

**ANGUS COUNCIL**

**CIVIC LICENSING COMMITTEE – 26 NOVEMBER 2020**

**VARIATION OF PUBLIC ENTERTAINMENT LICENCE**

**REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

**ABSTRACT**

The purpose of this report is to present an application for the variation of a Public Entertainment Licence in terms of Paragraph 10 of Schedule 1 to the Civic Government (Scotland) Act 1982 which requires to be determined by the Committee.

**1. RECOMMENDATIONS**

It is recommended that the Committee consider and determine the application for a variation of the Public Entertainment Licence in terms of one of the following options: -

- (i) to grant the application for variation;
- (ii) to grant the application for variation subject to standard and/or additional conditions;
- (iii) to defer the application for variation for a period not exceeding 6 months from the date of the application being made; or
- (iv) to refuse to grant the application for variation.

**2. BACKGROUND**

- 2.1 Paragraph 10 of Schedule 1 to the Civic Government (Scotland) Act 1982 (“the Act”) provides that a licensing authority may, at any time, whether or not upon an application made to them by the holder of the licence, vary the terms of a licence on any grounds they think fit.
- 2.2 On 2 November 2020, the Licensing Team were advised of the requirement to vary a Public Entertainment Licence held by Angus Alive in respect of Monikie Country Park. The current licence was granted on 18 September 2020 and is due for renewal on 30 September 2023.
- 2.3 A variation of the licence is being sought following a proposal by the licence holder to use a tourist road train during December within the grounds of the park. The licence holder has advised that the tourist road train will operate on private roads only and that a full risk assessment will be completed prior to the vehicle being used within the park. The licence holder has confirmed that they will only operate the train in line with guidance in place in respect of COVID -19 and where permitted to do so. Details of the application to vary the licence are contained within **Appendix 1**.
- 2.4 The Public Entertainment Licence which is currently in place in respect of Monikie Country Park details a number of entertainment activities taking place within the park. The current licence does not however, specify the use of vehicles for the purposes of entertainment. In order to allow the use of the tourist road train, a variation to the licence is required. The proposed variation would have the effect of adding an activity to the licence. This would result in any future use of vehicles on the park for the purposes of entertainment being permitted under the licence.

### **3. LEGAL**

- 3.1 Angus Council, as a licensing authority, may, at any time, whether or not on application made to them by the holder of the licence, vary the terms of the licence on any grounds they see fit. Before proceeding to vary the terms of the licence, the licensing authority must notify not later than 7 days before the day on which the variation is to be considered, the Chief Constable and, where applicable, the Scottish Fire and Rescue Service. Both have an opportunity to be heard while the variation is being considered.
- 3.2 A licensing authority has wide discretion in varying a licence and can make a determination in respect of any grounds they see fit. Specific grounds are set out in the legislation in relation to consideration of a grant or renewal of a licence and it is recommended that the Committee have regard to these grounds when considering any variation as well as any other grounds which they deem relevant.

It is therefore recommended that the Committee have regard for the fit and proper person test and that they should also consider refusing the variation if, in their opinion:-

- (a) the variation 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 the premises or the character or condition of the vehicle or vessel;
  - (ii) the nature and extend 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
- (b) there is other good reason for refusing the application;

and otherwise should grant the application for variation.

- 3.3 The current Public Entertainment Licence is already subject to Standard Conditions. These will continue to apply to the licence as a whole and also in respect of any variation.
- 3.4 There is no delegated power for the Director of Legal and Democratic Services to permit such a variation and accordingly, this requires to be determined by the Committee.

### **4. FINANCIAL IMPLICATIONS**

There are no financial implications arising as a result of this report.

### **5. HUMAN RIGHTS IMPLICATIONS**

In dealing with the application, the Committee will have regard to any human rights issues in relation to the applicants and objectors.

## **6. NOTIFICATION**

The applicant and Police Scotland have been notified of the terms of this Report. They have also been advised of their entitlement to attend the meeting should they wish.

**NOTE:** No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing this report.

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**APPENDIX 1 TO REPORT NO 299/20  
CIVIC LICENSING COMMITTEE - 26 NOVEMBER 2020**

**(a) ANGUS ALIVE – PUBLIC ENTERTAINMENT LICENCE (PE171)**

<b>Name of Licence Holder</b>	<b>Type of Licence/Application</b>
Angus Alive	Public Entertainment (PE171) Variation

The licence holder has made an application to amend the list of activities being carried on under their current Public Entertainment Licence. The variation application seeks to amend the list of activities to include the use of vehicles and, in particular, the use of a tourist road train.

The application proposes the following: -

*“We are proposing the train operates every weekend in December as follows;*

*4<sup>th</sup> – 6<sup>th</sup> December 2020*

*11<sup>th</sup> – 13<sup>th</sup> December 2020*

*18<sup>th</sup>- 20<sup>th</sup> December 2020*

*4.30pm – 8.30pm on above inclusive dates*

*The train will run on private land in Monikie Country Park from the car park (which will all be coned off) and run into the forest, turn and come back to the car park (approx. 15 mins in total). The train will be lit as will parts of the forest in a Christmas theme. “Santa” will be driving the train and who drove the train originally for Angus Council on Arbroath roads during the summer. There will be an “elf” conductor on the train assisting.*

*All passengers will be socially distanced with a maximum of 5 families on the train at any given time. Facemasks to be worn whilst on the train by all unless exempt. Tickets will be pre-booked in advance and we will allow 15 mins in between each run for deep sterile cleaning of the train.”*