

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 22 MAY 2013**

Present: Councillor Mary-Jean Devon (Chair)

Councillor Gordon Blair	Councillor Alistair MacDougall
Councillor Rory Colville	Councillor Robert G
Councillor Robin Currie	MacIntyre
Councillor Fred Hall	Councillor Donald MacMillan
Councillor David Kinniburgh	Councillor Alex McNaughton
	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and Law
Graeme Forrester, Solicitor
Edward Telfer, Applicant
Colin Steele, Applicant
Sgt Mark, Wilson, Police Scotland
Richard Gorman, Environmental Health Officer

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors George Freeman, James McQueen and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF LATE HOURS CATERING LICENCE (WEST END CAFE, ROTHESAY)

The Chair welcomed everyone to the meeting and introductions were made.

The Head of Governance and Law advised that a late representation had been received from Environmental Health. He advised that this was due to an administrative error and not the fault of the Environmental Health Officer and apologised to the Applicants, the Environmental Health Officer and the Committee for this oversight. He confirmed that there had still been time to issue this representation to the Applicants for consideration and if the Applicants were agreeable to this representation being taken into consideration by the Committee then there would be no reason to delay determination of this Application to a future date. Both Mr Steele and Mr Telfer confirmed they had no objection to the representation from Environmental Health being considered by the Committee.

The Chair then outlined the procedure that would be followed and invited the Applicants to speak in support of their Application.

Applicants

Mr Telfer advised that they were applying for a late hours catering licence for their business and referred to comments made by the Environmental Health Officer in his representation. He advised that the entrance to the premises was from the Gallowgate and that the side entrance was for disabled access when required. He referred to a noise complaint made in 2007 and confirmed that they had since updated their extraction system which was a lot quieter. He referred to concerns about people congregating outside the premises and advised that people would still walk by their premises to get to other nearby takeaway establishments so there would be noise regardless of whether their premises was open or not. He referred to other shops with late hours catering licences just round the corner from them and that they would like their opening hours to be brought into line with these other establishments.

Mr Steele referred to the late opening hours applied for and confirmed that they would be happy if a licence was granted on the same basis as the other nearby hot food shops which was 23.00 pm – 12.30 am Sunday to Thursday and 23.00 pm – 3.00 am Friday and Saturday.

As there were no questions from the Police or Environmental Health the Chair invited Sgt Wilson and Mr Gorman to speak in support of their representations.

Police

Sgt Wilson advised that Police Scotland had no objection to the Application but recommended that the Café be granted the same hours afforded to the other takeaway shops in Rothesay.

Environmental Health

Mr Gorman spoke briefly about the report he had submitted and referred to a number of photographs taken close to the Café. He advised that there were residential dwellings above and directly opposite the Café. He advised that it was his opinion that different circumstances allowed the other shops to open till 3.00 am. He advised that the Café was situated on the corner of three roads in an area with much more residential accommodation. He advised that the other shops had residential dwellings above them but nothing opposite as they looked out to the sea. He confirmed that there had been no noise complaints in respect of the other shops. He advised that it was his opinion that if the Café was permitted to open for an extra four hours there was the potential for disturbance to local residents. He noted that the new extraction system was quiet up until 11.00 pm but he did not know what the effect of operating till 3.00 am would be. He advised that if a Late Hours Catering Licence is granted he was recommending opening hours from 23.00 pm – 12.30 am Sunday to Thursday and 23.00 pm – 1.30 am Friday and Saturday.

As the Applicants had no questions the Chair invited questions from

Members.

Members' Questions

Councillor Colville asked Mr Gorman if all the residential properties close to the Café were occupied. Mr Gorman advised that he could not say for definite. He advised that there was a mix of residential and holiday accommodation in this vibrant part of the town.

Councillor Colville referred to the other establishments and asked how often they stayed open till 3.00 am. Mr Gorman advised that during the summer months and at Christmas time they could be open till 3.00 am.

Councillor Colville asked the Applicants if they were granted a licence till 3.00 am would they stay open each day till that time. Mr Steele advised that they would stay open till that time on certain occasions when other events were on.

Councillor Blair asked Mr Gorman if the residential properties directly opposite the Cafe had double glazing and if the bedrooms were to the front or back of the building. Mr Gorman advised that he did not know if they had double glazing or what the layout of the properties was.

Councillor Blair asked Mr Gorman if there were any issues in the area with litter. Mr Gorman advised that he had not personally received any complaints and that he did not think there was a significant problem.

Councillor Blair referred to the photographs of the fans on the side of the Café and sought and received clarification on which one was in use.

Councillor Blair sought and received clarification that the Café would be operating a takeaway business only beyond 23.00 pm and that the restaurant part of the business would be closed.

Councillor Blair asked Sgt Wilson if he was aware of any noise issues outside premises on Bute and if the Police anticipated any problems. Sgt Wilson advised that it was the view of the local Police Office that this was not a major issue with other premises and that they did not see this impacting on the Police.

Councillor Blair asked the Applicants if there were any issues with parking outside their premises. They confirmed that there was no parking outside their Café only a loading bay. They confirmed that most of their visitors arrived on foot.

Councillor Kinniburgh sought and received clarification that if the Committee wanted to grant a licence for a period shorter than three years they could do this.

Councillor Devon asked the Applicants if they would agree that as the majority of the pubs closed at 1.00 am most of their business would be between 1.00 and 2.00 am. They advised that this would be the case. They confirmed that they would like the opportunity to be able to open

until 3.00 am but would only likely to be open until that time when other events were on in the town.

Councillor Devon asked Sgt Wilson if the Police had any problems with people gathering and not dispersing when the pubs closed. Sgt Wilson advised that there have been no problems.

The Chair invited everyone to sum up.

Sum Up

Police

Sgt Wilson confirmed that the Police had no objections and were recommending the opening times previously stated.

Environmental Health

Mr Gorman advised that the Café was in a different setting to the other establishments with closer proximity to residential premises and narrow streets. He advised that he recommended opening hours to just 1.30 am.

Applicants

Mr Steele advised that his Aunt lived across the street from the Café and that the bedrooms of her flat were to the back of the property.

The Chair asked everyone to confirm if they had received a fair hearing and they all confirmed this to be the case.

Debate

Councillor Currie expressed his surprise that the other establishments had been granted late hours catering licences till 3.00 am especially when the pubs closed at 1.00 am. He advised that this was quite unusual but if the others had this licence then he thought the Applicants should also be given the same.

Councillor McNaughton advised that he agreed with Councillor Currie and that the Café should be brought in line with the other establishments.

Councillor Kinniburgh advised that he was of the same opinion as his colleagues however he had listened to the concerns of the Environmental Health Officer and felt that the licence should only be granted for a year so that the effect of this on the community could be reviewed after a year and if there were no problems they could be granted another licence.

Councillor MacMillan advised that he agreed with Councillors Currie and McNaughton and did not agree that the licence should be restricted to one year.

Councillor Colville advised that he agreed with Councillor Kinniburgh that the licence should be granted for the same hours as the other

establishments and monitored for a year by Environmental Health and a report back to the Committee on the outcome of the monitoring.

Councillor Currie sought and received clarification that if the licence was only granted for one year the Applicants would have to re-apply and pay another licence application fee.

Councillor Devon noted that some Members wished to grant the late hours catering licence and that some Members wished to grant the licence with a condition that it be reviewed in a year's time.

The Head of Governance and Law confirmed that the Applicants had modified their Application and were now seeking a late hours catering licence for the following opening hours: - 23.00 pm – 12.30 am Sunday to Thursday and 23.00 pm – 3.00 am Friday and Saturday. He advised that it was for Members to decide whether or not to grant this licence for one year or more.

Motion

To agree to grant a late hours catering licence 11.00 pm – 12.30 am Sunday to Thursday and 11.00 pm – 3.00 am Friday and Saturday for a period of three years.

Moved by Councillor McNaughton, seconded by Councillor MacMillan

Amendment

To agree to grant a later hours catering licence 11.00 pm – 12.30 am Sunday to Thursday and 11.00 pm – 3.00 am Friday and Saturday for one year.

Moved by Councillor Kinniburgh, seconded by Councillor Colville

The Motion was carried by 8 votes to 3 and the Committee resolved accordingly.

Decision

Agreed to grant a Late Hours Catering Licence 11.00 pm – 12.30 am Sunday to Thursday and 11.00 pm – 3.00 am Friday and Saturday for three years.

(Reference: Report by Head of Governance and Law, submitted)