

## Highland Council

Minutes of the **Highland Licensing Committee** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday, 5 September 2023 at 10.00am.

### Present:

Mr C Birt, Mr J Grafton, Mrs J Hendry, Ms L Johnston, Mr S Kennedy (Chair), Ms E Knox (remote), Mr W Mackay (remote), Mr D Macpherson, 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  
Mr M Elsey, Senior Licensing Officer  
Ms A Macrae, Senior Committee Officer

### Also attending:

Sergeant Paterson, Police Scotland

Item 6.1: Joanna Millar (solicitor for applicant) Karren Smith (solicitor for objector)

Item 8.1: Veronica Mackintosh (on behalf of applicant)

Item 10.1: Kevin A Booth (applicant)

Item 11.1 Jozsef Simo (applicant) and Csaba Tondor (interpreter)

Item 11.2: Muhammed Naveed (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 J Bruce.

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

Items 6.1 and 10.1: 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 1 August 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 20 July 2023 to 23 August 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

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

**6.1 Application for grant of a short term let licence – Ard Neamh,  
Ardaneaskan, Lochcarron, IV54 8YL**

**Declaration of Interest: Mr K Rosie declared an interest in this item on the grounds he was a short-term let accommodation provider and he took no part in the discussion and determination of this item.**

There had been circulated **Report No HLC/064/23** by the Principal Solicitor relating to an application which had been received from Mrs Stella Jane Wolfram for the grant of a short term let licence (Ward 5 - Wester Ross, Strathpeffer, and Lochalsh). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

Karren Smith, solicitor for David and Lynda Gettie, objectors, questioned the competency of the application on the grounds that the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 required that where an applicant shared ownership of premises or the land on which the premises were located, then the application should include a declaration from each owner that they consented to the application. The title position for the property and her clients property clearly showed the extent that was owned exclusively in relation to each property. The rest of the amenity and garden

ground, access road and parking area, coloured yellow on the title plan, was shown as being in joint ownership of the owners of the two properties. Her clients should therefore have been asked to consent to the application and she confirmed that they did not give any such consent. In addition, the boundary drawn on the plan submitted with the application included an area of common property owned jointly by her clients. Furthermore, the principles of property law did not lend itself to the use of the property as a short term let as parking would be in an area that was jointly owned. This could not be classed as ordinary use and the applicant would gain excessive benefit from common property if the application was approved.

At this point, Joanna Millar, solicitor for the applicant, raised a point of competency as there was no mention of excessive benefit in the objectors submission.

The Solicitor advised that common property was not a licensing issue and from the submissions there appeared to be a question over the extent that had been applied for and whether it included common areas jointly owned by the applicant and the objectors.

Joanna Millar, solicitor for the applicant, advised that her clients were seeking only to licence those parts of the property that was solely owned by them. If there was an issue with the boundaries shown on the plan, then she was content to seek a continuation to allow the scope of the application to be amended.

The Committee **AGREED to DEFER** consideration of the application to the next meeting of the Committee to allow the applicant to amend the scope of their application.

**7. 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**

**7.1 Application for a private hire car driver's licence – Carla Robertson**

There had been circulated **Report No HLC/065/23** by the Principal Solicitor relating to an application which has been received from Carla Robertson for the grant of a private hire car driver's licence (Ward 19 – Inverness South). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The applicant was not in attendance.

The Committee **AGREED to GRANT DELEGATED POWERS** to the Principal Solicitor to **REFUSE** the application should the applicant not undergo to a valid right to work check and submit a valid UK driver's licence to the licensing authority by 9 October 2023.

**8. Civic Government (Scotland) Act 1982  
Market Operator's licence  
Achd Riaghaltais Chatharra (Alba) 1982  
(Gaelic Required)**

**8.1 Application for the renewal of a market operator's licence – Falcon Square, Inverness.**

There had been circulated **Report No HLC/066/23** by the Principal Solicitor relating to an application which has been received from Savills c/o Eastgate Centre for the renewal of a market operator's licence in respect of premises Falcon Square, Inverness (Ward 14 – Inverness Central). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

Veronica Mackintosh, on behalf of the applicant, advised that while no licensable activity was planned for the rest of this year, they wished to continue with their market operator's licence to allow for any such activities going forward.

Following discussion, the Committee **AGREED** to **GRANT** the application for renewal of a market operator's licence subject to the following conditions:

- that no licensable activity take place until a certificate of public liability insurance has been submitted to the satisfaction of the licensing authority
- that no licensable activity take place until a list of vendors has been submitted to the satisfaction of the licensing authority

**9. 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.**

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

**10.1 Application for grant of short term let licence – Badnaheen, Altnabreac, Halkirk, KW12 6UR**

**Declaration of Interest: Mr K Rosie declared an interest in this item on the grounds he was a short-term let accommodation provider and he left the meeting and took no part in the discussion and determination of this item.**

There had been circulated **to Members only Report No HLC/067/23** by the Principal Solicitor relating to an application for the grant of a short term let licence in respect of Badnaheen, Altnabreac, Halkirk, KW12 6UR (Ward 03 – Wick and East Caithness). The Committee was invited to determine this matter in accordance with the Council’s Hearings Procedure.

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

Thereafter, Ms E Knox seconded by Ms L Johnston **moved** to **REFUSE** the application on the grounds the applicant was not a fit and proper person to a hold licence.

As an **amendment**, Mr S Kennedy seconded Dr C Birt moved to **DEFER** consideration of the application until the outcome of the applicant’s criminal case had been determined, or to the last Committee before the application was deemed to have been granted, whichever date was earlier.

On a vote being taken, the **MOTION** received **3** votes, the **AMENDMENT** received **3** votes with no abstentions, the votes having being cast as follows:-

**For the Motion:** Mr J Grafton, Ms L Johnson, Ms E Knox.

**For the Amendment:** Dr C Birt, Mr S Kennedy, Mr D Macpherson.

**Abstentions:** No Abstentions

On there being an equality of votes, the Chair cast his second and determining vote in favour of the **AMENDMENT** which became the finding of the meeting.

## **Decision**

The Committee **AGREED** to **DEFER** consideration of the application until the outcome of the applicant’s criminal case had been determined, or to the last Committee before the application was deemed to have been granted, whichever date was earlier.

- 11. 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**

### **11.1 Application for a private hire car driver’s licence – Jozsef Simo**

There had been circulated **to members only Report No HLC/068/23** by the Principal Solicitor relating to an application which has been received from Jozsef Simo for the grant of a private hire car driver’s licence (Ward 15 – Inverness Ness-side). 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 in relation to the application.

The Committee **AGREED** to **GRANT** the application for a private hire car driver's licence.

### **11.2 Application for a private hire car driver's licence – Muhammed Naveed**

There had been circulated **to members only Report No HLC/069/23** by the Principal Solicitor relating to an application which has been received from Muhammed Naveed for the renewal of a private hire car driver's licence (Ward 15 – Inverness Ness-side). 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 in relation to the application.

The Committee **AGREED** to **GRANT** the application for a private hire car driver's licence.

The meeting closed at 12.45pm.