

EAST AYRSHIRE COUNCIL
LOCAL GOVERNMENT LICENSING PANEL
24 JUNE 2008

APPLICATION FOR GRANT OF A LATE HOURS CATERING LICENCE

Report by Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1 To invite the Panel to consider, by way of a Hearing, an application for the grant of a Late Hours Catering Licence.

2. BACKGROUND

- 2.1 An application has been received from Robert Lindsay, 37 Dundonald Road, Kilmarnock, for the grant of a Late Hours Catering Licence in respect of the drive-through facility at McDonalds, 3 Armour Street, Kilmarnock.
- 2.2 The applicant wishes to trade between the hours of 11pm and 5am the following morning, each day.
- 2.3 An objection has been received in respect of the application.

3. DISCUSSION

- 3.1 A letter of objection dated 29 April 2008 has been received from the Divisional Commander, Strathclyde Police, on behalf of the Chief Constable, in respect of this application. (Copy attached at Appendix 1 to this report)
- 3.2 In accordance with Paragraph 4(1) of Schedule 1 to the Act a copy of the letter of objection has been forwarded to the applicant and he has been given the opportunity to notify the Panel, in writing, of his views on the contents of the letters.
- 3.3 No response has been received from the applicant to date.
- 3.4 The applicant and/or his representative have been invited to attend the meeting. To date, no response has been received.
- 3.5 Strathclyde Police have intimated that they will attend the Hearing and wish to be heard.

4. FINANCIAL IMPLICATIONS

- 4.1 Nil.

5 LEGAL IMPLICATIONS

- 5.1 In terms of Paragraph 3(4) of Schedule 1 to the Civic Government (Scotland) Act 1982, copies of any relevant objections/representations have been forwarded to the applicant.
- 5.2 In terms of Paragraph 4(1) of Schedule 1 to the Civic Government (Scotland) Act 1982, a licensing authority may, in considering an application for the grant or renewal of a licence, make such reasonable enquiries as they think fit and include the results of their enquiries in matters they take into account. In accordance with this Paragraph, the applicant has been given the opportunity to notify the licensing authority, in writing, of his views.
- 5.3 In terms of Paragraph 4(2) of Schedule 1 to the Act, a Licensing Authority may, before reaching a final decision on an application, give the applicant and any person who has made a relevant objection or representation, an opportunity to be heard.
- 5.4 In accordance with Paragraph 4(2) of Schedule 1 to the Act, the applicant and/or his representative and Strathclyde Police have been invited to attend the Hearing.
- 5.5 A copy of this report has been forwarded to the applicant.

6. POLICY IMPLICATIONS

- 6.1 In terms of the Community Plan, the Council are committed to the principles of eliminating public nuisance and ensuring public order and public safety in respect of any persons, premises or vehicles licensed by them in terms of the Civic Government (Scotland) Act 1982 or any other pertinent legislation

7. CONCLUSIONS

- 7.1 An application has been received from Robert Lindsay, 37 Dundonald Road, Kilmarnock, for the grant of a Late Hours Catering Licence.
- 7.2 An objection has been received in respect of the application.
- 7.3 The Licensing Panel may consider the letter of representation dated 29 April 2008, submitted on behalf of the Chief Constable, any written response from the applicant and information provided during the course of the Hearing, in reaching a decision on the application.

8. RECOMMENDATIONS

- 8.1 It is recommended that the Licensing Panel proceed to consider the application by way of a Hearing.

Elizabeth Morton
Executive Director of Corporate Support

EM/GHS

17/06/08

LIST OF BACKGROUND PAPERS

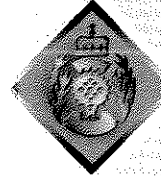
1. Application form signed and received on 15 April 2008.

Any person wishing to inspect any of the background papers listed above should telephone 01563 576061 and ask for Mr David Mitchell, Head of Legal, Procurement and Regulatory Services or e-mail on david.mitchell@east-ayrshire.gov.uk

RECEIVED

- 1 MAY 2008

APPENDIX I



STRATHCLYDE
POLICE

29 April 2008

Your Ref:

Our Ref: U/BF/HMCN/SM/LIC

CHIEF CONSTABLE
Stephen House QPM

Licensing Manager
East Ayrshire Council
14 London Road
KILMARNOCK
KA3 7AF

Date Rec'd. 01 MAY 2008		Seen by
Date Ack.		Initials
Passed to		Initials
Action by	Date dealt with	
Copies this letter/reply to		

East Ayrshire Sub Division
Ayrshire Division
Licensing Department
10 St Marnock Street
KILMARNOCK
KA1 1TJ

DX591200 KILMARNOCK 2

TEL NO: 01563 505033

FAX: 01563 505107

Dear Sir

CIVIC GOVERNMENT (SCOTLAND) ACT 1982
APPLICATION FOR LATE HOURS CATERING LICENCE
APPLICANT: ROBERT FERGUSON LINDSAY
PREMISES: MCDONALDS, 3 ARMOUR STREET, KILMARNOCK

With reference to the above I would wish to advise.

The Chief Constable objects to this application in terms of paragraph 5(3)(c)(i), (iv) and (v) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that due to the premises location, the grant of this licence would cause undue public nuisance or would be a threat to public order or public safety.

The subject premises are situated in Armour Street, Kilmarnock, near to the town centre. This application relates to the 'drive thru' facility only.

As background information I would offer the following:

With the exception of Pace Petroleum, Riccarton Road, Kilmarnock, which is situated outwith Kilmarnock town centre, all other establishments who are granted late hours catering licences must cease their business prior to the closing time of local places of entertainment.

If this application is granted, there is the real potential of significant numbers of people, many of whom would be under the influence of alcohol, migrating to a different area of the town centre. As the subject premises has a large outdoor seating area and car parking facilities adjacent to the premises, there is further potential for these individuals to loiter and therefore more likelihood that acts of violence or disorder will be committed. Consequently it would be incumbent on Strathclyde Police to respond to this by providing a police presence in that area, therefore that concentrated level of police officers currently provided within Kilmarnock town centre area would be depleted.




INVESTOR IN PEOPLE

Notwithstanding, the overall impact of this would be that not only would there be potential for disorder or violence in Armour Street, but with the reduction of police resources within Kilmarnock town centre area it is submitted that there would also be a higher risk of disorder and violence increasing at that location.

Consequently, it is the Chief Constable's view that the granting of this licence would lead to a rise in the number of complaints in respect of public nuisance, disorder and violence as the premises are likely to attract people who are under the influence of alcohol to purchase food and loiter in the vicinity.

Yours faithfully



Bill Fitzpatrick
Chief Superintendent
Divisional Commander