



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

**THURSDAY 13 JUNE 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID ONLINE MEETING FACILITY**

Committee Members Present:

Councillor C McGinn (Convener)
Councillor C Cassini
Councillor C McFarlane
Councillor J McMillan

Other Councillors Present:

None

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms C Aitken, Licensing Officer
Ms K Harling, Licensing Standards Officer
Ms E Clater, Service Manager – Children and Young People Community Resources

Others Present:

PC L Wilson, Police Scotland

Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor J Findlay
Councillor T Trotter

Declarations of Interest:

None

**1. MINUTES FOR APPROVAL
Licensing Sub-Committee, 9 May 2024**

Members approved the minutes as an accurate record of the meeting.

**2. APPLICATION FOR GRANT OF A TEMPORARY PUBLIC ENTERTAINMENT LICENCE
Mythos Historic Events, Besieged, Yellowcraig Overflow Car Park, Dirleton**

An application had been received from Alan Muir of Mythos Historic Events for a temporary public entertainment licence (PEL) to run a two-day historical event on 7-8 September at Yellowcraig Overflow Car Park, Dirleton. The application had come before Members due to representation from the Licensing Standards Officers (LSO) and Police Scotland.

Mr Muir spoke to the application. He gave a brief account of the medieval history of the area which the event would highlight. He explained that his background was as an historical re-enactor and not as an event planner, and said the Safety Advisory Group (SAG) had educated him in the requirements of staging a public event. He advised that he was financing the event privately; ticketing would recoup some costs, but he did not expect to make a profit.

Karen Harling, Licensing Standards Officer (LSO), spoke on behalf of the SAG, who had received an application for a re-enactment festival to include music, dance, stage fighting, fires outside, and 'have-a-go' archery. She highlighted that Mr Muir was the proposed day-to-day manager with overall responsibility for the event. The maximum number of participants each day would be 500, and she highlighted that further details were contained within the event plan. She advised that the seventh iteration of the event plan was still not fully compliant in terms of assessment by the Scottish Fire and Rescue Service. The deadline for a finalised event plan submission was 17 June prior to the SAG meeting on 25 June. She advised that there had been substantial input from the SAG, but said their input must only be guidance. She noted that events of a similar size should normally only require the input of one SAG meeting; only larger events would ordinarily require three SAG meetings. She highlighted information which remained outstanding, such as the qualifications of those running the archery, and said position of the archery and storage of weapons were concerns. She reiterated that Mr Muir had overall responsibility for the event, and that he would be responsible for instructing groups of re-enactors to ensure their compliance. She advised that any increase in attendees would require further consultation and would cause significant time pressure. She highlighted her recommended conditions, which took into account feedback from various consultees. She pointed out that the public liability insurance details had not been provided for the event, and highlighted concerns regarding compliance with the GB Archery Code of Practice.

Responding to points raised by the LSO, Mr Muir pointed out that 6ft-high heras fencing and a roped off area were in the presented plans. The LSO advised that the SAG would be more comfortable if conditions were attached to the grant of the PEL, so these became stipulations and not only expectations. Mr Muir said the plan adhered to GB Archery regulations; the arrow direction was well clear of the public area and had a clear overshoot area. He advised that a second backing sheet was also being considered. He advised that public liability insurance had not been purchased, but would be taken out upon grant of the PEL.

Mr Muir answered a number of questions from Councillor McMillan. Mr Muir described in detail the archery overfire area, backing sheets, and surroundings, to ensure adequate public flow and safety. He advised that Crexcell would control ticketing, numbers, and road management; as traffic management officers would control the main road to Dirleton, there should be minimal disruption. On the day, Mr Muir would liaise with Crexcell and other stewards, and would provide written instructions before the event. He would check on their work throughout the weekend, and would be an event organiser and not a re-enactor. He did not expect that anyone would try to break into the event, and had not encountered any problems in 20 years of attending such events. He described audiences as interested, informed, and well behaved.

The Convener and LSO raised some alterations to be made to the event plan, including wording relating to smoking around the encampment, use of battery candles, and changes required in terms of fire safety. Mr Muir gave reassurance that these changes would be made prior to the SAG deadline on 17 June.

Councillor Cassini felt that consumption of alcohol at the event posed an unnecessary risk and suggested that bottles of mead be sold only after the main battle had finished and when people were ready to leave. Mr Muir responded that this would not be well received by the seller, who would have to sell for the duration to make the event viable for them. He reassured Members that he did not see the consumption of mead causing issue at the event.

Responding to further questions from the Convener and Councillor McMillan, Mr Muir advised that he had highlighted the event to the Dirleton Village Association, and said the SAG had recommended a communication be circulated to residents for awareness of the event. He advised that the weapons would be blunted to certain specifications so they would not be dangerous. Weapons on display would be behind roping, and re-enactors would stand behind the table. Those responsible for the weapons would assess the person wishing to hold the weapon, but Mr Muir reiterated that the weapons were not considered to be dangerous. When not in use, weapons would be kept in the tents which would always be roped off. Mr Muir was content to state that ultimate responsibility for the event was his own, but added that the re-enactors were experienced in dealing with the public. He stated that he fully understood his duty and the purpose of the SAG process. He felt there was low risk of traffic becoming chaotic with proper road control and sufficient parking in place. He added that if the main parking area was overloaded, it would be possible to take some vehicles into the event parking.

The Convener commented that the SAG process was extremely beneficial. He recalled traffic problems in Yellowcraig during the pandemic, and said that good traffic management was key to ensure safety and that there would be no disruption to residents.

Councillor McMillan had been impressed by Mr Muir's honesty and openness, and took confidence from the answers provided. He wanted the LSO's conditions to be accepted, and suggested that Members delegate grant of the PEL to officers following final signoff by the SAG on 25 June.

Public liability insurance was discussed by Mr Muir, Members, and officers. The LSO advised that under the guidelines, applications for a PEL should be received with public liability insurance; the PEL would not be granted until this was received. Mr Muir said that the public liability insurance would cost £600, so he could not pay this until he had received a green light for the event.

Ian Forrest, Senior Solicitor and Legal Adviser, suggested that Members could agree that they were minded to grant subject to the suggested conditions, but could formally defer granting the PEL to officers following successful completion of the SAG process on 25 June and receipt of necessary public liability insurance. This course of action was formally proposed by Councillor McMillan and seconded by Councillor McFarlane.

The Convener then moved to a roll call vote on Councillor McMillan's proposal, and Members unanimously supported the proposal.

Decision

The Licensing Sub-Committee was minded to grant the application for the temporary public entertainment licence, but formally delegated the final grant to officers following:

- Successful completion of the SAG process on 25 June 2024; and
- Receipt of necessary public liability insurance.

Members also agreed that the temporary public entertainment licence would have the following conditions attached:

- The event perimeter (as defined in the Section 11 Land Reform (Scotland) Act 2003 boundary) to be fenced using 2m high heras fencing and the section of roping as shown on the scaled site plan 1b. The section of roping along the caravan access road to be patrolled by event stewards to prevent unauthorised access;
- The boundary area to be marshalled to direct the public to the entrance; and
- The event to fully adhere to 'Archery GB Code of Practice for Demonstrations, 'Have a Go's & Taster Sessions'.

3. APPLICATION FOR GRANT OF A LICENCE TO OPERATE A SHORT-TERM LET

10 Camptoun Steading, Drem

An application had been received from Ruaraidh Menzies and James Menzies for a licence to operate 10 Camptoun Steading, Drem, as a short-term let (STL). The application would be heard by the Licensing Sub-Committee on the basis that public objections had been received. The Sub-Committee was required to focus on the suitability of the property to operate as an STL, and on the applicants to hold an STL licence.

Mr Forrest highlighted the number and terms of the public objections. He confirmed that no objections had been received from any of the statutory consultees. He also highlighted Mr Menzies' response to the objections. He pointed out that Members' grounds for refusing a short-term let licence application were contained in the Civic Government (Scotland) Act; these did not include reasons relating to title deeds, which would be a civil court issue.

Ruaraidh Menzies spoke to the application. He had received guidance that the proposal did not represent a material change of use in planning terms, but he did not have a full response on this matter and would act accordingly when he had obtained this. He reassured Members that he and his brother were operating within their rights, and advice from their lawyer stated that the title deeds did not prohibit operation of the property as an STL. He advised of measures taken to promote responsible behaviour from guests and to minimise neighbour disruption, and would be happy to do more to provide neighbours with peace of mind. As there had been a complaint about the speed at which a guest had driven, he suggested he could install a larger speed restriction sign, which would also be visible to delivery drivers. He said there had been few complaints made, all of which had been dealt with immediately. He said he would be happy to engage with neighbours regarding noise complaints. He said their vested interest in the property was also due to his brother's intention to move in at a later point, so they wished to protect the community, septic system, etc.

Beth Cowie spoke against the application, and said that five of the fourteen properties had raised objections. She said neighbours lived alongside the Airbnb in a terrace arrangement. Her own main objection was that the proposals broke the burdens of the title deeds; she described these strong burdens, with details as exacting as the colour residents could paint their front door. She reported that the title deeds stated that a business could not be run from the properties. She also raised some concerns with guests, such as people being able to look into her property while consuming alcohol. She reiterated that her main objection was the breaking of title deeds, and that residents had been unable to do anything about this. She felt that all burdens in the title deeds would be meaningless if the applicants could run a business from their property. She also highlighted further concerns contained within the submitted objections.

Responding to questions from the Convener, Mr Forrest reiterated earlier advice that grounds for refusal of an STL licence were set out in the Civic Government (Scotland) Act, which related to the suitability of the property, and whether the applicant was a fit and proper person. He noted differing opinions of the objectors and the applicants regarding the burdens of the title deeds, and advised that this was a matter for parties to deal with amongst themselves. He stated that Members could not refuse a short-term let licence on the grounds of burdens within the title deeds. He noted that the applicant had obtained legal opinion contrary to the objectors' views; the applicant could address with his solicitor whether this legal advice could be shared with the objectors.

Councillor McMillan asked how the applicants intended to manage the property from their respective residences. Ruaraidh Menzies advised that he lived only a 12-minute drive from the property, so could act swiftly should an issue arise. He gave an account of communication with guests, which was usually through the Airbnb app, phone calls, and WhatsApp messages. He was unable to give a date for his brother's move into the property. He said that neighbours had been pleased when the brothers had purchased the derelict unfinished property. He advised the property had operated since early 2022, and some longer-term residents had stayed over the winter months.

Responding to a question from the Convener, Mr Menzies advised that the only complaint he was aware of had been raised with his brother over WhatsApp, and related to driving speed. He advised that most of the residents of Camptoun Steadings and Camptoun Holdings were in a WhatsApp group.

PC Lee Wilson had checked police systems and advised that no calls had been received in relation to the property.

Responding to a question from the Convener, Ms Cowie agreed that Jamie Menzies had generally responded respectfully and in a timely fashion to issues raised about the Airbnb via the WhatsApp group.

Councillor McMillan recalled other instances where an STL licence had been granted for a shorter period, and proposed 15 months as a suitable period. He reminded objectors that issues of speeding, environmental health, and noise could be reported through Police Scotland and Council systems; he said there was little that could be done about such issues unless they came to the attention of the police and/or local authority. He felt reassured about the management style of the property, and thought that a limited time on the licence may also be appropriate since Jamie Menzies had plans to move into the property. He saw no major reason to refuse the application, but the property was within a close community and relations had to be well managed. Mr Forrest responded that there must be clear reasoning for imposing a shorter period than the standard three years.

Mr Menzies volunteered to step up communication with neighbours as the more local resident. He said there had been significant work, risk, and cost associated with the property, and he felt that the objections were not grounds to go through the application process again in only 15 months. If Members were content with how the property was managed, Mr Menzies said he would be happy to be a more present manager for the residents and to tackle any issues that might arise, but would feel unfairly treated if a shorter licence period was imposed. Mr Forrest reminded Members that it remained within the power and remit of the Licensing Sub-Committee to call in a licence for review at any time if there were concerns or issues.

Responding to a question from Ms Cowie, the Convener advised that a licence may be reviewed following issues being raised, such as those relating to environmental health or antisocial behaviour; he advised that anyone wishing to complain contact the licensing team for further guidance.

Councillor McMillan acknowledged that the applicant did not agree to a 15-month duration on the licence, and felt Mr Menzies had made fair comment about cost, time, and risk. He had wanted to make sure that residents knew that Members were listening, but was willing to withdraw his proposal. He emphasised Mr Menzies' remarks about being available and stepping up to manage the property. He encouraged the applicants and neighbours to communicate, and encouraged reporting of issues if neighbours were unhappy. He also noted that there were planning issues still to be fully answered, although acknowledged that these were outwith the remit of the Licensing Sub-Committee.

The Convener said he had concerns with the new short-term let legislation, and said Members had to do their best to support communities within this framework. He then moved to a roll call vote, and Members unanimously agreed to grant the short-term let licence.

Decision

The Licensing Sub-Committee agreed to grant the short-term let licence.

Note: Summary of information

The Licensing Sub-Committee agreed to exclude the public from Item 3 in terms of paragraph 2 (information relating to tenants) of Schedule 7A to the Local Government (Scotland) Act 1973.

4. REMOVAL OF REQUIREMENT FOR DISPLAY OF PUBLIC NOTICE FOR HOUSE IN MULTIPLE OCCUPATION APPLICATION

The Sub-Committee agreed to disapply the requirement for display of the public notice for the house in multiple occupation (HMO) application.