

REPORT TO GARIOCH AREA COMMITTEE – 19 JUNE 2018

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 APPLICATION FOR GRANT OF TEMPORARY PUBLIC ENTERTAINMENT LICENCE – REQUEST FOR EXTENSION OF OPERATING HOURS FOR FUNFAIR AT ECHT SHOWGROUND, ECHT

1 Recommendations

It is recommended that the extension of the hours of operation be determined as to whether they should be granted or refused.

2 Background/Discussion

Council's Operation Policy for Fairgrounds and Circuses

- 2.1 Aberdeenshire Council's agreed policy in respect of Circuses and Fairgrounds, sets out standard operating hours of –

1400 hrs – 2100hrs (Monday – Thursday);
1400 hrs – 2200hrs (Friday-Saturday); and
1400 hrs – 1700 hrs (Sunday).

- 2.2 Any requests for operating hours outwith the policy must be agreed in advance by the relevant Area Committee.

Request for Additional Operating Hours

- 2.3 Henry Evans of 2 Showmans Winter Quarters, Blenheim Lane, Bulwell, Nottingham, NG6 8UR, submitted an application for the grant of a temporary public entertainment licence relating to the operation of a funfair at Echt Showground, Echt. The applicant wishes to operate as follows:

Friday 13 July 2018 – 1800hrs – 2330hrs
Saturday 14 July 2017 – 1000hrs – 0030hrs

- 2.4 Any extension to operating hours granted does not absolve the operator from operating within the terms of their licence, including meeting any noise limits or other conditions which might be imposed.

Consultations

- 2.5 At the time of writing this Report, the application has been to consultation with Police Scotland, Scottish Fire & Rescue Service, Building Standards and Outdoor Services. A letter of representation has been received from Police Scotland, dated 5th June 2018. This is attached as Appendix 1.

Procedure

- 2.6 The Committee is NOT being asked to determine whether the application for the Public Entertainment Licence should be granted. This will be determined by officers, in the absence of any objections or adverse representations using officer powers as outlined at Section 8.8 of the list of officer powers set out at Part 2B of the Scheme of Governance.
- 2.7 The decision of the Committee in relation to the request for extended operating hours will be final.

Grounds for Refusal

LEGAL TEST

- 2.8 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 from holding a licence under Section 7(6) of the 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 they made the application themselves;
 - 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.

Options for Disposal

- 2.9 The Committee's options in disposing of the Application are:-
- (a) To grant the hours of operation as sought.
 - (b) To grant restricted hours of operation; or

(c) Refuse to grant the extended operating hours in which case the funfair will operate the hours outlined in Aberdeenshire Council's policy for fairgrounds and circuses.

- 2.10 When coming to a decision the Committee must consider the evidence heard and the grounds of refusal outlined at paragraph 2.8 of this Report. Supplementary advice and information can be requested, if required.
- 2.11 The Head of Finance and the Monitoring Officer within Business Services, have been consulted in the preparation of this report. Their comments are incorporated within the report and they are satisfied that the report complies with the Scheme of Governance and relevant legislation.

3. Scheme of Governance

- 3.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.2 (h) of the List of Committee Powers in Part 2A of the Scheme of Governance as officers have declined to use their delegated powers to determine the part of the application relating to extended operating hours in terms of Section 8.8 and Section 4 of the General Provisions to officers at Part 2B of the List of Officer Powers in the Scheme of Governance, as it relates to a request for hours sought out with policy.

4 Implications and Risk

- 4.1 An Equality Impact Assessment is not needed in this case because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 4.2 There are no staffing and financial implications.
- 4.3 There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the Licensing Authority in a quasi-judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation.
- 4.4 The Town Centre Principle does not apply in respect of this matter as the Committee is considering the complaint as Licensing Authority in a quasi-judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation

Ritchie Johnson
Director of Business Services

Report prepared by Alison Wood, Legal and Governance Date: 5th June 2018
References: J:\a\Licensing Shared\1LICENSING\MEETINGS\AREA
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Evans Funfair Echt Show.docx

05/06/2018

Your Ref:

Our Ref: 326145

Head of Service
Legal & Governance
Aberdeenshire Council
Corporate Services
Legal and Governance
Gordon House
Blackhall Road
INVERURIE
AB51 3WA



**POLICE
SCOTLAND**

Keeping people safe

Iain Livingstone QPM
Deputy Chief Constable Designate

North East Division
Queen Street
Aberdeen
AB10 1ZA

Dear Sir/Madam,

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
APPLICATION FOR GRANT OF A PUBLIC ENTERTAINMENT LICENCE
APPLICANT: HENRY EVANS, 04/01/1958
ECHT SHOWFIELD, ECHT, WESTHILL, ABERDEENSHIRE, AB32 6UL.**

I refer to the above application for the grant of a Public Entertainment Licence to be held on 13 & 14 July 2018 at Echt Show 2018.

There is no Police objection to the application, however, in terms of Section 3(1) of Schedule 1 of the Civic Government (Scotland) Act 1982, I make the following representation in relation to the application, and recommend that it be granted subject to the conditions as indicated by an 'X' on the attached appendix being applied.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Iain Livingstone', is written over a faint circular stamp.

Iain Livingstone QPM
Deputy Chief Constable Designate

For enquires please contact the Licensing Department.

Appendix

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| 1. | An adequate number of staff/volunteers/stewards should have knowledge of first aid procedure. | X |
| 2. | Appropriate steps must be taken to ensure that the number of patrons within the public area does not exceed the agreed capacity of the premises or venue. | X |
| 3. | The Alcohol Management Plan, Drug Awareness Policy, Medical Plan, Event Plan, and Stewarding Plan [use/delete as appropriate] must be submitted to Police Scotland 7 days prior to the event and must be adhered to for the duration of the event. | |
| 4. | Appropriate Stewarding will be in place to provide adequate control of the premises and is to be in accordance with the Stewarding plan submitted. The said Stewarding Plan must be adhered to for the duration of the event. | |
| 5. | Appropriate provision is to be made in order to care for persons refused entry to the event, or ejected from the event, due to alcohol intoxication or being under the influence of other substances - such persons are not to be left unattended. | |
| 6. | The applicant will comply with all reasonable / lawful requests made by authorised officers of the Local Authority and/or Police Officers. | X |
| 7. | All reasonable requests, which do not have an operational impact, made by the Police or Local Authority officials should be complied with. | X |
| 8. | The Chief Constable or his authorised representative shall be entitled to order the termination of the event should the interests of the public so require. Without prejudice to the foregoing, any default of these licensing conditions shall entitle such person to order termination of the event. In this connection, "termination" may include a temporary suspension of whatever period such person may reasonably determine. | X |
| 9. | Early opening of the fair should be granted however due to historical youth related issues 2017, and measures the event organiser have put in place to address this the standard closing time of 2200 hours should be adhered to on the Saturday night. | X |