

This is an application by Samuel A McLean and others for the Provisional Grant of a Bookmaking Office Licence in respect of premises at 8 Main Street, Hillsborough.

The formal proofs are in order and I am satisfied that the premises themselves are suitable for use as a Bookmaker's Office.

Although there were numerous written objections from local residents, only one, Mrs Edna McGirr, represented by Mr O'Callaghan, appeared in Court to give evidence. The substance of her objection was that a betting shop would be out of character for Hillsborough, would be bad for trade and could potentially attract passing lorry drivers, thus exacerbating local traffic difficulties. Reference was also made to the proximity of a local school and several churches but no evidence was forthcoming from the school or church authorities.

Mr McSparran, for the Applicant, in response to Mrs McGirr's objection, referred to the fact that planning permission had been granted for the proposed bookmaker's office and submitted that the "out of character" argument could not be taken into account. I accept that submission and focus on Article 12(4)(J) of The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, relating to the issue of the demand in the locality for a bookmaking office.

Mr Lavery, for the objectors L Stanley, conceded that no issue arose in regard to what constitutes the locality of the town of Hillsborough, nor was it an issue that there were no existing bookmakers' offices in the locality. Evidence was given that there were 8 such offices in Lisburn, 4 miles away, and one in Dromara, 5 miles away.

Mr Vincent McLean, one of the Applicants, gave evidence of demand in Hillsborough for a bookmaker's office, saying that he had been approached several times in Lisburn by customers calling for such a facility. Mr McClean said that he asked a Mr Gill, an investigator, if he knew people from Hillsborough who would want a bookmaker's office in the town. He gave evidence that Mr Gill spoke to one person and that others then came forward. The Court then heard from Messrs Baine, Kerr, Morgan, Hanna and McKeown, all residents of Hillsborough and all apparently frustrated at the inconvenience of having to travel to Lisburn to place a bet.

Mr Baine gave evidence that he would normally bet on football, that he would bet on horses the odd time and that if he wanted to make a bet he would 'phone Lisburn. He said he would place bets by 'phone on behalf of others.

Mr Kerr gave evidence that he would bet 2 to 3 times a week and would have to go to Lisburn or Dromara to do so. He said he had been asked to come to Court by Mr Ronnie McKeown and that his expenses would probably be met. Similarly, Mr Morgan said that he worked with Mr McKeown who had asked him to come to Court. He was not aware of any payment being proffered for doing so.

Mr Hanna gave evidence that he had to get to Lisburn to bet and that it cost £1.90 on the bus or £5.00 by taxi. He said that he was probably getting his expenses for coming and that Mr Gill had asked him to come.

Mr McKeown gave evidence that he was a professional greyhound trainer who occasionally placed a bet. He said he knew the Applicant's family well and had volunteered to come to Court. He said he would have to drive to Lisburn to place a bet but would be reluctant to do so because of the drink driving legislation.

Evidence was also given by Mr Derek White, a design consultant, who prepared a report which was handed into Court. I have carefully considered the contents of Mr White's report.

The basic complaint of the witnesses called was that if they wished to place a bet, other than by 'phone, they had to travel the 4 miles into Lisburn. In this regard I was referred, by Mr Lavery, to the case of David Edward Nolan -v- Elliott, which makes it clear that in certain circumstances a licensed office can be regarded as being available to meet the demand in a locality even though that office is outside the locality, because it can be capable of being used by, or at the disposal of, or within the reach of, the persons living within the locality.

I have no doubt that the witnesses called do find it inconvenient to have to go to Lisburn to visit a bookmaker's office. The question for me is, does their evidence satisfy me that the demand in the locality is such that the existing offices in Lisburn are inadequate to meet that demand? I note that Mr Kerr and Mr Morgan gave evidence that they had been asked to come to Court by Mr McKeown. I have listened carefully to their evidence, to that

of Mr Baine and Mr Hanna, together with that of Mr McClean and Mr White. However, I am not persuaded that a substantial number of people living in or visiting the locality wish to avail of a bookmaker's office.

In short, the evidence called in relation to demand has failed to persuade me in relation to the issue of demand in the locality. I am aware that in other cases, such as *McCartan v. Finnegan, McDonnell and Breen* (Court of Appeal 11 January 1994 unreported) and in the matter of an application by John Cowden for the Provisional Grant of a Bookmaker's Office Licence, a judgement by His Honour Judge Russell QC, at Belfast Recorder's Court, 18 December 1996, reference has been made by Applicants to surveys in regard to demand in the locality.

I quote Judge Russell

"..... the Courts these days ought reasonably to expect that evidence of demand in bookmaking and licensing cases should be established in a much more scientific way than by placing the evidence of a small number of would-be punters or drinkers before the Court. The locality around the subject premises (whatever it may be) is largely a well presented lower-middle class to upper-middle class area in which it would be appropriate to conduct a proper survey of demand.

For example, in *Stewarts Supermarket Ltd -v- Sterrit* (1985 NI 159) Hutton J refers (at p 162) to a survey of 509 persons carried out by Ulster Marketing Surveys while in a recent case heard in the Recorders Court an applicant for an off-licence put before the Court evidence of demand revealed by a survey of the public conducted in a professional manner by a firm specialising in such surveys. I consider that such evidence showing that a demand exists in a particular locality would immeasurably strengthen the case of persons applying of a licence under Article 12 of the 1985 Order."

The Application is refused.