

Highland Council

Minutes of the **Highland Licensing Committee** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday, 28 November 2023 at 10.00am.

Present:

Mr C Birt, Mr J Bruce, Mr J Grafton, Mrs J Hendry, Mr S Kennedy (Chair), Ms E Knox (except items 6.4 and 6.5) (remote), Ms L Johnston, Mr W Mackay (remote), Mr D Millar (remote), Mr P Oldham, Mr K Rosie (remote).

In attendance:

Mr I Meredith, Principal Solicitor, Regulatory Services
Mr G Somers, Solicitor, Regulatory Services
Ms M Duffy, Solicitor, Regulatory Services
Mr M Elsey, Senior Licensing Officer
Ms A Macrae, Senior Committee Officer

Also attending:

Sergeant Paterson, Police Scotland

Item 6.1: Anne Marie Mackenzie, applicant (remote) Alasdair Murray, Building Standards Team Leader, objector (remote)

Item 6.3: Ross Murphy, applicant (remote), Alasdair Murray, Building Standards Team Leader objector (remote)

Item 6.4: Marie Eldridge, applicant (remote)

Item 6.5: A Smith and G Clelland (agent for the applicants). Julie Handley, Wendy Townsend and Dawn Main-Fraser, objectors, (remote)

Item 7.1: S Hardwick, applicant, A Hardwick, applicant's representative

Item 9.1: M Rattray, applicant, G Massie, applicant's agent, A Brown, agent for Highland Homeless Trust, M Brandon, objector, R Murray McCheyne, agent for objector

Item 15.1: Pawel Miesiak, 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

An apology for absence was intimated on behalf of Mr D Macpherson.

2. Declarations of interest Foillseachaidhean Com-pàirt

Item 6.1: Mr P Oldham

Item 6.1, 6.2, 6.3, 6.4, 6.5: Mr K Rosie

**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 24 October 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 in the period from 12 October 2023 to 15 November 2023.

The Committee **NOTED** the report.

**5. Pending applications – 3 monthly considerations
Iartasan 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

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

Declaration of Interest: Mr K Rosie declared an interest in items 6.1, 6.2, 6.3, 6.4 and 6.5 on the grounds he was a short-term let accommodation provider and took no part in the discussion and determination of these items.

**6.1 Application for grant of a short term let licence – Wee Corsee,
Corsee House, Victoria Street, Nairn, IV12 4HH**

Declaration of Interest: Mr P Oldham declared an interest in this item on the grounds one of the applicants undertook work for him and he had provided the other applicant with website advice and he left the Chamber for the determination of this item.

There had been circulated **Report No HLC/088/23** by the Principal Solicitor relating to an application which has been received from Mr Darren and Mrs

Anne Marie MacKenzie for the grant of a short term let licence (Ward 18 – Nairn and Cawdor). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from Anne Marie Mackenzie, applicant and Alasdair Murray, Building Standards Team Leader, objector in relation to the application.

The Committee **AGREED** to **GRANT** the licence subject to the mandatory conditions, additional conditions, and the following special condition:

- that the premises not be used as a short term let until a completion certificate has been signed off to the satisfaction of the Council's Building Standards service.

6.2 Application for grant of a short term let licence – The White House, Onich, Fort William, PH33 6SD

There had been circulated **Report No HLC/089/23** by the Principal Solicitor relating to an application which has been received from Mr James E MacDonald for the grant of a short term let licence (Ward 22 – Fort William and Ardnamurchan). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee **NOTED** that this item had been withdrawn.

6.3 Application for grant of a short term let licence – The Annex, 4 Hostel Brae, Kinlochleven, PH50 4RT

There had been circulated **Report No HLC/090/23** by the Principal Solicitor relating to an application which has been received from Mr Ross Murphy and Mrs Rachel Carr for the grant of a short term let licence (Ward 22 – Fort William and Ardnamurchan). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from Ross Murphy, applicant and Alasdair Murray, Building Standards Team Leader, objector in relation to the application.

The Committee **AGREED** to **GRANT** the licence subject to the mandatory conditions, additional conditions, and the following special condition:

- that the premises not be used as a short term let until a completion certificate has been signed off to the satisfaction of the council's Building Standards service.

6.4 Application for grant of a short term let licence – Cottage 3, Kerrowdown Mill, Drumnadrochit, IV63 6XP

There had been circulated **Report No HLC/091/23** by the Principal Solicitor relating to an application which has been received from the Partnership of Marie Eldrige and Stuart Baillie for the grant of a short term let licence (Ward 12 –Aird

and Loch Ness). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The objector was not in attendance.

The Committee heard from Marie Eldridge, applicant.

The Committee **AGREED** to **GRANT** the licence subject to the mandatory conditions and additional conditions.

6.5 Application for grant of a short term let licence – 5 Ravensdale Court, Corpach, Fort William, PH33 7LP

There had been circulated **Report No HLC/092/23** by the Principal Solicitor relating to an application which has been received from Mr and Mrs Brian and Cindy Inglis for the grant of a short term let licence (Ward 11 – Caol and Mallaig). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from Julie Handley, Wendy Townsend and Dawn Main-Fraser, objectors who raised the following main points:-

- the premises was located in a small residential cul de sac of six houses where there was limited parking;
- the property would accommodate up to 6 persons when there was only one designated parking space at the property. The parking should be restricted to one car;
- the owners did not live locally and there would be nobody on-site to contact if there were issues of anti-social behaviour;
- the local housing market was already limited due to it being over saturated with visitor accommodation;
- there had been a lack of compliance on a number of levels since the owners had bought the property;
- there had been poor compliance in the manner in which the public notice advertising the application had been displayed at the property;
- whether Lochaber Accommodation Services management of the property would extend to external maintenance; and
- there had been no communication or engagement with neighbours in relation to the renovation works and the short term let application.

Following questions, the Committee then heard from A Smith, Lochaber Accommodation Services, agent for the applicants, as follows:

- Lochaber Accommodation Services operation and management of short term lets included the internal and external maintenance of the property;
- guests would be instructed where to park and advised of the location of alternative parking if required. Guest parking at the property would be restricted to one car;
- an assurance that a 24 hour helpline for guests would be made available to the neighbours as a first point of contact if they had any concerns

- around anti-social behaviour;
- a proactive approach was taken to ensuring guests behaved in an appropriate manner and in dealing with any potential nuisance. The Council's policy on quiet hours had also been adopted;
- over occupancy had not been encountered but would be dealt with accordingly if it did arise and clear instructions were provided to guests on the occupancy capacity;
- the public notice advertising the application had been displayed for the required period of 21 days and had been clearly in view; and
- Lochaber Accommodation Services would only take over the full management of the property in the event a short term licence was granted.

Following further questions and discussion, Mr W Mackay seconded by Mr S Kennedy **moved to grant** the licence subject to the mandatory conditions and additional conditions.

As an **amendment**, Mr D Millar seconded by Ms L Johnston moved to refuse the application on the basis the premises was located in a small residential cul-de-sac with adjoining houses and accordingly was not suitable for commercial use with regard to its location in terms of paragraph 5(3)(c)(1) of Schedule 1 of the Civic Government (Scotland) Act 1982.

On a vote being taken, the **motion** received **5** votes, the **amendment** received **3** votes with **1** abstention, and the **motion** was therefore carried, the votes having being cast as follows:

Motion (5): Mr C Birt, Mr J Bruce, Mrs J Hendry, Mr S Kennedy, Mr W Mackay.

Amendment (3): Ms L Johnston, Mr D Millar, Mr P Oldham

Abstention (1): Mr J Grafton

Decision

The Committee **AGREED to GRANT** the licence subject to the mandatory conditions and additional conditions.

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

7.1 Application for the grant of a street trader's licence – Suparaporn Hardwick

There had been circulated **Report No HLC/093/23** by the Principal Solicitor relating to an application which has been received from Suparaporn Hardwick for the grant of a street traders licence (Ward 12 – Aird & Loch Ness). The

Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from S Harwick, applicant, and her representative.

Thereafter, the Committee **AGREED** to **GRANT** the licence subject to the standard conditions and the following special condition:

- that the vehicle not be used for the licensable activity until the council's Environmental Health service have inspected the unit and passed it as fit to be used for this purpose.

8. Civic Government (Scotland) Act 1982 Boat Hire licence

8.1 Application for the grant of a boat hire licence – Christine Cormack

There had been circulated **Report No HLC/094/23** by the Principal Solicitor relating to an application which has been received from Christine Cormack for the grant of a boat hire licence (Ward 12 – Aird & Loch Ness). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee **NOTED** that this item had been withdrawn.

9. Housing (Scotland) Act 2006 – Part 5 House in Multiple Occupation Licence

9.1 Application for the grant of a licence for a house in multiple occupation – 35 Glenurquhart Road, Inverness

There had been circulated **Report No HLC/095/23** by the Principal Solicitor relating to an application which has been received from Marilyn Rattray for the grant of a licence for a house in multiple occupation licence (Ward 13 – Inverness West). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from Mr R McCheyne, agent for the objector, in support of the objection as follows:

- the application did not meet the relevant test in the Housing (Scotland) Act 2006 with specific reference to amenities, safety and security;
- the grant of a licence this would effectively sanction the breach of condition 5 attached to planning consent for the property in relation to car parking spaces being maintained in perpetuity;
- the Standard HMO licence conditions required compliance with any statutory requirements and this included planning consent;
- his client had moved his boundary fence to the extent of his property and this had removed a significant amount of the parking space used by the tenants of the applicant's property;

- there was no legal permission that could be given for the occupiers of the HMO to use the route coloured yellow on the plan as submitted to access the car parking spaces which were now behind the fenced area at his client's property;
- in terms of safety, there was space for only one car to exit onto Glenurquhart Road in a forward facing direction; and
- consideration of the application be deferred to allow the applicant to apply for a variation of the planning condition in relation to car parking.

Mr George Massie, applicant's representative, raised the following main points:

- the HMO had been operating since 2014 with no issues arising in terms of amenity or traffic. There were no objections to the application from the statutory consultees including the Planning Service;
- the property was occupied by six elderly vulnerable adults, none of which could drive. The only parking required was for 2 members of staff on an occasional basis. There were 2 parking spaces at the rear and 2 spaces at the front of the property;
- vehicles could park safely, turn on site and drive onto Glenurquhart Road in a forward gear;
- by moving the fence, the objector had effectively increased the available parking space in front of the cottage to the rear of his client's property. He understood from the Highland Homeless Trust there was no restriction on the lease arrangement with the objector that would bar them from parking there if required;
- the original planning consent had been for holiday accommodation. If the Planning Service considered there was an issue with the change of use to a HMO, this could be dealt with under the planning legislation via enforcement action.

Mr Brown, agent for the Highland Homeless Trust advised that:

- planning was a separate regulatory issue and not a matter for the Committee. The Planning Service had not objected to the application, and this could be taken as consent for the renewal of the licence;
- none of the residents owned a car or could obtain a driving licence. The Trust employed 5 members of staff only two of which could drive;
- in terms of the legislation, there was no mention of the requirement for parking. He questioned the relevance of this issue given there was sufficient parking for the occupants of the property;
- there were no issues around the safety and security of the occupants of the property and no basis for the objector to suggest this was the case; and
- the objection was therefore irrelevant and the application for the renewal of the licence should be granted.

The Principal Solicitor advised that HMO licensing and planning were separate regularly regimes. If there was an issue around the planning permission for the property this should be dealt with via planning enforcement. The Committee

was assessing whether the premises was suitable to operate as a HMO.

During debate, Members indicated that the Planning Service had no objections to the application for the renewal of the licence, the property was considered to be suitable as an HMO and therefore the application should be granted.

The Committee **AGREED** to **GRANT** the HMO licence, pending the outcome of a satisfactory consultation response from the Scottish Fire and Rescue Service.

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

10.1 Application for a taxi driver's licence – Caroline McKeown

There had been circulated **Report No HLC/096/23** by the Principal Solicitor relating to an application for the grant of a taxi driver's licence from Caroline McKeown (Ward 20 - Badenoch & Strathspey). The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

Following discussion, the Committee **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor to **REFUSE** the application should the applicant not satisfactorily complete a police background check, right to work check, and taxi knowledge test, and submit a copy of her DVLA driver's licence and two passport sized photos, before **27 December 2023**.

**11. 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**

11.1 Application for a private hire car driver's licence – Iwona Szenk

There had been circulated **Report No HLC/097/23** by the Principal Solicitor relating to an application which has been received from Iwona Szenk for the grant of a private hire car driver's licence (Ward 18 – Nairn & Cawdor). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee **NOTED** that this item had been withdrawn.

**12. Civic Government (Scotland) Act 1982
Private hire car operator's licence
Highland Council penalty point system
Achd Riaghaltais Chatharra (Alba) 1982
Siostam Phuingean Peanais Chomhairle na Gàidhealtachd**

12.1 Licence Holder – Highlander Cars

There had been circulated **Report No HLC/098/23** by the Principal Solicitor relating to a breach of PHC Operators Licence Conditions (Ward 19 – Inverness South). The Committee was invited to determine this matter in accordance with the Council's Hearings Procedure.

The Committee **NOTED** that this item had been withdrawn.

13. Civic Government (Scotland) Act 1982 Second hand vehicle dealers licence Achd Riaghaltais Chatharra (Alba) 1982 Ceadachdan luchd-malairt ath-làimhe

13.1 Application for the grant of a second hand vehicle dealers licence – Honest Bros Car Sales, Unit 8 Balmakeith Industrial Estate, Nairn.

There had been circulated **Report No HLC/099/23** by the Principal Solicitor relating to an application which has been received from Honest Bros Car Sales, for the grant of a second hand vehicle dealers licence in respect of premises at Unit 8 Balmakeith Industrial Estate, Nairn (Ward 18 – Nairn & Cawdor). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

Following discussion, the Committee **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor to **REFUSE** the application should the applicant not submit a completed certificate of compliance before **8 December 2023**

14. 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 involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Act.

15. 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 priobhaideach

15.1 Application for a private hire car driver's licence – Pawel Miesiak

There had been circulated **to members only Report No HLC/100/23** by the Principal Solicitor relating to an application which had been received from Pawel Miesiak for the grant of a private hire car driver's licence (Ward 16 – Inverness Millburn). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from the applicant and Police Scotland.

Thereafter, Mr W Mackay seconded by Mr P Oldham **moved** to **grant** the application for a private hire car driver's licence subject to the applicant satisfactorily completing a Right to Work check.

As an **amendment**, Mr C Birt seconded by Mrs J Hendry moved to refuse the application under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the applicant is not a fit and proper person to hold a licence.

On a vote being taken, the **motion** received **7** votes, the **amendment** received **3** votes with **1** abstention, and the **motion** was therefore carried, the votes having being cast as follows:

Motion (7): Mr J Bruce, Mr J Grafton, Ms L Johnston, Mr S Kennedy, Mr W Mackay, Mr D Millar, Mr P Oldham.

Amendment (3): Mr C Birt, Mrs J Hendry, Mr K Rosie.

Abstention (1): Ms E Knox.

Decision

The Committee **AGREED** to **GRANT** the application for a private hire car driver's licence subject to the applicant satisfactorily completing a Right to Work check.

The meeting ended at 2.50pm.
