

## The Highland Licensing Committee

Meeting – 31 March 2015

Agenda Item	<b>6.4</b>
Report No	<b>HLC/021/15</b>

### **Application for renewal of a Public Entertainment Licence – Fun Fair located at Car Park No 2, An Aird, Fort William (Ward 22 – Fort William and Ardnamurchan)**

**Report by Alasdair H Mackenzie, Legal Manager**

#### **Summary**

This Report relates to an application for the renewal of a Public Entertainment Licence in respect of a Fun Fair to be located in Car Park No 2, An Aird, Fort William.

#### **1.0 Background**

1.1 On 27 January 2015 the Council, as Licensing Authority under the Civic Government (Scotland) Act 1982, received an application for the renewal of a Public Entertainment Licence from James Hercher in respect of his Fun Fair to be located in Car Park No 2, An Aird, Fort William.

The applicant is seeking to operate for a maximum period of three consecutive weeks during the months of March/April and September/October on an annual basis during the following hours:

- Monday to Friday : 1830 hours to 2200 hours, with exception of:  
Easter Friday and  
Easter Monday: 1400 hours to 2200 hours
- Saturday and Sunday: 1400 hours to 2200 hours

#### **2.0 Process**

2.1 The application was publicised during the period 27 January 2015 until 17 February 2015 and confirmation that the site notice was displayed has been received.

2.2 Following receipt of the application, in accordance with standard procedure, the following agencies were consulted on the application:-

- Police Scotland
- Scottish Fire and Rescue Service
- Planning and Building Standards Service
- Community Services (Environmental Health and Roads).

2.3 Further to this publication and consultation process, the following notices of objection/representation have been received and are appended to this report where appropriate:

- (1) Community Services (Environmental Health) have commented on the application within which they also advise that two complaints regarding noise have previously been received. Whilst requested, Community Services (EH) have not provided details of the complainant(s). (Copy memo dated 12 February 2015 is appended).
- (2) Community Services (Roads) have indicated that they do not have any significant issues with the Fun Fair being located in An Aird Car Park No. 2 but advise that calls have been received in the past from residents in Camanachd Crescent relating to noise. Community Services (Roads) were unable to provide details of the complainant(s).
- (3) Community Services (Roads) propose a number of comments/conditions be observed by the applicant if the application is approved (Copy attached).
- (4) The Planning Authority have advised of the requirement for temporary change of use for a maximum of 28 days in any one calendar year without Planning Permission.
- (5) Letter of objection received on 3 February 2015 from Mr Alan Jackson (copy attached).

2.4 Members are invited to note the following in respect of the issues highlighted at 2.3 above :-

- as the Public Entertainment Application relates to the renewal of an existing public entertainment licence the current Licence will continue in force until the application before the Committee has been determined;
- the Fun Fair is scheduled to arrive on site on 29 March to 19 April 2015;
- An Aird Car Park No. 2 is a Council owned Car Park and a location plan is attached for reference purposes.

2.5 The applicant, objector and representatives from Community Services have been invited to attend or be represented at the meeting and have been provided with a copy of the Hearings Procedure.

### **3.0 Timescale**

3.1 In terms of the legislation the licensing authority must consider all applications within three months of being received and, in the case of a Public Entertainment Licence, make a determination within six months.

3.2 In the case of this application the three month period will elapse on 27 April 2015 however given that objections/representations have been received, the application cannot be determined under delegated powers.

### **4.0 Determining Issues**

4.1 Section 5(3) of Schedule 1 of the Civic Government (Scotland) Act 1982 states that a Licensing Authority may refuse an application to grant or renew a licence where:

- The applicant or anyone else detailed on the application is not a fit and proper person
- The activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused
- Where the application relates to a premise, vehicle or vessel that the location, character or condition of the same is not suitable
- The nature and extent of the proposed activity is not suitable
- The kind of persons likely to be in the premises are not suitable
- Where there is the possibility of undue public nuisance, public order or public safety
- Where there is other good reason.

## 5.0 Powers

- 5.1 The Committee may grant the licence subject to the standard conditions, in which case it would last for three years; grant the licence for a shorter period as considered appropriate; or, refuse the application.
- 5.2 If minded to grant the licence the Committee may attach such reasonable conditions, in addition to the standard conditions, as they think fit.

## 6.0 Recommendation

Members are **invited** to determine the above application in accordance with the Hearings Procedure.

Designation: A H Mackenzie, Legal Manager  
 Officer/Reference: Julie Traynor / PE/2014/10/01  
 Date: 16 March 2015  
 Background Papers: Civic Government (Scotland) Act 1982

### Appendices:

1. Memorandum from Community Services dated 12 February 2015
2. Conditions/Comments proposed by Community Services (Roads)
3. Letter of objection from Mr Alan Jackson, 4 Camanachd Crescent, Fort William
4. Location Plan

**TEC SERVICES**

**MEMORANDUM**

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**To:** Julie Traynor  
**From:** John Murray, Environmental Health Officer, Lochaber  
**Date:** 12<sup>th</sup> February 2015  
**Our ref:** JMU/150204 PEL An Aird  
**Your ref:** PE/2015/01/02  
**Please ask for:** John Murray, (01397) 707062

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**Re Renewal of Public Entertainment Licence for  
Fun Fair Located at An Aird Car Park No2, An Aird, Fort William**

I refer to your Consultation Request Notification received on 29<sup>th</sup> January 2015 regarding the above-mentioned licensing application.

Having considered the application I would advise the following:

**Observations and Comments:**

Two complaints have been submitted to Environmental Health regarding noise from the fairground. These were received on 15<sup>th</sup> April 2014 and 29<sup>th</sup> September 2014 (Flare Ref 097040 and 100536 respectively).

The first complaint related to excessive noise preventing the client from opening their windows and resorting to turning up the volume on their television to drown out the noise from outside. The operator of the site was visited by an officer and they agreed to keep the noise to a minimum.

The second noise complaint was in relation to the unsuitability of the site for a fairground and the client felt that reducing the volume of the noise at source would not resolve the problem.

The applicant should be reminded of what would generally be considered unreasonable e.g. music being clearly audible within neighbours properties; continuing to play loud music after 10:00pm; music noise completely dominating the car park area etc. They should also be aiming to try and orientate the noisiest rides away from houses where possible, and just do simple listening checks themselves around the car park boundary.

Point 7 of the Public Entertainment Licence Schedule should be emphasised to the applicant and of their responsibility to ensure compliance.

**"7. ANCILLARY CONDITIONS**

**7.1 Adjoining or Neighbouring Premises**

*The licence holder must ensure that no noise arising from the use of the premises shall give rise to reasonable cause for annoyance.*

It is also suggested that the board obtain firm commitment in writing from the applicant detailing how the noise levels will be managed in view of the previous complaints

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John Murray

The Highland Council  
Community Services – Lochaber

Roads (Scotland) Act 1984 – Section 59

Comments/Conditions to be observed

1. Please complete and return the relevant application form along with your payment to Community Services prior to arrival on site.
2. Please ensure the stalls are within the area agreed on the drawing provided with your application form.
3. We request a pre-set up meeting with our Roads Inspector (Gus MacLennan), you can contact him on 01397 709023
4. Please provide protective matting or boards for any generators used and ensure any spillages when re-fuelling is cleaned up immediately. Community Services will charge for any damages made to the surface or our car park, or surrounding area.
5. In the interest of Health & Safety please ensure there are no cables in the pedestrian walking area.
6. Please clear up any litter and remove any advertising before leaving site.

MR ALAN JACKSON  
4 CAMANACHD CRESCENT  
FORT WILLIAM.

RECEIVED

PAB3 6XZ

3 FEB 80

THE LICENCES OFFICER

DEAR SIR/MADAM

I WISH TO OBJECT TO THE  
RENEWAL OF THE ENTERTAINMENT  
LICENCE, APPLIED FOR BY  
HODGKINSONS FUN FAIR. THE SITE  
CHOSEN THE CAR PARK AND FAIR  
FORT WILLIAM. THE OBJECTION IS  
ON THE GROUNDS OF EXTREME  
NOISE CREATED BY THE FAIR  
WHEN IN OPERATION. MY  
HOUSE IS LESS THAN 100 YARDS  
FROM WHERE THE FAIR IS  
SITUATED.

YOURS SINCERELY



Ref:  
Date:

# Location Plan : An Aird, Fort William

