

Licensing Committee

Wednesday, 18th September, 2019

MEETING OF LICENSING COMMITTEE

- Members present: Councillor S. Baker (Chairperson);
The Deputy Lord Mayor, Councillor McReynolds;
The High Sherriff, Alderman Sandford; and
Councillors Bunting, Donnelly, Dorrian, Ferguson,
Groves, Howard, Hussey, Hutchinson, M. Kelly,
T. Kelly, Magee, McAteer, Smyth and Whyte.
- In attendance: Mr. A. Thatcher, Director of Planning and Building Control;
Mr. S. Hewitt, Building Control Manager;
Ms N. Largey, Divisional Solicitor;
Mr. K. Bloomfield; Houses of Multiple Occupancy
Manager;
Ms. M. Gallagher, Senior Building Control Surveyor; and
Ms. E. McGoldrick, Democratic Services Officer.

Apologies

Apologies were reported on behalf of Alderman Copeland and Councillor Magennis.

Minutes

The minutes of the meeting of 14th August were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 2nd September, 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.

Delegated Matters

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

Applications Approved under Delegated Authority

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

Consideration of objections to an application for the Grant of an Entertainments Licence for the Lansdowne Hotel

The Building Control Manager provided an overview of the following report:

“1.0 Purpose of Report or Summary of Main Issues

1.1 To consider an application for the Grant of a 7-Day Annual Indoor Entertainments Licence for the Lansdowne Hotel based on the Council’s standard conditions to provide music, singing, dancing or any other entertainment of a like kind.

1.2

<u>Premises and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
Lansdowne Hotel, 657-659 Antrim Road, Belfast, BT15 4EF	WK/201900809	Mr Edmund Simpson JPE Hotels Antrim Road, Belfast

1.3 A copy of the application form is available on the Council’s website.

1.4 A location map of the premises is attached (copy available on the Council’s website).

2.0 Recommendations

2.1 Considering 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 7-Day Annual Entertainments Licence, or**
- 2. Approve the application for the Grant of the 7-Day Annual Entertainments Licence 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.

2.3 If the application is refused and an appeal is lodged entertainment may not be provided during the appeal period.

3.0 Main report

Key Issues

3.1 Three objections have been received from residents living near the Hotel. The nature of their objections relates to the following:

- **Conversations and noise from patrons using the beer garden are at unacceptable levels of noise.**
- **The high level of noise breakout from the venue.**
- **The dispersal of patrons and taxis late at night create an unacceptable level of noise.**
- **The granting of a licence will escalate the noise problems from the beer garden.**

3.2 Copies of these objections are available on the Council's website.

Liaison meetings

3.3 Following receipt of the objections the Service facilitated liaison meetings between all parties involved to discuss residents' issues and attempt to resolve them.

3.4 Two of the objectors, a hotel director and an Officer from the Service Officer met at the Hotel to discuss resident's concerns on 3 July 2019 and a second meeting was held on 18 July to allow a further resident who had been on holiday to discuss their issues.

3.5 Following discussions, the hotel management implemented arrangements in relation to patron dispersal and noise as requested by residents. However, despite these meetings the residents still wish to pursue their objections.

3.6 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.

Objectors Representation

3.7 The objectors Representation Forms are attached as Appendix 4 and they have been provided to the applicant, as required by the protocol.

3.8 In general, the representations relate to concerns as follows:

- **The provision of entertainment without a licence,**

**Licensing Committee,
Wednesday, 18th September, 2019**

- Noise caused by patrons leaving the premises late at night,
- The relocation of the main entrance to the Antrim Road and lack of management to encourage patron dispersal,
- Music is still audible despite remedial measures by the applicant,
- Noise caused by patrons in the beer garden area.

3.9 The residents have been invited to attend your meeting to discuss any matters relating to their objections should they arise.

Applicants Representation

3.10 The applicant has provided their Representation Form, as required by the Protocol, and a copy of his response is attached as Appendix 5. The applicant has highlighted the measures which have been undertaken to try and address residents' concerns.

3.11 The applicants Representation Form has also been provided to the objectors, as required by the protocol.

3.12 A summary of the applicant's representation is as follows:

- The hotel directors have been in regular communication with the three residents objecting and endeavoured to satisfy their requests.
- The hotel directors have invested £2.5 million to refurbish the hotel.
- The hotel employs 72 staff from the local area and the failure to obtain an Entertainments Licence may well affect their future employment.
- The hotel carried out an external lobby construction at a cost of £18,000 to ensure that noise from the hotel could be reduced.
- Door staff were employed to ensure entrance doors were open for the minimum time possible.
- Signage was erected to encourage patrons to disperse quietly.
- The applicant has employed an acoustic consultant to advise on potential noise breakout from the venue.

Counter representations

3.13 In response to the Representation Form submitted by the applicant one of the objectors has disagreed with their assertion that music levels are no longer an issue for residents. The resident has also added that they are not

**Licensing Committee,
Wednesday, 18th September, 2019**

seeking an outright ban on live music but that a compromise situation can be found to suit all.

- 3.14 A copy of this email is included (copy available on the Council's website).
- 3.15 Further to providing the applicant with a copy of the objectors' Representation Forms the applicant has strenuously refuted any knowledge of social media comments causing the objectors concern and has provided information suggesting Members should disregard this information.
- 3.16 A copy of this email is included (copy available on the Council's website).
- 3.17 The applicant has also objected to a photograph submitted in supporting evidence by one of the objectors. Further to discussion with Legal Services this photograph has been omitted from the information provided with the Representation Forms.
- 3.18 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

- 3.19 The areas the applicant wishes to be licensed to provide entertainment are the:
- 3.20 Ground Floor Bar which will have a maximum capacity of 200 persons
- 3.21 Ground Floor Function room which will have a maximum capacity of 350 persons.
- 3.22 The days and hours during which the applicant wishes to provide entertainment are:
- Monday to Saturday: 11.30 am to 1.00 am the following morning and,
 - Sunday: 12.30 pm to midnight.

PSNI

- 3.23 The PSNI have been consulted in relation to the application and confirmed that they have no objection to it. Police have also advised that they are in contact with the Licensee and his solicitor regarding the recent alterations to the premises.

NIFRS

- 3.24 The Northern Ireland Fire Rescue Service has also been consulted in relation to the application and have advised they have no objection to it.

Health, safety and enforcement inspections

- 3.25 The premises have been inspected and all works to ensure patron safety in the premises have been completed to the satisfaction of the Service.
- 3.26 The Service became aware of residents' concerns with the premises in July 2019 when complaints were made through the Council's 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.
- 3.27 Monitoring inspections were carried out at the premises by Officers from the Service on 06 July, 20 July and 16 August and the inspection on 20 July was arranged jointly with PSNI.
- 3.28 To date we have not witnessed entertainment being provided at the premises and no enforcement action is contemplated at present.

Noise issues

- 3.29 Two noise complaints have been received by the Night Time Noise Team (NTNT) since the application was made in July 2019. When responding to the complaints and attending the area Officers of the Noise Team did not witness any excessive noise levels that warranted action.
- 3.30 On 14th July a planned night time call out was arranged after a liaison meeting with a complainant. Outside the complainant's dwelling audible bass music was heard for a few minutes and voices were heard from the beer garden. Within the complainant's bedroom traffic noise was the main source of noise recorded.
- 3.31 On 3rd September a complainant contacted the NTNT who visited the premises but witnessed no noise from the Hotel and no patrons in the beer garden. Inside the complainant's property NTNT witnessed no noise from the hotel and road traffic noise was predominant.
- 3.32 The applicant has provided an acoustic report to determine if any works need to be carried out to the premises to prevent

**Licensing Committee,
Wednesday, 18th September, 2019**

noise breakout. The report is currently being assessed by the Environmental Protection Unit and it is suggested that, if Members are of a mind to grant a licence, you do so on the basis that all acoustic measures are implemented to the satisfaction of the Council before entertainment may take place.

3.33 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.

3.34 Financial and Resource Implications

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

3.35 Equality or Good Relations Implications/Rural Needs Assessment

There are no issues associated with this report."

The Committee received a representation from Mr. M. Scott, Mr. M. McCann, and Dr. A. Clarke in objection to the application.

Mr. Scott summarised his objections to the application and suggested that there had not been an issue with noise levels from the hotel until it reopened in June, 2019. He highlighted that he had been in contact with the owner of the hotel in relation to the noise coming from the beer garden who said it would be closed at a reasonable hour, however, that had not happened and it was affecting his sleep and quality of life. He confirmed that the last contact he had had from the hotel was on the 5th July. He highlighted that the hotel was situated on the edge of a conservation area, and questioned the future plans for the outside speakers in the beer garden.

Dr. Clarke outlined a range of objections to the application, which included the noise from patrons leaving the hotel and the noise levels that were affecting his family life and sleep, especially on the weekend. He stated that the hotel had been playing music, from when it had reopened, without an entertainments licence, and played music until the Council had told them not to. He suggested that there was a lack of door staff and pointed out that he had tried to negotiate with the hotel in relation to the noise, but found them unhelpful and nothing had been done to alleviate the issues raised. He suggested that the main licensing issues were the dispersion of patrons outside and questioned if there was a liquor licence for the beer garden and if planning permission was required for the changes to doors being at the front of the property. He pointed out that the Hotel management had not consulted with the neighbours.

Mr. McCann advised that he did not want to stop the entertainment at the hotel, however, he wanted to highlight that the level of noise from the beer garden and music was unacceptable. He suggested that the Hotel was now selling itself as a live music venue which had led to the recent noise complaints. He requested that residents and

**Licensing Committee,
Wednesday, 18th September, 2019**

families should be protected in these new circumstances, especially during weekdays and suggested that it was unacceptable that his family could hear noise in their bedrooms from music and patrons in the beer garden until 1am. He concluded that, to grant a licence for music every night of the week, would be unfair to residents and the noise levels should be controlled. He stated that the Council's guidelines should be followed in consideration of the application.

The Committee received a representation from Mr. J. McLaughlin, Mr. R. Gaston, and Mr. K. Casey, in support of the application.

Mr. McLaughlin, owner of the Lansdowne Hotel, advised that the hotel had recently been refurbished as a wedding and events venue. He stated that an entertainments licence was required to make the business viable. He reported that he had invested heavily in the Hotel with the addition of £30,000 of remedial works on issues which had been raised by residents about the noise levels, which included:

- an external porch to ensure that noise from the hotel could be reduced;
- the installation of noise reduction glazing;
- introduction of a noise policy and a patron dispersal policy;
- employment of a sound engineer and an independent acoustic consultant to advise on potential noise breakout from the venue; and
- natural hedge foliage in the garden, to also help act as a noise buffer.

He implied that the noise reducing measures had worked and suggested that they had fully engaged with the Council and residents. He emphasised that noise would be kept at an appropriate level as the hotel also had residents to look after.

Mr. Casey pointed out that the Hotel had a liquor licence for the entire property, which included the beer garden and curtilage, therefore there had been no breach of the liquor licence and no objections had been made by the PSNI.

During Members' questions, the representatives explained further the acoustic report, the patron dispersal plan and explained that the front door could not be closed as it was a fire exit. They suggested that there was no music being played in the beer garden, door staff had been employed to ensure entrance doors were open for the minimum time possible and signage had also been erected to encourage patrons to disperse quietly. They stated that the Beer garden closed 20 minutes before the closing time.

The Members watched a short video which showed footage from outside of the hotel to illustrate the level of noise.

The Divisional Solicitor reminded the Committee that issues in relation to liquor licensing were dealt with by the PSNI and planning permission matters were dealt with by the Planning Service. She confirmed that the Committee could take into account noise issues related to the provision of entertainment at the premises.

**Licensing Committee,
Wednesday, 18th September, 2019**

After discussion, the Committee approved the application for the Grant of the 7-Day Annual Entertainments Licence, subject to the assessment of the acoustic report by the Environmental Protection Unit and that, should any issues arise in relation to licensing matters, the Council would convene a meeting between relevant parties to address these matters.

Application for the Variation of a 7-Day Annual Entertainments Licence for Fountain Lane

The Building Control Manager informed the Committee that an application had been received for the variation of a Seven-Day Annual Indoor Entertainments Licence in respect of Fountain Lane, based upon the Council's standard condition to provide music, singing, dancing or any other entertainment of a like kind.

He reported that entertainment was provided currently on Monday to Saturday from 11.30 a.m. till 1.00 a.m. and on Sunday from 12.30 p.m. to midnight. The licensee had now applied to provide entertainment till 2.00 a.m. the following morning on Monday to Sunday.

He pointed out that the applicant had stated that the main reason they wished to extend the hours of entertainment was to compete with other premises in the City centre providing late night entertainment.

The Building Control Manager confirmed that no written representation had been received in relation to the application and that the Northern Ireland Fire and Rescue Service and the Police Service of Northern Ireland had not objected. In such circumstances, it was normal practice for the Entertainments Licence to be issued under the Council's Scheme of Delegation. However, given that the application related to the extension of the hours of entertainment beyond 1.00 a.m., it was being presented to the Committee for consideration.

He advised that no noise complaints had been received in relation to the premises in the last 12 months.

The Committee agreed to vary the Seven-Day Annual Indoor Entertainments Licence for Fountain Lane, 16-20 Fountain Street, thereby permitting entertainment to take place till 2.00 a.m. the following morning on Monday to Sunday.

Houses in Multiple Occupation (HMO) Licenses – Enforcement Policy and the issue of Fixed Penalty Notices

The Committee was reminded that the Houses in Multiple Occupation (HMO) Act NI 2016 became operational on 1st April, 2019 when the Council took over operational responsibility for HMO licensing and enforcement.

The NIHMO Manager advised that the purpose of the Houses in Multiple Occupation Act (Northern Ireland) 2016 was to enable better regulation of Houses in Multiple Occupation (HMO), by introducing a system of licensing and new provisions about standards of housing. He reported that the NIHMO Unit based in the Council acted on behalf of each of the 11 Northern Ireland Council's to ensure an efficient and effective

**Licensing Committee,
Wednesday, 18th September, 2019**

approach to all regulatory and enforcement activities would be carried out under the Act and the associated sub-ordinate legislation.

He highlighted that the proposed HMO Enforcement Guidelines were attached in Appendix 1 (copy available [here](#)) which set out the principles which would enable the NIHMO Unit to provide an effective and fair service, and to ensure consistent and open enforcement.

In relation to Fixed Penalty Notices (FPNs), the NIHMO Manager stated that the Houses in Multiple Occupation (HMO) Act NI 2016 provided a wide variety of enforcement options, including the ability to serve FPNs and highlighted that the issuing of a notice would be an alternative to prosecuting the offender. He advised that, to date, 5 fixed penalty notices had been issued and four of the penalty fines had been paid.

He confirmed that more than 100 properties in Belfast, previously licensed as HMOs, had not applied to renew their licenses and the properties would be inspected and assessed for any offences under the HMO Act.

He informed the Committee that, for offences (other than section 31(1) exceeding licensed occupancy for which there is no reasonable excuse provision), the NIHMO Unit would write to the owner or the managing agent and request an explanation. However, if no reasonable excuse was forthcoming, an authorised officer would serve a fixed penalty notice and, in accordance with section 8.5 of the aforementioned HMO enforcement policy, failure to pay the fixed penalty notice would result in the Council commencing legal proceeding of the alleged offence.

The Committee agreed to endorse the HMO enforcement Policy Guidelines and noted the information which had been provided, in particular the service of fixed penalty notices.

**Houses in Multiple Occupation (HMO) Licenses
Issued Under Delegated Authority**

The Committee was reminded that, under the Scheme of Delegation, the Director of City and Neighbourhood Services Department was responsible for exercising all powers in relation to the issue and variation, but not the refusal of HMO Licences, excluding provisions relating to the issue of HMO Licences where adverse representations had been made.

The NIHMO Manager reported that, under the terms of the Houses in Multiple Occupation Act (Northern Ireland) 2016 and The Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (Northern Ireland) 2019, the HMO Licences, which had been issued since the last Committee, were outlined in the report (copy available [here](#)).

The Committee noted the HMO applications which had been issued under the Scheme of Delegation.

Restricted Item

The information contained in the report associated with the following item is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.

Resolved – That the Committee agrees to exclude the members of the Press and public from the Committee meeting during discussion of these items as, due to the nature of the items, there would be a disclosure of exempt information as described in Section 42(4) and Section 6 of the Local Government Act (NI) 2014.

Houses in Multiple Occupation (HMO) Licenses – Planning Issues

The Divisional Solicitor provided the Committee with an update on the requirement of planning permission as part of the renewal application process.

She reported that, pursuant to the 2016 Act, the Council may only grant a licence if it was satisfied of the following:

- the occupation of the living accommodation as an HMO would not constitute a breach of planning control;
- the owner of the living accommodation, and any managing agent of it, were fit and proper persons;
- the proposed management arrangements for the living accommodation are satisfactory);
- the granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation was situated and
- the living accommodation was fit for human habitation and—
- was suitable for occupation as an HMO by the number of persons to be specified in the licence, or
- could be made so suitable by including conditions in the licence.

She advised that Section 20 of the 2016 Act covered renewals and it stated that, where the holder of an HMO licence made an application in accordance with this section for it to be renewed, the Council may renew the licence. In doing so, the above provisions applied except for the provisions in relation to the breach of planning control and overprovision.

Following advice from Senior Counsel in relation to this issue, the Divisional Solicitor reiterated that issues relating to whether premises had the benefit of planning permission could not be considered in HMO renewal applications.

Noted.

**Licensing Committee,
Wednesday, 18th September, 2019**

Non-Delegated Matters

Licence Fees for Sex Establishments

It was reported that, under Article 4 and Schedule 2 of The Local Government (Miscellaneous Provisions) (NI) Order 1985 (the Order), the Council had powers relating to the Licensing of Sex Establishments. Paragraph 19, Schedule 2 provided that an applicant for the grant, renewal or transfer of a licence shall pay a reasonable fee determined by the council.

Unlike the Street Trading Act (NI) 2001 and the Licensing of Pavement Cafés Act (NI) 2014, there was no procedure prescribed in the Order that the Council must follow in determining the Licence fee.

The Building Control Manager advised that current Sex Establishment Licence fees were initially set by the Committee in June, 2016 and the Committee had agreed that a review of the fees be conducted each year.

The Committee agreed that the following current fees, set in September 2018, remain unchanged:

Application Fee	£3,200
Renewal Fee	£1,430
Transfer Fee	£1,125
Licence Fee	£500

Chairperson