

Highland Council

Minutes of the **Highland Licensing Committee** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday, 26 March 2024 at Noon.

The webcast of the meeting will be available within 48 hours of broadcast and will remain online for 12 months: <https://highland.public-i.tv/core/portal/home>

Present:

Mr C Birt, Mr J Bruce, Mr J Grafton, Mrs J Hendry, Ms L Johnston (except items 6, 7.4, 10.2), S Kennedy (Chair), Mr W Mackay (remote), Mr P Oldham, Mr K Rosie (except items 6, 7.3, 7.4, 10.2)

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
Eleanor Hood, Environmental Health Officer

Item 7.1: Mr and Mrs Barron (applicants)

Item 7.2: Lee Molloy (applicant); Dr Keri Langridge (objector); John and Gillian Challis (objectors); James Hickey (objector); Maggie Newlands (objector); Angus J Maclellan (objector) and Lewis J Watson (objector)

Item 7.3: Paula and Lloyd Duthie (applicants); Graham Lawrence (objector); Lesley A. Calder (objector)

Item 7.4: John Arthur (applicant)

Item 9.1: Lilac Miller (applicant)

Item 12.2: David Jones (licence holder); David Paterson (licence holder's representative)

Item 12.4: Reza Kadir (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, Mr D Macpherson, Mr D Millar.

**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 13 February 2024 which was **APPROVED**.

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

There had been circulated Report No HLC/014/24 by the Principal Solicitor which detailed all Licences granted under delegated powers under the Civic Government (Scotland) Act 1982 in the period from 1 February 2024 to 13 March 2024.

The Committee **NOTED** the report.

**4.1 Short Term Let Licences granted under delegated powers
Ceadachd Aontaidhean Màil Geàrr-ùine Ceadachdan a bhuilicheadh fo ùghdarras air a thiomnadh**

There had been circulated Report No HLC/015/24 by the Principal Solicitor which detailed all Short Term Let Licences granted under delegated powers under the Civic Government (Scotland) Act 1982 in the period from 1 February 2024 to 13 March 2024.

The Committee **NOTED** the report.

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

There had been circulated Report No HLC/016/24 by the Principal Solicitor relating to applications which are 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:

(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.

5.1 Short Term Let Pending applications – 3 monthly considerations Ceadachd Aontaidhean Màil Geàrr-ùine Iarrtasan ri thighinn – beachdachaidhean 3 mìosach

There had been circulated Report No HLC/017/24 by the Principal Solicitor outlining the Short Term Let applications which are 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:

(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. Review of Civic Licensing Fees

There had been circulated **Report No HLC/018/24** by the Principal Solicitor advising that the licensing authority was required to periodically assess the fees it charged for civic licences to ensure that the income was sufficient to cover the expense of administering the licensing regime.

In discussion, Members expressed disappointment that the fees had not been reviewed since 2016 and at the deficits highlighted in the report. It was suggested there was a need for a significant increase in the level of fees in 2024/25 and potentially the following year to catch up. The Committee was in the position where it could potentially receive a negative response and reference was made to the importance of the fees being reviewed annually going forward in fairness to applicants and the Committee.

In response, an assurance was provided that the fees had been monitored over the period and there had been no requirement to request a review. More recently there had been a substantial increase in taxi driver medicals costs, more accurate information on Environmental Health and Trading Standards costs and increased central services staff costs for administering the licence regime. A significant increase was recommended in 2024/25 and the position be reviewed next year based on the more accurate information on costs and dependent on the number of licence applications.

During further discussion, it was proposed that a 20% increase in taxi and private hire car driver and operator licence application fees on the basis this was considered to be a reasonable amount bearing in mind this was for a three year licence .

Thereafter, Members proceeded to consider the increase to be applied to other civic licence application fees.

Mr W Mackay seconded by Mrs J Hendry **moved** that a 25% increase be applied to other civic licence application fees.

As an **amendment**, Mr P Oldham seconded by Mr S Kennedy moved that a 30% increase be applied to other civic licence application fees.

On a vote being taken, the **motion** received **3** votes, the **amendment** received **4** votes, and there were no abstentions, and the **amendment** was therefore carried, the votes having being cast as follows:

Motion (3): Mr J Grafton, Mrs J Hendry, Mr W Mackay.

Amendment (4): Mr C Birt, Mr J Bruce, Mr S Kennedy, Mr P Oldham.

Decision

The Committee **AGREED** to increase licensing fees as of 1 July 2024 as follows:

- 20% increase to taxi and PHC driver and operator licence application fee; and
- 30% increase to other civic licence application fees.

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

7.1 Application for grant of a short term let licence – Fishertown House, 37A Harbour Street, Nairn, IV12 4NX

There had been circulated **Report No HLC/019/24** by the Principal Solicitor relating to an application which had been received from Mrs Pauline Jane Barron 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 Pauline Barron, applicant, in support of the application.

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

7.2 Application for grant of a short term let licence – Cherry Tree Pod, 2 The Cottages, Littlemill, Nairn, IV12 5QL

There had been circulated **Report No HLC/020/24** by the Principal Solicitor

relating to an application which has been received from Mr Lee Michael Molloy on behalf of Highland Lollee Limited 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 the following objectors:

Dr Keri Langridge, John and Gillian Challis, James Hickey, Maggie Newlands, Angus J Maclellan, Lewis J Watson.

In summary, the objectors raised the following main points:

- the location and nature of the short term let was unsuitable, given its close proximity to neighbouring properties and focus on outdoor socialising in a quiet residential hamlet;
- the guest facilities had been designed to maximise outdoor use and included a hot tub and fire pit, outdoor lighting and seating;
- the persistent noise disturbance generated from the outdoor area during the day, late into the evening and early hours was excessive for local residents;
- potential issues of public disorder with holiday guests were more likely due to consumption of alcohol, playing of music and public safety if residents asked them to reduce noise or modify behaviour;
- the transient nature of the premises was not akin to the familiar sounds generated by permanent neighbours and their occasional outdoor social gatherings;
- the recommended condition that guests did not use the hot tub or play amplified music after 2200 hrs would not prevent the outdoor area being used later into the evening;
- the level of light pollution from the outdoor lighting was not acceptable in a small hamlet;
- guest vehicles parking in the bell area were restricting Mr Hickey's exit, including that for first responders and emergency vehicles;
- Mr Hickey had not been notified of the planning application for the Pod. A wooden structure erected by the applicants had encroached beyond the boundary of Mr Hickey's property;
- while there had been no official complaints of noise since 26 July 2023, Ms Newlands had recorded five separate occasions of noise disturbance. She had not objected to the planning application as she had not realised the impact of the Pod. A general conversation next to her property was sufficient to cause sleep disturbance;
- local residents had been waiting for the short term let application to be lodged to raise their objections and most had been unaware there was a mechanism for complaints to the Council in the interim; and
- in addition to Ms Newlands, other neighbours had complained to the applicants about noise and they had been aware of the concerns of local residents.

Following questions, the Committee heard from Lee Molloy, applicant, in summary as follows:

- as front-line ambulance crew he and his wife did not want their sleep patterns disturbed by their guests;
- the wooden structure had been removed under the supervision of the Council;
- they lived directly behind the pod and had not been aware of any noise issues. On concerns being raised they had contacted the Council and had advised Ms Newlands to do the same;
- Environmental Health had visited the premises to discuss noise limiting actions. A noise monitoring solution had been sourced which was set at a very low level of 60db, a general conversation being 70db;
- no other residents had contacted him in relation to noise and there had been no complaints since July 2023. He had taken all possible steps, working closely with Environmental Health, to ensure noise levels were reduced;
- all guests were vetted, and house rules and expected standards of behaviour were reinforced before and on arrival. The majority of guests were families or couples and an occupancy limit of four adults had been set; and
- the Council had confirmed the access was not a bell mouth. His guests did not park in this area as dedicated parking was provided at the premises and there were no issues regarding safe exit for emergency vehicles and others.

Following further questions, the Environmental Health Officer confirmed that while there was no objection to the application, an additional licence condition was recommended that the licence holder must take reasonable steps to ensure that guests did not use the hot tub or play amplified music after 2200hrs. She confirmed that 60db was the lowest possible setting on the noise monitoring equipment.

During debate and on hearing from the Clerk, Mr W Mackay seconded by Ms L Johnston **moved** to grant the application for a short term let licence subject to the mandatory and additional standard conditions, and an additional condition that all reasonable steps are taken to ensure guests do not use hot tub or play amplified music after 2200 hrs.

As an **amendment**, Mr P Oldham seconded by Mr J Grafton moved to grant the application for a short term let licence subject to the mandatory and additional standard conditions, and the following additional conditions:

- that all reasonable steps are taken to ensure guests do not use the hot tub or fire pit, play amplified music, or use decorative outdoor lighting after 2130h.
- that the licence holder must take reasonable steps to ensure that noise monitoring equipment, to be approved by Environmental Health, is maintained in full working order in the outdoor area to the satisfaction of

Environmental Health and that the maximum reading does not exceed 60 db between 2130h and 0700h.

On a vote being taken, the **motion** received **4** votes, the **amendment** received **5** votes, and there were no abstentions, and the **amendment** was therefore carried, the votes having being cast as follows:

Motion (4): Mr C Birt, Ms L Johnston, Mr S Kennedy, Mr W Mackay.

Amendment (5): Mr J Bruce, Mr J Grafton, Mrs J Hendry, Mr P Oldham, Mr K Rosie.

Decision

The Committee **AGREED** to **GRANT** the application for a short term let licence subject to the mandatory and additional standard conditions, and the following additional conditions:

- that all reasonable steps are taken to ensure guests do not use the hot tub or fire pit, play amplified music, or use decorative outdoor lighting after 2130h.
- that the licence holder must take reasonable steps to ensure that noise monitoring equipment, to be approved by Environmental Health, is maintained in full working order in the outdoor area to the satisfaction of Environmental Health and that the maximum reading does not exceed 60 db between 2130h and 0700h.

7.3 Application for grant of a short term let licence – Mountain View Lodge, Dulnain Bridge, Grantown on Spey, PH26 3LY

There had been circulated **Report No HLC/021/24** by the Principal Solicitor relating to an application which has been received from Mrs Paula Mary Duthie for the grant of a short term let licence (Ward 20 – Badenoch and Strathspey). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from Graham Lawrence and Lesley A. Calder, objectors, in summary as follows:

- the dynamic of a quiet residential area in a rural location had been changed by the operation of the short term let;
- the transient nature of the short term let differentiated it from having a constant neighbour or being used for family holidays. It was often occupied by multiple couples having celebratory events and there had been occasions of stag and hen parties;
- the applicants and local manager were not on site to allow for problems to be resolved in an immediate timeframe and a key issue was how the stipulated house rules could be enforced;
- noise disturbance from the outdoor patio area could be experienced throughout the day and into the night and early hours, exacerbated by

the hot tub, fire pit, music, consumption of alcohol and light pollution from outside lights;

- neighbours had encountered difficulties in confronting some guests about noise and were apprehensive about the potential issues the next changeover may bring;
- they had experienced intrusions into their property associated with the operation of the short term let;
- concern the maximum occupancy level of the premises had not always been adhered to;
- potential issues around the capacity of the septic tank at the premises; and
- the persistent nature of the noise disturbance was stressful and the operation of the short term let should not impact on the quality of life and privacy of the neighbours.

Following questions, the Committee heard from Paula and Lloyd Duthie, applicants. in summary as follows:

- the property had been operated as a holiday let since 2019 and they enjoyed a good relationship with the neighbours. Engagement was key to being a respectful neighbour and they took their responsibilities seriously in this regard;
- the property was managed by a local company based in Aviemore. The neighbours had been provided with their and the management company's contact numbers and had used them to report issues;
- a small number of issues had been raised by the neighbours over the past two years and their approach was to record and resolve any problems and ensure they did not happen again.
- vetting procedures to prevent stag or hen party bookings and expectations and house rules around behaviour and noise had been reinforced. A curfew of 9pm had been set on the use of the hot tub;
- they were contactable on a 24 hour basis and the local management company were responsive during reasonable hours to any issues arising; and
- their main focus was on the prevention of any problems. They would continue to listen to the neighbours and were open to any suggestions for improvements.

During debate, Members commented that the applicants were responsible operators had appropriate management and vetting arrangements and house rules in place. They had demonstrated their proactive commitment to mitigate noise and anti-social behaviour by being responsive to resolving any issues raised and putting preventative measures in place.

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

7.4 Application for grant of a short term let licence – Healabhal, Balmeanach, Struan, Isle of Skye, IV56 8FH

Mr J Bruce was not entitled to participate in the determination of this item as he was not present throughout all of the proceedings.

There had been circulated **Report No HLC/022/24** by the Principal Solicitor relating to an application which has been received from Mr John Pearson Arthur on behalf of Head in the Skye Limited for the grant of a short term let licence (Ward 10 – Eilean a' Cheò). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Committee heard from John Arthur, applicant, in support of the application.

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

8. Civic Government (Scotland) Act 1982 Public Entertainment Licence Achd Riaghaltais Chatharra (Alba) 1982 Ceadachdan Aoigheachd Phoblaich

8.1 Premises: Glenelg and Arnisdale Village Hall, Glenelg, IV40 8JD

There had been circulated **Report No HLC/023/24** by the Principal Solicitor relating to an application for the grant of a public entertainment licence for Glenelg and Arnisdale Village Hall (Ward 05 – Wester Ross, Strathpeffer and Lochalsh). 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.

9. Civic Government (Scotland) Act 1982 Skin Piercing and Tattooing licence Achd Riaghaltais Chatharra (Alba) 1982 Ceadachdan Dhràibhearán / Oibrichean Tagsaidh

9.1 Application for a skin piercing and tattooing licence – Sleeping Beauty, 14b Margaret Street, Inverness.

There had been circulated **Report No HLC/024/24** by the Principal Solicitor relating to an application which has been received from Lilac Miller for a skin piercing and tattooing licence in respect of premises at Sleeping Beauty, 14b Margaret Street, Inverness (Ward 14 – Inverness Central). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

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

- that no licensable activities should take place until the outstanding EICR report has been received by the licensing authority and is deemed satisfactory.

**10. 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**

10.1 Private Hire Car operator's licence – Taxi 24/7

There had been circulated **Report No HLC/025/24** by the Principal Solicitor relating to Taxi 24/7 who are the holders of a private hire car operator's licence (Ward 18 – Nairn and Cawdor). 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.

10.2 Application for a private hire car operator's licence – Highlander Cars

There had been circulated **Report No HLC/026/24** by the Principal Solicitor relating to an application which has been received from Highlander Cars for a private hire car operator's licence (Ward 13 – Inverness West). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The applicants were not present.

The Committee **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor to **REFUSE** the temporary private hire car operator's licence application if a vehicle has not been presented for and passed inspection, a meter test carried out (if required) and all relevant certificates and documents submitted prior to 5 April 2024.

11. 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.

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

12.1 Application for a taxi driver's licence – Rzgar Ali Mahmud

There had been circulated to members only **Report No HLC/027/24** by the Principal Solicitor in relation to an application for a taxi driver's licence from

Rzgar Ali Mahmud (**Ward 14 – Inverness Central**). 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.

12.2 Taxi driver's licence – David G Jones

There had been circulated **to members only Report No HLC/028/24** by the Principal Solicitor relating to licensed taxi driver David G Jones (Ward 02 – Thurso and Northwest Caithness). The Committee was invited to determine this matter in accordance with the Council's Hearings Procedure.

The Committee heard from Police Scotland, the applicant and his representative.

The Committee **AGREED** to **NOT SUSPEND** the licence holders taxi driver's licence.

12.3 Application for a taxi driver's licence – Connor Macphee

There had been circulated **to members only Report No HLC/029/24** by the Principal Solicitor in relation to an application from Connor Macphee for a taxi driver's licence (Ward 06 – Cromarty Firth). The Committee was invited to determine this matter in accordance with the Council's Hearings Procedure.

The applicant was not in attendance.

The Committee heard from Police Scotland.

The Committee **AGREED** to **REFUSE** the application for a taxi driver's licence on the grounds that the applicant is not a fit and proper person to hold a taxi drivers licence.

12.4 Application for a Private Hire Car driver's licence – Serdasht Karim Reza Kadir

There had been circulated **to members only Report No HLC/030/24** by the Principal Solicitor in relation to an application from Serdasht Karim Reza Kadir for 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 Police Scotland and the applicant.

Mr W Mackay seconded by Ms L Johnston **moved** to refuse the application on the grounds that the applicant is not a fit and proper person to hold a private hire car drivers licence.

As an **amendment**, Mr S Kennedy seconded by Mr C Birt moved to grant the application on the grounds the applicant was a fit and proper person to hold a private hire car driver's licence.

On a vote being taken, the **motion** received **6** votes, the **amendment** received **3** votes, and there were no abstentions, and the **motion** was therefore carried, the votes having being cast as follows:

Motion (6): Mr J Bruce, Mrs J Hendry, Ms L Johnston, Mr W Mackay, Mr P Oldham, Mr K Rosie.

Amendment (3): Mr C Birt, Mr J Grafton, Mr S Kennedy

Decision

The Committee **AGREED** to **REFUSE** the application on the grounds the applicant is not a fit and proper person to hold a private hire car drivers licence.

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

13.1 Application for grant of a short term let licence – Fairy Retreat, 37 Idrigill, Uig, Isle of Skye, IV51 9XU

There had been circulated **to members only Report No HLC/031/24** by the Principal Solicitor in relation to an application from Mr James Grant Hall on behalf of The Fairy Retreat Limited for the grant of a short term let licence (Ward 10 – Eilean a' Cheò). 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.

The meeting ended at 6.20pm.
