

Highland Council

Minute of the remote meeting of the **Highland Licensing Committee** held via Microsoft Teams on Tuesday 26 October 2021 at 10.00 am.

Present:

Mr J Bruce, Mr A Jarvie (Chair), Ms E Knox (excluding items 9.1 – 14.1), Mrs L MacDonald, Mr W MacKay, Mr D Macpherson, Mr K Rosie, Mr A Sinclair (excluding items 1 - 6 and 16.1) and Mr C Smith.

In attendance:

Mr I Meredith, Principal Solicitor (Regulatory Services), Performance and Governance

Ms R Banfro, Solicitor (Regulatory Services), Performance and Governance

Mr M Elsey, Senior Licensing Officer, Performance and Governance

Mrs A MacArthur, Administrative Assistant, Performance and Governance

Also attending:

Sergeant K Duncan, Police Scotland

Mr M MacDonald, Police Scotland

Item 7.1 – Mr R Dudgeon, HLH, applicant

Item 8.1 – Ms G McKnight

Item 9.1 – Ms P Strawhorn, applicant and Ms K MacLean, objector

Item 9.2 – Mr S Smith, solicitor for the applicant

Item 11.1 – Mr A Maggs, applicant's agent

Item 13.1 – Mr S Hazelton

Item 14.2 – Mr Mackenzie, solicitor and Mr S Dougan, licence holder

Item 14.3 – Mr D Farmer, applicant

Item 16.1 – Mr P Czesnowski, applicant and Ms P Pawlak

The Chair 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

There were no apologies for absence.

2. Declarations of interest Foillseachaidhean Com-pàirt

Item 7.1: Mr A Jarvie (non-financial).

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 7 September 2021 which was **APPROVED**.

**4. Licences granted under delegated powers
Ceadachdan a bhuilicheadh fo ùghdarras air a thiomnadh**

There had been circulated **Report No HLC/056/21** by the Principal Solicitor which detailed all licences which had been granted under delegated powers under the Civic Government (Scotland) Act 1982 in the period from 26 August 2021 to 6 October 2021.

The Committee **NOTED** the report.

**5. Pending applications – 3 monthly considerations
Iarrtasan ri thighinn – beachdachaidhean 3 mìosach**

There had been circulated **Report No HLC/057/21** 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 the determination of the applications, either to:

(a) 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) a future meeting of the Committee when the applications will be determined in terms of the Hearings Procedure.

**6. Sex Entertainment Venues
Ionadan Fèisteach Feise**

There had been circulated **Report No HLC/058/21** by the Principal Solicitor advising of the responses received following the consultation carried out in relation to the provision of a new licensing regime for Sex Entertainment Venues in the Highlands, and in light of those responses to decide whether Sex Entertainment Venues should be licensed.

The 442 responses from the public demonstrated their interest in the question of whether or not sex entertainment venues should be licensed. There had been a wide range of views gathered in the consultation process from various organisations and individuals. The consultation demonstrated that people are concerned about having sexual entertainment venues close to schools, the possible exploitation of women and trafficking of people or drugs. It was important as a licensing committee that we know what is happening with sexual entertainment venues and licensing was welcomed.

The Committee **AGREED** to:

1. introduce by way of resolution a new licensing regime for Sex Entertainment Venues in the Highlands; and
2. for the new licensing regime to come into effect on 1 January 2023.

7. **Civic Government (Scotland) Act 1982**
Public Entertainment Licences
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachdan Aoigheachd Phoblaich

7.1 Premises: James Cameron Centre, Limetree Avenue, Inverness

Declaration of Interest – Mr A Jarvie declared a non-financial interest as a Director of High Life Highland and having applied the test outlined in Paragraphs 5.2 and 5.3 of the Councillors’ Code of Conduct withdrew from the meeting and did not take part in the discussions or voting of this item.

There had been circulated **Report No HLC/059/21** by the Principal Solicitor relating to an application for a public entertainment licence for James Cameron Centre, Limetree Avenue, Inverness by Highlife Highland (Ward 14 - Inverness Central Ward).

The Senior Licensing Officer advised that a gas certificate had been received however works were required which were ongoing.

Mr R Dudgeon, HLH advised that the outstanding work required was due to be undertaken on 29 October 2021.

The Committee **AGREED** to grant **DELEGATED POWERS** to the Acting Principal Solicitor to refuse the application if a copy of the updated gas certificate and confirmation of related works are not been received by the 19 November 2021.

7.2 Premises: Love Beauty Bar, Unit 6, Ben Nevis Way, Ben Nevis Drive, Fort William, PH33 6RU

There had been circulated **Report No HLC/060/21** by the Principal Solicitor relating to an application for a public entertainment licence (UV Sunbed Treatments) for Unit 6, Ben Nevis Way, Ben Nevis Drive, Fort William, PH33 6RU by Seigrid Swanney (Ward 21 - Fort William and Ardnamurchan Ward).

The Senior Licensing Officer advised that the necessary building warrant certification had yet to be received.

The Committee **AGREED** to **GRANT** the license subject to the condition that no licensable activities take place until the necessary building warrant certification has been received.

**8. Civic Government (Scotland) Act 1982
Street Trader's Licences
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachdan Luchd-malairt Sràide**

8.1 Application for a street trader's licence – Gillian McKnight

There had been circulated **Report No HLC/061/21** by the Principal Solicitor relating to an application which had been received from Gillian McKnight for the grant of a temporary street trader's licence (Ward 18 - Nairn and Cawdor Ward).

The Senior Licensing Officer advised that the applicant had still to provide an up-to-date vet report, confirmation that the carriage had been checked by a competent person and was in a roadworthy condition, risk assessment and covid-19 risk assessment. There were also outstanding responses from consultees.

Ms G McKnight intimated that her certificates had been passed to the licensing officer yesterday and that a vet inspection had been carried out.

The Committee **AGREED** to **GRANT** the licence subject to the condition that no licensable activities take place until the vet report, risk assessment, Covid-19 risk assessment and confirmation of the carriage having been checked by a competent person had been received to the satisfaction of the Licensing Authority and that confirmation is received from the consultees who have still to respond that they are satisfied.

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

9.1 Premises – 27 Innes Street, Inverness

There had been circulated **Report No HLC/062/21** by the Principal Solicitor relating to the grant of a house in multiple occupation licence from Paula Strawhorn in respect of premises at 27 Innes Street, Inverness (Ward 14 - Inverness Central Ward).

The Senior Licensing Officer advised that a letter of objection written and signed by several residents had been received and that Environmental Health had advised that they had no objections to the application. There was also outstanding documentation still to be submitted.

The last sentence of paragraph 4.4 of the report should be disregarded.

Ms K MacLean, representing the objectors to the application, , stated that a further increase in numbers of itinerants in the area and on the street was unacceptable. This area already had several Airbnb's . The major consideration for Ms MacLean is the lack of parking in front of the houses. There are resident and visitor parking permits and the legitimate businesses

pay for visitors passes, but, the street had not been built for cars for every property and often there is nowhere to park near her own property. Other people in the group objected to the unknown people moving around day and night and having checked the HMO rules understood this is not a reason for objection. To summarise, on behalf of the local residents, the main reasons for the objections were the increase in the movement of people, the increased demand on parking and setting a precedent where HMOs could be predominately found on Innes Street.

Ms Strawhorn and the members had no questions for the objectors.

Ms Strawhorn, applicant, responded to the objections raised in the letter as follows: she had been a landlord for 17 years and an HMO landlord for 10 years and her business was run on a full-time basis with her husband. She could fully understand the objections, some HMOs were hotbeds of trouble in the community. However, she assured Members and objectors that they were not the type of landlords to affect the community in a negative way and up to now they had received no complaints for any of their tenancies. In 11 months in Innes Street there had never been any issues with parking on the street. This was a three bedroomed, semi-detached property which for a family could easily mean three or four cars. They had another HMO on Telford Road and in 10 years had never had more than three cars at a time and it was fairly common to have 1 or no cars for this type of house in a town centre location. There would be no increased pressure on schools as HMO tenancies were generally for single adults. They were conscientious landlords who provide homes for people and follow all required legislation. As an example, Ms Strawhorn advised the committee of the recent accident on Grant Street, where the property has been hit by a car. She advised that they had attended within 30 minutes and rehoused their tenants within two hours of the accident. They were looking for long term quiet residents and offered safe, welcoming accommodation at reasonable rates.

The objectors had no questions for the applicant and asked when the HMO register on the website was to be updated it was showing 2012. The objector was later advised that the register was up to date and the 2021 tab at the bottom of the screen showed the up-to-date register.

Members saw no evidence or issues with this HMO. The applicant appeared responsible, and this kind of residence was better for the residents of the street than the faster turnover of an Airbnb..

The Committee **AGREED** to **GRANT** the licence once all the documents required are submitted and checked as satisfactory.

9.2 Premises – Walker Lodge, Abernethy Trust, Nethy Bridge

There had been circulated **Report No HLC/063/21** by the Principal Solicitor relating to the renewal of a House in Multiple Occupation Licence from Abernethy Trust Ltd in respect of premises at Walker Lodge, Aberneth Trust, Nethy Bridge (Ward 20 - Badenoch and Strathspey Ward).

The Senior Licensing Officer advised that the tenancy agreement had been requested and had recently been submitted. The tenancy agreement had yet to be checked to ensure it met the HMO standard.

Mr S Smith, solicitor advised that due to staffing issues the tenancy agreement had been delayed.

The Committee **AGREED** to **GRANT** the licence subject to the condition that no licensable activities take place until the tenancy agreement submitted has been checked and confirmed as satisfactory by the Licensing Authority.

10. Civic Government (Scotland) Act 1982
Late hours catering licence
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachdan Solarachaidh Uairean Anmoch –

10.1 Premises – BP Aviemore M&S Simply Food, Grampian Road, Aviemore

There is circulated **Report No HLC/064/21** by the Principal Solicitor relating to an application for variation of a late hours catering licence in respect of premises at BP Aviemore M&S Simply Food, Grampian Road, Aviemore (Ward 20 - Badenoch and Strathspey Ward).

The Committee **AGREED** to **NOTE** that following receipt of the outstanding building warrant certification from the applicant, that the application for renewal could now be granted under delegated powers.

11. Civic Government (Scotland) Act 1982
Application for skin piercing or tattooing licence
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtas airson ceadachd tolladh craicinn no tatùthadh

11.1 Premises: Bonnys Wonderland, 20a (first floor), Ben Nevis Industrial Estate, Fort William, PH33 6PR

There had been circulated **Report No HLC/065/21** by the Principal Solicitor relating to an application for a skin piercing or tattooing licence for 20A (1st Floor) Ben Nevis Industrial Estate, Fort William, PH33 6PR for Bonossa Watkins (Ward 21 - Fort William and Ardnamurchan Ward).

The Senior Licensing Officer advised that the necessary building warrant certification had not yet been received by Building Standards. The planning department had further advised that a planning application had been submitted but not yet determined.

Mr A Maggs, applicant's representative, advised that the building warrant had an issue with the separation of the units and the building warrant was still awaited. The on-line planning portal stated that the transport team were happy with the parking arrangements and accessibility and a formal response from planning was awaited.

The Committee **AGREED** to **GRANT** the licence subject to the condition that no licensable activities take place until the necessary building and planning certification to the satisfaction of the Licensing Authority has been received.

12. 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.

13. **Civic Government (Scotland) Act 1982**
Applications for private hire car driver's / operator's licences
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtasan airson ceadachdan do dhràibhearan / oibrichean chàraichean airson fastadh prìobhaideach

13.1 Application for private hire car driver's licence – Sandy Hazelton

There had been circulated **to members only Report No HLC/066/21** by the Principal Solicitor relating to an application which had been received from Sandy Hazelton for a private hire car driver's licence (Ward 21 - Fort William and Ardnamurchan Ward).

This item was heard later in the meeting to allow the applicant time to join the meeting.

The Senior Licensing Officer advised that a representation had been received from Police Scotland.

The Committee heard from Police Scotland and the applicant.

The Committee **AGREED** to **GRANT** the licence for a period of three years.

14. **Civic Government (Scotland) Act 1982**
Taxi driver's / operator's licences
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachdan Dhràibhearan / Oibrichean Tagsaidh

14.1 Application for grant of taxi driver's licence – Austin Fisher

There had been circulated **to members only Report No HLC/067/21** by the Principal Solicitor relating to an application which had been received from Austin Fisher for the renewal of a taxi driver's licence (Ward 12 – Aird and Loch Ness Ward).

The Senior Licensing Officer advised that a representation had been received from Police Scotland. The applicant was not in attendance.

The Committee heard from Police Scotland.

The Committee **AGREED** to **GRANT** the licence subject to the applicant successfully passing the taxi drivers knowledge test.

14.2 Taxi Driver's licence – Shaun Dougan

There had been circulated **to members only Report No HLC/068/21** by the Principal Solicitor relating to Shaun Dougan who is a licensed taxi driver (Ward 16 - Inverness Millburn).

The Senior Licensing Officer advised that an objection had been received from Police Scotland seeking suspension of the licence.

A further late representation had also been received from Police Scotland. Members had to consider if they were satisfied that it had been reasonable for Police Scotland to make the representation after the deadline for doing so.

The Committee then having heard from Mr D Mackenzie, solicitor for the applicant, agreed to take this item later in the meeting to allow time for Mr MacKenzie to discuss the documents with his client.

The Committee thereafter agreed to hear the late representation and Members were given time to read this.

The Committee heard from Police Scotland and the applicant's solicitor.

Following discussion, the Committee **AGREED** to take **NO ACTION** in respect of the licence on the basis that the licensee continued to be a fit and proper person to hold a licence.

14.3 Application for taxi driver's/operator's licence – David Farmer

There had been circulated **to members only Report No HLC/069/21** by the Principal Solicitor relating to an application which had been received from David Farmer for the grant of a taxi driver's licence (Ward 18 - Nairn and Cawdor Ward).

The Committee heard from Police Scotland and the applicant.

The Committee **AGREED** to take **NO ACTION** in respect of the licence on the basis that the licensee continued to be a fit and proper person to hold a licence.

**15. Civic Government (Scotland) Act 1982
Street Trader's Licences
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachdan Luchd-malairt Sràide**

15.1 Application for a street trader's licence – Frank Ryan

There had been circulated **Report No HLC/070/21** by the Principal Solicitor relating to an application which has been received from Frank Ryan for the grant of a street trader's licence (Ward 14 - Inverness Central Ward).

The Senior Licensing Officer advised that an objection had been received from Police Scotland. The applicant was not in attendance.

The Committee heard from Police Scotland.

The Committee **AGREED** to **REFUSE** the application on the grounds that the applicant was not a fit and proper person due to the severity and magnitude of the offence libelled against him.

**16. Civic Government (Scotland) Act 1982
Application for skin piercing or tattooing licence
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtas airson ceadachd tolladh craicinn no tatùthadh**

16.1 Premises: Tattooholic, 2 Baron Taylor Street, Inverness

There had been circulated **to members only Report No HLC/071/21** by the Principal Solicitor relating to an application for the grant of a skin piercing and tattooing licence for Tattooholic, 2 Baron Taylor Street, Inverness. by Pawel Czesnowski (Ward 14 - Inverness Central Ward).

The Senior Licensing Officer advised that an objection had been received from Police Scotland. He further advised that further works may be required by Community Services (Roads) and the Environmental Health Service.

The Committee heard from Police Scotland, the applicant and the applicant's partner.

The Committee **AGREED** to **DEFER** the determination of the application to a future meeting of the Licensing Committee's to allow the applicant an opportunity to provide further information regarding the circumstances of his convictions.

The meeting closed at 1.55 pm.