

**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: Iain Jackson, Governance Officer
Sheila MacFadyen, Senior Solicitor
Mr Gharib, Applicant
Mr Gilmour, Applicant's Agent
Mrs Mary Watt, Environmental Health Officer

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 RENEWAL OF LATE HOURS CATERING LICENCE (MR KEBAB, HELENSBURGH)

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 to speak in support of his Application.

Applicant

The Applicant's Agent, Mr Gilmour, advised that Mr Gharib was a 46 years old married man with 2 children and that he operated 2 fast food establishments in Helensburgh, The Kebab, which is the subject of this application and the other being The Flamingo. He advised that Mr Gharib currently operates his business until 2.30 am and has received no complaints from the Police, Environmental Health or any residents in the area during this time and would like to renew this application on the same basis. Mr Gilmour circulated some photographs which showed the different types of property near to the Mr Kebab premises. He advised that Mr Kebab's main asset was the lamb kebab which was not offered anywhere else in Helensburgh. He referred to the neighbouring local authority area, West Dunbartonshire, which granted late hours catering licences to 3 and 4 am for establishments in Dumbarton allowing up to 1 hour after pubs closed for

patrons to obtain food. He advised that if the Committee were to support the Environmental Health Officer's recommendation that Mr Kebab should only open till 1.30 am then this would mean the business would have to shut as the business was most profitable between 1.30 and 2.30 am. Shutting the business would lead to staff being made redundant and another empty building in Helensburgh. The Council would also lose rates of £1,500 per annum. He advised that the Environmental Health representation was not an objection, just a comment and that he did not agree with the statement that noise nuisance was related to Mr Kebab's. He advised that the only comment that the Environmental Health Officer makes in her representation that could be related to Mr Kebab's is the two complaints of noise specifically regarding patrons congregating at catering establishments. He advised that Mr Kebab is not located in the town centre. Mr Gilmour advised that he was surprised that the Environmental Health Officer was suggesting a closing time of 1.30 am based on just two complaints over 3 years. Mr Gilmour referred to the 9 calls made to the Police in a 6 month period which related to 1 complaint every 3 weeks. He advised that the Environmental Health representation was not specific and that he was wholly confident the Committee could agree to grant the application with no restrictions.

The Chair invited the Environmental Health Officer to ask the Applicant questions.

Questions from Objector

Mrs Watt referred to Mr Gilmour's comment about West Dunbartonshire granting late hours catering licences beyond 3 am and asked Mr Gilmour would he not agree that the dynamics of Dumbarton town centre were different from Helensburgh town centre. Mr Gilmour advised there was a fairly definite high street with residential properties above commercial properties like Helensburgh.

Mrs Watt asked Mr Gilmour if he agreed that Mr Kebab's was within walking distance of Helensburgh town centre and he replied yes if you liked a good walk.

The Chair invited the Environmental Health Officer to speak in support of her representation.

Objector

Mrs Watt referred to the contents of her representation and advised that the reason for submitting and recommending that the late hours catering licence only be granted until 1.30 am was in relation to protecting the public and the impact of sleep disturbance as there were quite a lot of residential properties near by. She referred to the monitoring undertaken over the last 3 years and advised that complaints have been more prevalent in the last year and the department were trying to actively address these complaints with the Police. She referred to the statistics in her representation and stated people will gather where there is a focal point and where there are establishments open and that Clyde street was a focal point for people to congregate when pubs closed because as well as catering establishments there were areas where people could sit and eat their food. She acknowledged that there were some flats nearby to Mr Kebab's and that she had received no complaints from residents in these flats.

The Chair invited the Applicant to ask questions.

Questions to Objector

Mr Gilmour referred to the incidents in the last year not being specified and Mrs Watt advised no but they did show that complaints were more prevalent in the last year.

The Chair invited Members to ask questions.

Members' Questions

Councillor Freeman referred to East Sinclair street, West Sinclair Street and John Street in Helensburgh and asked Mrs Watt would she not agree that the area where most people came out of pubs was not near to Mr Kebab's. Ms Watt advised that Mr Kebab's was within easy walking distance from these other parts of Helensburgh.

The Chair invited the Environmental Health Officer and Applicant to sum up.

Summing Up

Environmental Health Officer

Mrs Watt advised she did not have anything against the premises but that the department have been working with the Police to address concerns regarding anti-social noise within Helensburgh town centre area at these times of the night. She reiterated that although the monitoring of complaints was over a period of 3 years they have been more prevalent in the last year.

Applicant

Mr Gilmour referred to there being more complaints in the last year but that they were not specific. He advised that Mr Kebab's had a lot of customers that take their carry outs home and that the location of the premises was not in the main thoroughfare of Helensburgh and asked that the application be granted without conditions.

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

Debate

Motion

That the application for renewal of late hours catering licence be granted.

Moved by Councillor Freeman, seconded by Councillor MacIntyre.

Amendment

That the late hours catering licence is restricted to opening until 2.00 am and not 2.30 am as requested in the application.

Moved by Councillor Hall, seconded by Councillor Taylor.

The Motion was carried by 7 votes to 2 and the Committee resolved accordingly.

Decision

Agreed to grant the application for renewal of late hours catering licence.

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