

EAST RENFREWSHIRE COUNCIL

LICENSING COMMITTEE

5 September 2023

Report by Chief Officer (Legal & Procurement)

APPLICATION FOR LATE HOURS CATERING LICENCE

PURPOSE OF REPORT

1. To consider an application for a Late Hours Catering Licence.

BACKGROUND

2. In terms of Section 42 of the Civic Government (Scotland) Act 1982, a licence is required for the use of premises between the hours of 11pm and 5am the following morning for the sale to or consumption by the public of meals or refreshment. This relates to both “sit-in” and “carry-out” establishments.

REPORT

3. Chloe Johnston, Solicitor for and on behalf of Anderson Strathern as agent for JE Restaurants Limited, has applied for the grant of a Late Hours Catering Licence in respect of premises at Bowerwalls Place, Barrhead, Glasgow G78 1BF known as McDonald’s Restaurant, to operate from 11p.m. – 5a.m. Monday to Sunday. The application is attached as Appendix 1 to this report.

4. Police Scotland, the Environment Department (both Planning and Environmental Health sections) and the Local Member have all been consulted regarding the application. Eighteen objections/representations have been received timeously. All objections are from local residents and take the same form. To summarise, the objection relates to concerns regarding undue public nuisance (including noise) and threat to public order and safety arising from night-time custom at the premises and the associated detriment to neighbouring residents. A copy of the text of the objection is attached as Appendix 2 whilst the list of objectors is attached as Appendix 3.

RECOMMENDATION

5. That the Committee considers the application for a Late Hours Catering Licence.

Report Author

Gerry Mahon

Local Government (Access to Information) Act 1985

Background Papers

1. Application form
2. Copy Objection – all 18 objections contain the same wording
3. List of Objectors addresses.



April 2019

1 YEAR
(delete as appropriate)

Application for a Late Hours Catering Licence

Civic Government (Scotland) Act 1982

Please refer to the relevant guidance notes prior to completing this form. Applicants must display a **public notice** at the proposed premises as soon as this application has been lodged with the licensing office. This display notice must be displayed for a period of 21 days, together. For further information please refer to the guidance notes. At the end of the 21 day period you must sign and return a **certificate of compliance** to confirm that you have complied with this requirement. Payment is due at the time you submit your application at the licensing office. In the event of not being granted a licence, application fees are non-refundable.

Please answer every question in typescript or black ink and capital letters

| | | |
|--|--|----------------|
| 1 Address of premises in respect of which the licence is applied | McDonald's Restaurant, Bowerwalls Place, Barrhead, Glasgow, G78 1BF. | |
| To be completed if applicant is individual natural person | | |
| 2 Full Name: | | |
| Address and postcode: | | |
| Home Address (If your home address is outwith UK) | | |
| Date moved to current address: | | |
| All previous addresses if resident in the UK for less than 5 years immediately prior to application. | | |
| Have you been resident in the UK for 5 years or more? | YES/NO (delete as appropriate) | |
| If NO, please supply previous address | | |
| Home phone number: | | |
| Business phone number: | | |
| Fax number/e-mail address: | | |
| Date & place of birth | Date of Birth | Place of Birth |
| National Insurance Number | | |
| If you are not an EU National do you have the right to work in the UK? | YES/NO (delete as appropriate) | |

6

To be completed if applicant is not an individual natural person (eg a company/partnership)

| | |
|--|--|
| 3 Full company name: | JE Restaurants Limited |
| Company address and postcode: Company Registration No: Company Tax No: | The Ca'D'Oro 45 Gordon Street Glasgow, G1 3PE SC504238 VAT 213 6664 18 |
| Address and postcode of principal office: Company Registration No: Company Tax No: | The Ca'D'Oro 45 Gordon Street Glasgow, G1 3PE SC504238 VAT 213 6664 18 |
| Telephone number: | 07927 695340 |
| Fax/e-mail address: | jim@jerestaurants.co.uk |

4 Are you applying for the grant of a licence or to renew an existing late hours catering licence?

Grant



Renewal



LHC/

If renewal, please state current licence number:

5. FOR COMPANIES COMPLETE THIS SECTION

Details of all Directors and persons responsible for the management of the business
(please continue on a separate sheet if there are more than two directors)

(i) Name: James McLean _____ Title: Mr _____

Home Address: 13 Glenfarg Crescent, Bearsden, Glasgow, G61 2AN

Tel No: 07927 695340 __ Date of Birth: 29 May 1958 __ Place of Birth Glasgow _____

Mobile No: 07927 695340 _____ E-mail address: jim@jerestaurants.co.uk _____

If you are not an EU National do you have the right to work in the UK? n/a

(ii) Name: n/a _____ Title: _____

Home Address:

Tel No: _____ Date of Birth: _____ Place of Birth _____

Mobile No: _____ E-mail address: _____

If you are not an EU National do you have the right to work in the UK? YES/NO

Details of the employee who is to carry out the day to day management of the business

(i) Name: Scott Lafferty _____ Title: Mr _____

Home Address: 18 Millview Place, Parkhouse, Glasgow, G53 7RE

Tel No: 07515176576

Date of Birth: 22 July 1983 _____ Place of Birth Glasgow _____

Mobile No: 07515176576 _____ E-mail address: slafferty76@sky.com

If you are not an EU National do you have the right to work in the UK? n/a

6. FOR PARTNERSHIPS COMPLETE THIS SECTION**(b) Partnership Name (Block Letters) n/a****Address of Registered or Principal Office****Partnership Tax No:** _____**Contact Telephone No:****E-Mail Address:****Details of all Partners or persons responsible for the management of the business
(Please continue on a separate sheet if there are more than two partners)****(i) Name:** _____ **Title:** _____**Home Address**
_____**Tel No:** _____ **Date of Birth:** _____ **Place of Birth** _____**Mobile No:** _____ **E-mail address:** _____**If you are not an EU National do you have the right to work in the UK? YES/NO****(ii) Name:** _____ **Title:** _____**Home Address**
_____**Tel No:** _____ **Date of Birth:** _____ **Place of Birth** _____**Mobile No:** _____ **E-mail address:** _____**If you are not an EU National do you have the right to work in the UK? YES/NO****7** Nature of business for which a late hours catering licence is required?

Hot and Cold fast food including burgers, fries, soft drinks and coffees

Please state:

(a) Days of week when it is proposed to operate late hours catering:

(a) Monday - Sunday

(b) Hours each day during which you require this licence.

(b) 11pm – 5am

8 Are you the owner of the premises?

Yes

No



If no, please state the full name and address of the owner.

McDonald's, 11
– 59 High Street
East Finchley
London N2 8AW

| | |
|--|---|
| 9 Are the premises situated within tenemental property? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
|--|---|

10 Subject to the provisions of the Rehabilitation of Offenders Act 1974, state below particulars of any convictions you or any Directors, Partners or Manager have. Continue on a separate sheet if necessary. IF THERE ARE NONE YOU MUST WRITE "NONE". If you are unsure DO NOT PROCEED, obtain a disclosure certificate from Police Scotland or Disclosure (Scotland) to confirm your details.

| Date | Court | Offence | Sentence |
|------|-------|---------|----------|
| NONE | | | |

Note - All unspent crimes and offences must be declared

If you are not resident in the UK you must provide (at your own expense, and officially translated if necessary) a Certificate of Good Conduct or similar document from the justice authority of the country where you are resident.

If you have been resident in the UK for less than 5 years prior to application you must provide (at your own expense, and officially translated if necessary) a Certificate of Good Conduct or similar document from the justice authority of the country where you previously resided.

| | |
|---|---|
| 11 Has any party named in question 2 or 3 overleaf held or does he/she currently hold a late hours catering licence? | Yes X various No <input type="checkbox"/> |
| If Yes , which authority granted the licence? | Various including Renfrewshire Council |
| When was it granted? | 14 February 2023 |
| When does it expire? | 28 February 2024 |
| 12 Has any party named in question 2 or 3 overleaf ever applied for and been refused a late hours catering licence? | Yes <input type="checkbox"/> No X |
| If Yes , which authority refused the licence? | |
| When was it refused? | |

*(a) I/we declare that I/we shall, for a period of 21 days commencing with the date hereof, display at or near the premises so that it can conveniently be read by the public, a notice complying with the requirements of Paragraph 2(3) of Schedule 1 of the Civic Government (Scotland) Act, 1982.

or

~~*(b) I/we declare that I am/we are unable to display a notice of this application at or near the premises because I/we have no rights of access or other rights enabling me/us to do so, but I/we have taken the following steps to acquire the necessary rights, namely:-~~

~~but have been unable to acquire those rights.~~

* Delete (a) or (b) as appropriate. Where a declaration (a) is made there must be produced in due course a certificate declaring compliance with paragraph 2(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

Any person who in connection with the making of this application makes any statement which he knows to be false or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £500.


The information you supply on this form will be used by East Renfrewshire Council to process your application for a licence. We will also use your information to verify your identity where required, contact you by post, email or telephone to maintain our records and for certain research and statistical reasons. The Council will use this information because we need to do so in terms of the Civic Government (Scotland) Act 1982. The information will be shared with Police Scotland in full and a redacted version will be shared with other statutory consultees including community councils and the Fire Authority, if appropriate. This is necessary to provide this service and to fulfil the council's legal obligations in terms of the above Act and to perform a task carried out in the public interest. We also need to process more sensitive personal information about you for reasons of substantial public interest as set out in the Data Protection Act 2018. It is necessary for us to process it to carry out key functions as outlined by law.

If you do not provide us with the information we have asked for then we will not be able to provide this service to you. You can find out more about how we handle this information and your rights in respect of it by going to <http://www.eastrenfrewshire.gov.uk/taxis>

If you do not have access to a computer and wish a paper copy please let us know by contacting Business Support, Licensing, Chief Executives Department, Council HQ, Rouken Glen Road, Giffnock, G46 6UG

If you have provided anyone else's details on this form, please make sure that you have told them that you have given their information to East Renfrewshire Council. We will use the information in the same way as your personal information and may verify the information you have given with the person and may use it as if it is your information and to assist in determining your application. If the other person wants any more information on how we will use their information they can visit our web site at <http://www.eastrenfrewshire.gov.uk/taxis>

I declare that the particulars given by me on this form are true and I hereby make application to East Renfrewshire Council for the grant or renewal of the licence applied for. All Partners/Directors/Managers named on this form must sign below:-

| | | | |
|--|---|--------------|------------|
| Signature of applicant or agent: |  for and on behalf of Anderson Strathern LLP as Agent for JE Restaurants Limited | Date: | 02/05/2023 |
| Agents Address: | Anderson Strathern LLP 1 Rutland Court, Edinburgh, EH3 8EY | | |
| Position of applicant in company/ partnership, if not otherwise stated: | n/a | | |

(NB if your home address is outwith the UK, see Notes)

Please ensure you have read the attached guidance notes and have:

Completed application should be returned to:-

East Renfrewshire Council
Legal Services
Council Headquarters
Eastwood Park
Rouken Glen Road
Giffnock

12

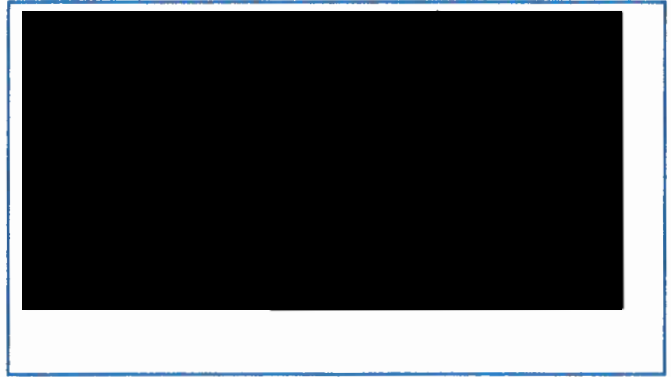
- completed every question in block capitals and black ink or typescript
- signed and dated the application
- deleted declaration (a) or (b) above, as applicable
- arranged for the public notice to be displayed at the proposed premises showing the exact 21 days date (if you are uncertain about this date please seek assistance from a member of the licensing staff).

East Renfrewshire G46 6UG

Phone: 0141 577 3001

E-mail: customerservices@eastrenfrewshire.gov.uk

Chief Officer Legal & Procurement
East Renfrewshire Council Licensing Section
Council Headquarters Eastwood Park
Rouken Glen Road
Giffnock G46 6UG



21 May 2022

Objection to Application for a Late Hours Catering Licence

Applicant: McDonald's Restaurants Limited

Location: Bowerwalls Place Barrhead Glasgow G78 1BF

Dear Sir/Madam,

I am writing as a local resident to object to the above Late Hours Catering Licence (LHCL) application. I am greatly concerned that the proposal, if it goes ahead, will have significant detrimental effects on the local community especially the neighbouring residential properties. I have detailed my objections below.

I object 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 of public safety.

On this specific occasion, the applicant is requesting permission for the premises to trade until 5am, 7 days a week. If the application were granted, there would be a real potential for significant numbers of people, many of whom would be under the influence of alcohol, migrating to this area of the town in order to socialise further and utilise the facilities. The subject premises affords a large car park and outdoor seating area and a childs play area for customers' use which will inevitably be used with or without the premises managements permission. As a result of this it will provide further potential for people to loiter outside. Not only could this lead to an increase in acts of violence and disorder, but the noise pollution will adversely affect the surrounding residential properties where I reside.

Consequently, it would be incumbent upon Police Scotland to respond to this by providing a police presence in that area and in order to do this, the concentrated level of police officers currently being provided within Barrhead and surrounding area would be depleted to a dangerous level.

As a sad but well documented fact, Barrhead town centre is currently blighted by youth Anti-social Behaviour (ASB) including:

1. wilful fire raising at Barrhead Health Centre
2. broken windows in Barrhead swimming pool causing the closure of the infant pool for several weeks
3. the harassment of Asda staff and customers by a group of delinquent youths
4. break in and subsequent vandalism of property and PC's within Hillview Primary school that was live streamed by the perpetrator on Snapchat for all to see.

Within the centre of Barrhead, if the current level of policing, council oversight and management, dedicated security guards, multiple private and public CCTV locations along side that this area is heavily frequented by shoppers and persons attending the many health and council premises, combined they are unable to make a reduction in this ASB. Therefore why should the local council even consider granting a property a LHCL that will further spread the above youth ASB into an area of significant residential properties.

I would suggest that the McDonald Restaurant multinational organisation will argue that the provision of a LHCL is to provide a 24 hours McDonald food service for locals and passing traffic. However, notwithstanding the above, the provision of a 24 hour McDonalds is location is only 2.3 miles away or a 7 minute drive from this location (Darnley) so the argument of the provision of service from this specific McDonalds location is false, inaccurate and misleading. We know that their only incentive is to make money without due consideration to the local residents.

I have carried out a basic search of nearby McDonald Restaurant locations and crossed referenced each locations hours of opening against their proximity to the nearest adjoining residential dwellings. I believe that the figures speak for themselves.

| location no | LA area | address | closing time or 24 hour | Metre distance to nearest domestic dwelling | comment |
|-------------|-------------------|--------------|-------------------------|---|--|
| 1 | Renfrewshire | Linwood | 24 | 445 | |
| 2 | Renfrewshire | Paisley | 23:00 | 36 | |
| 3 | Renfrewshire | Braehead | 00:00 | 622 | |
| 4 | Glasgow | Silverburn | 23:00 | 113 | |
| 5 | Glasgow | Darnley | 24 | 118 | building separated by large earth embankment and dual carriageway road |
| 6 | East Renfrewshire | Thornliebank | 23:00 | 54 | |
| 7 | Glasgow | Govan | 00:00 | 194 | |
| 8 | South Lanarkshire | Toryglen | 24 | 177 | |
| 9 | Glasgow | Castlemilk | 00:00 | 194 | |
| 10 | South Lanarkshire | EK Queensway | 24 | 215 | |
| 11 | South Lanarkshire | EK Lee Burn | 24 | 425 | |
| 12 | Glasgow | Rutherglen | 24 | 144 | |
| 13 | Glasgow | The Forge | 24 | 180 | |
| 14 | East Renfrewshire | Barrhead | 24 | 26 | |

It is evident from these figures that only LHCL have been granted to McDonalds Restaurants have been at least 118 metres away from residential dwellings. In the case of Barrhead's application, the property is only 24 meters from the nearest dwelling. Therefore, this LHCL application must be refused.

Throughout the country there have been numerous LHCL applications refused, a short list is below:

| LA Area | summary | Outcome | URL |
|-----------------------|--|-----------------------|---|
| East Ayrshire | Objections received from Police Scotland - concerns that due to this premises location the grant of this licence would cause undue public nuisance or would be a threat to public order and public safety. | licence refused by LA | https://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agenda/licensing%20panel/2%20october%202014/application%20for%20material%20change%20to%20a%20late%20hours%20catering%20licence.pdf |
| Highland | Objections received from Police Scotland - concerns of unable to prevent crime and disorder, securing public safety and preventing public nuisance. Further objection from and Highland Council Environmental Services regarding the increase in littering during proposed extended hours. | licence refused by LA | https://www.highland.gov.uk/download/meetings/id/67107/item_81_-_mcdonalds_restaurant_12-22_high_street_inverness |
| Edinburgh | Police Scotland object due to concerns of increased antisocial behaviour | licence refused by LA | https://www.dailyrecord.co.uk/news/scottish-news/edinburgh-mcdonalds-restaurant-loses-24-11557252 |
| Cardiff | Local residents and Councillors complained about pollution, litter and antisocial behaviour | licence refused by LA | https://jomec.co.uk/thecardiffian/2020/02/18/mcdonalds-appeals-against-refusal-of-24-hour-licence/ |
| South Gloucestershire | Residents object to premises being too close to residential properties, they say that the smell, traffic and noise pollution is unreasonable, all other 24 hour licenses are far away from residential dwellings. | licence refused by LA | https://www.bristolpost.co.uk/whats-on/whats-on-news/residents-claim-new-24-hour-7506415 |

I am not convinced that after having read the East Renfrewshire planning application process for the McDonalds site that ERC either understands the likely impact of noise and/or smells to be produced from the site.

Within the East Renfrewshire Planning Consent letter dated 14 Oct 2022, points 4 & 5 states limits to noise pollution levels to be registered at adjoining dwellings within prescribed hours of operation. At no point within this condition does it state what previous McDonald restaurant locations noise level have been audited to be producing. Within this Consent letter, East Renfrewshire Council make no mention of their intention to monitor or assess any previous locations or at this location, neither reactive or proactive action. I believe that ERC have set a condition without any evidence of compliance or intent to ensure compliance here. The Consent letter also makes no mention of any noise limits or monitoring of persons entering, exiting or loitering within the grounds of the restaurant. A major cause of noise pollution from any premises.

The levels noise levels indicated, again ERC makes no mention of who is a competent person to take said readings, what approved device can be used and what level of calibration is required to obtain a reading, ERC makes no reference that it can or will monitor.

Condition 7 of the Consent letter also sets conditions about the use of the external seating and play frame, as stated above, the management of this timescale will realistically be impossible. If the public have a public right of access to the location, McDonalds staff can only kindly request that persons leave, next step is police involvement. Playing the devils advocate, individual(s) sitting in a McDonalds external seating area at for example 02:00hrs laughing with a friend is neither against the law and in Scotland there is no trespass laws to remove person(s).

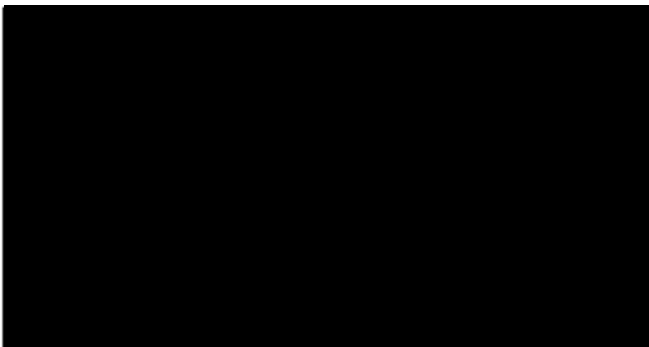
Within ERC's Report of Handling of this planning application, it is concerning to note that within the "Odour Assessment" section ERC have included a vague non specific statement regarding the produced odour for the premises kitchens. ERC deliberately makes no mention of proactive or reactive methods to assess and monitor "odour". It is therefore impossible for any form of redress to McDonalds is the nearby residents complain of strong odours as they will state that it is obvious odour from a commercial kitchen. ERC have neither included subjective or objective standards to be met. This is again a deliberately non statement that can not be assessed or questioned.

Assesses the potential for odour nuisance from the operation of the premises. It acknowledges that the kitchen facility with the building has high risk of producing odour impacts on residential receptors. It confirms the designed extraction system in combination with a suitable maintenance arrangement should adequately address this potential.

Within the Noise Assessment section ERC use the following words/statements; *references are unfortunately based on another authority*. ERC are making out that Darnley McDonalds is somehow too far away from its Rouken Glen HQ (1.7 miles – 5 min drive) and that somehow it is unable to make an informed assessment of this location. *Noise sources and their anticipated impact are assessed (guessed) and Potential mitigation measures are also explored in response to the findings*. Potential measures are explored, that is a vacuous gibberish absurdity. I find it unbelievable that a 24 hour catering licence is being based on guesses.

You must refuse this LHCL as McDonalds have proven themselves to be irresponsible and uncaring business without due care and attention to persons living around it locus.

Regards



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