

# ITEM No. 4

Report No 167/97

## ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

30 JANUARY 1997

**SUBJECT: CHILDREN'S PLAY CENTRE, DRONLEY ROAD, BIRKHILL  
INTERPRETATION OF PLANNING CONDITION IN RELATION TO HOURS OF OPENING  
REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT**

**Abstract: Complaints have been received concerning the hours of operation of the above play centre which was conditionally approved by City of Dundee District Council in 1993. A ruling on the precise terms of the condition is required from the Committee in order that the matter can be pursued.**

### 1 RECOMMENDATION

It is recommended that the Committee invites the submission of a formal planning application to regularise the hours of operation at Jungle Kids and that additional time be permitted for advance preparation and subsequent clearance/tidy-up.

### 2 INTRODUCTION

2.1 On 1 September 1993 the former City of Dundee District Council granted planning consent for a change of use from warehouse to children's play centre at Dronley Road, Birkhill, now known as "Jungle Kids". In doing so they imposed a condition relating to the permitted hours of opening which reads:-

"that the building shall be used for the purpose hereby granted permission only between the hours of 1000 and 1930 hours (Monday to Saturday) and 1100 to 1800 hours on Sunday."

2.2 On Wednesday, 2 October 1996, an advertisement appeared in the Evening Telegraph promoting a Halloween Party at Jungle Kids, Dronley Road, Birkhill. The party was advertised to take place on 19 October between 1830 and 2030 hours. As a result complaints were received. The owner of the establishment was seen and advised that if the party went ahead as advertised he would be in breach of Condition No. 2 of his planning consent.

2.3 Following the event two complaints were received from nearby residents to the effect that the activity had continued until 2030 hours. Staff were subsequently interviewed and maintained that the activity ceased at 1930 hours, the party times having been re-scheduled. They advised that some 218 children had attended the event. When it concluded the children had to be re-united with parents, group leaders etc., many required to be toileted, all had to be dressed and escorted to vehicles which had then to be driven from the site. In the circumstances it seemed reasonable to consider this operation could take up to an hour and no further action was taken.

2.4 On the 8, 10 and 15 December 1996 Mr. Michael Freist, 52 Sidlaw Gardens, Birkhill, wrote complaining that:-

- (a) on Sunday, 8 December 1996, the last cars were leaving the car park at 2030. Closing time on Sundays being 1800 hours;
- (b) On Monday and Tuesday, 9 and 10 December 1996, he advised the last customers left at 2020 and 2030 hours respectively; and
- (c) on Sunday, 15 December 1996, the premises opened at 1000 hours, the permitted opening time on Sunday being 1100 hours, and closed at 2000 hours the permitted closing time being 1800 hours.

2.5 On 30 December 1996 Mr. C. Wilson, 51 Sidlaw Gardens, Birkhill, wrote complaining of late closing on 26 October (2050), 29 October (1955), Sunday 8 December (2035), Sunday 15 December (2010), Sunday 22 December (2015) and early opening on Sunday 17 November (1025), Sunday 1 December (0955) and Sunday 15 December (1000).

2.6 Mr. Freist's complaints were passed to the owner of Jungle Kids for comment, the letter from Mr. Wilson being received subsequently. The owner of Jungle Kids has responded as follows:-

Sunday 8 December - we had a large group booking of Dundee District Cubs 80th Collection who made a special request for the premises on their own of which we granted. They left the play equipment at approximately 7.15 p.m. by the time they got their coats, shoes etc. and their group leaders did the register to ensure all children were there then they left the premises. My staff then have to clear up as we maintain a high standard of cleanliness due to it being a child's play centre, cashing up and staff having to wait for lifts etc. from their parents. Also several of my staff have their own transport which are parked in the car park.

Monday 9 December - we had a Christmas Party for approximately 60 foster children at which their party ended at 7.30 p.m. and as above I feel it takes time to calm the children down from the excitement of seeing Father Christmas, then have to get organised to leave. Cashing up and cleaning have still to be done for the next day, staff then have to leave the premises.

Tuesday 10 December - the Star Youth Club had their Christmas Party at which their party ended at 7.30 p.m. and as stated it all takes time to get coats, shoes etc. and the group leaders have to do a register then organise the children to leave. Cashing up and cleaning is still to be done.

Sunday 15 December - the opening time on that day was an oversight on our part as a new member of staff had taken the booking and by the time we noticed it we could not re-arrange the booking as it was again organised for a Christmas Party for the Community Nurses Children.

The same day we had Delta Capillary in for their annual Christmas Party for 200 children and due to the large number they requested for the Centre on their own. It was supposed to be cleared by 6.00 p.m. but they, nor we, anticipated the time their Santa would take to see 200 kids and give them each a present, and you can also appreciate our staff had a lot of cleaning to do that night.

I have answered the alleged breaches of Permitted Opening times, but I would like the complainer to know, that over the two years we have been opened we have tried to comply with any complaints we have had, i.e., off street car parking - we feel we have dealt adequately with this as we have carport attendants on every weekend. Cones are put out on Dronley Road and we have worked with the local Police/Traffic Control from Angus District. We have also altered our party time to stop congestion for car parking.

We also feel maybe some of your Councillors who may not be aware of the facility that we give to the community and surrounding districts i.e. we cater for Nurseries, Play Groups, Special Needs and Disabled. We also have four party rooms which are in constant use. We believe we are one of the Dundee Tourist attractions next to the Discovery in Dundee. We use questionnaires on a regular basis and our findings are that parents are comfortable to come to Birkhill as they feel completely at ease leaving their cars in the car parking and walking safely with their children without being abused or harassed by any gangs, etc.

We would be more than pleased if you would care to visit Jungle Kids and see the facility we provide for the children. Due to the complaints generated, application has been submitted to extend the opening hours. Myself/agent may care to address at the meeting on Thursday, 30 January at 6.30 p.m."

### 3 OPTIONS

- 3.1 There appear to be three options open to the Committee, the preferred option being largely dependent upon interpretation of the condition:-
- A. Interpret the specified hours as applying to the deadline by which all children should not only have ceased play activities but should have left the site;
  - B. Interpret the hours as actual 'play' time permitting say upto one further hour to arrange for the children to be made ready, collected, etc. and be away from the site;
  - C. Seek a planning application for extended hours to incorporate and, therefore, formalise the additional time required to completely vacate the site.
- 3.2 Option A is in some ways the simplest but would clearly impact upon the revenue earning time of Jungle Kids as the play activities would have to cease earlier. Undoubtedly this would be the option preferred by the objectors.
- 3.3 Option B would see Jungle Kids being treated in similar fashion to, say, restaurants, public houses, take-aways, etc., where hours of operation conditions do not apply to preparation, tidy-up and drinking-up times.

- 3.4 The objective of Option C would be to achieve the terms of Option B but in a more formal and, therefore, enforceable manner.
- 3.5 Irrespective of the option adopted, it is recommended that the hours of operation exclude preparation, tidy-up, book-keeping, etc., by the organisers and staff and allow for children to be delivered to the premises a little in advance of the specified start time.

#### **4 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications.

#### **5 CONSULTATION**

- 5.1 The Chief Executive, Director of Finance and the Director of Law and Administration have been consulted in the preparation of this report.

#### **6 CONCLUSION**

- 6.1 In the event of an enforcement action proving necessary at some future date involving a report being submitted for the information of the Procurator Fiscal, it is crucial to establish precisely what the opening hours are and involve. Adoption of Option C contained in Section 3 above would clarify these issues in a formalised, enforceable manner to the benefit of the operator, neighbours and if necessary at some future date, the Courts.

#### **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 the above Report.

AA/JJ/KW  
22 January 1997

Alex Anderson  
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