

Conference Room 2, Ground Floor, Fife House, Glenrothes
Tuesday, 5th December, 2023 - 9.30 a.m.

AGENDA

Page Nos.

1. **APOLOGIES FOR ABSENCE.**

2. **DECLARATIONS OF INTEREST** - Members of the Committee are asked to declare any interest(s) in particular items on the agenda and the nature of the interest(s) at this stage.

3. **MINUTE** - Minute of Meeting of the Regulation and Licensing Committee of 3rd October, 2023. 5 - 9

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

4. **CINEMAS ACT 1985 - VARIATION OF LICENSING CONDITIONS - THE BYRE THEATRE, ABBEY STREET, ST. ANDREWS - 31 JANUARY 2024** 10 - 14
Report by Lead Officer, Miscellaneous Licensing on request to vary licence conditions to allow the theatre to screen a non BBFC certificated film.

5. **APPEAL TO SHERIFF - TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE** - With reference to paragraph 3 of 2023.R.L.1 to advise the Committee that the appeal lodged with the Sheriff by Sam Green, against the decision on 1st November, 2022 to refuse his application for renewal of his taxi/private hire car driver's licence has been successful, the Committee's decision was not upheld and the licence has now been granted.

6. **APPLICATIONS IN RESPECT OF WHICH COMMENTS HAVE BEEN MADE** - Consideration of applications for licences by the undernoted in respect of which comment has been made, and, in terms of Schedule 1 to the above Act, to hear the applicants, or their representatives, in support of the applications:

	<u>Applicant</u>	<u>Activity</u>	<u>Period of Licence Applied For</u>
(i)	Arfhan Arshed	Taxi Driver (new application)	1 year
(ii)	George Campbell	Taxi Driver (new application)	1 year
(iii)	William Campbell	Taxi Driver (new application)	1 year

	<u>Applicant</u>	<u>Activity</u>	<u>Period of Licence Applied For</u>
	(iv) Stuart Dalgarno	Taxi Driver (renewal)	1 year
	(v) Yakup Emre	Taxi Driver (new application)	3 year
	(vi) Hamid Khan	Taxi Driver (new application)	1 year
	(vii) James Lyle	Taxi Driver (renewal)	3 year
(D)	(viii) Robbie McPhail	Taxi Driver (new application)	1 year
	(ix) Hashim Mohyidin	Taxi Driver (renewal)	3 year
	(x) Seremaia Sovinasalevu	Taxi Driver (new application)	1 year
	(xi) Robert Starkie	Taxi Driver (new application)	1 year
	(xii) Ahmad Tauseef	Taxi Driver (new application)	3 year
	(xiii) Iwona Wlodarczyk	Taxi Driver (new application)	1 year

N.B. The applicants and those making representation have been invited to attend and be represented at the meeting.

(D) Deferral - Consideration of the application at (viii) above is continued from the meeting held on 3rd October, 2023.

7. OPPOSED APPLICATIONS - Consideration of applications for licences by the undernoted in respect of which police objections have been lodged, and, in terms of Schedule 1 to the above Act, to hear the objector and the applicants thereon:

	<u>Applicant</u>	<u>Activity</u>	<u>Period of Licence Applied For</u>
	(i) Brogan Paterson	Taxi Driver (new application)	1 year
(D)	(ii) Paddy Queen	Taxi Driver (new application)	1 year

N.B. The applicants and objector have been invited to attend and be represented at the meeting.

(D) Deferral - Consideration of the application at (ii) above is continued from the meeting held on 3rd October, 2023.

THE FOLLOWING APPLICATIONS ARE LIKELY TO BE CONSIDERED IN PRIVATE – IN TERMS OF SCHEDULE 7A TO THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973.

8. APPLICATIONS IN RESPECT OF WHICH POLICE COMMENTS HAVE BEEN MADE -

Consideration of applications for licences by the undernoted in respect of which police comment has been made, and, in terms of Schedule 1 to the Civic Government (Scotland) Act 1982, to hear the applicants or their representatives in support of the application:

	<u>Applicant</u>	<u>Activity</u>	<u>Period of Licence Applied For</u>
	(i) Christopher Henderson	Taxi Driver (renewal)	1 year
	(ii) Darren Lewis	Taxi Driver (new application)	1 year
	(iii) Thomas McIntyre	Taxi Driver (new application)	1 year
(D)	(iv) Michael Minick	Taxi Driver (new application)	1 year
	(v) Muhammad Mohsin	Taxi Driver (renewal)	1 year
	(vi) Edward Rutherford	Taxi Driver (new application)	1 year
	(vii) Scott Smith	Taxi Driver (new application)	1 year

N.B. The applicants and those making representation have been invited to attend and be represented at the meeting.

(D) Deferral - Consideration of the application at (iv) above is continued from the meeting held on 3rd October, 2023.

9. OPPOSED APPLICATIONS - Consideration of applications for licences by the undernoted in respect of which police objections have been lodged, and, in terms of Schedule 1, paragraph 4(2) to the Civic Government (Scotland) Act 1982, to hear the objector and the applicants thereon:

	<u>Applicant</u>	<u>Activity</u>	<u>Period of Licence Applied For</u>
(i)	D&S Car Sales Ltd	Second Hand Dealer for premises at Units B3-4 West Burnmill Industrial Estate, Burnmill Road, Leven. Selling second hand cars, Monday – Saturday 9 am- 5 pm (new application)	3 year

	<u>Applicant</u>	<u>Activity</u>	<u>Period of Licence Applied For</u>
(ii)	Alana Byers	Skin Piercing & Tattooing for premises at The Lodge House, Priory Lane, Dunfermline. Carrying on the business of tattooing, 7 days a week from 9 am – 9 pm (new application)	3 year
(iii)	Jenel Reid	Skin Piercing & Tattooing for premises at The Old Fire Station, Castle Road, Rosyth. Carrying on the business of tattooing on Saturdays only (new application)	3 year
(iv)	Ross Kerr	Taxi Driver (new application)	1 year
(v)	Rashed Khan	Taxi Driver (new application)	1 year
(vi)	Jack Philp	Taxi Driver (new application)	1 year

N.B. The applicants and objector have been invited to attend and be represented at the meeting.

10. URGENT BUSINESS - Any other items which the Chair decides are urgent.

Eileen Rowand,
Executive Director,
Finance and Corporate Services,
Fife House,
North Street,
Glenrothes,
Fife, KY7 5LT

29th November, 2023

If telephoning please ask for:-

Gillian Love, Lead Officer, Miscellaneous Licensing, Fife House, Glenrothes
Telephone: 03451 555555; Ext. 442170 or E-mail - gillian.love@fife.gov.uk

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THE FIFE COUNCIL - REGULATION AND LICENSING COMMITTEE - GLENROTHES

3rd October, 2023

9.30 a.m. - 2.45 p.m.

PRESENT: Councillors Tom Adams (Convener), Lynn Ballantyne-Wardlaw, Patrick Browne, Sean Dillon, Gavin Ellis, Alycia Hayes, Donald Lothian, Lea McLelland, David MacDiarmid, John O'Brien, Nicola Patrick, Gordon Pryde, Jonny Tepp and Darren Watt.

ATTENDING: Kimberley Langley, Solicitor, Gillian Love, Lead Officer, Miscellaneous Licensing and Craig Ritchie, Civic Government Licensing Enforcement Officer all in Finance and Corporate Services; Inspector Stuart Allan, Police Scotland (Fife Division) (for items 62 – 65 only); Billy Ferguson, Service Manager and Steven Duffy, Workshop Team Manager both Fleet Operations (for items 60 and 61 only); Calum Ross, Solicitor and Barry Smith, Lead Officer – Private Housing (both for item 66 only).

APOLOGIES: Councillors Carol Lindsay and Julie MacDougall.

OBSERVERS: Sharon Wallace, Licensing Administrator, Police Scotland (Fife Division) (for items 62 – 65 only); and Laura Smith, Housing Professional, Private Sector Housing – HMO Licensing/Short-term Lets (for item 66 only).

59. **MINUTE**

The Committee considered the Minute of Meeting of the Regulation and Licensing Committee of 5th September, 2023.

Decision

The Committee approved the Minute.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

60. **TAXI AND PRIVATE HIRE CAR INSPECTION TESTS – KIRKCALDY ZONE –**

The Committee considered a report by Service Manager, Fleet Operations on annual inspection tests carried out on vehicles in the Kirkcaldy Zone in July to September, 2023.

Decision

The Committee, having heard the Fleet Operations Manager on the report and, following discussion:

- (1) congratulated those operators whose vehicles passed the test first time; and
- (2) agreed that a letter be sent to those three operators failing the test reminding them of the standards expected for maintaining their vehicles.

61. **TAXI AND PRIVATE HIRE CAR INSPECTION TESTS - WEST FIFE AREA –**

The Committee considered a report by Service Manager, Fleet Operations on annual inspection tests carried out on vehicles in the West Fife Area in July to September, 2023.

Decision

The Committee, having heard the Fleet Operations Manager on the report and, following discussion:

- (1) congratulated those operators whose vehicles passed the test first time; and
- (2) agreed that (i) five operators whose vehicles failed the test and had vehicles failing tests in the past, be brought in for a meeting with the Convener & Depute Convener regarding the maintenance of their vehicles; and (ii) a letter be sent to the other two operators failing the test reminding them of the standards expected for maintaining their vehicles.

62. **APPLICATIONS IN RESPECT OF WHICH COMMENTS HAD BEEN MADE**

The Committee considered applications for licences by the undernoted and, having heard the representative for Police Scotland (Fife Division), the Council's Lead Officer, Miscellaneous Licensing and the applicants thereon, dealt with the applications as shown:-

	<u>Applicant</u>	<u>Activity & Period of Licence Applied For</u>
(a)	Mark Addison	Taxi Driver (new application) 3 year

Decision

The Committee agreed to refuse the licence.

(b)	Robbie McPhail	Taxi Driver (new application) 1 year
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Motion

Councillor O'Brien, seconded by Councillor Ballantyne-Wardlaw, moved that the application be heard there and then.

Amendment

Councillor Patrick, seconded by Councillor McLelland, moved, as an amendment, to continue consideration of the application to its next meeting to afford the applicant a further opportunity to appear.

2023.R.L.51

Vote

Amendment - 8
Motion - 5

Decision

The Committee agreed to continue consideration of the above application to its next meeting to afford the applicant a further opportunity to appear.

(c)	Anthony Macari	Taxi Driver (new application) 1 year
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Motion

Councillor Ellis, seconded by Councillor Ballantyne-Wardlaw, moved that the licence be granted with a warning.

Amendment

Councillor O'Brien, seconded by Councillor McLelland, moved, as an amendment, that the licence be granted.

Vote

Amendment – 5
Motion - 9

Decision

The Committee agreed to grant the licence with a warning.

(d)	Ahmed Salem	Taxi Driver (new application) 1 year
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Decision

The Committee agreed to continue consideration of the above application to afford the applicant an opportunity to obtain further information in relation to his application.

The applicants had been invited to attend and be represented at the meeting and with the exception of the applicants at (a) and (b) above were all present and heard.

Consideration of the application at (a) above was continued from the meeting held on 5th September, 2023.

2023.R.L.52

The warning given to the applicant at (c) above was that any future misdemeanours brought to the attention of the Committee could result in suspension of the licence.

The reason for refusal of the application at (a) above was that the applicant was not considered to be a fit and proper person to hold the licence applied for in view of the nature and extent of a previous offence recorded against him.

63. **EXCLUSION OF PUBLIC AND PRESS**

The Committee resolved, under Section 50(A)(4) of the Local Government (Scotland) Act 1973, to exclude the public and press from the meeting for the items of business at 64 and 65 below on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 7A to the Act.

64. **APPLICATION IN RESPECT OF WHICH POLICE COMMENTS HAD BEEN MADE**

The Committee considered application for licence by the undernoted and, having heard the Council's Lead Officer, Miscellaneous Licensing thereon, dealt with the application as shown:-

<u>Applicant</u>	<u>Activity & Period of Licence Applied For</u>
Michael Minick	Taxi Driver (new application) 1 year

Decision

The Committee agreed to continue consideration of the above application to its next meeting to afford the applicant a further opportunity to appear.

The above applicant had been invited to attend and be represented at the meeting but was not in attendance.

65. **OPPOSED APPLICATION**

The Committee considered application for licence by the undernoted in respect of which police objections had been intimated and, having heard the Council's Lead Officer, Miscellaneous Licensing thereon, dealt with the application as shown:-

<u>Applicant</u>	<u>Activity and period of licence applied for</u>
Paddy Queen	Taxi Driver (new application) 1 year

Decision

The Committee agreed to continue consideration of the above application to its next meeting to afford the applicant a further opportunity to appear.

The above applicant and objector had been invited to attend and be represented at the meeting. The applicant was not in attendance.

66. APPLICATION IN RESPECT OF WHICH REPRESENTATIONS HAD BEEN MADE -

<u>Applicant</u>	<u>Activity and period of licence applied for</u>
Giovanni Valente	House in Multiple Occupation for 2 Livingstone Crescent, St Andrews (new application) 3 year

The Committee considered the application and representations received and agreed that:

- The applicant was fit and proper to be authorised to permit persons to occupy any living accommodation as an HMO; and
- The property could be made suitable for use as an HMO with Conditions

The Committee then considered if granting the licence would NOT result in the overprovision of HMOs in the locality in which the living accommodation concerned was situated and, thereafter, made the following decision on the application:

Decision

The Committee agreed (i) that the granting of the above application would not be contrary to the Council's Overprovision Policy nor would it result in the overprovision of HMOs in the locality; and (ii) not to uphold the representations and moved the application to the next stage of the process.

The applicant and the respondents were invited to attend and be represented at the meeting. The applicant was in attendance and represented by his agent, Kenneth Gray, Solicitor, Cupar. Gordon Methven, a respondent to the application was represented by John Watchman, Solicitor, St. Andrews and David Middleton (CSARA) was present and heard as a respondent to the application. No other respondents were in attendance. Jim Sinclair, the applicant's letting agent for his other properties was in attendance as an observer for the above application.

5th December, 2023
Agenda Item No. 4

Cinemas Act 1985 – Variation of Licensing Conditions - The Byre Theatre, Abbey Street, St. Andrews – 31 January 2024

Report by: Gillian Love, Lead Officer, Miscellaneous Licensing
Wards Affected: ALL

Purpose:

The Council has received a request for authorisation to screen an uncertificated film at the Byre Theatre, St. Andrews.

Recommendation:

It is recommended that the Committee:

- (i) notes this report; and
- (ii) grants permission to allow the uncertificated film, detailed in the information circulated, to be shown on 31 January 2024 at the Byre Theatre, St. Andrews

Resource Implication:

None

Legal & Risk Implications:

None

Policy & Impact Assessment:

None

Consultation:

None

1.0 Background

- 1.1 In November 2023 the Council received notice from a representative of the Byre Theatre regarding a film due to be screened on 31 January 2024.
- 1.2 This film still has to be classified by the BBFC. Therefore, as required by the Council's Standard Conditions of Licence, the Byre Theatre is seeking permission for the film, detailed in the information circulated, to be shown. The committee has previously agreed to similar variations.
- 1.3 Committee members should note that any permitted variation would relate only to the film specified as circulated to members, and any film not so specified would be required to adhere to the Council's Standard Conditions of Licence.
- 1.4 This permission will apply, as appropriate, to the Byre Theatre on 31 January 2024 only.

2.0 Conclusions

- 2.1 Condition 3 of the Council's standard conditions, which applies to all cinema licences, states that:

No film shall be exhibited unless -
 - (a) it has received a "Uc", "U", "PG", "12A", "12", "15" or "18" certificate of the British Board of Film Classification; or
 - (b) it is a current news-reel which has not been submitted to the British Board of Film Classification.
Full conditions are attached at Appendix 1.
- 2.2 However, condition 7 of the cinema licence conditions states a film may be exhibited, or persons or any class of persons, may be admitted thereto if the permission of the Licensing Authority is first obtained and any conditions of such permission are complied with.
- 2.3 The Committee has given approval for certain venues to show uncertificated films previously.

Background Papers

Fife Council Cinema Licensing Conditions

Report Contact

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Lead Officer
Miscellaneous Licensing
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CONDITIONS

1. The licence holder or the responsible manager, his deputy for the time being or occupier of the premises shall immediately communicate to the Chief Fire Officer of Fife Fire and Rescue Service any outbreak of fire, however slight.
2. All attendants on duty to assist persons entering or leaving the auditorium shall wear a distinguishing uniform, armband or badge.
3. No film shall be exhibited unless -
 - (a) it has received a "Uc", "U", "PG", "12A", "12", "15" or "18" certificate of the British Board of Film Classification; or
 - (b) it is a current news-reel which has not been submitted to the British Board of Film Classification.
4. No person under the age of 18 years shall be admitted to any exhibition at which there is to be shown any film which has received an "18" certificate from the British Board of Film Classification.
5. No person under the age of 15 years shall be admitted to any exhibition at which there is to be shown any film which has received a "15" certificate from the British Board of Film Classification.
6. No person under the age of 12 years shall be admitted to any exhibition at which there is to be shown any film which has received a "12A" certificate from the British Board of Film Classification unless they are accompanied during the showing of the film by a person of 18 years or over.
7. Notwithstanding the conditions hereinbefore contained, a film may be exhibited, or persons or any class of persons, may be admitted thereto if the permission of the Licensing Authority is first obtained and any conditions of such permission are complied with.
8. A representation or written statement of the terms of any certificate given by the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates and the representation or statement shall be shown for long enough and in a form large enough for it to be read from any seat in the auditorium.
9. There shall be prominently exhibited at each public entrance whenever the premises are open to the public a notice indicating in tabular form and in clear bold letters and figures -
 - (a) the title of each film to be shown on that day, other than trailers and films of less than five minutes duration;
 - (b) the approximate times of commencement of each such films;
 - (c) whether each such film has received a "Uc", "U", "PG", "12A", "12", "15" or "18" certificate from the British Board of Film Classification.
 - (d) The effect of such "Uc", "U", "PG", "12A", "12", "15" or "18" certificates in relation to the admission of persons under the age of 18 years.
10. The nature of any certificate received in respect of a film from the British Board of Film Classification shall be clearly indicated by the letter "Uc", "U", "PG", "12A", "12", "15" or "18" in any advertisement of the film displayed at the premises.

11. No advertisement displayed at the premises of a film to be exhibited at the premises shall depict as a scene or incident in the film any scene or incident which is not included in the film as certified by the British Board of Film Classification or approved for exhibition by the Licensing Authority, as the case may be.
12. Where the Licensing Authority has given notice in writing to the licence holder of the premises objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed at the premises except with the consent in writing of the Licensing Authority.
13. Where the Licensing Authority has given notice in writing to the licence holder of the premises prohibiting the exhibition of a film on the ground that it contains matter which, if exhibited, would offend against good taste or decency or would be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that film shall not be exhibited in the premises except with the consent in writing of the Licensing Authority.