

Extract of the Licensing Committee Minutes of Wednesday, 19th January, 2022

Application for the Grant of a Stationary Street Trading Licence - Dargan Crescent (at Musgrave Cash and Carry Site)

The Building Control Manager informed the Committee that the Council had received an application from Mr. David Reilly for a Stationary Street Trading Licence to trade at an available designated site in Dargan Crescent, outside the Musgrave Cash and Carry premises. The designation complied with the designating resolution for that site.

Mr. Reilly had applied to sell hot and cold food and non-alcoholic beverages from Monday to Friday, between 8.00 a.m. and 2.30 p.m., from a catering trailer, measuring 25 feet by 7 feet. He had not previously held a Street Trading Licence with the Council and the Police Service of Northern Ireland and the Department for Infrastructure Roads Service had offered no objection to the use of the site.

The Building Control Manager explained that Mr. Reilly had, within the Access NI Basic Disclosure Certificate which he was required to submit as part of the application process, stated that he had been convicted of an offence on 21st June, 2021.

The Divisional Solicitor outlined the nature of the offence, following which the Building Control Manager pointed out that the Street Trading Act (Northern Ireland) 2001 placed a statutory obligation on the Council to approve an application for a Street Trading Licence unless there were sufficient grounds to refuse it. Section 8 of the Act set out circumstances in which an application must be refused, however, there were no such grounds for refusal applicable to this application.

He went on to explain that, under Section 9 (c) of the Street Trading Act (Northern Ireland) 2001, the Council could, however, refuse to grant an application on discretionary grounds if the applicant was, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a Licence. The Council's Street Trading Policy, which it was required to follow in making a decision, repeated this discretionary ground and went further by stating that the Council, when determining the suitability of each Street Trading Licence, must take into account the safety of the public and any risks which may arise. The applicant's conviction on 21st June, 2021 would, therefore, be a relevant consideration for the Committee in determining his suitability to hold a Street Trading Licence.

It was reported that Mr. Reilly, the applicant, and Ms. E. Ewing, his legal representative, were in attendance and they were welcomed by the Chairperson. Ms. Ewing explained the circumstances surrounding Mr. Reilly's conviction and pointed out that the Police Service of Northern Ireland had confirmed that there had been no further complaints or issues raised in relation to his behaviour. She concluded by highlighting the fact that this had been an isolated incident and urged the Committee to take this into account when considering her client's application.

After discussion, it was

Moved by Councillor McAteer,

Seconded by Councillor Magee,

That the Committee agrees, given the nature of the conviction, that it is minded to refuse the application on the discretionary grounds set out in Section 9 (1) (c) of the Street Trading Act (Northern Ireland) 2001, in that the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a Street Trading Licence.

On a vote, eleven Members voted for the proposal and two against, with four "no votes", and it was declared carried.

The Committee was advised that, as a consequence of its decision, the applicant would be notified that, under Section 12 (2) (b) of the aforementioned Act, he would be permitted to make representation, in writing, to the Council, with such representation to be made not less than twenty-one days from the date of notice. Should such representation be made, he and/or his representative would, prior to the Committee deciding on the matter, be permitted to address a future meeting