

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 17 NOVEMBER 2021**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Roderick McCuish
Councillor George Freeman	Councillor Jean Moffat
Councillor Kieron Green	Councillor Alastair Redman
Councillor Graham Hardie	Councillor Richard Trail

Attending: Shona Barton, Committee Manager
Graeme McMillan, Solicitor
Jane MacLeod, Applicant's Solicitor
Amy Unitt and Bob Cook, on behalf of Loch Lomond and the Trossachs National Park Authority, Objector
Fiona Potter, Objector
Rowena Ferguson, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mary-Jean Devon, Audrey Forrest, Donald MacMillan and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR RENEWAL OF STREET TRADER LICENCE - 4861 (R SERAPIGLIA, LARBERT)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing the Applicant's Solicitor opted to proceed by way of Video Call and joined the meeting by MS Teams. The Applicant's Solicitor had also made a written submission which was contained within a supplementary Agenda pack issued to the Committee.

Four Objectors, Bob Cook and Amy Unitt on behalf of Loch Lomond and Trossachs National Park Authority, Fiona Potter and Rowena Ferguson, also opted to proceed by way of Video Call and joined the meeting by MS Teams.

The Chair referred to the written submission from the Applicant's Solicitor which requested a continuation of this application. He invited Mrs MacLeod to speak in support of this request.

Mrs MacLeod explained that the Applicant was requesting that his application not be heard today. She referred to objections to this application, which, she said, were in part due to a planning matter and not a licensing matter. She advised that the Applicant had taken advice from an Advocate on the planning issues but very sadly the Advocate had died very suddenly and unexpectedly last week. She asked the Committee to continue

consideration of this hearing to the New Year so that the Applicant could have time to seek further advice on the planning issues.

The Chair invited the Council's Solicitor to comment on this request.

Mr McMillan advised Members that this was a first request for continuation in respect of this application. He referred to the circumstances behind this and the issues that have been faced by the Applicant's legal team. While the late notice of the request was unexpected and unfortunate, he advised the Committee to grant the continuation as requested and to possibly continue this application to the January meeting of the Committee. He said that should give ample time for the Applicant to receive legal advice.

The Chair invited the Members to comment on the request for continuation.

Councillor Freeman asked Mr McMillan if the Committee decided to proceed with the hearing today, could there be a legal challenge to any decision given if the request for continuation was rejected. Mr McMillan said that his strong advice to the Committee would be to grant the continuation request. He referred to the nature of these hearings and natural justice and said this would give the Applicant the opportunity to address the objections. He said the Applicant has not had the opportunity to seek expert advice in order to answer to these objections and that was why the continuation request has been made. In order to ensure a fair process and the principle of natural justice, he strongly advised the Committee to grant this request.

Councillor Freeman said he was sure for all those concerned that many would be aware of the background to this and the long history of this issue. He said he was sure those concerned would be most frustrated at this development but, given the advice of the Officer, it would appear, very reluctantly, the Committee would have no option other than to agree to the continuation. He referred to the request to continue for 2 months and asked if the Applicant's Agent would be happy to reduce this to one month as clearly everyone would be keen to move this matter forward. Mrs MacLeod advised that she would be more comfortable with 2 months as the Applicant was taking further technical advice on this and had just secured the services of Hill Brown in Glasgow, who may instruct an Advocate to take this forward. She said she could not see the advice being available to the Applicant until January at the earliest.

Councillor Freeman advised that given all the information provided today, he thought the Committee had no option but to agree to this extension but this would be frustrating to many people.

Councillor McCuish said he would have no hesitation in following Mr McMillan's advice. He expressed his deepest sympathy to the Advocate's family.

Councillor Hardie said there needed to be fair process for Civic Hearings and that he agreed with Mr McMillan that this request for continuation should be granted. He confirmed that he would have no problem with moving the hearing to January.

Councillor Redman expressed his sympathy to the family and said he agreed with his fellow Councillors and was keen to grant this extension

Councillor Kinniburgh sought and received confirmation from Mr McMillan that in terms of Section 3 of the Act (as amended due to the Covid 19 pandemic) a renewal application had 12 months to be determined before it would be deemed as granted. Mr McMillan

confirmed that this application was submitted on 19 June 2021 so if this hearing was continued to January that would be 7 months since receipt of the application.

Councillor Kinniburgh expressed his sincere condolences to the Advocate's family at this time. He said he quite understood why a 2 month extension was being asked for.

Councillor Freeman asked if a face to face hearing could be held at that time. Councillor Kinniburgh advised that this would be discussed through full Council in due course. Mrs Barton confirmed that whether meetings continued to be held remotely, by hybrid, or face to face, would be a decision made by the Council.

Decision

The Committee unanimously agreed to continue this application to the January 2022 meeting of the PPSL Committee.

(Reference: Report by Head of Legal and Regulatory Support, submitted)