

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 19 SEPTEMBER 2024

NEW APPLICATION

REPORT BY DIRECTOR OF LEGAL, GOVERNANCE AND CHANGE

1. ABSTRACT

The purpose of this report is to present a new application for a licence under the Civic Government (Scotland) Act 1982 which requires to be determined by the Committee.

2. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICIES

Not applicable

3. RECOMMENDATIONS

It is recommended that the Committee consider and determine the application for grant of the licence as detailed in the attached Appendix, in terms of one of the following options: -

- (i) to grant the application;
- (ii) to grant the application subject to standard and/or any additional conditions;
- (iii) to defer the application for a period not exceeding 6 months from the date of the application; or
- (iv) to refuse the application on one or more of the grounds referred to in Paragraph 5.

4. BACKGROUND

- 4.1 The Council has received an application for grant of a licence under the Civic Government (Scotland) Act 1982 ("the 1982 Act") which requires to be determined by the Committee because one or more of the following apply: -

- (i) there has been an objection or a representation received in respect of the application; or
- (ii) the application does not comply with the policy adopted by Angus Council; or
- (iii) the function is not delegated to Officers; or
- (iv) the applicant has a conviction(s), a spent conviction(s) or a pending case.

5. LEGAL IMPLICATIONS

- 5.1 Schedule 1 of the 1982 Act contains provisions in respect of the processing and determining of applications for licences under the 1982 Act.

- 5.2 In particular, Paragraph 5 of Schedule 1 to the 1982 Act provides that where an application for the grant or renewal of a licence has been made to a licensing authority they shall, in accordance with that paragraph: -

- (a) grant or renew the licence; or
- (b) refuse to grant or renew the licence.

5.3 In granting or renewing a licence a licensing authority may (either or both):-

- (a) disapply or vary any standard conditions so far as applicable to the licence,
- (b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.

Other than the mandatory conditions, the licence conditions shall be such reasonable conditions as the licensing authority think fit and, without prejudice to that generality, may include conditions restricting the validity of a licence to an area or areas specified in the licence, with limited exception.

5.4 A licensing authority shall refuse an application to grant or renew a licence if, in their opinion-

- (a) the applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either-
 - (i) for the time being disqualified by a Court from holding a licence under the 1982 Act; or
 - (ii) not a fit and proper person to be the holder of the licence;
 - (b) the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
 - (c) where the licence 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 extent 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
 - (d) there is other good reason for refusing the application;
- and otherwise shall grant the application.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising out of this report.

7. RISK MANAGEMENT

7.1 There are no risks to the Council arising from the terms of this Report.

8. ENVIRONMENTAL IMPLICATIONS

8.1 There are no direct environmental implications arising from the recommendations of the Report.

9. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY

9.1 In dealing with the applications, the Committee will have regard to any human rights and/or equalities issues in relation to the applicant and any objectors.

10. CHILDRENS RIGHTS AND WELLBEING IMPACT ASSESSMENT

- 10.1 A Childrens Rights and Wellbeing Impact Assessment has been undertaken and a full assessment is not required as the "General Principles" do not apply to this proposal.

11. NOTIFICATION

- 11.1 The applicant has 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 defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extend in preparing this report.

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(a) STREET TRADER (FIXED PITCH) – DERRICK MURDOCH (LHC28)

Name of Proposed Licence Holder	Type of Licence	Application received
Derrick Murdoch	Street Trader (fixed pitch)	28/05/2024

An application for a Street Trader (fixed pitch) licence at Beachside location – Monifieth was received on 28 May 2024 by the applicant Derrick Murdoch. The application requests the hours detailed below.

Monday to Sunday – 10.00 to 20.00

The applicant has detailed on the application that the above hours will be adjusted to the season and demand but would not exceed the times stated.

The Committee are advised that the Council's guidelines state A street trader shall only conduct his business between the hours of 7a.m. to 12 midnight Monday to Friday and from 7a.m. to 11p.m. on Saturday unless special written permission is given by the licensing authority. (Trading shall take place on a Sunday only between the hours of 12 noon to 11p.m.). Any request for hours out with these guidelines will require to be considered by the Civic Licensing Committee.

Further, Licensing received an email from Environmental Health on 5 June 2024 advising they would be unable to provide a comment on the application prior to the end of the consultation period on 25 June 2024. This was due to the fact they had contacted Mr Murdoch, who was in the very early stages of starting the business and had yet to acquire a mobile sauna. Mr Murdoch also did not know whether he would be getting one custom built or purchasing second hand and did not have a timeframe for this. Mr Murdoch was asked to contact Environmental Health if and when he'd acquired the mobile sauna.

Licensing received an email the next day on 6 August 2024 from Pauline Matthews apologising for the delay and updating they had ordered a sauna and they would make contact with Environmental Health in due course for inspection.

Members are advised at the time of writing this report Environmental Health were still not in a position to comment.

The Committee is asked to determine the application in accordance with Sections 1 to 5 of the report.