

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**  
**held in the GIBSON COMMUNITY CENTRE, GARELOCHHEAD**  
**on THURSDAY, 7 APRIL 2011**

**Present:** Councillor Daniel Kelly (Chair)

|                               |                             |
|-------------------------------|-----------------------------|
| Councillor Gordon Chalmers    | Councillor Neil Mackay      |
| Councillor Vivien Dance       | Councillor Donald MacMillan |
| Councillor Mary-Jean Devon    | Councillor Alex McNaughton  |
| Councillor David Kinniburgh   | Councillor James McQueen    |
| Councillor Alister MacAlister | Councillor Al Reay          |

**Also Present:** Charles Reppke – Head of Governance and Law  
Howard Young – Area Team Leader  
Stephanie Glen – Planning Officer  
Nigel Connor – Head of Licensing, JD Wetherspoon PLC - Applicant  
Jo Rains – Area Environmental Health Manager – Statutory Consultee  
Nigel Millar – Helensburgh Community Council – Statutory Consultee  
Kathleen Siddle – Helensburgh Community Council – Statutory Consultee  
Gordon White – Objector  
Donald Nicolson- Objector  
David Smeeton – Objector  
Marion Gillies- Objector  
Catriona Malan – Objector  
Rona MacDonald – Objector  
Mark Tyson – Objector

**1. APOLOGIES FOR ABSENCE**

Apologies were intimated from:-

Councillor Robin Currie  
Councillor Rory Colville  
Councillor Roderick McCuish  
Councillor Bruce Marshall

**2. DECLARATIONS OF INTEREST**

Councillor David Kinniburgh declared an interest in that one of the objectors was a work colleague of his. He noted that he had not entered into any discussions of the application with his colleague and that he did not socialise with him. In these respects, Councillor Kinniburgh was satisfied that he could therefore continue to participate in the meeting.

**3. JD WETHERSPOON PLC: APPLICATION FOR CHANGE OF USE OF RETAIL PREMISES (CLASS 1) TO PUBLIC HOUSE (SUI GENERIS), FORMATION OF BEER GARDEN AND EXTERNAL ALTERATIONS IN CONNECTION WITH THE PROPOSED USE AND FORMATION OF TWO RETAIL UNITS: 19-29 JAMES STREET, HELENSBURGH (REF: 10/01892/PP)**

The Chair welcomed everyone to the meeting and general introductions were

made.

Charles Reppke, Head of Governance and Law outlined the hearing procedure and the Chair invited anyone who wished to speak at the meeting to identify themselves.

### **Planning Officer**

Howard Young, Area Team Leader advised that he had received a late representation in the form of a letter in support of the application, from M and T Niblock. This was handed to a Committee official.

Mr Young then gave a brief outline of the application which was for the change of use of a retail unit (Class 1) to a public house. He provided a short history of the site which was an old, and now vacant retail unit selling carpets. A short slide presentation provided details of the proposed ground floor plan and views of the premises from various aspects.

Mr Young advised that the proposed development was in the town centre where there was a presumption in favour of retail and commercial development and that the key issue was that of the impact on the residential amenity of residents in the adjacent flats, particularly with the proposed beer garden. However, after consultation with the Area Environmental Health Manager and Area Roads Manager who had no objections to the proposal, he was minded to approve the application subject to the conditions and reasons contained within the original report.

### **Applicant**

Nigel Connor, Head of Licensing, J D Wetherspoons Plc, thanked everyone for the opportunity to address any concerns that had been raised and that it was his intention to provide them with some reassurance. Mr Connor stressed that the first point he wanted to make was that he considered the development would provide investment to the town of Helensburgh. The refurbishment of the site would be at considerable expense, which the company would not wish to outlay unless they expected the venture to be successful. The frontage of the building would be improved, jobs would be provided and benefits would be had to the wider economy. Mr Connor informed that in his experience, people would be less likely to go elsewhere if a good facility was provided in their own town. Addressing the parking issue, he said that it was expected that the majority of the customers would come on foot and when visiting the town. He appreciated that the main concern to residents was the beer garden and in this respect he referred to a similar property in Greenock where there had been little or no complaints. The emphasis would be on food and not drink. No music would be played or entertainment provided. Mr Connor advised that 50% of the sales in their establishments were for food and that they sold approximately 650000 cups of tea/coffees. In other words, this was not a 'typical' pub. Mr Connor added that he had much experience in managing any potential problems and that Wetherspoons' policy was that of strict control of the amount of drink sold to customers and that staff were provided with training on these measures. There were also strict controls on the provision of alcohol to under age drinkers and that Wetherspoons participated in such schemes as 'Challenge 21'. Mr Connor

said that CCTV would be in place both internally and in the beer garden and that there would be liaison with police as a continuing exercise. Managers would also liaise weekly to address any problems and great emphasis was placed on community involvement. In the event that the application was successful, Mr Connor offered to set up meeting with the local residents to get their feedback. Regarding concerns relating to the beer garden, Mr Connor advised that there would be control measures in place such as CCTV and staff patrolling. He informed that there were some benefits in that people were easier to control if they were not out on the street and that it would be possible to place restrictions on the hours consumption in the beer garden.

The emptying of glass containers would not be carried out during anti-social hours and conditions could also be added to this.

Mr Connor said that he was familiar with the issues resulting from fumes and extraction but that conditions could also be applied here. He advised that he had been in consultation with the Environmental Health Manager and that no concerns had been raised.

In relation to number of objections received, Mr Connor advised that there had also been a number of letters in favour of the application by those who recognised that there were clearly some benefits to be had. He was aware of policy LP BAD1 but felt that matter within it was only 'potential' issues. He asked that everyone take into account the specific reassurances he had given them together with the 31 years of experience of the company and that it was his experience that any problems could be quickly addressed and overcome. He asked that suitable consideration should be given to the application and hoped that it would be recommended for approval.

### **Statutory Consultees**

#### **Nigel Millar – Helensburgh Community Council**

Mr Millar advised that this was the largest and most important in Helensburgh for decades and that he was delighted it was being considered. He informed that the Community Council's objection was over the long term and stressed that they were not against a new pub, or Wetherspoons, in particular, and he acknowledged that they were a well respected, family friendly and well run establishment. The problem was that this particular site was the wrong location. The CC had considered what had been said by residents and that a consultation exercise had been undertaken. Four residents were in support and twenty nine were against. Mr Millar said that the nature of the application went against the housing policies which should have been taken into consideration and that those policies on page 8 of the report only painted a partial picture. There was no assessment against each of these policies and suggested that the methodology used by the Planning Officer was seriously flawed. Mr Millar then referred to several of the policies within the report and why he did not feel that they were appropriate. The site of the application was known as a 'broken tooth' site and that there had been tremendous opportunity here to provide much needed flats or tenements. Mr Millar also felt that the site would not be enhanced by the development as the building itself was not well designed.

In relation to environmental impact, Mr Millar said that the amenity of the existing

residents would be affected in that there was no provision for parking. He was concerned that in the Council's assessment, it was stated that "it was inevitable that residents already experience a certain amount of noise and disturbance" and asked if it was right that they should expect even more inconvenience. As there would inevitably be an increase in noise and traffic, there would be deterioration to the local environment.

Mr Millar stated that the Community Council would like to see the beer garden withdrawn for reasons already discussed. Although there was a similar set up at the Commodore Hotel there were no residential properties adjacent to it. He was concerned that the noise would be projected upwards thereby causing disturbance to the adjacent residents. Mr Millar then reiterated his concerns that there were other housing policies that in his opinion should have been taken into account and that there had been no holistic approach taken. He felt that an opportunity had been missed to provide much needed affordable accommodation and that the residents had made their feelings loud and clear on the proposals.

#### Kathleen Siddle – Helensburgh Community Council

Mrs Siddle agreed with all that had been said and acknowledged that there would be a significant loss of amenity to the adjacent residents. She was concerned in particular, for the elderly residents of Princes Court, which is a sheltered housing development. Mrs Siddle added that due to the size of the site, it would have been more advantageous to retain the site for future use of mixed retail and residential development and that she hoped that Helensburgh would not become known as 'the town with cheap beer!' should the proposals go ahead.

#### Jo Rains – Area Environmental Health Manager

Ms Rains, advised that whilst she was aware of the points raised, there were no issues of concern. Referring to the potential of noise and odours coming from the premises, she acknowledged that there would almost certainly be some noise in the form of laughter, voices and glasses but that these matters could be controlled by the Licensing Management Plan where there would be the potential to limit times of use etc. The design features being considered would also help to reduce noise impact, with such measures as soft surface material and banners being suggested. She also went on to say that issues arising from air conditioning and cooking odours could also be controlled by good design and that all other measures could again be controlled under the Licensing Management Plan. In these respects, Ms Rains reiterated her earlier comment that Environmental Health had no objections to the proposal.

#### **Objectors**

##### Gordon White – Local Resident

Mr White introduced himself stating that he and his wife were residents of Scott Court which is a block of maisonettes with 3 bedrooms on the upper part, two of these at the front of the building and 1 main bedroom to the rear. At the rear of the building, on his ground level, there is off street parking/garages and a stair leading to his balcony which runs around in an L shape past each maisonette

and his house door, giving access to the drying area. In the better weather, the residents sit out on their individual private balconies to enjoy the relative peace and quiet that currently exists. Mr White added that his property overlooked the whole of the rear of the former furniture store which was the subject of this meeting. To the west of this lie the McCarthy Stone retirement flats and the Sheep Heid flats.

Mr White explained that his living room faces to the front of James St with far views over Colquhoun Square and beyond. Opposite, going south to the water, is the URC Church and the Clydesdale Bank, the upper floors of which are the offices of Enable, for folks with special needs and then the Smith & Jones pub chain for 300/400 patrons. To the north and on West Princes Street, there is an off-license/general store, a licensed Italian restaurant, the presently closed Teak Bar, the Ashton Bar, Coopers Bar and the Logie Baird pub. Nearby, on West Clyde Street are the Imperial Hotel, Royal Bar, Granary Bar site, Riverview, Clyde Bar, Garth Inn and MacDiarmid's paper shop and off sales. The Masonic hall has a function suite and bar. Therefore, Mr White explained, they were surrounded by 12 pubs and licensed off sales, not counting those further afield past Sinclair Street.

Mr White said that this area is described as a Cumulative Impact Zone which means, an area designated as having more than enough pubs and off licenses already. Once or twice in the report by the Planning Officer it was mentioned that live in a "town centre location where some noise is to be expected". Mr White advised that the residents had been more than tolerant of what currently existed and that under the Environmental Protection Act, the Noise and Statutory Nuisance Act and the Anti Social Behaviour Scotland Act relating to noise nuisance and anti social behaviour where noise is loud and intrusive, whether persistent or intermittent, that they should expect to have a quality of life and comfort at home and in their everyday life, and not interfering with a persons health or enjoyment of their own property.

Mr White found it strange that Mr Young had been up on the private balcony area on the Tuesday previous to this meeting with plans in his hand viewing the "not overlooked back premises". Mr White said that this had not inspired confidence. Perhaps, he said, the Planning Officer had only used Google Earth to make this assumption as it was clearly not the case.

Together with the other residents, Mr White felt that this item should be considered a Bad Neighbour Development.

Referring to the forthcoming plans for the developments in the town centre under the CHORD scheme, it was hoped that a friendly, exciting, inviting and modern new retail shopping experience would attract visitors, and would be aimed at keeping residents from shopping outwith the Burgh. Mr White then questioned with this being the intention, why would any Councillor allow this development to happen.

Mr White noted that a site visit had taken place this morning to allow those not familiar with the area to familiarise themselves with it. He hoped that they had seen his washing area and posters when they had looked up, as this would have highlighted that the site was indeed overlooked and there was an impact of overlooking properties. In Mr White's opinion, this visit would have been more

appropriate at 10.30pm – 2.00am on a Friday or Saturday night and that if this had been the case, the Environmental Health Manager would certainly have found more objectionable items.

In the Design and Access Statement, which stated that JD Wetherspoons had acquired this existing property, it was noted that this was only pending the application going ahead, as the actual owner Mr Lafferty, had been quoted as saying that he would think about a retail development should this application “bite the dust”. He added that there had been an incorrect reference to a 2004 Census.

Further to comments about the Clyde Submarine base bringing much income to the town, Mr White said that it was only once in a while during international exercises that there was any significant increase in this and that on these occasions there had been a marked increase in police presence.

Mr White acknowledged that a reuse of this building would be a benefit to the community but that a pub chain with the potential of 477 patrons was unacceptable. A retail outlet in this broken tooth development would possibly be more needed together with the potential for housing. More charity shops, hairdressers and pubs would likely send shoppers to alternative areas such as Braehead where there would be a wide variety of shops. Again, Mr White stated that this was a Bad Neighbour Development.

Mr White made reference to the kitchen flue which he had noted was only 2m from the living room at the Sheep’s Heid easterly flat. In relation to the beer garden, Mr White asked how it could be realistic to expect the signs asking for patrons’ consideration to be adhered to and that there would still be shouting, swearing and slamming of car doors. These signs had been relatively ignored at the Logie Baird across the road, which had incidentally just had its 2.00am license restored.

In an email from the Licensing Standards Officer to Mr Winthrop at Environmental Health and Planning, Mr White said that it was acknowledged that the beer garden would be the cause of noise nuisance and would generate complaints from neighbours to the police and Argyll and Bute Council alike. Although Mr Dearie through his own admission, had not even seen the plans, he had asked if there was anything he could do to lessen the noise and benefit the neighbours. He had also offered to assist in any Premises License Application in the event that the application was granted.

Mr White said that all of the neighbours at Scott Court could verify that as a result of the walls being built up at the rear of the property on three sides, an echo chamber effect was the result. This had been evident during the occupation of the building as the carpet warehouse with the delivery vans.

Mr White referred to a conversation he had recently held with a local police officer who had indicated that the town needed another large pub like a ‘hole in the head’. The same thoughts had also come from the Domestic Abuse Unit.

There was some confusion as to why Wetherspoons had walked away from the opportunity to take over the old La Scala cinema, now the Logie Baird, when the chance had arisen.

The reference in the original report that the only properties opposite were a church, a pub and a bank. However, Mr White advised that the church had a litter patrol in place to clear away bottles, cans and glasses on a daily basis. The bank has an ATM at which there were sometimes queues of up to 20 people and taxis would sit outside the pub with their engines running and horns sounding. On the pavement outside the Logie Baird, people gathered to smoke and chat. Many fights had been witnessed, even such as that witnessed by Councillor Mulvaney during the previous afternoon. There did not appear to be much notice of these events by the stewards on the door as it was outside and therefore not their problem. Mr White felt that in summary, it is not acceptable to expect this kind of behaviour due to the town centre location.

Mr White described what he felt was a 'tsunami of pubs' in the vicinity but a 'famine' of large quality shopping units in Helensburgh and that to give this huge site away to a pub chain would be a big mistake for the town centre area CHORD re-generation project.

He felt qualified to speak on this issue as he was a real 'Helensburghdonian' of 61plus years and that his family, who had always done their bit for the town, had been residents of the area since 1812. It was for the community and future of the town that Mr White felt compelled to be heard today. He asked everyone to remember that the absence of evidence is not evidence of absence and that he hoped the Councillors present would support him against the application.

#### Mr Donald Nicolson – Local Resident

Mr Nicolson was concerned that a drinking culture should not be encouraged in Helensburgh when other areas were trying to curb such activity. He also questioned what this particular development would offer that others did not.

#### David Smeeton – Local Resident

Mr Smeeton said that he agreed strongly with all the comments made by Helensburgh Community Council and all the other objectors. His particular concerns were with the beer garden and the noise that would result from it. Mr Smeeton said that it was well known that alcohol makes people louder and that this would be difficult to manage. He agreed with Mr White's comments that just because there is an existing expectation of noise, that this should increase. Due to the location of his home in relation to the proposed development, Mr Smeeton said that it would be impossible for him to get away from the noise and that even if the beer garden closed at a particular time, smokers would merely go outside the front of the building. He would therefore be expected to 'run the gauntlet' of smokers every time he went up this street to access his property as they would now be on both sides of the road. Mr Smeeton acknowledged that Wetherspoons themselves were a good company but that it was the customers who would cause the problems and that this could not be avoided.

#### Mrs Catriona Malan – Local Resident

Mrs Malan informed that she would like to make two points and explain the reasons for these. The first point being that the proposed public house should not be in this location for the following reasons:-

- These were there were approximately seven pubs already within the block bounded by James St, Princes St, Clyde St and John St. In addition, there were also five licensed restaurants, three licensed retailers and one licensed club.
- There were a considerable number of residents in this area, particularly in the flats. Mrs Malan explained that she had endured many years of disruption due to the proximity of pubs and that she could state from experience that there had been an increase in noise, litter and the incidence of people entering private property and vomiting and urinating therein. She had witnessed fights and attacks, some of which had required police intervention. The residents of his block were now about to go to the expense of erecting a fence and gate in order to deter these intrusions which, she stated, increased with the better weather. The noise of clients leaving was considerable and this application mentioned 477 people which would be added to by the other two pubs already in the street. Mrs Malan said that taxis frequently ignored the ruling about using their horns at night.

Mrs Malan explained that in addition to the above, the enforcement of the new smoking laws meant that the clients of the pubs now used the pavements and that for six or eight people to be here was not unusual, sometimes even being provided with chairs for the purpose. This could go on in relays for most of the evening until closing time and caused considerable noise. Mrs Malan wondered if this was ever taken into consideration.

Mrs Malan went on to say that she assumed that the proposed beer garden would be used by smokers, and that although walls may be planned, they would not block out the noise. Quoting from a 1966 report she had read, Mrs Malan said that noise from “a neighbour’s voice is more irritating than sounds such as traffic, and that night noise interferes with sleep patterns which can subsequently have an adverse impact on health”. Mrs Malan had experienced this due to regular noise in her street until late at night, which caused her to get into the habit of going to bed late. She expressed concern that the residents should have a right to peace and quiet in their own homes and asked if this question had been weighted against the criteria of the European Commission for Human Rights.

Mrs Malan then went on to explain her second point which was that there was no need for another drinking establishment in this town. The reasons for this, she said, were:-

- Apart from the proliferation of pubs in this surrounding area, the consumption of alcohol is now a problem in the country as a whole. Indeed, she stated that the Lord Advocate, Elish Angiolini, recently stated on television that Scotland must get to grips with the acceleration of the consumption of alcohol and that alcohol is present in most violent crimes.

Mrs Malan said that she believed the figures stated were that one million crimes annually resulted in a cost to the tax payer of £7 billion and that it had also been stated that £5 worth of alcohol was sufficient to kill a fifteen year old. The treatment of alcohol related injuries, illnesses etc cost the NHS some £2 billion annually.



Mrs Malan suggested that such problems locally must put a strain on the small police force due to the resulting anti-social behaviour and that it must also affect our limited local NHS facilities.

Mrs Malan then went on to refer to several comments within the report regarding mitigating measures of issued such as noise and advised that such measure had already been imposed on the other pubs without success. She also referred to the expectation of noise within a town centre and raised doubt as to whether this particular area could really be referred to as such.

Mrs Malan explained that she had chosen to live here with her small child as it was quiet and safe. It had never been busy or noisy either during the day or at night time, even as a commercial area.

It therefore seemed to be grossly unfair to state that residents should expect noise, especially if this meant shouting and swearing often until well after 1.00am.

Mrs Malan went on to point out that it had only become noisy and busy because three pubs had been sanctioned in the vicinity, this to its detriment and that all the reassurances given had been heard before. The noise may well not be within the applicant's control, but it together with the other problems was within the consideration of those with the power to agree to this proposal.

Mrs Malan asked who she could turn to when faced with genuine concerns if such matters were not considered material in the planning application. She said that it would mean that adverse developments could go ahead and that the householder must constantly trouble the police and Area Environmental Health officer and she repeated her concern about what rights they had, indeed if any.

### **Members' Questions**

Councillor McKay asked the applicant following Mr White's comments, how many hours the beer garden would only be serving drinks. Mr Connor replied that residents' comments would be taken on board and that although it was difficult to give exact times at his moment, a curfew could be imposed if necessary.

The meeting was then adjourned at 12.25pm for a break and reconvened at 12.30pm.

Councillor McKay asked Mr Young about the comments that had been received from Helensburgh Community Council regarding the format of the papers and if this was unusual. Mr Young responded that this was the format used in the majority of committee reports though the actual assessments could vary depending on complexity.

Councillor McKay asked Mr Young why housing policies were mainly absent from the report. Mr Young replied by advising that reports can be simple or complex due to the key issues and that in this case, the key issue was the impact of the proposed development on the adjoining properties

Councillor McKay asked if the Planning Officer would agree that LPBAD1 was

the main policy. Mr Young said that before the proposal had come in, he had thought that noise and environmental impact were the key issues. Now, he said, the key point is that this pub will have an impact and that the issue for members today is that it is sufficiently detrimental to go against his recommendation. Mr Young suggested that the comments from Helensburgh Community Council regarding the noise were untrue and he agreed that although town centres are more active, it does not mean that residents should have to put up with unacceptable disturbance.

Councillor Chalmers asked the applicant to confirm that there would be no music, to which Mr Connor confirmed that there would not. He said that although there may be plasma screens showing some sport, it would not be Sky Sport and there would be no sound. Mr Connor said that the pub was not marketed by sport.

Councillor Chalmers asked Mr Connor about whether the ratio of food/alcohol was true over the entire operation. Mr Connor responded by saying that the seven or eight new pubs opened this year had indicated this and that Wetherspoons were becoming an increasingly more popular venue for its food. The key emphasis was food and not alcohol.

Councillor Kinniburgh asked the Environmental Health Manager to comment on the flues which had been quoted as being only 2m from Sheep's Heid.

Ms Rains stated that she had only seen the outline plans but that she had been to see the proposed cooking and kitchen areas. Cllr Kinniburgh asked Mr Young to comment on the same question.

Mr Young answered that the 2m distance from the boundary was in his view acceptable.

Cllr Kinniburgh asked Mr Connor about the potential 477 customers, to which Mr Connor responded that this was the maximum capacity and was quoted for building control matters and that it was highly unlikely that there would ever be such a number in the establishment at the one time.

In reference to the previous examples of liaising with the local communities, Councillor Dance asked Mr Connor what form this had taken. She asked him if he had already met with, or would intend to meet with the locals if permission were to be granted in this instance. She also asked him if he could define what would be a typical patron of this type of establishment.

Mr Connor acknowledged that he had not met with local residents at this point and that this had been unfortunate on his part. He referred to the recently opened branch in Kirkintilloch in which he had been involved with the residents of the adjoining properties, and that these residents had been provided with contact details for himself, the area manager and the regional manager in order that any problems they had could be addressed at all levels. As there had been no contact by either party, Mr Connor saw this as significant evidence of a lack of problems.

Mr Connor gave his assurance that should this application be successful, he would undertake to meet with locals prior to and after opening in order to check

progress. Further to Councillor Dance's question of typical customer, Mr Connor said that it could range from 18 to 80 and that families, pensioners and community groups would all be welcomed.

Councillor Dance referred to LPBAD1 and highlighted that many of the main issues raised today were not of a material nature but that they would still require to be dealt with. She asked Mr Young if anything could be done regarding this policy.

Mr Young said that potentially it could but that there would be difficulties. There could be conditions imposed but that these would be better placed at the licensing stage.

Councillor Dance asked again whether issues such as market forces, housing, property values, asbos etc could be considered material, to which Mr Young responded that they would not.

Councillor Dance asked Mr White about the response from the Police, to which Mr White answered that he had been advised that many of the issues would come up during the licensing process.

Councillor Dance noted that no one from Princes Court had spoken at today's hearing and asked if any of the objections had been from any of the local businesses.

Nigel Millar, HCC replied that two had been in support and two opposed. The two objectors were owners of other pubs in the vicinity.

Councillor Dance asked Mr Young to confirm that none of the local business owners had objected, and Mr Young confirmed that they had not.

Councillor Reay asked Mr Connor about the size of the seating area in the beer garden. Mr Connor was unsure of the exact number as it would only be speculative at this point. He confirmed however, that no vertical drinking would take place in this area. Councillor Reay asked whether the beer garden would be covered, to which Mr Connor replied that it would not. There would however, be 'Jumberellas' in place which would assist with the noise control.

Councillor Reay asked Ms Rains if noise emanating from the beer garden could be considered subjective. Ms Rains replied that although she had no experience of this, it would be subjective.

Councillor McKay asked Ms Rains if the cooking extraction system would be the same as that in a restaurant. Ms Rains said that it would be specific to the type of cooking range in place. Air conditioning and refrigeration venting would be separate. Mr Connor also agreed to liaise with the Environmental Health Manager with a view to the implementation of acoustic absorbing measures in the beer garden.

Councillor McKay referred to the family aspect of this establishment and asked if there would be a children's menu. Mr Connor said that this would be a crucial element as families were paramount to the success of the business. Councillor McKay asked him about the current issues relating to the consumption of alcohol

and the effect that this would have on an establishment such as this. He asked how the issue of cheap beer was linked with the family aspect. Mr Connor insisted that the beer was not cheap but competitive. He informed that there was a wide variety of beers and ales on sale offering variety. Mr Connor insisted that they had a legal and moral obligation to manage customers and ensure that alcohol consumption was kept to a tolerable level.

Councillor McAllister asked about the potential for employment. Mr Connor replied that he would anticipate that 30 to 35 people would be employed here, approximately 12 of which would be full time and 4 at management level.

The Chair then asked that the summing up process would now begin and ascertained that no new information could be introduced at this point.

### **Planning Officer**

Mr Young reiterated his earlier comments in that he must concentrate on the key issues and that this site had been established as being of a town centre nature but that he could not ignore the issue of residential amenity and acknowledged that noise was certainly an issue. However, Mr Young said that he must consider the advice he had received from his colleagues in Environmental Health and Roads who had no objections to the proposals. He therefore considered that the application was acceptable and recommended approval of same.

### **Applicant**

Mr Connor highlighted that this was not a standard pub and that there would be a heavy emphasis on food, teas and coffees. The behaviour of customers would be regulated with a variety of monitoring measures. Mr Connor referred to the 30 years of experience that his chain had and how it aimed to create a comfortable and safe environment. It was not, he said, in competition with other establishments and would provide a welcome to visitors to the town. He had noted the plans for the town under the CHORD scheme and wished to be a part of that process and that he hoped there would be a willingness of residents to develop the town as a retail centre which was not contradictory but complementary to the image of Helensburgh. The fact that the proposed cost of this establishment would be in excess of one million pounds indicated that Wetherspoons were not taking things lightly and could not afford to get this wrong. He stressed that there would be liaison set up for community links with residents and offered to set this up personally.

Whilst he appreciated concerns regarding the beer garden, Mr Connor said that there would be many measures in place to ensure the close monitoring of it and that the ventilation issues would be controlled by conditions. Mr Connor insisted that all areas of concern could be managed and that this development should not be judged on others in the area where problems had been experienced. He thanked everyone present for the opportunity to speak today and repeated that this development would enhance the amenity of the surrounding area. He hoped therefore, that the application would be granted in accordance with the Planning Officer's recommendations.

### **Statutory Consultees**

## Helensburgh Community Council (HCC)

Nigel Millar referred to the two responses that the Community Council had received from local businesses and advised that one of these was from the Logie Baird and the other from a shop opposite. One had been positive and the other not. He respected what had been said by all the residents here today, saying that they were well expressed and based on reason, observation and fact, and not emotion. Regarding the beer garden, Mr Millar said that the HCC shared the concerns of residents in that it would be a sound trap. It was also inevitable that this area would be used for smoking. As had already been mentioned, it would be impossible to make an assessment of the planning application against the listed policies. HCC had a good relationship with the planners so these complaints were not personal but that it should be acknowledged that understanding them would be difficult for those not familiar with planning applications.

Mr Millar asked that future statements could state how the applications met with the policies as it would result in a more objective exercise regarding which policies were relevant and which were not.

In Helensburgh, £6.6 billion was being invested to attract visitors and in this respect, a more holistic approach should have been considered and that it was a failure of the system that this had not happened. Helensburgh Community Council would therefore propose to oppose the application.

## Area Environmental Health Manager

Jo Rains stated that Environmental Health had no issues or put forward any safeguarding measures. She considered that all relevant issues would be covered by the Management Policy through licensing.

## Objectors

Mr White reiterated all that he had already said and that the committee should support the residents, and in reference to the number of residents present at today's hearing he said, that absence is not evidence of support.

Mr Nicolson did not have any more to add to what had been said other than referring to the environmental issue.

Mr Smeeton said that even a well run establishment would still be a bad neighbour as stated in policy LPBAD1. In his particular case, there would be no respite from noise at both the front and back of his property. He said that even limiting the hours of use in the beer garden, smokers would gather at the front. Mr Smeeton advised that even at the back of seven o'clock, there was occasionally much shouting and swearing from outside the Logie Baird and that he would now have to walk through pub goers on both sides of the street in order to reach his own door. In these respects, Mr Smeeton objected to the application.

Mrs Malan acknowledged that many of the issues raised were not material but reminded everyone that assurances were initially given by the Logie Baird and that most of the points raised today had occurred after opening. It would be, she

said, a case of the horse bolting after the stable doors were opened.

Mrs Gillies agreed with all that had been said by the residents of James Street and that members should pay attention to those who live here. It was an unsuitable place to enhance the new Argyll and Bute plans for the town centre development.

Mrs MacDonald agreed with everything that had been said by the other objectors.

The Chair then ascertained that all parties had received a fair hearing to which they confirmed that they had.

### **Debate**

Councillor Kinniburgh stated that he felt that policy LPBAD1 was the most pertinent and that there was a fine line to be considered in this application. However, he added that he must accept the advice of the Planning Officer and support the recommendation. Councillor Kinniburgh was concerned by what he had heard today regarding what was going on in the area but felt that many of the issues could be addressed during the licensing process.

Councillor McKay had similar concerns regarding the negative impact of some of the other licensed premises in the area. He referred to what Mrs Gillies had said regarding the deterioration of Helensburgh and hope that the licensing board would look closely at these issues. Councillor McKay felt that it should be possible to eliminate some of the residents' concerns and that a careful approach to this should be taken. He disagreed that the planning system had failed but acknowledged that it may be somewhat difficult for the lay person to comprehend. However, as he himself had received training in dealing with such matters, he felt confident in making his decision which was to support the Planning Officer's recommendation.

Councillor Devon stated that she still had some major concerns about another licensed premises in Helensburgh but that she would still support the Planning Officer's recommendations.

Councillor Reay felt that this had been a difficult hearing and whilst he acknowledged the good reputation of Wetherspoons themselves, he felt that the licensing aspect could not be overlooked and that it came down to the bad neighbour issue. He referred to earlier comments regarding the Planning Officer and felt that these should be withdrawn. Regarding the beer garden, it was his opinion that there would be an impact on the neighbourhood when combined with the other licensed premises nearby. Councillor Reay considered alcohol to be less expensive now and that this was reflected in this country's health problems. In relation to policy LP BAD1, Councillor Reay proposed to move an amendment for refusal of the application.

Councillor Dance stressed that she was being asked to deal with the issues in front of her and that she had no control over these as they were non material. The matters of concern were not for planning to deal with. She had some concerns over whether the land use in this case was appropriate but was confident that the other matters could be dealt with through licensing and felt

reassured by the comments from the Area Environmental Health Manager and Planning Officer. . Councillor Dance stressed the importance of close liaison with local residents and hoped that they too had been given some reassurances by the applicant and that in her view, the development could succeed in this location.

Councillor McNaughton said he had listened carefully to all sides and was reassured that the concerns could be addressed. He hoped that in this respect, the residents had also felt reassured. He indicated his support for the Planning Officer's recommendation.

Councillor McAllister agreed to support the Planning Officer's recommendation.

Councillor McMillan appreciated all the concerns but felt that Wetherspoons would add value to the street as it was a respected company and they had indicated their intention to work with the local community. In these respects, he indicated his support for the recommendations.

Councillor McQueen indicated support for the Planning Officer's recommendation.

Councillor Chalmers said that he had listened very carefully but that he still had one or two reservations. He acknowledged that Wetherspoons had a good reputation through their good practise and management and had outlined what could be expected. Councillor Chalmers accepted their assurance that the establishment would be more of a restaurant than a pub and would therefore have no hesitation in supporting the recommendation but with the added caveat on what should happen to the premises in the event that Wetherspoons were no longer there.

Councillor Kelly said that after all that had been heard, he felt that this was a good application and that it should be approved. He acknowledged the concerns of the residents and in his role as Chair of the Licensing Board, he was upset by some of what he had heard. He gave assurances that he would take steps to address these concerns in a different forum.

### **Motion**

That the application be granted subject to the conditions and reasons contained with the Report by the Head of Planning and Regulatory Services dated 15 March 2011

Moved by: Councillor Daniel Kelly  
Seconded by: Councillor James McQueen

### **Amendment**

That the application be refused on the basis that the proposed development would have an adverse impact on the amenity of residents in the vicinity of the premises and that noise and other nuisance could arise from the opening of the premises and that this application was therefore contrary to policy LPBAD1.

Moved by: Councillor Al Reay

Seconded by: Councillor Gordon Chalmers

## **Decision**

The motion was carried by 9 votes to 2 and the Committee resolved to grant planning permission in principle subject to the following conditions and reasons:-

1. That the development to which this permission relates must be begun within three years from the date of this permission.

*Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.*

2. The development shall be implemented in accordance with the details specified on the application form dated 01/12/2010 and the approved drawing reference numbers AK01, AK02, AS01, AS02, AL01 revA, AL02 revB and AM01 unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

(Ref Report by Head of Planning and Regulatory Services dated 15 March 2011)