

**Civic Government (Scotland) Act 1982
Application for a Street Trader's Licence
Land at Site of Morris Club, 31 Morris Road, Newtongrange**

Report by Director,

1 Purpose of Report

To present an application for a licence for consideration.

2 Background

On 29 July 2013, Mr D Loudon, Newtongrange applied for a Street Trader's Licence, in respect of a static stance selling hot / cold morning rolls / baguettes / pastries, water, juice, sweets, crisps, healthy rolls salad and Pastas from a converted box trailer, at Land at Site of Morris Club, 31 Morris Road, Newtongrange. A copy of a plan showing the site is attached (**Appendix 1**). The Applicant has indicated informally that he is seeking an alternative site. The application must be determined by 29 January 2014, unless it is sooner withdrawn.

3 Representations and Consultations

Newtongrange Community Council made informal representations but as they did not formalise them, they cannot be considered.

The Police, Fire Officer and Planning, Roads and Environmental Health Officers were consulted.

The Police raise no objection.

The Planning Officer has advised that planning permission for the change of use of the site has been refused.

The Road Services Consultant reports as follows:-

“ A Building Warrant to demolish the premises was granted on 21 September 2011 (Building Warrant No 11/00352/BWDEM).

From a road safety perspective the proposed trading site has poor junction sightline visibility and forward road visibility.

A vehicle exiting the site has to join or cross the major road when there are gaps in the major road traffic streams. It is therefore essential than drivers exiting from the site have adequate visibility in each direction to see the oncoming major road traffic in sufficient time to permit them to make their manoeuvres safely.

Vehicular egress from the site has poor visibility on the south side onto Morris Road. A 30mph speed limit is applicable on Morris Road past the site.

For a 30mph speed limit the minimum visibility splay requirement is 2.4m x 70m and this is not achieved owing to a 1.8m high boundary wall (to 29 Morris Road) immediately adjacent to the site access on Morris Road and is additionally restricted by a well established hedge (2.1m high or thereby) within the site (Reference **Photo 1**).

Although the visibility splay is improved to the north side a blind spot is created at a setback of 1.3m from the road edge by a boundary privet hedge (1.9m high x 2.0m wide or thereby) to the rear of the public footway (**Reference Photos 2 & 4**). Additionally, from the drawing submitted with the application the applicant details the trading vehicle sited perpendicular immediately to the rear of the site boundary wall. Siting at this location would be within the junction visibility splay envelope on the north side and therefore seriously impede clear visibility for an existing vehicle.

A vehicle exiting from the site achieves a reduced sight distance of 1.3m x 70m (to the south of the site) when the front vehicle wheels are in line with the road kerb (ie the vehicle is stationary over the footway) (Reference **Photo 3**). As the applicant wishes to trade from 8.00am there is a risk of vehicle / schoolchild conflict with schoolchildren heading to the nearby Newbattle Community High School. A vehicle edging out may result in a schoolchild walking around the egressing vehicle and onto the live carriageway. Additionally, a schoolchild's attention could be distracted by other schoolchildren, use of mobile phones etc.

With respect to drivers approaching the site on Morris Road shall be able to see the site access from a distance corresponding to the Desirable Minimum Stopping Distance for the speed limit of the road. This visibility allows drivers on the major road to be aware of traffic entering from the site access in time for them to be able to slow down and stop safely if necessary. For a 30mph road the desirable minimum stopping site distance is 70 metres with an absolute minimum of 50 metres.

On the immediate northbound approach (from Suttieslea Road) to the site on Morris Road the existing horizontal road geometry provides a slow left hand bend and a slight rising vertical curve and the absolute minimum stopping distances cannot be achieved owing to the site access visibility being restricted by the high boundary wall at 29 Morris Road (Reference **Photo 6**).

In the event of passing northbound traffic not electing to use the large open parking ground within the site when visiting the facility owing to the site access being visually restrictive (in the northbound direction) or a driver being unfamiliar with the site short stop parking could result on Morris Road. This may result in other northbound vehicles on Morris Road overtaking stationary vehicle(s) but the overtaking sight distance is impeded by an existing privet hedge to the boundary of the site which is located on the inside of the left hand bend. As a result oncoming southbound traffic may temporarily be obscured (Reference **Photo 7**).

It is noted that there is an existing bus stop located 40m north of the site access. Although currently no service buses use Morris Road this is currently under review. Should service buses be routed along Morris Road in the future then short stop parking may be restrictive to the safe operation of a bus service accessing the bus stop.

Although no personal injury accidents have been recorded in the last 3 years to the end of March 2013, the existing site access has not been in regular use since demolition circa September 2011. The building most likely was dormant for some considerable time prior to demolition. The application has been determined on current road design standards. Should the site be redeveloped, a Planning Application would require the site access to be relocated to comply with current road design standards.

A location plan and photographs are appended for clarity.”

4 Procedure

In disposing of an application for the grant of the licence the Committee may (a) grant the licence unconditionally; (b) grant the licence subject to conditions; or (c) refuse to grant the licence.

The Committee may refuse the application if, in their opinion:-

- (i) the applicant or any other person responsible for the management of the activity is not a fit and proper person to be the holder of the licence;
- (ii) the activity to which it relates would be managed by or carried on for the benefit of a person other than the applicant who would be refused the grant of such a licence if he made application himself;
- (iii) where the application relates to premises, (or a site) those premises are not suitable or convenient for the activity having regard to (i) the location, character or condition of the premises (or site); (ii) the nature and extent of the proposed activity; (iii) the kind of persons likely to be in or on the premises (or site); (iv) the possibility of undue public nuisance; or (v) public order or public safety; or
- (iv) there is other good reason for refusing the application.

Otherwise the Committee must grant the application.

If the Committee grant conditionally or refuse the application, the applicant has the right of appeal to the Sheriff. The Sheriff may uphold an appeal only if he considers that the Licensing Authority in arriving at their decision (1) erred in law; (2) based their decision on any incorrect material fact; (3) acted contrary to natural justice; or (4) exercised their discretion in an unreasonable manner.

5 Conclusion

The Committee is asked to consider and determine this application.

17 December 2013

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Background Papers:

File C G 10.21 - Application