

**Civic Government (Scotland) Act 1982
Application for Late Hours Catering Licence**

Report by Director, Resources

1 Purpose of Report

To present information to the Committee to facilitate the consideration of an application for a Late Hours Catering Licence by MacDonald's Restaurants Ltd, London and Mr Christopher M Jackson, Glasgow in respect of the premises at 12 – 13 Pentland Retail Park, Loanhead, as shown on the map at **Appendix 1**, trading in fast food from 11pm to 5am both **on and off** the premises.

MacDonald's Restaurants Ltd, Bathgate and Mr S Lumsden, currently has a licence for the premises between 11pm and 5am daily, trading in fast food from 11pm to 5 am **off** the premises, which expires on 1 July 2016.

2 Background

A Licence, known as a "late hours catering licence", is required for the use of premises "between the hours of eleven o'clock in the evening and five o'clock the following morning for the sale to or consumption by the public of meals or refreshment". The reference to the sale of meals or refreshment is a reference to the sale of meals or refreshment for consumption on as well as off the premises in which they are sold.

A licensing authority may attach conditions to a late hours catering licence fixing the days and hours during which the premises may be open for business, and different days and hours may be fixed for the sale of meals or refreshments for consumption on the premises from those fixed for the sale of meals or refreshments for consumption off the premises.

3 Consultation

The Police, Fire and Rescue Service and Officers of the Council have been consulted.

The Police have made representations in respect of the grant of the licence. The letter is shown at **Appendix 2**.

The other Officers have raised no significant issues.

4 Procedure for Considering Applications at Hearings

The Standard Procedure for considering applications is as shown in a separate report.

5 Disposal of Applications for Licences

In disposing of an application for the grant of a 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 an application for a licence 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, those premises are not suitable or convenient for the activity having regard to –
 - (i) the location, character or condition of the premises;
 - (ii) the nature and extent of the proposed activity;
 - (iii) the kind of persons likely to be in the premises;
 - (iv) the possibility of undue public nuisance;
 - (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:-

- (a) erred in law;
- (b) based their decision on any incorrect material fact;
- (c) acted contrary to natural justice; or

(d) exercised their discretion in an unreasonable manner.

6 Conclusion

The premises are currently licensed for trade from 11pm to 5am **off** the premises, until 1 July 2016.

In respect of the proposed operation of the combined activity **on as well as off** the premises, the Police have concerns about public safety, etc.

7 Recommendation

The Committee is recommended to consider the terms of the report and determine the application.

16 December 2014

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Background Papers: **File CG 10.1 (RGA)**
Civic Government (Scotland) Act 1982.