



**MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE OF THE CABINET**

**WEDNESDAY 28 AUGUST 2019
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor J Findlay
Councillor J Henderson
Councillor J McMillan (Depute Convener)
Councillor J Williamson

Other Councillors Present:

Councillor S Akhtar
Councillor C Hoy

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms S Fitzpatrick, Team Leader – Licensing & Landlord Registration
Ms C Shiel, Licensing Officer

Others Present:

PC H Bowsher, Police Scotland
Inspector Andrew Harborow, Police Scotland
Ms T Nisbet

Clerk:

Ms B Crichton

Apologies:

Councillor C McGinn (Convener)
Councillor T Trotter
Mr J Nisbet, Applicant

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – LICENSING SUB COMMITTEE 13 JUNE 2019

The minutes of the meeting of the Licensing Sub Committee of 13 June 2019 were approved.

2. APPLICATION FOR GRANT FOR A TEMPORARY PUBLIC ENTERTAINMENT LICENCE

Mr James B Nisbet

The Sub-Committee had received an application for the grant of a Temporary Public Entertainment Licence from Mr James Nisbet of Grieve's Cottage, Bughtknowe Farm, Humbie. The application was for a licence to hold motocross racing events and practice sessions at Bughtknowe Farm. It was established that the proposed motocross event was to be held on 7-8 September 2019. Ian Forrest, Legal Adviser, advised members that the background to this application was the same as the previous application made for a Full Public Entertainment Licence (PEL) heard at the Licensing Sub-Committee meeting on 9 May 2019.

Ms T Nisbet was present to represent the applicant, and submitted apologies on behalf of Mr Nisbet. Ms Nisbet stated that the organisers of the original motocross event had decided to move the event to another track due to the uncertainty around the granting of a licence; therefore, the application being made was to use the same dates (7-8 September 2019) for practice days and to conduct noise monitoring. Ms. Nisbet clarified that the application was now to conduct three practice days; the original practice day to which the application referred, and two additional practice days to take place on 7-8 September. She advised that a noise monitoring specialist from Manchester had been engaged to conduct noise monitoring previously; work could not be completed due to complaints from neighbours, but it was hoped that noise monitoring would be completed over the two practice days in September. Ms Nisbet advised that work had also been done on the road leading to the track.

In response to questions from Members, Ms Nisbet confirmed that the sporting event referred to in the supporting letter from Anne Wood, Quad Racing Scotland Club Secretary, dated 25 July 2019, was no longer going ahead at Bughtknowe Farm. She also confirmed that Mr Nisbet had been unable to produce a comprehensive noise management plan due to being unable to complete noise testing after neighbours raised complaints. She advised that to the landscape and variations in the weather, two days of noise testing would be required to develop a comprehensive noise monitoring plan.

In response to further questions from Members, Ms Nisbet confirmed that Mr Nisbet had not written to the Safety Advisory Group (SAG), and had written only to the Licensing Officers to advise of progress. Ms Nisbet advised that Mr Nisbet was keen to establish a specific noise barrier.

Inspector Andrew Harborow advised that the Police had no comment to make.

Ms Nisbet stated that, should the application be granted, Mr Nisbet would work with SAG as well as the person engaged to monitor noise.

Councillor McMillan read from Mr Nisbet's letter to Licensing Officers describing the day the noise monitoring took place. Councillor McMillan noted that the Licensing Sub-Committee had seen no evidence of formal noise measures having been put in place.

Members sought clarification on whether the practice days would have to take place on the proposed dates, and suggested that later dates would allow for engagement with SAG and Environmental Health. Ms Nisbet advised that ideally 7-8 September would be used due to the number of bikes available to take part in the practice days.

Members adjourned to discuss the application further in private.

Decision

The Sub-Committee unanimously agreed to refuse the application as they did not consider the premises to be suitable for the proposed activity, having regard to:

- (i) The location, character or condition of the premises;
- (ii) The nature and extent of the proposed activity;
- (iii) The possibility of undue public nuisance and
- (iv) Public order or public safety.

Referring back to the debate, the Chair encouraged Mr Nisbet to explore how a comprehensive noise management plan could be devised. He advised that Mr Nisbet come back with an application containing plans of how a controlled practice day would be organised, at which all stakeholders could be in attendance, to try to provide an evidence-based solution.

***Sederunt:** Councillors Akhtar and Hoy left the meeting.*

3. DELEGATION OF AUTHORITY UNDER CIVIC GOVERNMENT (SCOTLAND) ACT 1982 AND OTHER LICENSING LEGISLATION - AMENDMENT TO DELEGATED POWERS LIST

A report was submitted by the Depute Chief Executive (Resources and People Services) presenting to Committee the Delegation of Authority under Civic Government (Scotland) Act 1982 - Amendment to Delegated Powers List for approval.

Ian Forrest, Senior Solicitor, presented the report, and provided background information on delegated powers. He advised that since the Licensing Sub-Committee approved the existing list of delegated powers in 2013, new licence types had come into the ambit of the Licensing Sub-Committee, including: Houses of Multiple Occupancy (HMO) Licences; Caravan Park Licences; licences relating to explosives and oil; and animal-type cases.

Mr Forrest explained that Officers already held the power to grant licences under delegated powers, but clarification was being sought that conditions may be added to said licences. Mr Forrest added that the recommendations did not seek to change the process of items being presented to Licensing Sub-Committee; controversial items or those with objections would continue be heard by the Licensing Sub-Committee as per current procedures.

Councillor McMillan enquired how people could access a list of licences granted. Ms C Shiel, Licensing Officer, advised that East Lothian Council is required to keep a public record of HMO licences granted; East Lothian Council held no facility to publish this online, but members of the public could make enquiries. Mr Forrest advised that it would be possible to access specific records should Councillors wish to enquire about a taxi licensee.

Inspector Andrew Harborow advised that the Police had no comment to make.

Councillor Findlay requested that the Committee be kept informed if a new type of licence were to come under delegated powers. Mr Forrest agreed that the Committee could be kept informed of this.

Decision

The Sub-Committee agreed to:

- i. accept the amendment to the list of delegated powers.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The public were excluded from the following business which contained exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

4. APPLICATION FOR GRANT FOR A FULL PUBLIC ENTERTAINMENT LICENCE

The Sub-Committee considered one application for grant of a licence and it was refused.

Signed

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Councillor J McMillan
Chair of the Licensing Sub-Committee