

**Civic Government (Scotland) Act 1982 - Licensing of Street Traders
Application Snack Van – Car Park at Kentigern Way, Penicuik****Report by Director, Corporate Resources****1 Purpose of Report**

The purpose of the report is to ask the Committee to consider an application for a Street Trader's Licence by DP Rocks Ltd, and Steve Parry, 1-5 Wardieburn Place, Edinburgh EH5 1DY in respect of an unidentified site (see Appendix) at the car Park, Kentigern Way, Penicuik, trading once a month on Saturdays (26 May), 30 June, 28 July, 1 September, 29 September, 27 October and 1 December between noon and 10pm in Pizza, Pizza bread, Chicken Strips and Soft Drinks from a trailer, 12.65 m x 2.5m.

2 Background

In terms of policy, there is a presumption against the granting of licences, *inter alia*, in the following circumstances:-

- (a) in streets that have a significant formal layout and plan which would be undermined by the presence of additional items in the street scene;
- (b) within the setting of certain historic buildings or places which are internationally significant where the siting of Street Traders has an adverse affect;
- (c) within certain areas not regarded by the Council as suitable for street trading operations except in exceptional circumstances;
- (d) in/at important gateways to Midlothian and places of interest;
- (e) the site should not be within 200 yards of any shop or business premises in which are sold articles of the same description as those intended.

3 Consultation

Councillor Montgomery has expressed concerns about road safety in the vicinity, hours of opening, possible nuisance and the impact on local business. The Police and Environmental Health Officer were consulted and offer no objections. A Certificate, dated 10 May 2012, has been produced by the Applicant stating that the Trailer complied with the Food Hygiene Regulations on 1 March 2012 ie prior to the submission of the application.

The map also shows the 200 yard radius of the site. Current conditions of licensing are shown in **Appendix 2**.

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 Consideration of Application

Having afforded the applicant, the opportunity to be heard, consideration should be given to the application

6 Recommendation

It is recommended that the Committee consider the application.

22 May 2012

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Background Papers:	File CG() (RGA)	



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