

ITEM 3

The Highland Council

Minute of the meeting of the **Highland Licensing Committee** held in the Council Chamber, Glenurquhart Road, Inverness on Tuesday 3 October 2017 at 10.00 am.

Present:

Mrs J Barclay, Mr J Bruce, Mrs E Knox, Mrs L MacDonald, Mr W MacKay (by video conference from Wick), Mr D Macpherson and Mrs P Munro.

In attendance:

Ms S Blease, Principal Solicitor (Regulatory Services)
Miss C McArthur, Solicitor (Regulatory Services)
Mr M Elsey, Senior Licensing Officer
Mr G MacCormick, Senior Environmental Health Officer
Ms Z Skinner, Environmental Health Officer
Mrs A MacArthur, Administrative Assistant

Also attending:

Sergeant N MacKinnon, Police Scotland
Mr J Williamson, Police Scotland

Item 9.1: Mr Mackinnon, licence holder
Item 11.1: Mr P Brooks, licence holder
Item 13.1: Mrs A Gallagher, volunteer manager

The Chairman confirmed that the meeting would be webcast and gave a short briefing on the Council's webcasting procedure and protocol.

Business

1. Apologies for absence Leisgeulan

Apologies for absence were received from Dr I Cockburn, Mr A Jarvie and Mr K Rosie.

2. Declarations of interest Foillseachaidhean Com-pàirt

There were no declarations of interest.

3. Confirmation of minutes Dearbhadh a' Gheàrr-chunntais

There had been submitted for confirmation as a correct record the minute of meeting of the Committee held on 2 August 2017 which was **APPROVED**.

**4. Licences granted under delegated powers
Ceadachdan a Bhuilicheadh fo Ughdarras air a Thiomnadh**

There had been circulated **Report No HLC/054/17** by the Principal Solicitor detailing licences granted under delegated powers under the Civic Government (Scotland) Act 1982 in the period from 21 July 2017 to 20 September 2017.

The Committee **NOTED** the report.

**5. Pending applications – 3 monthly considerations
Iarrtasan ri Thighinn – Beachdachaidhean 3 Mìosach**

There had been circulated **Report No HLC/055/17** by the Principal Solicitor relating to applications which were currently pending for the grant or renewal of licences under the Civic Government (Scotland) Act 1982.

The Committee **AGREED** to defer determination of the applications, either:

- (a) to allow them to be approved under delegated powers in the event that no objections/representations are received and all outstanding documentation has been received from the applicants; or
- (b) to a future meeting of the Committee when the applications will be determined in terms of the hearings procedure.

**6. Houses in multiple occupation – need and supply assessment 2017
Taidhean ann an Ioma-sheilbh – measadh feumalachd is solair 2017**

There had been circulated **Report No HLC/056/17** by the Principal Solicitor inviting the Committee to consider an updated assessment of the need for and supply of houses in multiple occupation (“HMO”) in Highland undertaken in 2017 by Community Services.

The Committee **AGREED**

- (i) to **MAINTAIN** its position that no application for an HMO licence will be refused on the ground of overprovision under section 131A of the Housing (Scotland) Act 2006, there being no evidential basis on which to refuse on this ground;
- (ii) that the Council would continue to exercise its power under section 129A of the 2006 Act to refuse to consider licence applications for HMO which required, and had not obtained, planning permission for use as an HMO, whether as a result of application of the Council’s Planning Policy/Development Guidelines on HMO or for any other reason, including the new pilot cap of 13% of bed spaces in Inverness City Centre introduced via the Draft Inverness City Centre Development Brief and any subsequent amendments thereto; and
- (iii) that this position would be subject to a further review in five years.

7. Civic Government (Scotland) Act 1982

**Applications for a public entertainment licence
Ahd Riaghaltais Chatharra (Alba) 1982
Iarrtas airson ceadachd aoigheachd phoblaich**

**7.1 Premises: Charleston Academy Community Complex, Kinmylies,
Inverness**

There had been circulated **Report No HLC/057/17** by the Principal Solicitor relating to an application for a public entertainment licence for Charleston Academy Community Complex. The Senior Licensing Officer advised that a valid Electrical Certificate had now been received.

The Committee **AGREED** that the application could be granted under delegated powers, with the standard conditions, as a satisfactory electrical certificate had now been submitted.

**8. Civic Government (Scotland) Act 1982
Application for street trader's licence
Ahd Riaghaltais Chatharra (Alba) 1982
Iarrtas airson ceadachd neach-malairt sràide**

8.1 Application for a street trader's licence – Wendy Ford

There had been circulated **Report No HLC/058/17** by the Principal Solicitor relating to an application which has been received from Wendy Ford for the grant of a street trader's licence. The Senior Licensing Officer advised that the applicant was aware of the need to obtain the agreement of other street traders dealing in goods or services of a similar class or description within 25 metres of where the street trader intended to trade.

The Committee **AGREED** to **GRANT** the application subject to standard conditions.

9. **Civic Government (Scotland) Act 1982**
Application for variation of a late hours catering licence
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtas airson atharrachadh a thaobh ceadachd sholarachd uairean anmoch

9.1 Premises – MacKinnons of Speyside, Library East Mall, 1-2 Grampian Road, Aviemore

There had been circulated **Report No HLC/059/17** by the Principal Solicitor relating to an application for variation of a late hours catering licence in respect of premises at Mackinnons of Speyside, Library East Mall, 1-2 Grampian Road, Aviemore. The Senior Licensing Officer advised that following due process and public notice no objections to the application had been received.

The licence holder advised that the premises were 100 yards from a nightclub which closed at 3.00 am. The additional half hour to 3.00 am would allow the premises to meet the demand on the nights when the nightclub was open and busy until 3.00 am.

The Committee **AGREED** to **GRANT** the application subject to standard conditions.

10. **The Committee resolved that, under Section 50A(4) of the Local Government (Scotland) Act 1973, the public be excluded from the meeting during discussion of the following items on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Act.**

11. **Civic Government (Scotland) Act 1982**
Taxi driver's / operator's licences
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtasan airson cheadachdan do dhràibhearan / oibrichean tagsaidh

11.1 Licensed taxi driver – Philippe Brooks

There had been circulated **to members only Report No HLC/060/17** by the Principal Solicitor relating to Philippe Brooks who is the holder of a taxi driver's licence.

Police Scotland referred members to their written representation.

A letter from Mr Brooks' GP was read to the Committee by the Senior Licensing Officer.

Mr Brooks then outlined the details of the incident and stated that he had thought he had one month to notify the Licensing Office and not 7 days.

Following discussion, the Committee **AGREED NOT TO SUSPEND OR**

REVOKE the licence holder's taxi licence in the form of an order under Paragraph 11 of Schedule 1 to the 1982 Act ("the 1982 Act"). Instead, a verbal warning was issued to the licence holder reminding him that any convictions he received must be reported to the Licensing Authority within 7 days.

11.2 Licensed taxi driver – Thomas Russell

There had been circulated **to members only Report No HLC/061/17** by the Principal Solicitor relating to Thomas Russell who is the holder of a taxi driver's licence. The Principal Solicitor (Regulatory Services) had suspended the licence under Paragraph 12 of Schedule 1 to the Act as the applicant had failed to provide confirmation that he meets the Group 2 (PSV) standard.

Mr Russell did not attend.

The Committee **AGREED** to (1) **SUSPEND** the licence, with immediate effect and for the unexpired portion of the licence on the grounds of medical unfitness and likely threat to public safety and (2) grant delegated authority to the Principal Solicitor to recall the suspension, if, during the period of the suspension, the licence holder submits confirmation from his GP that he meets the Group 2 (PSV) medical standards. .

12. Civic Government (Scotland) Act 1982 Application for metal dealer's licence Achd Riaghaltais Chatharra (Alba) 1982 Iarrtas airson Ceadachd Neach-malairt Meatailt

12.1 Application for a metal dealer's licence – Unit 6, 23 Harbour Road, Inverness.

There had been circulated **to members only Report No HLC/062/17** by the Principal Solicitor relating to an application which has been received from Ness Metal Merchants for the grant of a metal dealer's licence. The Senior Licensing Officer advised that the applicant had now submitted the relevant Certificate of Compliance.

The Committee **AGREED** that the application could be granted under delegated powers, with the standard conditions, as the Certificate of Compliance has now been submitted.

**13. Civic Government (Scotland) Act 1982
Applications for a public entertainment licence
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtasan airson ceadachd aoigheachd phoblaich**

13.1 Public entertainment licence suspension hearing

There had been circulated **Report No HLC/063/17** by the Principal Solicitor relating to the public entertainment licence for the Black Isle Country Park. The Senior Licensing Officer advised that the Senior Environmental Health Officer had invited the Committee to consider suspending the public entertainment licence on grounds of contravention of condition 6.6.1 of the licence and also on the ground of likely threat to public safety.

The Senior Environmental Health Officer addressed the Committee. He advised that the Black Isle Country Park had been sold and was being managed by volunteers in the interim period before the new owners took over. The request for suspension of the licence had been brought to Committee on the grounds of public safety, there being no adequate management plan in place.

Mrs A Gallagher was a volunteer manager at the Park and explained that she had covered all the management issues she could but had had no contact with the new owners and could therefore not advise on plans for the future of the park.

The Committee **AGREED** to **SUSPEND** the licence holder's public entertainment licence under Paragraph 11(2)(c) and (d) of Schedule 1 to the Civic Government (Scotland) Act 1982 ("the 1982 Act") for the unexpired portion of the duration of the licence and that the circumstances of this case justified an immediate suspension under Paragraph 11(10) of the 1982 Act.

It was further agreed to grant delegated powers to the Principal Solicitor to recall the suspension if the Environmental Health Services confirms at any time that they are satisfied that adequate management arrangements are in place to ensure there is no likely risk to public safety.

**14. Housing (Scotland) Act 2006
Applications for house in multiple occupation licence
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtasan airson ceadachd thairghean ann an ioma-sheilbh**

14.1 Rent suspension orders in respect of unlicensed houses in multiple occupation

There had been circulated **Report No HLC/064/17** by the Principal Solicitor relating to unlicensed houses in multiple occupation. The Senior Licensing Officer advised that following a joint investigation by the Council's Environmental Health team with Police Scotland, Fire Scotland and

Immigration Enforcement, Environmental Health had submitted a letter requesting the Committee consider making rent suspension orders in respect of the properties listed in their letter.

The Senior Environmental Health Officer advised that all nine flats at Cruickshank Court had been inspected as it was believed these were unlicensed houses of multiple occupation. Seven out of nine of the flats were found to be houses of multiple occupation with shared facilities, namely the kitchen. Concern was raised over fire safety as there was no functioning fire alarm. The landlord had other properties and was fully aware of the legislation on houses in multiple occupation and the requirement that they be licensed.

The Committee having been satisfied on the evidence presented by Environmental Health that seven of the flats were being occupied as HMO **AGREED** to **MAKE** rent suspension orders in respect of those seven properties under section 144 of the Housing (Scotland) Act 2006 for the reasons set out in the report.

It was further agreed to grant delegated powers to the Principal Solicitor to revoke any rent suspension order so made if satisfied that

- a) an HMO licence has subsequently been granted to the owner of the property concerned; or
- b) the property is no longer an HMO.

This delegated power is subject to the caveat that if an application for revocation of an order on the ground that the property is no longer an HMO is received, and the Principal Solicitor is not satisfied that the property is no longer an HMO, the application for revocation will be referred to the Committee for a final decision. .

The meeting closed at 11.55 am.