

Highland Council

Minute of the **Highland Licensing Committee** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday, 14 February 2023 at 10.00am.

Present:

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

In attendance:

Ms C McArthur, Principal Solicitor, Regulatory Services
Mr I Meredith, Solicitor, Regulatory Services
Mr M Elsey, Senior Licensing Officer
Ms A Macrae, Committee Administrator

Also attending:

Mr M Macdonald, Police Scotland

Item 7.1: Mr Mackenzie, applicant
Item 8.1: Frederic Kramer, applicant
Item 9.1: Wojciech Kobialka
Item 11.1: Kevin Clark, 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

There were no apologies for absence.

2. Declarations of interest Foillseachaidhean Com-pàirt

Item 7.1: Mr D Macpherson

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 10 January 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 15 December 2022 to 1 February 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. Civic Government (Scotland) Act 1982
Street Traders licence
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtas airson ceadachd neach-malairt sràide**

6.1 Application for the grant of a street trader's licence – Mark Huis

There had been circulated Report No HLC/012/23 by the Principal Solicitor relating to an application which had been received from Mark Huis for the grant of a street traders licence (Ward 20 – Badenoch & Strathspey). The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

The applicant was not in attendance.

The Senior Licensing Officer advised that Environmental Health had been unable to inspect the applicant's catering trailer and that several attempts by them and licensing staff to contact the applicant had been unsuccessful. The applicant had also been invited to attend the meeting for the hearing.

Following discussion, the Committee **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor to refuse the application should the applicant not present and have their catering trailer pass an inspection by Environmental Health by 28 February 2023.

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

**7.1 Application for the grant of a second hand vehicle dealers licence –
Mack Motors Balloch Ltd., Judes View, Cullernie Road, Inverness.**

Declaration of Interest: Mr D Macpherson declared an interest in this item on the grounds of his involvement in the supply and sourcing of motor vehicles and he left the meeting for the determination of this item.

There had been circulated Report No HLC/013/23 by the Principal Solicitor relating to an application which has been received from Mack Motors Balloch Ltd. for the grant of a second hand vehicle dealers licence in respect of premises at Judes View, Cullernie Road, Inverness (Ward 17 – Culloden & Ardersier). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Senior Licensing Officer advised that the Council's Planning Service had submitted an objection dated 20 December 2022 in relation to the application on the basis that the planning consent was required for the operation of the business at this address

The Board then heard from Mr Mackenzie, applicant in relation to the application.

The Principal Solicitor advised that the objection by the Planning Service was a separate regulatory matter and it was understood the applicant had now applied for planning permission. There was no further information within the objection to indicate there was a reason to refuse the application in terms of the licensing legislation.

The Committee **AGREED** to **GRANT** the application subject to the standard conditions.

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

8.1 Application for grant of taxi driver's licence – Frederic Kramer

There had been circulated Report No HLC/014/23 by the Principal Solicitor relating to an application which had been received from Frederic Kramer for the grant of a taxi driver's licence. The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

The Senior Licensing Officer advised that the applicant had not yet sat and passed the Council's taxi driver's knowledge test and had still to undergo a right to work check. He had submitted a foreign conviction check as required as he was born outwith the UK, however as the document was in French, an authenticated translated copy of the document still required to be submitted by the applicant.

The Principal Solicitor advised that the Licensing Authority had twelve months to determine the application as set by the legislation and that the application had to be determined by 2 March 2023. If the applicant considered he could not sit and pass a knowledge test by that date, he had the option to withdraw his application. This would prevent the application from being formally refused which would mean he could not reapply for a period of 1 year.

The Committee heard from the applicant during which he confirmed that he would not be in a position to sit and pass the test before this date due to family reasons and that he wished to withdraw his application.

The Committee **NOTED** that the applicant had withdrawn his application.

**9. Civic Government (Scotland) Act 1982
Private hire car driver's / operator's licences
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtasan airson ceadachdan do dhràibhearán / oibrichean chàraichean
airson fastadh priobhaideach**

9.1 Application for a private hire car operator's licence – Wojciech Kobialka

There had been circulated Report No HLC/015/23 by the Principal Solicitor relating to an application which had been received from Wojciech Kobialka for a private hire car operator's licence (Ward 16 – Inverness Millburn). The Committee was invited to determine this application in accordance with the Council's Hearings Procedure.

The Senior Licensing Officer advised that before the licence could be issued under delegated powers, the applicant required to provide details of a suitable vehicle which then would require to undergo, and pass, a PHC inspection and meter test (if required). The insurance, MOT and the registration documents would require to be submitted and checked.

The Principal Solicitor advised that the Licensing Authority had twelve months to determine the application as set by the legislation and that the application had to be determined by 17 March 2023. If the applicant considered he could not present a vehicle by that date he had the option to withdraw his application. This would prevent it from being formally refused which would mean he could not re-apply for a period of 1 year.

The Committee heard from the applicant during which he explained that he had not been aware of the timeframe for the determination of the application and

recently he had been experiencing some health issues. He confirmed that he wished to proceed with the application taking into account the application had to be determined by 17 March 2023.

The Committee **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor to refuse the application should the applicant not present and have their private hire car pass an inspection, have the meter tested (if required) and submit their insurance and MOT documents by 17 March 2023.

10. 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.

**11. Civic Government (Scotland) Act 1982
Private hire car driver's / operator's licences
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtasan airson ceadaichdan do dhràibhearain / oibrichean chàraichean
airson fastadh priobhaideach**

11.1 Application for a temporary private hire car driver's licence – Kevin Clark

There had been circulated to Members only Report No HLC/016/23 by the Principal Solicitor relating to an application which had been received from Kevin Clark for a temporary private hire car driver's 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 M Macdonald, Police Scotland and the applicant.

Ms L Johnston seconded by Ms E Knox **moved** that the application be refused on the grounds the applicant was not a fit and proper person to be the holder of such a licence for the reasons set out in Police Scotland's letter of objection.

Mr W Mackay seconded by Mr S Kennedy **moved** as an **amendment** that the application be granted.

On a vote being taken, there were 7 votes for the motion, 5 for the amendment and no abstentions, and the **MOTION** was carried, the votes having been cast as follows:

For the motion: Mr C Birt, Ms J Hendry, Ms L Johnston, Ms E Knox, Mr D Millar, Mr P Oldham, Mr K Rosie.

For the amendment: Mr J Bruce, Mr J Grafton, Mr S Kennedy, Mr W Mackay, Mr D Macpherson.

Decision

The Committee **REFUSED** the application under paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The meeting closed at 11.25am.