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Glasgow Board secures landmark ‘objectives’ ruling

- Lap dancing club fails in challenge to policy-based refusal
- Objectives test gives boards ‘even wider discretion’
- 2005 Act creates ‘interlocking, schematic arrangement’

GLASGOW Licensing Board has succeeded in repelling a challenge to the refusal of a licence application based on breaches of its statutory policy.

The Board turned down a ‘conversion’ application by adult entertainment operator Brightcrew Ltd on ‘licensing objectives grounds’ (the crime prevention objective and ‘protecting public health’).

In his judgment, which has been appealed to the Court of Session, Sheriff Craig Scott referred to the ‘wide discretion’ afforded to licensing boards under the 1976 Act and said: ‘While it may be a matter of degree, I have the impression that the test for refusal under Section 23 (5)(c) viz. *inconsistency* “with one or more of the licensing

objectives”, involves an even wider discretion being conferred upon licensing boards under the 2005 Act.’

He rejected Brightcrew’s argument that breach of a code of practice for adult entertainment, contained in the Board’s policy, was not a proper basis for refusal.

Glasgow’s Executive Legal Manager, Paul Romano, said: ‘The argument that nothing has really changed from the 1976 Act to the 2005 Act has been profoundly rejected.

‘This is a critical decision, because the Sheriff has decided that the new Act has “created an interlocking, schematic arrangement with a far broader impact than the old 1976 Act legislation”.’

Brightcrew have appealed to the Court of Session.

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BOARDS BREAKING FREE?

Mairi Millar suggests that licensing appeals may not be such a risky business following *Brightcrew*: Page 12

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