

Highland Council

Minute of the **Highland Licensing Committee** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on **Tuesday 25 October 2022 at 10.00am.**

Present:

Mr C Birt, Mr J Bruce, Mrs J Hendry, Ms L Johnston, Mr S Kennedy, Ms E Knox, Mr W Mackay, Mr D Millar, Mr P Oldham and Mr K Rosie.

In attendance:

Ms C McArthur, Principal Solicitor, Regulatory Services, Performance and Governance

Mr I Meredith, Solicitor, Regulatory Services, Performance and Governance

Mr M Elsey, Senior Licensing Officer, Performance and Governance

Mr A MacInnes, Administrative Assistant, Performance and Governance

Also attending:

Sergeant, A Bryce, Police Scotland

Item 6.1: Hugh Nicol, applicant

Item 7.1: Kevin Clancy (applicant's agent) Scott Kennedy (manager), Susan MacMillan (objector)

Item 9.2: Bryan Ntakirtimana (applicant)

Item 9.3: Gabriel Vargas Lopez (applicant)

Mr S Kennedy in the Chair

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**

Apologies for absence were intimated on behalf of Mr J Grafton and Mr D Macpherson.

**2. Declarations of interest
Foillseachaidhean Com-pàirt**

Item 4 – Mr D Millar

**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 6 September 2022 which was **APPROVED.**

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

Transparency Statement: Mr D Millar made a Transparency Statement in respect of this item as he had been granted renewal of a Private Hire Car Driver's Licence. However, as the item was only for noting and there was no decision to be made, he did not consider that he had an interest to declare.

There had been circulated **Report No HLC/046/22** by the Principal Solicitor which detailed all Licences which had been granted under delegated powers under the Civic Government (Scotland) Act 1982 granted in the period from 25 August 2022 to 12 October 2022.

The Committee **NOTED** the report.

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

There had been circulated **Report No HLC/047/22** 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 to:

(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 hearing procedure.

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

6.1 Premises: Stratherrick Public Hall, Gorthleck, Inverness

There had been circulated **Report No HLC/048/22** by the Principal Solicitor relating to an application for a public entertainment licence for Stratherrick Public Hall, Gorthleck, Inverness by Stratherrick Public Hall Management Committee (Ward 12 - Aird and Loch Ness). The Committee was invited to determine this matter in accordance with the Council's Hearings Procedure.

The Committee heard from the applicant and, in particular, it was noted that supporting documents to the application still required to be submitted. This included an Electrical Installation Condition Report, Public liability insurance certificate and a Portable Appliance Test certificate. The delay in submitting these documents was due to repairs required to the Public Hall which were

ongoing and there was difficulty in procuring contractors to do some of the repairs.

The Solicitor advised that Members could grant the application with an additional condition attached to the effect that no public entertainment activities should take place until the documents were received and deemed satisfactory or the Committee could grant delegated powers to the Principal Solicitor to refuse the application if these documents had not been received by 14 November 2022, the date by which the application required to be determined.

Following consideration, the Committee **AGREED** to **GRANT** the application subject to the following additional condition:

1. No public entertainment activities shall take place at the Public Hall until the following documentation has been submitted and deemed satisfactory by the local authority:

- Electrical Installation Condition Report (EICR)
- Public liability insurance certificate
- Portable Appliance Test (PAT) certificate

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

7.1 Premises – Allengrange, Garbhein Road, Kinlochleven

There had been circulated **Report No HLC/049/22** by the Principal Solicitor relating to the grant of a house in multiple occupation licence from Shepherd & Wedderburn LLP in respect of their client's premises at Allengrange, Garbhein Road, Kinlochleven (Ward 21 Fort William and Ardnamurchan). The Committee was invited to determine this matter in accordance with the Council's Hearings Procedure.

The Agent and Manager of the applicant and one of the objectors to the application were in attendance.

The Committee heard from the Agent and Manager of the applicant who spoke in support of the application. The premises was used for staff accommodation for the Glencoe Hotel Inn. In particular, it was highlighted that there were no objections to the application from statutory consultees and there were no outstanding issues from licensing officers. In respect of fire safety issues raised by the Scottish Fire and Rescue Service, there was ongoing dialogue with the Service and the fire safety issues were in the process of being resolved. The premises were well run and had not received any formal intervention from the Council or Police Scotland. The applicant would comply with the Council's standards and conditions. Thereafter, the Agent made various points to the Committee in respect of the 3 objections – namely, the application was for a maximum of five persons in the house and not twelve; the premises would be

operated in accordance with all laws and guidance in relation to Covid-19; the premises was regularly inspected by the General Manager; the applicant took a strong stance against anti-social behaviour; bins were not overflowing and an extra bin could be provided if required; an incident with a car related to an unconnected third party should not form part of the Committee's consideration; the objectors fence was damaged on two occasions by a staff van and on both occasions arrangements were made for the fence to be repaired at no expense to the objector; the staff van was required to transfer staff to and from work and the radio could be removed to avoid its use preventing any noise disruption to neighbours.

The Committee thereafter heard from an objector to the application who referred to various incidents of anti-social behaviour over a long period of time. Complaints had been made and while issues were addressed at the time, incidents of anti-social behaviour continued affecting the family's mental health and costs had been incurred by the objector installing CCTV.

The Solicitor highlighted that the Committee may refuse to grant a licence where the applicant or anyone else detailed on the application was not a fit and proper person. Also, the Committee may grant a licence only if it considers that the living accommodation concerned was suitable for occupation as an HMO or can be made so suitable by including conditions in the HMO license.

Following discussion, the Committee **AGREED** to **GRANT** the application subject to the following additional condition:

1. The premises shall not be used as a House of Multiple Occupation until such time as the local authority have received confirmation from the Scottish Fire and Rescue Service that they are satisfied with the fire safety measures within the premises.

8. **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.**

9. **Civic Government (Scotland) Act 1982
Private hire car driver's / operator's licences
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtasan airson ceadachdan do dhràibhearain / oibrichean chàraichean
airson fastadh priobhaideach**

9.1 Private hire car driver's licence – Rzgar Mahmud

There had been circulated **to members only Report No HLC/050/22** by the Principal Solicitor relating to Rzgar Mahmud who was the holder of a private hire car driver's licence (Ward 14 – Inverness Central). The Committee was invited to determine this matter in accordance with the Council's Hearings Procedure.

The applicant was not present and had requested that the application be deferred until the next meeting.

Mr W Mackay, seconded by Mr J Bruce **moved** that the application be deferred until the next meeting.

As an Amendment, Mr C Birt, seconded by Ms L Johnston **moved** that the Committee determine the application at this meeting.

On a vote being taken, the **MOTION** received 4 votes, the **AMENDMENT** received 6 votes with no abstentions, and therefore the **AMENDMENT** was therefore **CARRIED**, the votes having being cast as follows:-

For the Motion

Mr J Bruce; Mr S Kennedy; Mr W Mackay; Mr K Rosie

For the Amendment

Mr C Birt; Mrs J Hendry; Ms L Johnston; Ms E Knox; Mr D Millar; Mr P Oldham

Abstentions

No Abstentions

Decision

The Committee agreed to determine the application at this meeting.

The Committee proceeded to determine the application and heard from the Police Scotland in relation to the application.

Thereafter, the Committee **AGREED** to **SUSPEND** the licence with immediate effect until the next meeting of the Highland Licensing Committee on 29 November 2022. The Committee were satisfied that the circumstances of the case justified a suspension of the licence with immediate effect.

The decision was made in terms of Paragraph 11(2)(b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The Committee would like the opportunity to hear from the licence holder at the meeting on 29 November before determining whether a further suspension of the licence was required.

The licence holder had the right to appeal this decision, but the licence did not remain in effect pending any appeal.

9.2 Application for private hire car driver's licence – Bryant Ntakirutimana

There had been circulated **to members only Report No HLC/051/22** by the Principal Solicitor relating to an application which had been received from Bryant Ntakirutimana for the grant of a private hire car driver's licence (Ward 14 – Inverness Central). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Applicant was in attendance.

The Solicitor advised that a late objection from Police Scotland was received and, therefore, could not be automatically considered by the Committee. On hearing from Police Scotland, the Committee were divided on whether to accept the late objection, noting that the reason for its lateness was not known.

Mrs J Hendry, seconded by Ms L Johnston, **moved** that the application be deferred in order for Police Scotland to give the reason for submitting their objection outwith the timescales.

As an amendment, Mr W Mackay, seconded by Mr S Kennedy **moved** that there was no sufficient reason for Police Scotland submitting their objection outwith the timescales required under Paragraph 3(1)(e) of Schedule 1 of the Civic Government (Scotland) Act 1982 and therefore the objection is not entertained. Accordingly, the application be granted, under delegated powers, subject to the applicant undertaking a satisfactory right to work check.

On a vote being taken, the **MOTION** received 4 votes, the **AMENDMENT** received 4 votes with no abstentions. The Chair having applied his casting vote for the Amendment, the **AMENDMENT** was therefore **CARRIED**, the votes having being cast as follows:-

For the Motion

Mrs J Hendry; Ms L Johnston; Mr D Millar; Mr P Oldham

For the Amendment

Mr C Birt; Mr J Bruce; Mr S Kennedy (Casting Vote); Mr W Mackay

Abstentions

No Abstentions

Decision

The Committee **AGREED** there was no sufficient reason for Police Scotland submitting their objection outwith the timescales required under Paragraph 3(1)(e) of Schedule 1 of the Civic Government (Scotland) Act 1982, therefore the objection was not entertained.

Accordingly, the Committee **AGREED** that the application be **GRANTED** under delegated powers, subject to the applicant undertaking a satisfactory right to work check.

9.3 Application for private hire car driver's licence – Gabriel Vargas Lopez

There had been circulated **to members only Report No HLC/052/22** by the Principal Solicitor relating to an application which had been received from Gabriel Vargas Lopez for the grant of a private hire car driver's licence (Ward 21 Fort William and Ardnamurchan). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from the Police Scotland and the applicant in relation to the application.

The Committee **AGREED** to **GRANT** the application subject to the applicant undertaking a satisfactory right to work check.

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

10.1 Application for grant of taxi driver's licence – Rzgar Mahmod

There had been circulated **to members only Report No HLC/053/22** by the Principal Solicitor relating to an application which had been received from Rzgar Mahmod for the grant of a taxi driver's licence (Ward 14 – Inverness Central). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The applicant was not present.

The Committee **AGREED** to **DEFER** consideration of the application to the next meeting on 29 November 2022 to allow the applicant the opportunity to attend and state their case.

The meeting closed at 12.50 p.m.