

Highland Council

Minute of the **Highland Licensing Committee** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday, 20 June 2023 at 10.00am.

Present:

Mr C Birt, Mr J Bruce, Mr J Grafton, Mrs J Hendry, Ms L Johnston, Mr S Kennedy, Mr W Mackay, Mr D Macpherson, Mr D Millar, Mr P Oldham.

In attendance:

Mr I Meredith, Principal Solicitor, Regulatory Services
Mr G Somers, Solicitor, Regulatory Services
Mr G MacCormick, Senior Environmental Health Officer
Ms Z Skinner, Environmental Health Officer
Mr W Paul, Trading Standards Manager
Mr M Elsey, Senior Licensing Officer
Ms A Macrae, Senior Committee Officer

Also attending:

Sergeant Paterson, Police Scotland

Item 7.1: Sue Gregory (applicant)
Item 8.1: Sarah Greeff (applicant)
Item 8.2: Michael and Dawn Dow (applicants)
Item 8.3: Sophie Cameron (applicant)
Item 8.4: Euan Smillie (applicant)
Item 11.1: Walter Micklethwait (applicant)
Item 13.1: Marcin Szkarlz (applicant)
Item 14.1: William Brown (applicant)

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 Ms E Knox 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 9 May 2023 which was **APPROVED**.

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

There had been circulated **Report No HLC/001/22** 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 27 April 2023 to 7 June 2023.

The Committee **NOTED** the report.

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

There had been circulated **Report No HLC/002/22** 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. Health and Safety at Work Act 1974
Storage of Explosives Licence**

There had been circulated Report No HLC/040/23 by the Principal Solicitor relating to the storage of explosives at Lochaline Mine, Morvern, Oban PA80 5LQ (Ward 21 Fort William and Ardnamurchan).

The Trading Standards Manager provided further details in relation to the operation of the mine and the reasons for the application. He advised that no representations had been received in response to the application and there were no other concerns.

The Committee **AGREED** to **ASSENT** to the application for the establishment of an explosives site under Regulation 14 of the Explosives Regulations 2014. Formal confirmation of such assent will be provided to the Health and Safety Executive, who are the licensing authority for the purposes of granting the application.

7. Caravan Site Licence

7.1 Premises – Forest Glen Holiday Park, Dalcataig Road, Invermoriston, Inverness-shire

There had been circulated Report No HLC/041/23 by the Principal Solicitor relating to the grant of a caravan site licence from Mr and Mrs Gregory in respect of Forest Glen Holiday Park, Dalcataig Road, Invermoriston, Inverness-shire (Ward 12 – Aird and Loch Ness). The report advised that the Council's Planning Service had objected to the application on the grounds the site did not have the benefit of planning permission for use of the land as a caravan site as required by of Section 3(3) of the Caravan Sites and Control of Development Act 1960.

The Principal Solicitor advised that the Planning Service was not represented at the meeting to speak to their objection. A temporary caravan site licence for the Park had been granted until 30 September 2022 under the temporary relaxation of planning controls under Covid legislation which had now been repealed.

Thereafter, the Committee heard from Ms S Gregory, applicant who advised that the Park had operated since the 1950s and that the chalets on the site were actually caravans. The Park was classed as being for use as a holiday park, camps, recreation and leisure. The site was not an agricultural holding and therefore change of use was not required. The Planning Service contended that planning permission was required for the parking of motor homes, however she had received clarification from the Chief Planner, Scottish Government, that the stationing of motor homes did not need planning permission and that a motor home was classed as a caravan. The Planning Service had not confirmed to her under which category of activity she should apply for planning permission.

In response to questions, Mrs Gregory advised that the Park was a mixed use holiday park with both static and touring caravans and motorhomes. They had purchased the site as a caravan park in 2014 and had not operated the touring element of the business prior to the pandemic and had done so in response to demand. There appeared to be confusion around the definition of a caravan and the fact this was a mixed use holiday park.

During the debate, the Principal Solicitor advised that until such time as the dispute between the applicant and Planning Service was resolved he did not consider that Members could grant the application in compliance with the legislation. This was on the basis it was clear in the Caravan Sites and Control of Development Act 1960 that the Committee could not grant the licence without planning permission being in place. If planning permission was subsequently approved for the use of the land as a caravan site then the licence could be granted under delegated powers.

During further discussion, Members commented that the Committee had no other option but to refuse the licence application. It was hoped the applicants

would proceed to secure the required planning permission to allow the licence to be granted under delegated powers.

Thereafter, the Committee **AGREED** to **REFUSE** the licence application on the grounds that the site does not have the benefit of planning permission for use of the land as a caravan site as required by of Section 3(3) of the Caravan Sites and Control of Development Act 1960.

8. Civic Government (Scotland) Act 1982
Short Term Let licensing
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachd Aontaidhean Màil Geàrr-ùine

8.1 Application for grant of a short term let licence – 7 Fraser Avenue, Dornoch, IV25 3RS

There had been circulated Report No HLC/042/23 by the Principal Solicitor relating to an application which had been received from Sarah J Greeff for the grant of a short term let licence (Ward 04).

The Chair advised that the objector was not in attendance.

The Committee then heard from Sarah J Greeff in support of her application during which she advised that most of the objector's concerns related to planning issues and poor publicity in the media around Air B&B. The licensing process for short term lets should give the objector assurance that she would make every effort to ensure her guests had a good experience.

The Committee **AGREED** to **GRANT** a short term let licence subject to the mandatory conditions and additional conditions.

8.2 Application for grant of a short term let licence – 49 King Street, Inverness, IV3 5DG

There had been circulated Report No HLC/043/23 by the Principal Solicitor relating to an application which has been received from Michael and Dawn Dow for the grant of a short term let licence (Ward 13).

The Chair advised that the objector was not in attendance.

The Committee heard from Mr and Mrs Dow, applicants, in response to the objection, during which they raised the following main points:-

- in addition to their property, there were many other residential properties, businesses and a large hotel close to the primary school in the area to their knowledge there had been no incidents of the nature referred to by the objector;
- they marketed their property exclusively on the Air B & B platform which had personal profile checking to ensure users and guests were subject to a verification process;

- the purpose of the short term licensing process was to ensure that control measures were in place for licensed properties;
- their experience was that guests generally arrived after 4pm and left each around 10am. They had a minimum stay of two nights with guests often staying for longer periods, with there being an average of two changeovers per week for approximately 30 weeks per year;
- their private car driveway was shielded from and not close to the objector's property and any slamming of car doors was most likely from the primary school and not their property;
- there had been only two short term let applications lodged between numbers 49 to 60 King Street, noting the flats opposite the objector's property were not accessed from King Street and were classed as being Grieg Street properties;
- they were not aware of any anti social behaviour associated with the property and there had been no complaints from neighbours; and
- bins were located to the rear of the property and could not be accessed by the public and their private driveway for parking could accommodate 2/3 cars and on no occasion had guests parked in the street.

In response to questions, Mr Dow advised that the property had been operated as a B&B since 2020 and was a detached two bedroom bungalow and therefore did not overlook the primary school.

In discussion, it was suggested that the objections were general in nature and not specific to this particular property and there were no reasons not to grant the licence.

Thereafter, the Committee **AGREED** to **GRANT** a short term let licence subject to the mandatory conditions and additional conditions.

8.3 Application for grant of a short term let licence – Flat C3, Carlton Terrace, Millburn Road, Inverness, IV2 3QZ

There had been circulated Report No HLC/044/23 by the Principal Solicitor relating to an application which has been received from Sophie Cameron for the grant of a short term let licence (Ward 16).

The Solicitor advised that the applicant had confirmed she was unable to attend the meeting due to work commitments and that the objector was not in attendance.

In response to questions, the Solicitor advised that the objector's allegation that the property had been operating without a licence had been addressed by the applicant in her written submission. While parking issue could potentially be relevant to the determination of the licence, no specific information relevant to the application had been provided and the applicant had responded to the points raised in her written submission. If there was an issue arising with the licence then it could be brought back to the Committee for review.

The Committee **AGREED** to **GRANT** a short term let licence subject to the mandatory conditions and additional conditions.

8.4 Application for grant of a short term let licence – Flat D3, Carlton Terrace, Millburn Road, Inverness, IV2 3QZ

There had been circulated Report No HLC/045/23 by the Principal Solicitor relating to an application which has been received from Euan Smillie for the grant of a short term let licence (Ward 04).

The Chair advised that the objector was not in attendance.

The Committee heard from Euan Smillie, applicant, in response to the objection, during which they raised the following main points:-

- the matter regarding the display of the relevant public notice had already been acknowledged;
- his property had not at any time been operated as a short term let without the relevant licence and it was understood this allegation related to another premises;
- he had not had any guests park in the objector's or any other resident's dedicated parking space or the residential car park strictly for Millburn Road residents and he had never done so himself. It was more likely that cars parking in dedicated spaces were doing so for convenience to the City centre, and were not residents or residents guests;
- he was aware of incidences where residents had been parking in other residents dedicated parking spaces;
- parking was clearly a wider residential issue in the area and should have no bearing on his application;
- he was in the process of applying for a paid guest parking permit for Millburn Road and should this not be successful he would simply market the premises as a short term let with no available parking. In addition, he would specifically mention to guests the strict parking arrangements in the area; and
- the property was his sole residence and guests would only be present when he was away working and therefore there would be no increase in the number vehicles in the area.

Thereafter, the Committee **AGREED** to **GRANT** a short term let licence subject to the mandatory conditions and additional conditions.

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

9.1 Premises – Wildwood Lodge, Achnagairn Estate, Kirkhill, Inverness Shire

There had been circulated Report No HLC/046/23 by the Principal Solicitor relating to the grant of a house in multiple occupation licence from Perfect Manors Partnership in respect of premises at Wildwood Lodge, Achnagairn Estate, Kirkhill, Inverness-Shire (Ward 12 – Aird and Loch Ness).

The Senior Licensing Officer advised that the electrical installation certificate for the premises had been received and deemed to be satisfactory and the application could now be granted under delegated powers.

The Committee **NOTED** the application would be granted under delegated powers.

**10. Civic Government (Scotland) Act 1982
Street Traders licence
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtas airson ceadachd neach-malairt sràide**

10.1 Application for the grant of a street trader's licence – Colin Campbell

There had been circulated Report No HLC/047/23 by the Principal Solicitor relating to an application which has been received from Colin Campbell for the grant of a street traders licence (Ward 05 – Wester Ross, Strathpeffer and Lochalsh).

The Senior Licensing Officer explained that Environmental Health had now inspected and issued a certificate of compliance for the catering trailer to be used in connection with the licence and that the application had been granted under delegated powers.

The Committee **NOTED** that the application had been granted under delegated powers.

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

11.1 Premises: Application for the renewal of a public entertainment licence – Inshriach Estate, Inshriach House, Aviemore

There had been circulated Report No HLC/048/23 by the Principal Solicitor relating to an application for a renewal of a public entertainment licence for Inshriach Estate, Inshriach House, Aviemore by Inshriach Distilling Ltd (Ward 20 – Badenoch and Strathspey).

The Senior Licensing Officer advised that the following documents required to be submitted and deemed satisfactory before the licence could be granted.

- Copy of electrical certificate

- Copy of Gas Certificate
- Copy of public liability insurance certificate
- Copy of Portable Appliance Test (PAT) Certificate
- EH vendor checklist to be completed and returned.

Walter Micklethwait, applicant, advised that a copy of the gas safety certificate was the only document that now remained outstanding and that he had made arrangements for the relevant inspection to be carried out. The first and only public entertainment event to be held at the premises this year was on 16 September 2023 and he did not foresee any problems in submitting the gas safety certificate before that date.

The Committee **AGREED** to **GRANT** a licence subject to the standard conditions and the following additional condition:

- that no public entertainment activities will take place until the following documents have been received and are deemed satisfactory by Council:
 - Copy of gas safety certificate.

12. Exclusion of the Public Às-dùnadh a' Phobail

The Committee **RESOLVED** that, under Section 50A (4) of the Local Government (Scotland) Act 1973, the public be excluded from the meeting for the following items on the grounds that they involved the likely disclosure of exempt information as defined in Part 1 of Schedule 7A of the Act, the relevant paragraphs being shown in the reports.

13. Civic Government (Scotland) Act 1982 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 a private hire car driver's licence – Marcin Szklarz

There had been circulated to Members only Report No HLC/049/23 by the Principal Solicitor relating to an application which had been received from Marcin Szklarz for a private hire car driver's licence (Ward 13 – Inverness West)

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

The Committee **AGREED** to **GRANT DELEGATED POWERS** to the acting Principal Solicitor – Regulatory Services, to grant the application, subject to the applicant undergoing and passing a right to work check.

13.2 Private hire car driver's licence – Rory Hutchison

There had been circulated to Members only Report No HLC/050/23 by the Principal Solicitor relating to the suspension of a private hire car driver's licence held by Rory Hutchison (Ward 5 – Wester Ross, Strathpeffer and Lochalsh).

This item was withdrawn from the agenda.

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

14.1 Application for grant of taxi driver's licence – William Brown

There had been circulated to Members only Report No HLC/051/23 by the Principal Solicitor relating to an application which has been received from William Brown for the grant of a taxi driver's licence (Ward 15 – Inverness Ness-Side).

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

The Committee **AGREED** to **GRANT DELEGATED POWERS** to the acting Principal Solicitor – Regulatory Services, to grant the application, subject to:

- the applicant sitting and passing the taxi driver's knowledge test; and
- the applicant undergoing and passing a right to work check.

The meeting closed at 12.30pm.