

## Highland Licensing Committee

Meeting – 7 February 2017

Agenda Item	<b>9.1</b>
Report No	<b>HLC/010/17</b>

### Application for second hand vehicle dealer's licence

**Alexander Kevin Maclellan, Dornoch MOT Centre, Dornoch (Ward 5 - East Sutherland and Edderton)**

### Report by Principal Solicitor – Regulatory Services

#### Summary

This report relates to an application for the grant of a second hand vehicle dealer's licence in respect of Alexander Kevin Maclellan, Dornoch MOT Centre, Dornoch.

This item is subject to a formal hearing procedure.

#### 1.0 Background

- 1.1 The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 (the "Act") a licence will be required for the sale of second hand motor vehicles.

#### 2.0 Process

- 2.1 An application for the grant of a second hand vehicle dealer's licence was received on 19 September 2016 from Alexander Kevin Maclellan in respect of premises known as Dornoch MOT Centre, Dornoch. While the address given in the application for Dornoch MOT Centre is Castle Street, Dornoch, the premises from which the applicant is seeking to trade as a second hand dealer is the Dornoch MOT Centre garage premises situated on Church Street, Dornoch close to its junction with Dornoch Square. A plan showing the location of this garage premises outlined and hatched in red is appended to this report (**Appendix 1**). The applicant had previously been licensed as a second hand vehicle dealer but the licence lapsed on 20 August 2016.

- 2.2 The application was copied to the following consultees:

- Police Scotland
- Scottish Fire and Rescue Service
- Trading Standards
- Planning
- Building Standards
- Roads

- 2.3 A late objection was received from the Senior Engineer, Roads and Transport Service on 2 November 2016, objecting on the basis that a licence to deal in second hand cars in this location would exacerbate parking problems. The

Senior Engineer advised that she had been unable to respond timeously as she had had to wait for a response from the Waste Team who had dealt with the majority of the issues which had arisen with the premises.

- 2.4** The late objection was copied to the applicant who, on 17 November 2016, amended his application to name the premises from which he sought to operate as his home address at 122 Milnafua, Alness.
- 2.5** The amended application was copied to the same consultees as before, and also to the Council's Housing Services, given that 122 Milnafua is a Council-owned domestic dwelling house tenanted by the applicant.
- 2.6** Housing Services objected to the amended application on the basis that the house at 122 Milnafua was not suitable for use as a second hand car dealer's business because the curtilage of the house was very small and the disruption likely to be caused by such a business in this densely populated residential area, with a severe shortage of parking, would be unacceptable. As a tenant, the applicant would in any event require the Council's consent, as landlord, to his operating any form of business from his Council house and Housing Services would not be prepared to give such consent.
- 2.7** The applicant was advised of the objection from Housing Services. On 8 December 2016 he then amended his licence application once again to revert back to the Dornoch MOT Centre premises.
- 2.8** Once again, the amended application was copied to the same consultees as previously. In response, timeous objections were then received from the Senior Engineer, Roads and Transport Service (**Appendix 2**) and from the Council's Environmental Health Service (**Appendix 3**).
- 2.9** A copy of this report and the two objections has been sent to the applicant who, in the terms of Paragraph 4(2) of the Act, has been invited to attend and will be provided with an opportunity to be heard by the Committee.

### **3.0 Policies**

- 3.1** The following policies are relevant to this application:-

Highland Council second hand vehicle dealers conditions. A copy of these can be accessed at:-

[www.highland.gov.uk/businessinformation/licensing/civicgovernmentlicensing](http://www.highland.gov.uk/businessinformation/licensing/civicgovernmentlicensing)  
or a hard copy can be supplied where requested.

### **4.0 Determining issues**

- 4.1** Paragraph 5(3) of Schedule 1 of the Civic Government (Scotland) Act 1982 states that a licensing authority may refuse an application to grant or renew a licence where:
- (a) the applicant or anyone else detailed on the application is not a fit and proper person;
  - (b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;

- (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to
  - (i) the location, character or condition of premises or the character or condition of the vehicle or vessel,
  - (ii) the nature and extent of the proposed activity,
  - (iii) the kind of persons likely to be in the premises, vehicle or vessel,
  - (iv) the possibility of undue public nuisance, or
  - (v) public order or public safety; or
- (d) there is other good reason for refusing the application.

**4.2** If required the Principal Solicitor will offer particular advice on the criteria relating to this particular application.

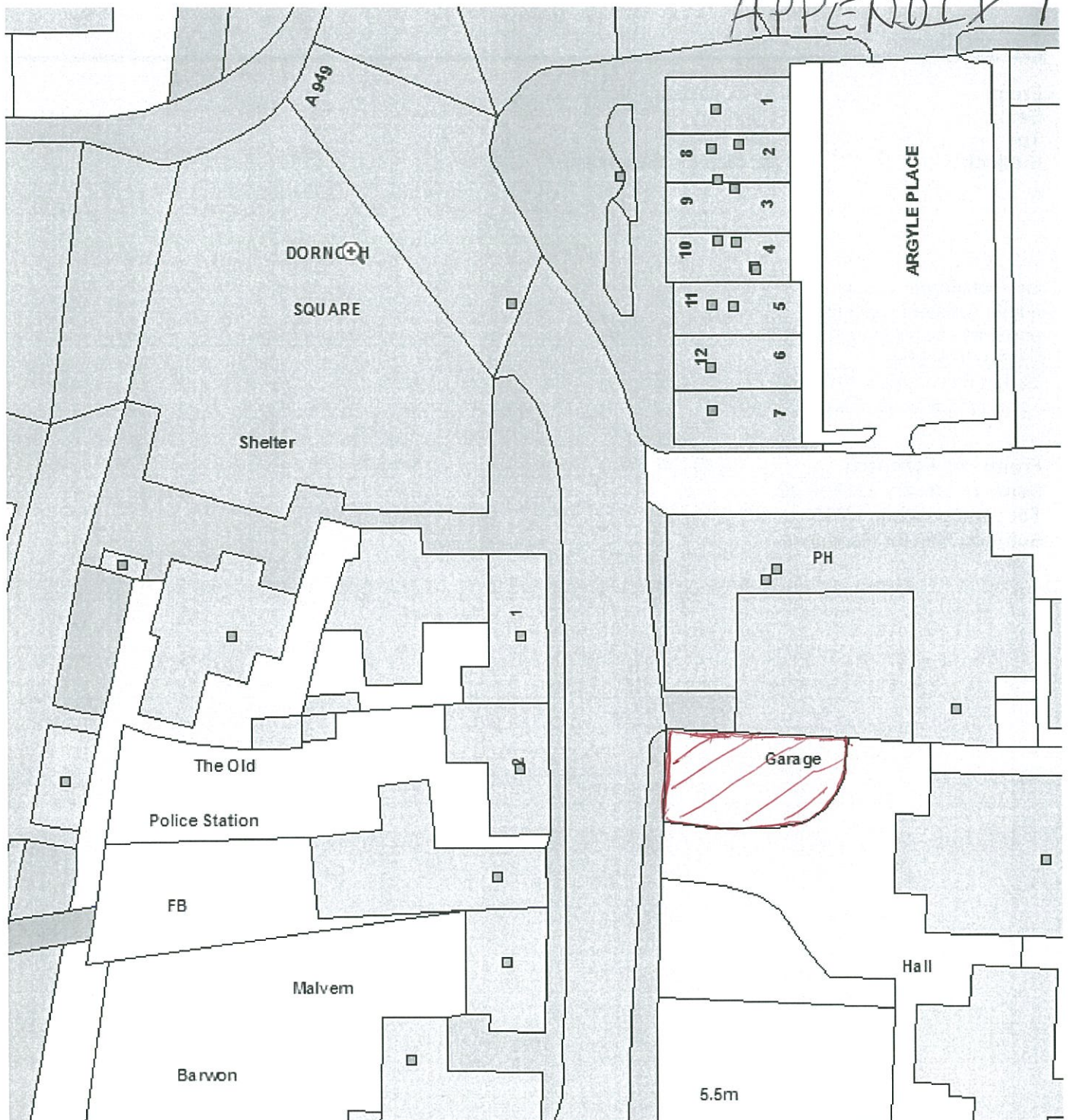
<p><b>Recommendation</b></p>
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<p>Members are invited to determine the application.</p>
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Officer Reference: Lisa Donaldson  
Date: 18 January 2017

Background Papers: Civic Government (Scotland) Act 1982

# APPENDIX 1



APPENDIX 2

**Lisa Donaldson - Wick**

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**From:** Joanne Sutherland  
**Sent:** 12 December 2016 17:06  
**To:** Lisa Donaldson - Wick; [REDACTED]  
[REDACTED]  
Robertson; Sheila Tomelty  
**Cc:** Jim Holden; June Ross  
**Subject:** RE: Application for the Grant of Second Motor Dealer's Licence - Alexander K MacLennan - Dornoch MOT Centre

Hi Lisa,

Roads would still object to the application with the same reasons as for the original application:

The Dornoch MOT centre is located on Church Street close to the junction of Dornoch Square and Church Street where parking is very limited and over the years we have received numerous complaints regarding vehicles associated with this business being abandoned or obstructing parking and visibility. There is no private parking associated with this business and so public parking/on street parking is the only option available.

This application is for the granting of a second hand motor dealers license which would only increase the vehicles associated with this business and exacerbate the issues. Church Street leads to the beach, golf course, caravan site and Littleton of Dornoch and is a very busy stretch of road so in the interests of all road users (vehicles and pedestrians) I have to object to any proposed business that would add to the parking problems faced by the community.

Thanks

Joanne Sutherland  
Senior Engineer

Community Services  
Roads & Transport  
Caithness & Sutherland

Tel: 01955 609668 (Wick)  
Tel: 01408 635208 (Golspie)



# APPENDIX 3

**Lisa Donaldson - Wick**

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**From:** Chris Ratter  
**Sent:** 19 December 2016 13:20  
**To:** Lisa Donaldson - Wick  
**Cc:** Joanne Sutherland; Clifford Smith  
**Subject:** RE: Application for the Grant of Second Motor Dealer's Licence - Alexander K MacLennan - Dornoch MOT Centre

Hi Lisa,

I'd agree entirely with Josie. Parking and vehicles associated with the garage has been an issue for many years now. The garage has used the car park below the police station to park vehicles in the past as there is little other space to park vehicles at the premises. Over the years we've wasted quite a lot of time responding to complaints of abandoned vehicles only to discover that they were being parked on the street awaiting repairs.

I'm not sure where he intends to store the vehicles but I can't see how the business can comply with condition 4 of the licence conditions "The licence holder shall store vehicles purchased in the course of his dealing only on the business premises specified in the licence or on other premises approved by the Council." If they are being parked on the street, they may fall foul of condition 6 "Notwithstanding the above or any other conditions annexed a licence holder while trading shall comply with any reasonable order or instruction given by a Constable -

(i) for the prevention of obstruction or annoyance to the public or to the occupiers of any premises; or  
(ii) in connection with any emergency or disturbance."

Regards

Chris