

## LICENSING SUB-COMMITTEE

FRIDAY, 13TH OCTOBER, 2023

**Present:** Councillors A Stirling (Chair), M Ewenson (Vice-Chair), G Crowson, J Gifford, T Mason, L McWhinnie, R Menard and J Nicol.

**Apologies:** None.

**Officers:** Kelly Bissett (Trainee Solicitor), Nicole Chidester (Committee Officer), Lucas Duncan (Civic Licensing Standards Officer), Shirley Duthie (Senior Authorised Officer), Gordon McWilliam (Civic Licensing Standards Officer), and Fiona Stewart (Senior Solicitor).

**Also in attendance:** Sergeant Neil Grant (Police Scotland).

### **1 SEDERUNT AND DECLARATION OF MEMBERS' INTERESTS**

The Chair asked Members if they had any interests to declare, in terms of the Councillors' Code of Conduct. There were no interests declared.

### **2A PUBLIC SECTOR EQUALITY DUTY**

In taking decisions on the undernoted items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

- (1) To have due regard to the need to:-
  - (a) eliminate discrimination, harassment and victimisation;
  - (b) advance equality and opportunity between those who share a protected characteristic and persons who do not share it; and
  - (c) foster good relations between those who share a protected characteristic and persons who do not share it, and

to consider, where an Integrated Impact Assessment has been provided, its contents and to take those into consideration when reaching a decision.

### **2B CONFIDENTIAL INFORMATION**

The Sub-Committee **agreed**, in terms of Section 50A (2) of the Local Government (Scotland) Act 1973, as amended, to exclude the public and media representatives from the meeting for Items 6 - 8 of the business below on account of the likely disclosure of confidential information in breach of the obligation of confidence.

### **3 MINUTE OF THE MEETING OF 1 SEPTEMBER 2023**

There had been circulated and was **approved** as a correct record the Minute of the Meeting of the Licensing Sub-Committee of 1 September 2023.

### **4 APPLICATION FOR GRANT OF SHORT-TERM LET LICENCE - 33 COWIE PARK, STONEHAVEN, AB39 2PZ**

There had been circulated a report dated 29 September 2023, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a Short-Term Let Licence for 33 Cowie Park, Stonehaven, AB39 2PZ, in respect of which objections from Members of the Public had been lodged in response to the display of the site notice, and (2) detailed information relevant to the application.

Members confirmed they had received and reviewed the supplementary pack.

Having heard from a representative of the Applicant Company, Mr Dave Hepworth, and from the following objectors: Ms Stacey Coull and Mr Ian Coull who was representing Mrs Sonia Coull, the Sub-Committee **agreed** that objections from Stacey Coull were competent/relevant; that the objection from Mr Bruce was partially relevant/competent in relation to stress and nuisance, but was not competent in relation to the title deed; and that the objection from Sonia Coull was not competent nor relevant and would not be taken into account.

Members **agreed** that there was sufficient evidence before them to allow a determination to be made; following which, Councillor Crowson, seconded by Councillor Ewenson moved that the licence be granted for a period of 1 year subject to local conditions, particularly those associated with anti-social behaviour and security/privacy and to encourage the applicant to improve welcome pack and signage for guests.

As an amendment, Councillor Mason, seconded by Councillor Gifford, moved that the application be refused on the grounds of legal test as it related to nuisance and public safety (Legal Test section C, Items i, iv and v).

Members of the Sub-Committee voted:

For the Motion:	(6)	Councillors Stirling, Crowson, Ewenson, Mason, McWhinnie and Nicol
For the Amendment:	(2)	Councillors Gifford and Mason

The Motion was therefore carried, and the Sub-Committee **agreed** to grant the licence for a period of 1 year subject to local conditions, particularly those associated with anti-social behaviour and security/privacy and to encourage the applicant to improve welcome pack and signage for guests.

## **5 APPLICATION FOR GRANT OF SHORT-TERM LET LICENCE - 10 KIRK MEWS, WATSON STREET, BANCHORY, AB31 5NS**

There had been circulated a report dated 28 September 2023, by the Director of Environment and Infrastructure Services, which (1) requested that consideration be given to an application for the grant of a Short-Term Let Licence for 10 Kirk Mews, Watson Street, Banchory, AB31 5NS, in respect of which objections from Members of the Public had been lodged in response to the display of the site notice, and (2) detailed information relevant to the application.

Having heard from applicant, Mr Duncan Alexander Booth, and one objector, Mr David Alexander, the Sub-committee agreed that Mr David Alexander's objection was competent in part, but that the comments about title deed issues were not competent

nor relevant; that Randal and Kathleen McDonald's objections were partially relevant and competent, but the comments about the impact on the value and saleability of the properties and the restrictions in title deeds were not competent nor relevant; that Norman Adie's objection was partially relevant and competent, except for the comments on restrictions in title deeds; and that Isabell Roy's objection was partially relevant and competent, but the comments on the value and saleability of the property were not competent nor relevant.

Members confirmed they had received and reviewed the supplementary pack. At this point in the meeting, Members **agreed** to suspend standing order 2.1.4 to continue beyond 1pm.

Having considered the comments from the applicant and objectors, Members **agreed** that there was sufficient evidence before them to allow a determination to be made. Having encouraged the applicant to improve signage and welcome information, the Sub Committee unanimously **agreed:-**

- (1) to GRANT the application for Short-Term Let Licence for a period of 1 year for 10 Kirk Mews, Watson Street, Banchory, AB31 5NS subject to local conditions; and
- (2) to instruct Officers to provide both the applicant and objector with details about compliance mechanisms, and contact details for Licensing Standards Officers and relevant Services to lodge complaints.

## **6 APPLICATION FOR RENEWAL OF TAXI DRIVER'S LICENCE (CASE NO. 1088)**

There had been circulated a report dated 22 September 2023, by the Director of Business Services, which (1) requested that consideration be given to an application for the renewal of a taxi driver's licence (identified as Case No. 1088), in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

Having heard from the applicant and the Chief Constable's representative, the Sub-Committee unanimously **agreed:-**

- (1) that there was sufficient evidence before them to allow a determination to be made; and
- (2) to GRANT the application for renewal of taxi driver's licence for a period of 3 years as none of the grounds for refusal were met.

## **7 APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (CASE NO. 1089)**

There had been circulated a report dated 21 September 2023, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 1089), in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

The Sub-Committee **agreed** to hear the contents of a letter provided by the applicant's representative. Having considered this information, and having heard from the applicant and the Chief Constable's representative, the Sub-Committee **agreed:-**

- (1) that there was not sufficient evidence before them to allow a determination to be made; and
- (2) to defer consideration of the application for one cycle to allow for further information to be supplied regarding the clarification of the class of drug involved with the charge and any other information that would assist the Sub-Committee in understanding what led to the charge.

## 8 APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (CASE NO. 1090)

There had been circulated a report dated 28 September 2023, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 1090), in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

There was a typographical error with one of the dates on the Chief Constable's representation which was listed erroneously as 2021 instead of 2012.

It was **noted** that the applicant was not available when dialled into the meeting, but the Sub-Committee **agreed** to proceed in his absence.

Having heard from the Chief Constable's representative, the Sub-Committee unanimously **agreed**:-

- (1) that there was sufficient evidence before them to allow a determination to be made; and
- (2) to REFUSE the application for a taxi driver's licence on the basis that the applicant was not a fit and proper person to hold a licence.