

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on THURSDAY, 16 AUGUST 2012**

Present: Councillor Sandy Taylor (Chair)

Councillor Gordon Blair	Councillor Robert G MacIntyre
Councillor George Freeman	Councillor Donald MacMillan
Councillor Fred Hall	Councillor Alex McNaughton
Councillor Alistair MacDougall	Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law
Sheila MacFadyen, Senior Solicitor
Mr Islam, Applicant
Mr Ferguson, Applicant's Agent
Andrew Hill, Environmental Health Officer
Inspector Tom Harper, Strathclyde Police

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Rory Colville, Robin Currie, Mary-Jean Devon, David Kinniburgh and Richard Trail.

2. DECLARATIONS OF INTEREST

None declared.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR AMENDMENT OF A LATE HOURS CATERING LICENCE (THE CREW, CAMPBELTOWN)

The Chair welcomed everyone to the Hearing and asked that participants introduce themselves. Thereafter he outlined the procedure that would be followed.

The Chair then invited the Applicant's Agent to speak in support of the Application.

Applicant

Mr Ferguson advised that Mr Islam is the owner and trader of The Crew carry out and chip shop premises and that he has traded here for nearly 3 years. He currently holds a late hours catering licence for The Crew until 2 am 7 days per week and wishes to amend this in order to trade for an extra 30 minutes until 2.30 am on Fridays and Saturdays. He advised that this application was similar to the one submitted in February this year when the Committee refused the application. He advised that Mr Islam believes there has been a change in circumstances and would wish to submit this further application for amendment to his late hours catering licence in the same terms as before. He advised that Mr Islam has found over the last 6 months that there continues to be a demand

for an extension to his opening hours and that people continue to visit his shop at 2 am when the pubs close looking to be served food and he feels it would be appropriate for the premises to be opened for an extra 30 minutes after the pubs close. He advised that over recent weeks Mr Islam has been in discussions with his customers and he referred to a petition he had with 21 names all signed on the premises supporting the later opening time and that no customer refused to sign the petition. Mr Ferguson also referred to there being no other fast food outlets opening after 2 am at the weekend as the Indian restaurant which used to have a licence until 2 am was now closed and that the mobile chip van has now changed ownership and was no longer operating late in the evenings and therefore there was no issue of there being too many premises being opened at that time to police. Mr Ferguson referred to other towns in Argyll and Bute where the opening times of late hours catering premises were beyond 2 am. He referred to there previously being premises in Campbeltown opening beyond 2.00 am and that this was not a situation that would be completely new to the area. He advised that in view of customer demands it was necessary to seek an extension to The Crew's opening hours. He referred to customers being annoyed at not being served food after 2 am and that an extension of another 30 minutes would fix this problem completely. He advised that Mr Islam served food to his customers quickly and people left his shop quietly. He referred to the objection from Environmental Health and stated that it was his opinion that even after the mobile chip van stopped operating large numbers of people still congregated in that area of Main Street into the early hours of the morning. It was his opinion that patrons coming into get food were keen to get home to eat it and that to allow The Crew to open later in order to serve customers would be an enticement for them to go home more quickly. Mr Ferguson advised that Mr Islam has ran a successful business over the last few years till 2 am with no issues or trouble. He advised that CCTV cameras overlooked the premises so that if there were any incidents they would be spotted quickly and dealt with promptly. He advised that the Police regularly visit the premises just to check how things are and not to address any specific problems. Mr Ferguson referred to the Police observation that there was a potential for an increase in anti social behaviour and stated that there was always the potential for something to go wrong and if complaints started to occur there was always the opportunity to review the opening hours at a future date. He referred again to the quick, well run and efficient business operated by Mr Islam and urged the Committee to consider granting the application.

The Chair invited the Police to ask the Applicant questions and Inspector Harper confirmed he had no questions.

The Chair invited the Environmental Health Officer to ask questions.

Questions from Objector

Mr Hill, Environmental Health Officer asked if any of the local residents were asked to sign the petition. Mr Islam confirmed that only customers who came into his shop were invited to sign the petition.

The Chair invited the Environmental Health Officer to speak in support of his objection.

Objector

Mr Hill advised that he recommended that the request to extend the opening hours of The Crew to 2.30 am on Fridays and Saturday be refused. He referred to the mobile chip van previously being open to this time on Main Street and that this had led to complaints about associated noise from nearby residents as it had been a focal point for people to congregate after the pubs had closed and attracted both people and vehicles. He advised that since the mobile chip van had stopped trading there had been a marked reduction in the level of noise in Main Street and there had been no complaint received since then. Mr Hill advised that if The Crew were granted the extra 30 minutes trading this could possibly lead to this venue acting as a new focal point for people to congregate which would have an impact on residents in the area. He also referred to there being noise associated with the premises closing down for the night due to the use of extractor fans and the removal of waste. If the premises was allowed to trade until 2.30 am this could mean there would still be noise from the premises until after 3.00 am.

The Chair invited the Applicant to ask the Objector questions and Mr Ferguson confirmed that he had none.

The Chair invited Inspector Harper to speak in support of his representation.

Police

Inspector Harper referred to the location of the premises being a mix of retail and residential properties with the potential of noise from people congregating in this area. He acknowledged that the Police had not received any calls regarding disturbance at Main Street since the mobile chip van had ceased trading and that The Crew was the only establishment currently selling food at this time.

The Chair invited Members to ask the Applicant, Objector and Police questions.

Members' Questions

Councillor Hall asked Mr Ferguson if he accepted that it was an arguable point that people getting food at a carry out premises was an enticement to go home. Mr Ferguson advised that he believed this to be the case.

Councillor Hall referred to Mr Ferguson's suggestion that the purpose of Mr Islam's business was to keep his customers happy and asked Mr Ferguson was it not the case that the purpose of Mr Islam's business was to make money and Mr Ferguson replied yes but also to keep his customers happy.

Councillor Hall asked Mr Ferguson was it not the case that residents would be kept awake with longer opening hours and Mr Ferguson advised that he could not agree with this and that there had been no objections made by nearby residents.

Councillor Hall referred to customers coming from the pub to purchase food and asked would they not be louder than normal. Mr Ferguson advised that there may be the odd patron that will be louder but the majority are quiet and well behaved and that his client has had no bother.

Councillor Freeman asked the Police if the situation at Main Street had improved

since the mobile chip van going and Inspector Harper advised that over the years people still tended to hang about the Main Street regardless of whether they wanted food or not.

Councillor McNaughton asked Mr Hill to clarify if he stayed in close proximity to the Main Street and Mr Hill replied no.

Councillor Blair asked Mr Islam when his opening times were and Mr Islam replied 5 pm.

Councillor Blair asked how many staff were employed and Mr Islam replied 3 including himself.

Councillor Taylor referred to the suggestion that if food was only available at an earlier time people would leave the pub early to get it and asked the Police if there would be benefit in getting people out of the pubs earlier. Inspector Harper advised it would just depend on the individual and there may be crowds at both the Main Street and The Crew. He advised that the main concern at Main Street when the chip van traded was damage to property and litter and that there was the potential for residents near The Crew to suffer the same if it were open for another 30 minutes. He advised that the Police had not been called out to any disturbances at The Crew over the last 3 years and that he did not think that the focal point at Main Street would change.

Councillor Hall asked if the Police would agree that if you have people leaving the pub with nowhere to go they will disperse and if they had a place to go they would go there and then some will hang about no matter. Inspector Harper agreed.

Councillor Hall asked Mr Hill if he agreed that if the premises was open till 2.00 am and someone was served at 1.59 am they would leave the premises just after 2.00 am and there would noise and Mr Hill replied yes. Councillor Hall then asked if the opening hours were extended by 30 minutes this would lead to the noise being there 30 minutes later and Mr Hill replied yes.

The Chair then invited the Objector, Police and Applicant to sum up.

Summing Up

Objector

Mr Hill advised that it was his concern if the Committee were to agree to an extension of trading hours to 2.30 am this would set a precedent for the future.

Police

Inspector Harper advised that he had nothing further to add.

Applicant

Mr Ferguson referred to Mr Hill's last comment regarding setting a precedent and asked the Committee to disregard this and that it was irrelevant and that this application should be considered on its own merits. He referred to there being

an element of disagreement between Mr Hill and the Police regarding the Main Street and that it was his view that the Main Street will remain a focal point for people to congregate and that The Crew was about 100 metres away. He referred to Mr Hill's comment that The Crew may become the new focal point and Inspector's Harper's comment that there was the potential for disorder and advised that this was all conjecture. He advised that he was grateful to the Police acknowledging that there has been no bother at his client's premises over the last 3 years. He advised that there were no residential properties above The Crew and that no objections had been received from residents in the area and no trouble associated with the premises.

The Chair asked the Applicant, Objector and Police to confirm that they had received a fair hearing and they all confirmed this to be the case.

Debate

Councillor Freeman advised that the application to amend the late hours catering should be refused and that it would be retrograde step to go to 2.30 am.

Councillor Hall seconded that and that if people were feeling hungry they would leave the pub early to get food before the premises shut.

Decision

It was unanimously agreed to refuse the application for amendment of Late hours Catering Licence at The Crew on the basis of the objections from Environmental Health and the likelihood of increased noise and loss of amenity for residents in the area and that the Applicant would be notified of this decision in writing within 7 days.

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