to 2.00 am on all Bank and Public Holidays.

Article 44A application for an Order for Additional permitted hours

- 4.23 The Article 44A extension application is to serve alcohol until 2.00am on 52 Saturdays in the period from 27th November 2021 to 26th November 2022. In addition, an application has been made for another 52 extensions to 2.00 am from 26th November 2021 to 18th November 2022.
- 4.24 Some of these dates fall on Bank or Public holidays and would therefore be dates when entertainment is permitted to 2.00 am. However, other dates include 20th - 23rd December, 29th and 30th December, 13th and 14th February, 16th March, 1st May,

2nd June, 11th July, 30th and 31st October. On these dates, entertainment may only be provided to 1.00 am or, for those dates which fall on a Sunday, to midnight.

- 4.25 A copy of the Article 44A application has been circulated.

Premises Overview

- 4.26 The premises are located on an arterial route and there is residential accommodation situated to the rear of the property.
- 4.27 The most recent complaint regarding the premises was received in February 2015 and related to the provision of entertainment after 1.00 am. A subsequent application to vary the licence was considered by Members in June 2015 and the hours outlined above in paragraph 4.21 were agreed by the Licensing Committee.
- 4.28 A recent inspection of the premises revealed that some works had been undertaken to the first floor of the premises and the licensee has been asked to submit a Building Regulation application in respect of these works.
- 4.29 There have been no complaints regarding anti-social behaviour nor have any objections been received to the renewal of the licence in the last 10 years.
- 4.30 There are no restrictions in relation to the operation of the premises by virtue of its Entertainment Licence other than those outlined in paragraphs 4.21 to 4.22 above.
- 4.31 Given that the premises are quite close to residential properties Members may wish to consider whether there is potential that the hours applied for, or any period immediately following their termination, may lead to undue inconvenience to persons residing in the vicinity of the premises.

Horatio Todds, 406-408 Upper Newtownards Road.

Entertainments Licence

- 4.32 The entertainments licence is held by Wandsworth Pubs Ltd. and the area where entertainment may be provided is the:
- Ground Floor, with a maximum capacity of 300 persons.
- 4.33 The days and hours during which entertainment may be provided are:

- **Monday to Saturday: 11.30am to 1.00am the following morning, and**
- **Sunday: 12.30 pm to midnight.**

Article 44A application for an order for additional permitted hours

- 4.34 The Article 44A extension application is to serve alcohol until 2.00 am on 52 Saturdays in the period from 11th December 2021 to 10th December, 2022. In addition, application has been made for another 52 extensions to 2.00 am between 10th December 2021 and 25th November 2022, some of which fall on Fridays and Bank or Public holidays.**
- 4.35 However, all of these are days where entertainment may only be provided to 1.00 am or, for those dates which fall on a Sunday, to midnight.**
- 4.36 A copy of the Article 44A application has been circulated.**

Premises Overview

- 4.37 The premises are located on an arterial route and there is residential accommodation situated to the rear of the property.**
- 4.38 There have been no complaints regarding the premises nor have any objections been received to the renewal of the licence in the last 10 years.**
- 4.39 There are no outstanding Building Regulation matters in respect of the premises.**
- 4.40 There are no restrictions in relation to the operation of the premises by virtue of its Entertainment Licence other than those outline in 4.33 above.**
- 4.41 Given that the premises are quite close to residential properties Members may wish to consider whether there is potential that the hours applied for, or any period immediately following their termination, may lead to undue inconvenience to persons residing in the vicinity of the premises.**

Police authorisations for Additional Hours

- 4.42** The new legislation also introduces new, or amends existing, powers for police authorisations for additional hours which,
- allows pubs which have an Article 44 licence to apply to PSNI for ad-hoc late opening (11.00 pm - 1.00 am) up to 20 times per year for a day not covered by the article 44 Order,
 - increases the number of occasions smaller pubs (which are not structurally adapted and therefore unable to apply for an Article 44 licence) can apply for late opening (11.00 pm - 1.00 am) from 20 to 104 times per year, and
 - increases the number of occasions registered clubs can apply for late opening (11.00 pm - 1.00 am) from 85 to 104 times per year.
- 4.43** The applicant must display notice of the application on or near the relevant premises during the three weeks before the first occasion to which the application relates. The Council must also be served with a copy of the Notice three weeks before the first date to which the application relates.
- 4.44** The process whereby PSNI has considered extension licence applications for small pubs and registered clubs has been in place for some considerable time and, in granting those extensions, there have been limited evidence that this has led to any significant problem in relation to complaints being received by the Council.
- 4.45** There is also provision for complaints from PSNI, Council or any person owning or residing in premises within the vicinity, to be made to the courts where undue inconvenience is caused to local residents as a result of a late night authorisation. Upon receipt of such a complaint the Court can revoke, modify or impose additional terms and conditions as it thinks fit.
- 4.46** Unlike applicants for an Article 44A licence, those applying to the police for additional hours authorisations will not always hold an entertainments licence. The Council will therefore not always have the same amount of information on those venues.

Recommendations:

The Committee is asked to determine its position in respect of the following:

City Centre Pubs and Hotels

- 5.1 Members are asked to agree that officers deal with city centre applications under delegated authority, as set out in paragraph 4.17, if the provision of entertainment at the premises has not been subject to significant objection or prosecution in the past. Where there is such a history those applications will be brought to Committee to determine.

Biddy Duffy's and Horatio Todds Article 44A Applications

- 5.2 Taking into account the information provided in relation each premises, the Committee is asked whether it wishes to:
- a. Offer no objection.
 - b. Offer no objection but advise the Court of the fact that the Entertainments Licence does not permit entertainment to 3.00am on any of the dates to which the extension applications relate.
 - c. Offer no objection provided that the applicant agrees to a special condition being attached to their entertainments licence which prohibits the provision of entertainment later than 2.00am unless there is an entertainment licence in place which expressly permits same.
 - d. Object to all of the Article 44A extension applications until such times as the applicant has made an application to vary their entertainment licence to permit entertainment until 3.00am so that issues around noise disturbance, anti-social behaviour, impact upon local residents and amenity etc, can be properly assessed.

Decision for Members on non-City Centre Pubs and Hotels Generally

- 5.3 The Committee is asked to agree that officers deal with non-city centre applications under delegated authority in a similar manner to the applications in respect of Biddy Duffy's and Horatio Todds.
- 5.4 This is if the provision of entertainment at the premises has not been subject to significant objection or prosecution in the

past. Where there is such a history those applications will be brought to Committee to determine.

Decision for Members on Police authorisations for Additional Hours

- 5.5 Taking into account the information provided Members are asked to agree that officers deal with these applications under delegated authority and will not make representation in respect of these applications unless there is reason to do so by virtue of any:
- a) restrictions placed upon the Entertainment Licence (if the premises associated with the application has an Entertainments licence);
 - b) complaints regarding the operation of, or anti-social behaviour in and around, the premises; and
 - c) Building Regulation or other Council statutory enforcement issues.

Financial and Resource Implications

6.1 None

7.1 **Equality or Good Relations Implications/
Rural Needs Assessment**

None.”

Pubs and Hotels – City Centre Locations

The Committee agreed that Article 44A extension applications for pubs and hotels in City centre locations should continue to be dealt with by Council officers under delegated authority, as follows:

- i. to offer no objection to Article 44A extension applications which have been received to serve alcohol to 2.00 a.m. for city centre venues where they are in possession of an entertainments licence which permits entertainment to 3.00 a.m. every night of the week, and
- ii. to confirm that, in principle, the Council has no objection to Article 44A extension applications which have been received to serve alcohol to 2.00 a.m. for city centre venues where they are in possession of an entertainments licence which permits entertainment to 3.00 a.m. only on specified nights of the week but advising the Court of the fact that the Entertainments Licence does not permit entertainment to 3.00 a.m. on some of the dates to which the extension applications relate.

It was noted that, in cases where Article 44A extension applications had been received for premises where the provision of entertainment had been subject to significant objections or prosecution, those would be presented to the Committee for consideration.

Pubs and Hotels – Non-City Centre Locations

Biddy Duffy's, 133 Andersonstown Road/ Horatio Todd's, 406 – 408 Upper Newtownards Road

The Committee agreed to offer no objection to Article 44A extension applications for Biddy Duffy's and Horatio Todd's up to 31st January, 2022 and that each applicant be requested:

- i. to agree to withdraw all Article 44A extension applications beyond 31st January, to allow officers to provide at the Committee meeting in February an update on any issues which had arisen from the operation of the premises during the month of January, given that both premises were located in close proximity to residential accommodation; and
- ii. to agree not to provide entertainment after 2.00 a.m., unless an Entertainments Licence was in place which expressly permitted entertainment to take place beyond that time.

Pubs and Hotels – Non-City Centre Locations Generally

The Committee agreed that, should any further Article 44A extension applications for non-City centre locations be received between this meeting and 31st January, 2022, officers should deal with them in a similar way as those for Biddy Duffy's and Horatio Todd's, as long as they did not relate to premises where the provision of entertainment had been subject to significant objections or prosecution in the past.

In such instances, the application would be presented to the Committee for consideration.

Police Service of Northern Ireland Authorisations for Additional Hours

The Committee agreed that authority be delegated to Council officers to deal with Police Service of Northern Ireland authorisations for additional hours and that no representations be made unless there is reason to do so by virtue of any:

- a. restrictions placed upon the Entertainment Licence (if the premises associated with the application has an Entertainments licence);
- b. complaints regarding the operation of, or anti-social behaviour in and around, the premises; and
- c. Building Regulation or other Council statutory enforcement issues.