

## **AGENDA ITEM NO 8**

**REPORT NO 372/17**

### **ANGUS COUNCIL**

#### **CIVIC LICENSING COMMITTEE – 2 NOVEMBER 2017**

#### **NEW APPLICATION**

#### **REPORT BY HEAD OF LEGAL AND DEMOCRATIC SERVICES**

### **ABSTRACT**

The purpose of this report is to present an application for a new licence under the Civic Government (Scotland) Act 1982 which requires to be determined by the Committee.

### **1. RECOMMENDATION**

It is recommended that the Committee consider and determine the application for a new licence as detailed in **APPENDIX 1**, in terms of one of the following options:-

- (i) to grant the application;
- (ii) to grant the application subject to standard and/or any additional conditions;
- (iii) to defer the application for a period not exceeding 9 months from the date of the application; or
- (iv) to refuse the application on one or more of the grounds referred to in Paragraph 5.

### **2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/CORPORATE PLAN**

This report contributes to the following outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are prosperous and fair
- Our communities are safe and strong

### **3. BACKGROUND**

The Council has received an application for a new licence under the Civic Government (Scotland) Act 1982 which requires to be determined by the Committee because one or more of the following apply:-

- (i) there has been an objection or a representation received in respect of the application; or
- (ii) the application does not comply with the policy adopted by Angus Council; or
- (iii) the function is not delegated to Officers; or
- (iv) the applicant has a conviction(s), a spent conviction(s) or a pending case.

#### 4. FINANCIAL IMPLICATIONS

There are no financial implications arising out of this report.

#### 5. LEGAL IMPLICATIONS

5.1 Schedule 1 of the 1982 Act contains provisions in respect of the processing and determining of applications for licences under the 1982 Act.

5.2 In particular, Paragraph 5 of Schedule 1 to the 1982 Act provides that where an application for the grant or renewal of a licence has been made to a licensing authority they shall, in accordance with that paragraph-

- (a) grant or renew the licence; or;
- (b) refuse to grant or renew the licence.

5.3 In granting or renewing a licence a licensing authority may (either or both)-

- (a) disapply or vary any standard conditions so far as applicable to the licence,
- (b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.

With limited exception, the conditions referred to in sub-paragraph above shall be such reasonable conditions as the licensing authority think fit and, without prejudice to that generality, may include conditions restricting the validity of a licence to an area or areas specified in the licence.

5.4 A licensing authority shall refuse an application to grant or renew a licence if, in their opinion-

- (a) the applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either-
    - (i) for the time being disqualified by a Court from holding a licence under the 1982 Act; or
    - (ii) not a fit and proper person to be the holder of the licence;
  - (b) 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 or renewal of such a licence if he made the application himself;
  - (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to-
    - (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
    - (ii) the nature and extent of the proposed activity;
    - (iii) the kind of persons likely to be in the premises, vehicle or vessel;
    - (iv) the possibility of undue public nuisance; or
    - (v) public order or public safety; or
  - (d) there is other good reason for refusing the application;
- and otherwise shall grant the application.

**6. HUMAN RIGHTS IMPLICATIONS**

In dealing with the application, the Committee will have regard to any human rights issues in relation to the applicants and objectors.

**7. NOTIFICATION**

The applicant and objectors have been notified of the terms of this Report. They have also been advised of their entitlement to attend the meeting should they wish.

**NOTE:** No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing this report.

**REPORT AUTHOR:** Tina Magson, Solicitor  
**EMAIL DETAILS:** LEGDEM@angus.gov.uk

CIVIC LICENSING COMMITTEE – 2 NOVEMBER 2017

(a) **DIMITAR ILIEV MARINOV – STREET TRADER’S LICENCE – FIXED PITCH (ST11)**

An application for a Street Trader’s licence was received on 21 July 2017 from Dimitar Iliev Marinov, 40 Stoneycroft Lane, Arbroath, DD11 1PY.

The application is in respect of a fixed pitch site at Keptie Road, Arbroath, during the hours of Monday to Sunday from 8am to 4pm.

For the information of Members, Condition 3 of the “Conditions Applicable to Street Traders’ Licences” states that:

“A street trader shall only conduct his business between the hours of 7a.m. to 12 midnight Monday to Friday and from 7a.m. to 11p.m. on Saturday unless special written person is given by the licensing authority. (Trading shall take place on a Sunday only between the hours of 12 noon to 11p.m.)”

Additionally, Condition 16 states that:

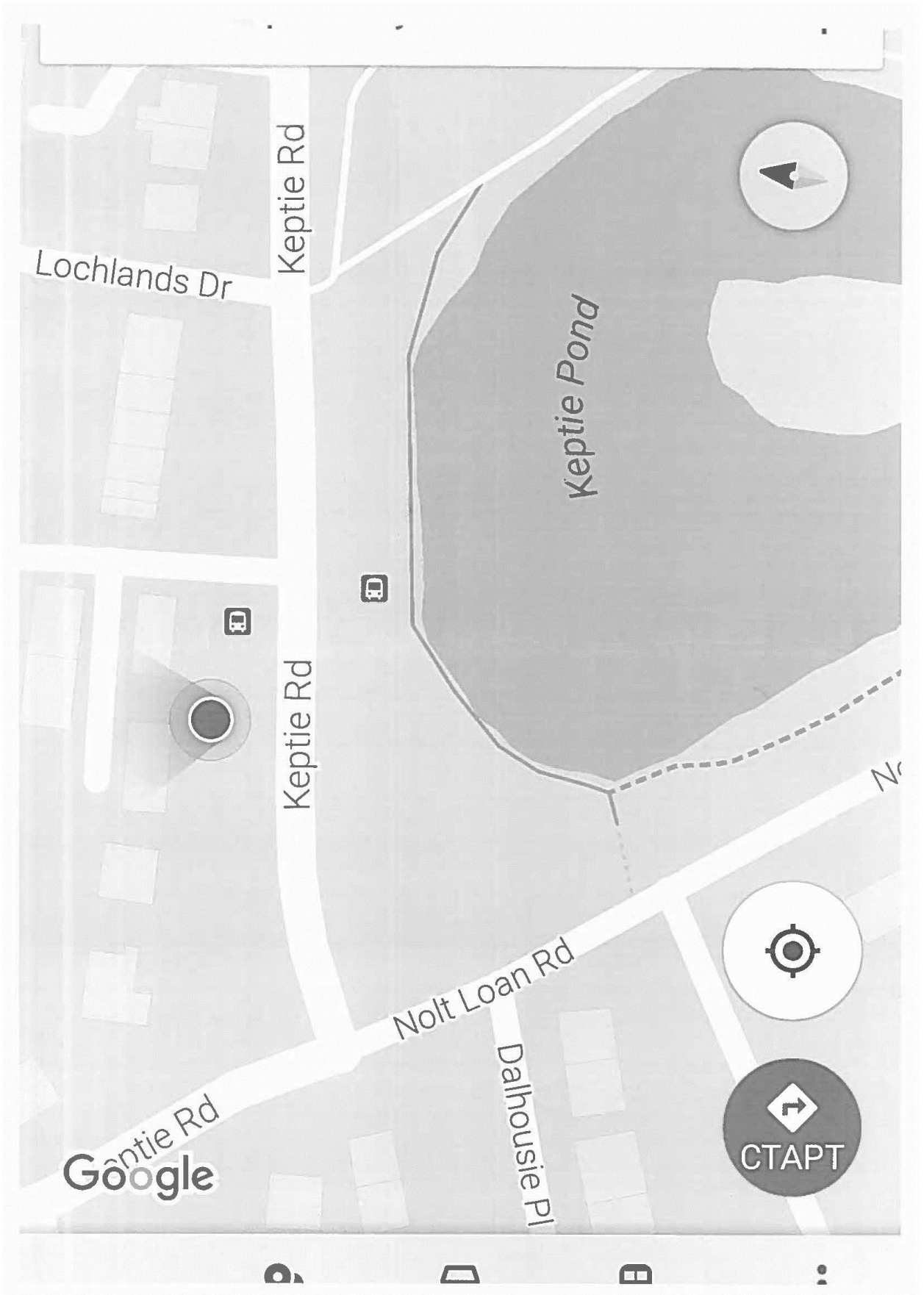
“A Street Trader operating as a food vendor will not be permitted to trade during the school term between the hours of 9.00am and 4.00pm within the areas adjacent to any Secondary School in Angus as delineated on the attached plans.”

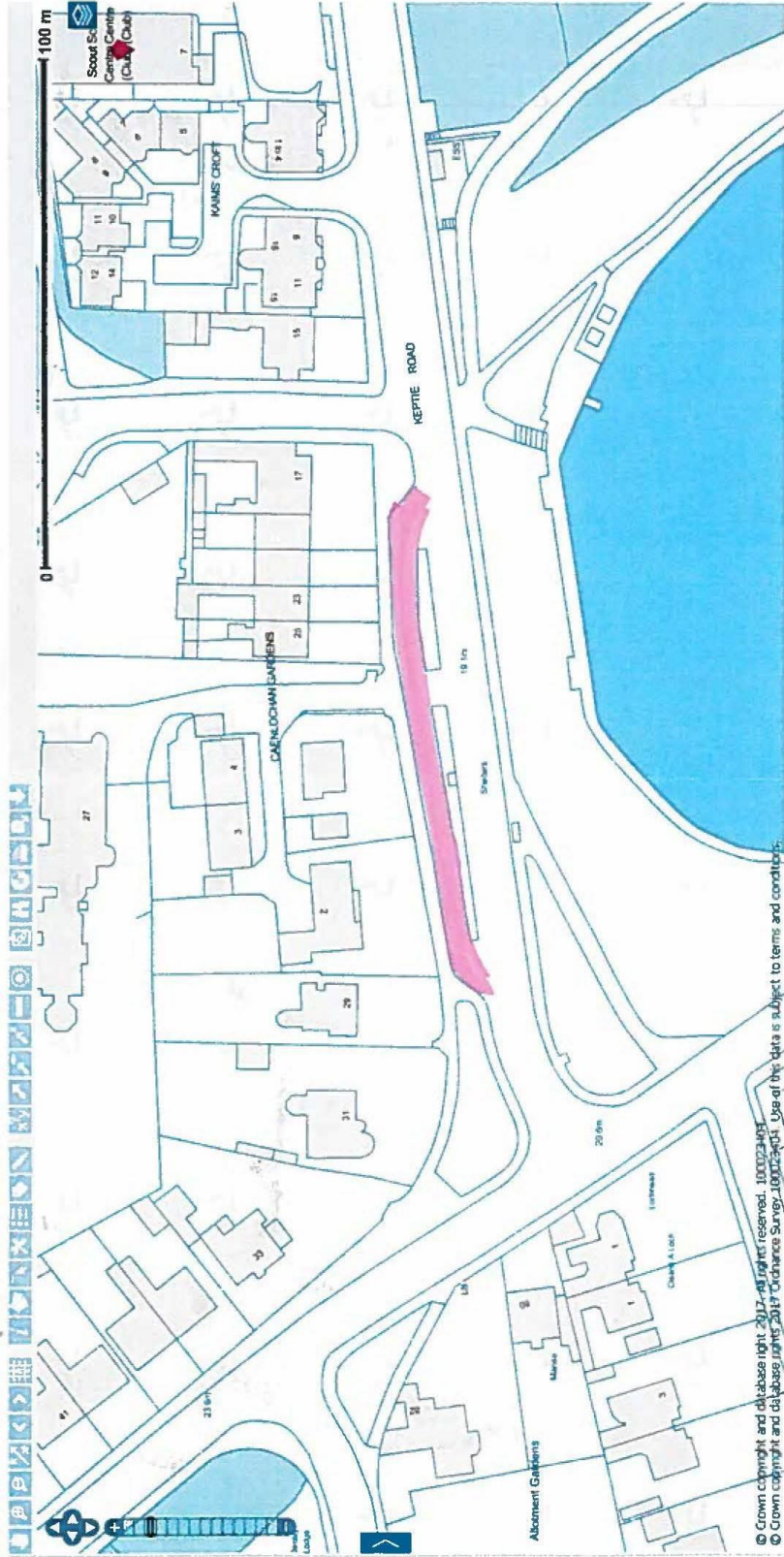
For information, the plan for Arbroath High School is attached as **APPENDIX 2** to this Report. Members are asked to note that the fixed pitch site at Keptie Road, Arbroath, falls within the 500m zone around Arbroath High School.

A memorandum dated 28 July 2017 from the Roads and Transport Division has been received and is attached as **APPENDIX 3** to this report.

Members are also asked to consider nine letters of objection that have been received in connection with this application, copies of which are attached as **APPENDIX 4** to this report.

The Committee is asked to determine this application in accordance with Section 1 of the Report.





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# School Exclusion Zones

## Arbroath High School 500m Zone



Arbroath High School 500m Zone

1:3,288

Angus Council

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