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To: Councillor Carle, Convener; and Councillors Boulton, Cormie, Forsyth, Malik, Malone and Townson

Town House,
ABERDEEN 31 March 2015

LICENSING URGENT BUSINESS SUB COMMITTEE

The Members of the **LICENSING URGENT BUSINESS SUB COMMITTEE** are requested to meet in Committee Room 4 - Town House on **TUESDAY, 7 APRIL 2015 at 2.00 pm.**

JANE G. MACEACHRAN
HEAD OF LEGAL AND DEMOCRATIC SERVICES

BUSINESS

- 1 Determination of Urgent Business
- 2 Grant of a Second Hand Vehicle Dealer Licence - AF High Performance Cars Ltd (Pages 1 - 36)
- 3 Grant of a Private Hire Car Licence - Francis Robertson Carney (Pages 37 - 38)
- 4 Grant of Three Taxi Licences - Autoverdi Ltd (Pages 39 - 40)

APPLICATIONS TO BE HEARD IN PRIVATE IN TERMS OF THE DATA PROTECTION ACT 1998

- 5 Renewal of a Taxi Driver Licence (Pages 41 - 44)
- 6 Renewal of a Taxi Driver Licence (Pages 45 - 48)

Website Address: www.aberdeencity.gov.uk

Should you require any further information about this agenda, please contact Allison Swanson, tel. (52)2822 or email aswanson@aberdeencity.gov.uk

Briefing for Elected Members on the Importance of EHRIAs

As an elected member, you will know you have an important role to play in championing equality within and outside Aberdeen City Council. There is also a scrutiny role for you to ensure that equality considerations are included in the decision making and governance of the council.

In exercising your duties as an elected member, you will make decisions which shape the council budget as well as the practice, strategies, plans and policies of the council. You have to make sure that the relevant equality implications are considered and so need to have sufficient information to satisfy our legal requirement to pay “due regard” to equality. Since public authorities subject to the equality duties are also likely to be subject to the obligations under the Human Rights Act, our impact assessment tool also considers the potential impact our decisions could have on human rights – Equality and Human Rights Impact Assessment (EHRIA).

EHRIA forms are included in the agenda pack, and this is important as it ensures that the impact of any proposals being considered by the Committee is clear at the point of decision making. These are included at the back of the report, as an appendix. Committee members should feel able to ask questions of report authors in relation to EHRIA forms, including questions about why an impact assessment has not been carried out/is not included.

There is an onus on elected members to make sure that EHRIAs are robust and give appropriate weighting in decision-making processes. In recent guidance from the Equality and Human Rights Commission, relevant case law examples show the Courts stating that, the public authority had to demonstrate that it had paid ‘due regard’ to its equality obligations.

Policies and practices should be assessed for impact across the three parts of the public sector duty (eliminate unlawful treatment, advance equality of opportunity and foster good relationships).

These duties do not prevent us from taking many difficult decisions such as reorganisations and relocations, redundancies, and service reductions, nor do they stop us from making decisions, that may affect one group more than others. Whilst we have a duty to involve groups of people who have protected characteristics, this does not give them the right of veto regarding any of our budget proposals or other council decisions.

What the equality duties do is enable us to demonstrate that we are making decisions in a fair, transparent and accountable way, considering the needs and the rights of different members of our communities.

The EHRIA will allow you to see that people with protected characteristics are enjoying equal access to our services, and where they are not, or are over/under-represented, or are not getting as good a service, the EHRIA gives the opportunity to do something to resolve the situation.

The equality target groups, or people with protected characteristics, include age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) and sexual orientation.

The sort of questions to ask yourself as you read an EHRIA might include:

- How might the proposal impact on ethnic minority communities, including Gypsy/Travellers?
- How might the proposal impact on people with a disability?
- Would the impacts on women and men or the Transgender community differ?
- Would the proposal affect ethnic minority women and men in the same ways?
- Would the proposal affect women and men with disabilities in the same ways?
- What about age considerations when thinking about impacts?

It is important to remember that the potential impact is not just about numbers. Evidence of a serious impact on a small number of individuals is just as important as something that will impact on many people. You should also think about how individual proposals might relate to one another. This is because a series of changes to different policies or services could have a severe impact on particular protected groups.

The EHRIA is therefore an invaluable tool to assist you in ensuring that the interests of all groups are properly taken into account when difficult choices about resources are required.

A case study on “Southall Black Sisters – the need to impact assess decisions” is set out below.

Southall Black Sisters (SBS) provides specialist services to Asian and Black Caribbean women, particularly in relation to domestic violence issues.

In June 2007, Ealing council announced proposals to move away from funding particular organisations (such as SBS), towards commissioning services (including domestic violence services) following a competitive bidding exercise.

During discussions about criteria for commissioning domestic violence services SBS had highlighted the adverse impact the criteria could have on pre-existing domestic violence services provided to women from ethnic minority communities, and so an equality impact assessment should be carried out.

Ealing carried out belated impact assessments on proposals before deciding to proceed with the existing domestic violence services commissioning criteria, resulting in two SBS service users launching a judicial review of the decision.

Ultimately, Ealing conceded these submissions and withdrew from the case. However, in an oral judgement, Lord Justice Moses reiterated the importance of undertaking an equality impact assessment, and also the importance of carrying out an impact assessment before policy formulation.

Should you require any help with EHRIAs please contact me at sandrab@aberdeencity.gov.uk or 01224 523039 or Faiza at fnacef@aberdeencity.gov.uk or 01224 523183.

INFORMATION NOTE FOR MEMBERS

SECOND HAND VEHICLE DEALER (GRANT) APPLICANT: A F HIGH PERFORMANCE CARS LTD

This item has been placed on the agenda because it requires to be determined by 08 April 2015 and the applicant has not provided a certificate stating that they have complied with the requirement contained in paragraph 2 of Schedule 1 to the Civic Government (S) Act 1982 to display a notice at or near the premises for a period of 21 days beginning with the date on which the application was submitted to the licensing authority.

The applicant failed to display the notice beginning on the date on which the application was submitted. A notice was subsequently displayed at the premises and reference is made to the report from the Enforcement Officer. As the application required to be determined by the 08 April 2015, the application was deferred from the Committee meeting on 17 March 2015 to a meeting of the Urgent Business Sub Committee.

A letter of objection has been received which is attached.

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Our Ref.
Your Ref.
Contact David McKane
Email dmckane@aberdeencity.gov.uk
Direct Dial 01224 522879
Direct Fax 01224 522491



ABERDEEN
CITY COUNCIL

05 March 2015

Legal and Democratic Services
Corporate Governance
Aberdeen City Council
Business Hub 6 L1S
Marischal College
Aberdeen AB10 1AB

Tel 01224 522000
Minicom 01224 522381
DX 529451, Aberdeen 9
www.aberdeencity.gov.uk

**PROPOSED SECOND HAND CAR DEALER
76 WILLOWBANK ROAD**

Location visited at 14.20 on 05/03/2015 to verify if required notice had been displayed.

The location is a complex of private flats comprising two small blocks either side of the entrance and a larger block set further back in the complex.

Entry is controlled by a security gate and therefore there is no public access to the site.

The proposed location is in the larger block and cannot be seen from Willowbank Road.

The entire site is surrounded by other properties (a large warehouse to the West, a tyre depot to the East and two separate complexes of private flats to the North.

There is no possibility of any member of the public gaining access to the site or being able to view the site externally.

The statutory notice was not displayed on the security gates or railings to either side nor anywhere along the front of the complex which borders Willowbank Road. There is photographic evidence to support this.

It is clearly stated on the application form for this licence that-

"I/we declare that I/we shall, for a period of 21 days commencing with the date of submission of this application, display at or near the premises mentioned at Q5, so that it can conveniently be read by the public, a notice complying with the requirements of Paragraph 2(2) of Schedule 1 of the Civic Government (Scotland) Act 1982"

The applicant clearly has not complied with this as the only location for a notice to be displayed which could be conveniently read by the public is either at the security gate or along or near the front of the complex.

Finally it should be noted that on my arrival at the location a vehicle was about to enter the complex through the security gate. Until the gate was fully opened a portion of the vehicle clearly obstructed traffic on Willowbank Road as the lead up to the gate was not long enough to accommodate the vehicle. This would clearly have a traffic impact were there to be a number of vehicles seeking entry in order to view/purchase second hand vehicles from the location.

David Mckane

Enforcement Officer
Team 3
Litigation and Licensing



To : Licensing Team.
LEGAL AND DEMOCRATIC SERVICES
CORPORATE GOVERNANCE
Business Hub 6 L1S
Marischal College, Aberdeen. AB10 1AQ

2nd February, 2015.

Dear Sirs,

**Application for Second Hand Car Dealers Licence at
76 Willowbank Road Aberdeen.**

I refer to the notice erected at no 76, Willowbank Road as part of process to obtain a Second hand Car Dealers Licence by Mr Finlay.

I am the owner of a ground floor property ([REDACTED]) in this development and wish to object to this type of activity in a residential area. The activity will attract many people wanting to enter the development to view and test the cars. This will be a major disturbance to the residents in this normally quiet area.

In addition Mr Finlay has already started accumulating cars in the development causing access and parking issues which contravene the regulations of the development and the planning consents agreed by Aberdeen City Council. I have witnessed at least three parked on the access roads over recent weeks . These cars cause severe restrictions to access for service vehicles, emergency vehicles and residents and I have concerns about Health and Safety issues.

I trust you will accept this objection and refuse the Trading Licence.

The date that the application was submitted to the council does not appear on the Form erected in the premises so I am not able to ascertain if I am writing to you within the required timescale.

Yours Faithfully,

[REDACTED]
Michael R Ion .



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Arlene Dunbar

Subject: FW: business sign

From: Finlay, Andrew [REDACTED]
Sent: 06 March 2015 13:21
To: Arlene Dunbar
Subject: RE: business sign

Arlene,

The sign has been up since the 18th of Feb. Once again/ (this is not a public estate and the building is completely secure(no access to public). I have been speaking to my solicitor and will not be withdrawing my application. Specially as I have invested almost £100,000 in the business.

All I can say is that the council is making me feel like a criminal at this present time. I have complied with everything that has been asked of me right from the beginning. The notice from yourself was very late and towards the end and because my cheque that was dated for April last year had not been processed, was why I forgot about the notice that being in America towards the end of last year and the start of this one. However I have complied and had it up since the reminder. & there is evidence that it is up ----- "For your information we have received an objection in relation to the application"

Regards

AF

From: Arlene Dunbar [REDACTED]
Sent: 06 March 2015 11:58
To: Finlay, Andrew
Subject: FW: business sign
Importance: High

Dear Mr Finlay,

I have been advised by our Enforcement Officer that the display notice is not being displayed at or near the premises so that it can be conveniently be read by the public. If this is the case, there is in sufficient time for you to re-display a further notice as your application must be determined by 08 April 2014. In the circumstances you may wish to withdraw your application and submit a further application.

If you consider that the notice is being displayed correctly then you will need to appear before the Committee on the 17 March 2015. Please note that your application can not be determined on that date as the objection period for you application will not have passed as you starting displaying your notice on 18 February 2015. For your information we have received an objection in relation to the application.

I should be grateful if you would confirm if you wish to withdraw your application.

Regards

Arlene Dunbar

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This document (including any attachment(s)) which contains legal advice is privileged information and should not be disclosed to any person outwith Aberdeen City Council or as a result of a request under the Data Protection Act 1998 or the Freedom of Information (Scotland) Act 2002 without first contacting the author.

From: Arlene Dunbar
Sent: 18 February 2015 15:56
To: 'Finlay, Andrew'
Cc: 'Amy.Miller@firstport.co.uk'
Subject: RE: business sign

Mr Finlay,

I understand that you are not objecting to putting up the display notice. I am not sure what you mean by purchased one. You are only required to display the notice as I had attached in my previous email for a period of 21 days. If for whatever reason you are unable to comply with the legislation you will require to explain this to the Licensing Committee. To clarify you are not required to display a sign advertising your business.

Regards

Arlene

From: Finlay, Andrew [REDACTED]
Sent: 18 February 2015 [REDACTED]
To: Arlene Dunbar
Subject: RE: business sign

Arlene,

I'm not objecting to putting up a sign. As a matter of fact I purchased one yesterday. However I am respecting the words of Amy Miller from Peverel. She is CC on the email.

I am permitted to operate from my property. However I am unable to put any signs up on the block as it seems.

Regards

AF

From: Arlene Dunbar [<mailto:ArDunbar@aberdeencity.gov.uk>]
Sent: 18 February 2015 15:42
To: Finlay, Andrew
Subject: RE: business sign

Mr Finlay,

You need to display at **or** near the premises. If you are unable to do so you will require to explain to the committee the reasons for failure to comply with the legislation.

Can you please clarify that you are permitted to operate a business from the property.

Regards

Arlene Dunbar

Registered Paralegal | Team 3 | Litigation and Licensing | Legal and Democratic Services | Corporate Governance | Aberdeen City Council | Business Hub 6 | Level 1 South | Marischal College | Broad Street | Aberdeen | AB10 1AB | Tel 01224 523411 | Fax 01224 522937 | ardunbar@aberdeencity.gov.uk

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From: Finlay, Andrew [REDACTED]
Sent: 18 February 2015 15:08
To: Arlene Dunbar
Subject: FW: business sign

Arlene

Please see details from factoring company below. Highlighted yellow.

Andrew Finlay|Owner/Director
AF High Performance Cars Limited
[REDACTED]

On 12 February 2015 at 12:55 Licensing <Licensing@aberdeencity.gov.uk> wrote:

Mr Finlay,

You are required to display the notice regardless of the scale of the business and despite the fact it is a residential premises.

I have attached a further notice for your to display. You should display it at a place where it can conveniently be read by passers-by. Please do so immediately, failure to do so may result in your application being referred to the Licensing Committee in March.

Regards

Arlene Dunbar

Registered Paralegal | Team 3 | Litigation and Licensing | Legal and Democratic Services | Corporate Governance | Aberdeen City Council | Business Hub 6 | Level 1 South | Marischal College | Broad Street | Aberdeen | AB10 1AB | Tel 01224 523411 | Fax 01224 522937 | ardunbar@aberdeencity.gov.uk

From: Amy Miller [REDACTED]
Sent: 18 February 2015 14:55
To: Finlay, Andrew
Subject: RE: business sign

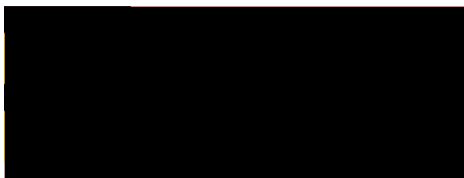
Dear Mr Finlay,

I apologise for the delay in response however, I required confirmation from the area manager if this is permitted. Unfortunately, you cannot advertise business or trades within the blocks.

I apologise for any inconvenience this may cause.

Kind regards,

Amy



Registered in England No. 3829466
Property Factors Registration Number PF000895

We're changing to



From: Finlay, Andrew [REDACTED]
Sent: 18 February 2015 13:09
To: Amy Miller
Subject: business sign

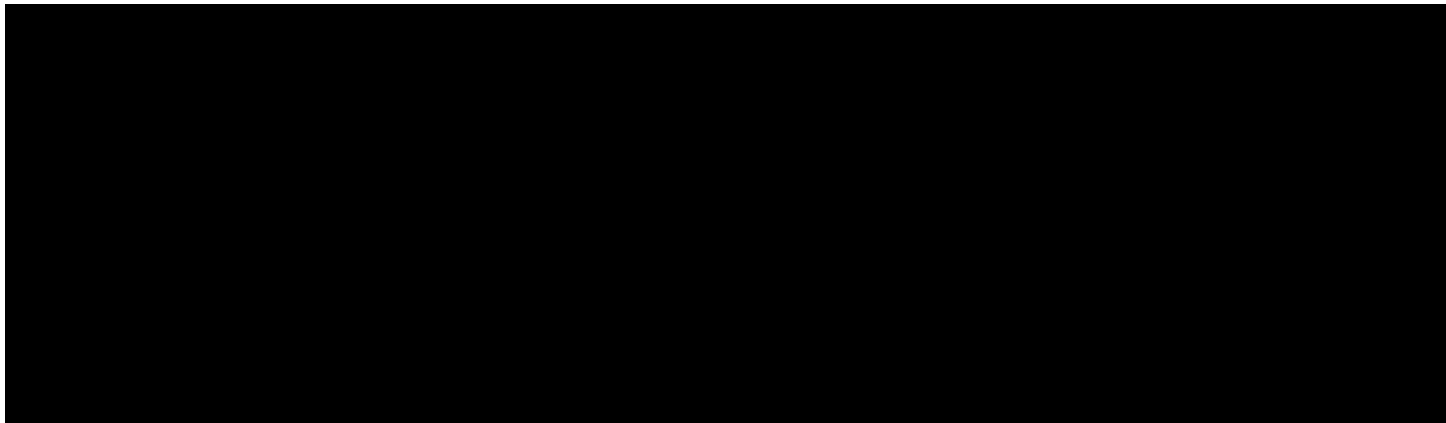
Amy

Is it okay for me to put a sign up in front of the entrance gate (40x10cm) with my business name on the wall? Can you confirm and let me know as soon as possible.

Kind Regards

AF

Andrew Finlay



Arlene Dunbar

Subject: FW: AF High Performance Cars LTD
Attachments: IMG_0122.JPG; IMG_0125.JPG; IMG_0121.JPG; IMG_0123.JPG; IMG_0124.JPG

High Performance Cars [REDACTED]
Sent: 07 March 2015 09:15
To: Licensing
Subject: AF High Performance Cars LTD

Good morning bill.

I have attached a few photos of my residential address. Please note that I have no access to the building circled in yellow (picture 0121). 76 willowbank road, is the penthouse at the very back building highlighted red. I have tried explaining to Arlene on a number of times that I live at the building at the back. There is no access beyond the gates other than residential and factoring personnel.

Aberdeen council have requested I place a notice "at or near" the premises at 76 willowbank road (the top floor penthouse) I have placed the notice downstairs for all people coming in and out of the building to view.

There has been no damage to notice and has been up since the 18th of February. On completion of the 21 days I will have it signed and specially delivered to the office (signed for). Also I will reschedule my meetings so I can attend the morning meeting on the 17th of March 10am at marischal college. I have been advised by my solicitor that I do not need representation for this meeting. However I can honestly say that I am really upset about how this has been handled and how I have been spoken to by the council. This is very upsetting/ considering the effort and time invested in this company.

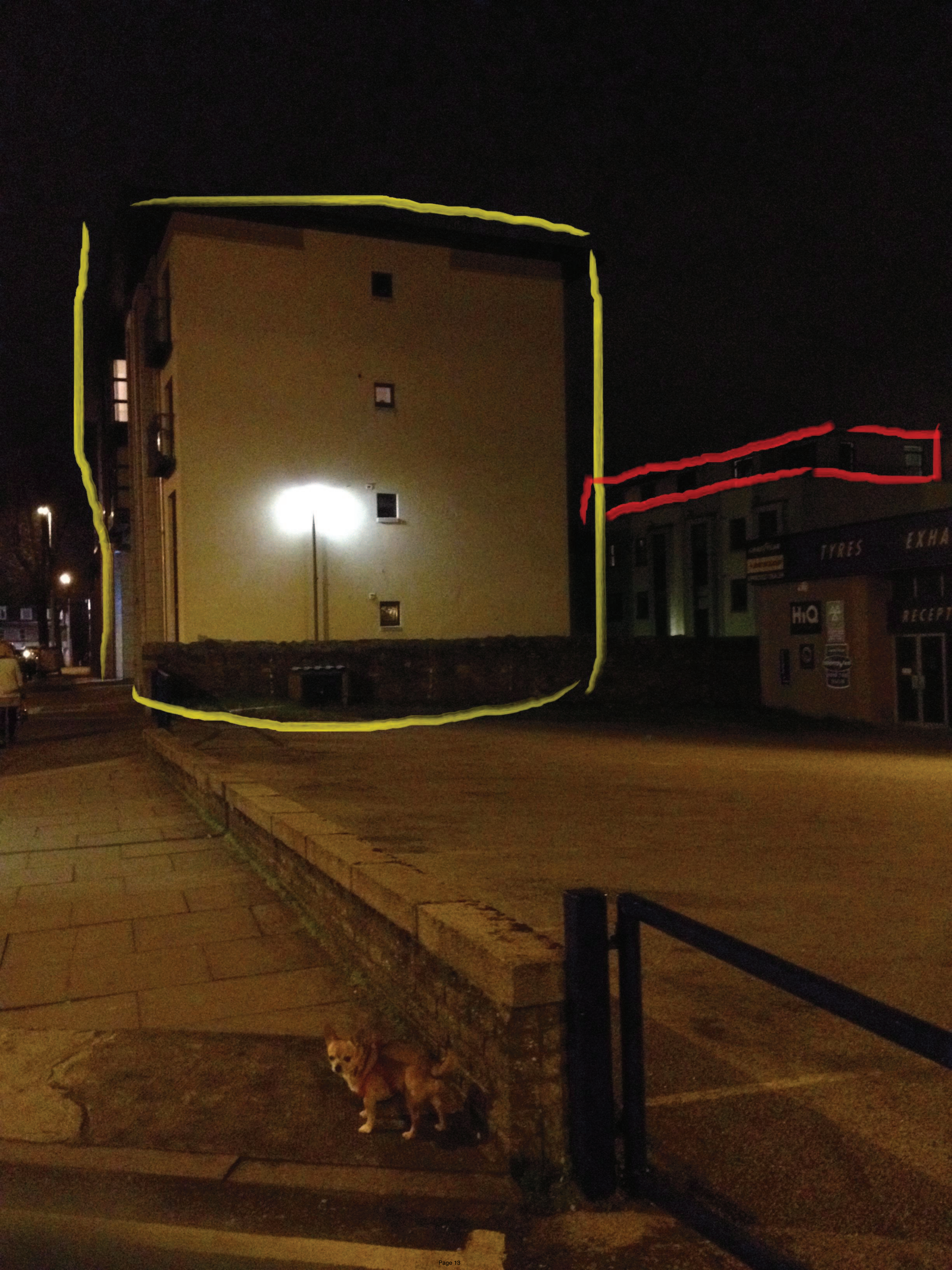
I look forward to meeting the committee & yourself and discussing my business and any other relevant information. Please advise if you require me to bring along any other relevant information.

Regards

AF

Andrew Finlay|Owner/Director
AF High Performance Cars Limited
[REDACTED]

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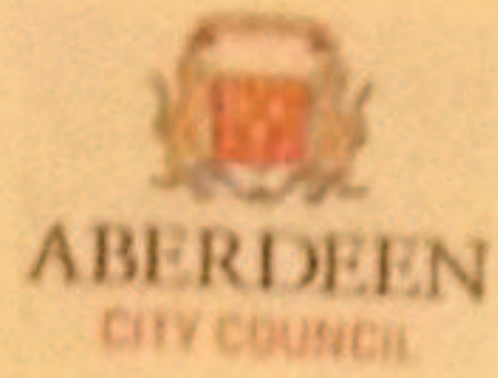
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Aberdeen City Council
Civic Government (Scotland) Act 1982
NOTICE FOR DISPLAY AT PREMISES

NOTICE IS HEREBY GIVEN that application has been submitted on (date) _____
to Aberdeen City Council for the grant/renewal (delete as applicable) of a licence in respect of premises
at _____

BY:
NAME OF APPLICANT(S): Andrew Finlay, AF High Performance Cars LTD

ADDRESS: 76 Willowbank Road, Aberdeen, AB11 6XL

DIRECTORS' OR PARTNERS' FULL NAMES AND ADDRESSES (if applicant is a company or
partnership)
Andrew Finlay

TYPE OF LICENCE APPLIED FOR: Second Hand Dealer's Licence

NAME OF DAY TO DAY MANAGER: _____

ADDRESS: _____

Any objection or representation in relation to the application should be made to the
Licensing Team, Legal and Democratic Services, Corporate Governance, Business Hub
6 L1S, Manschal College, Aberdeen, AB10 1AQ, **within 28 days** of the above
mentioned date.

PLEASE NOTE:-

- (1) Any objection or representation relating to an application shall be entertained by
the Council, **only if**, the objection or representation -
 - (a) is in writing (e-mails are not acceptable)
 - (b) specifies the grounds of the objection or representation
 - (c) specifies the name and address of the person making it
 - (d) is signed by the person or on his/her behalf
 - (e) is made within 28 days of the date the application was submitted to the
Council (see above for date).
- (2) An objection or representation shall be made for the purposes of (1) above if it is
delivered by hand, within the time specified, to the Council or posted (by
registered or recorded delivery post) so that in the normal course of post it might
be expected to be delivered within that time.



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FLAT 23
76 Willowbank Road
Aberdeen
AB11 6XL



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INFORMATION NOTE FOR MEMBERS

**PRIVATE HIRE CAR LICENCE
APPLICANT: FRANCIS ROBERTSON CARNEY**

This item have been placed on the agenda because:

The application requires to be determined by 16 April 2015 and to date the vehicle has not passed its inspection.

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INFORMATION NOTE FOR MEMBERS

**TAXI LICENCE (GRANT) (3)
APPLICANT: AUTOVERDI LTD**

These items have been placed on the agenda because:

There are three applications by Auto Verdi Ltd for the grant of taxi licences. The applications require to be determined by 6 May 2015 and to date the vehicles have not passed their inspections.

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Agenda Item 5

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