

LICENSING COMMITTEE

ABERDEEN: Wednesday, 17 November 2010 Minute of Meeting of the LICENSING COMMITTEE. Present:- Councillor Reynolds, Convener; and Councillors Allan, Boulton, Collie, Corall, Dunbar, Farquharson (substituting for Milne), Fletcher, Hunter, Noble, John Stewart and Kirsty West.

1 REQUESTS FOR DEPUTATION

The Committee had before it a request from (1) Tommy Campbell, Unite, that he be invited to address the Committee on item 4 on the agenda and (2) Russell McLeod, Rainbow City Taxis, that he also be invited to address the Committee on item 4 on the agenda.

The Committee resolved:-
to accept both deputations.

2 MINUTE OF MEETING OF 15 SEPTEMBER 2010

The Committee had before it the minute of meeting of 15 September, 2010.

The Committee resolved:-
to approve the minute.

3 DRAFT MINUTE OF MEETING OF SPORTS GROUND ADVISORY WORKING GROUP OF 14 OCTOBER 2010

The Committee had before it the draft minute of the Sports Ground Advisory Working Group of 14 October, 2010.

The Committee resolved:-
to note the draft minute.

4 DRAFT NOTE OF TAXI CONSULTATION GROUP MEETING OF 25 OCTOBER 2010

The Committee had before it the draft note of the Taxi Consultation Group meeting of 25 October, 2010.

The Committee resolved:-

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to note the draft.

5 COMMITTEE BUSINESS STATEMENT

The Committee had before it, for its consideration, the Committee Business Statement.

The Committee resolved:-
to note the Statement.

6 INFORMAL BUSINESS

The Committee had before it a statement of business dealt with informally since 15 September, 2010.

The Committee resolved:-

To note the informal business. The Committee also instructed officers to email members of the Informal Business Panel each time there was business requiring their attention.

7 APPLICATIONS FOR GRANT, RENEWAL OR VARIATION OF LICENCES - LIST OF APPLICATIONS

The Committee had before it, for its consideration, the applications listed in Appendix A to this minute.

The Committee resolved:-

that all applications be determined on the basis shown in Appendix A and that all licences be subject to the Council's normal conditions unless otherwise stated.

8 REQUEST TO FORM A SALOON CAR PARTNERSHIP - EDWARD AND GARRY MACDONALD

The Committee had before it, for its consideration, a request from Edward MacDonald to allow him to form a saloon car partnership with his son, which would replace the existing saloon car licence held by him.

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The Committee resolved:-

to agree to the request to form a saloon car partnership.

**9 VARIATION OF CONDITION ON AIRPORT ZONED TAXI LICENCES -
OUTCOME OF TRIAL PERIOD**

The Committee had before it, for its consideration, a report on the outcome of the trial period of the variation of condition on airport zoned taxi licences. The report advised the Committee of the outcome of the trial period in which airport zoned taxis had been permitted to operate in the city centre between the hours of midnight and 5.00am on a Saturday night/Sunday morning.

The report recommended:-

That the Committee decides whether to:-

- (i) make the situation permanent by varying the condition to enable airport zoned taxis to continue to operate in the city zone between midnight and 5.00am on Saturday nights/Sunday mornings;
- (ii) if the Committee decides to adopt recommendation (i), continue the trial period until the statutory variation procedure is completed;
- (iii) or revert to the position before the trial period, whereby all airport zoned taxis operate only from the airport.

The Committee then heard from Brenda Flaherty, Legal Manager, who stated that a letter had been received from Russell McLeod, Rainbow City Taxis, proposing a fourth option.

The Committee then heard from Tommy Campbell, Unite, who stated that the drivers he represents are in favour of option (iii) in the report, namely to revert to the position before the trial period whereby all airport zoned taxis only operate from the airport. However, he thought that it might be helpful to defer the decision to allow time for a demand survey to be undertaken.

The Committee then heard from Russell McLeod, Rainbow City Taxis. He had put forward a fourth option in a letter dated 11 November, 2010. Mr McLeod stated that this option would not be relevant should the Committee choose option (iii) in the report. If however, the Committee were minded to make the trial period permanent then he proposed a fourth option to allow airport zoned taxis to continue to operate in the city zone between midnight and 5.00am on Saturday nights / Sunday mornings, but only during the period from the last weekend in October to the last weekend in March; which

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period coincides with the time change to and from Greenwich Mean Time and British Summer Time. Councillor Boulton stated that the Committee could not reach a decision on this matter until it had heard the views of the taxi marshals and police officers working in the city centre over this period.

The Committee resolved:-

- (i) to extend the trial period for a further six months;
- (ii) instruct officers to gather data on (i) the number of hires at the ranks by airport zoned taxis during this period and (ii) the waiting times at the ranks; and
- (iii) write to the police and taxi marshals seeking their view as to whether they thought there has been an improvement in the service to the public over the period when airport zoned taxis are allowed to pick up in the city.

10 TAXI TESTING SUPPLEMENT TO VOSA MOT TESTER MANUAL - SPECIFICATION

The Committee had before it, for its consideration, a proposed specification for a taxi testing supplement to the VOSA MOT tester's manual. The specification had been discussed at the last Taxi Consultation Group meeting.

The Committee then heard from Nigel Buchan, Fleet Services Manager, who stated that amendments had been made to the specification as agreed at the Taxi Consultation Group meeting.

The Committee resolved:-

to adopt the specification.

11 REVIEW OF STREET TRADER LICENCES - REPORT 9 (MAPS CAN BE VIEWED IN THE MEMBERS LOUNGE)

The Committee had before it, for its consideration, a report to explain the current system in place with regards to all aspects of street trader licences and to make suggestions for changes to update the practice and procedure relating to these licences.

The report recommended:-

that the Committee -

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- (i) considers whether it wishes to revoke (or otherwise) the current requirement whereby all applications for new hot food sites and new applicants for existing hot food sites require to be advertised in a local newspaper.
If it does wish to revoke the requirement for advertising, that it decides which measure(s) (if any) it wishes to have in place;
- (ii) maintains the current practice whereby hot food applications for new sites must be brought before the Committee for determination;
- (iii) revokes the current 100 metre rule detailed in Condition 10 (Conditions Applicable to Street Traders Licence – “The Conditions”) annexed as appendix A to this report;
- (iv) maintains its current guidelines prohibiting street trading in the city centre;
- (v) adopts in principle a new condition prohibiting the siting of street trading stances which sell any type of food and / or drinks within a specified radius of the outer boundary of a school at all times;
- (vi) if the Committee adopts the new condition as per (v) above, it should determine what the specified radius will be;
- (vii) adopts in principle the amended current conditions as detailed in appendix B of this report;
- (viii) maintains all nine zones in relation to street traders licences for mobile vans pending a potential change in legislation; and
- (ix) maintains the current one year duration for a street trader’s licence.

The Committee was advised by Brenda Flaherty, Legal Manager, that maps were available showing the number of street traders within 100, 200 and 400 metres of the outer boundary of all schools in the city.

The Committee resolved:-

- (i) to maintain the requirement whereby all applications for new hot food sites and new applicants for existing hot food sites required to be advertised in a local newspaper. It further instructed officers to advertise these applications on the PINS website;
- (ii) adopt recommendation (ii), (iii), (iv), (v), (vii), (viii) and (ix).
With regard to recommendation (v), whereby the Committee would prohibit siting of a street trader stance which sells any type of food and / or drinks within a specified radius of the outer boundary of a school at all times, Councillor Kirsty West, seconded by the Convener, moved:-
that the radius should be 400 metres from the outer boundary of secondary schools only.

Councillor Boulton, seconded by Councillor Dunbar, moved as an amendment:-

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that the radius should be 200 metres from the outer boundary of all schools.

On a division, there voted:- for the motion (8) – the Convener; and Councillors Allan, Collie, Fletcher, Hunter, Noble, John Stewart and Kirsty West; for the amendment (4) – Councillors Boulton, Corall, Dunbar and Farquharson.

The Committee resolved:-
to adopt the motion.

12 CRIMINAL JUSTICE AND LICENSING SCOTLAND ACT 2010: PROPOSED CHANGES - REPORT

The Committee had before it, for its consideration, a report advising it of the principle proposed changes to the Civic Government (Scotland) Act 1982, introduced by the Criminal Justice and Licensing (Scotland) Act 2010.

The Committee resolved:-

to note the contents of the report and instruct officers to prepare reports on the implications of the Act for (1) public entertainment licensing and (2) late hours catering licensing. The Committee stated that these reports did not have to be brought before the Committee within the usual two cycles.

13 ONLINE APPLICATIONS - ORAL REPORT

The Committee heard from Brenda Flaherty, Legal Manager, that applicants for licences will soon be able to apply and pay for these online.

14 APPLICATIONS FOR GRANT, RENEWAL OR VARIATION OF LICENCES - LIST OF APPLICATIONS TO BE HEARD IN CONFIDENCE

EXEMPT INFORMATION

The Committee resolved in relation to items 9.1 to 9.4 that members of the public and the press be excluded from the meeting during discussion of the applications on the grounds that there would be disclosure to them of information of the class

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described in paragraph 14 of Schedule 7(A) to the Local Government (Scotland) Act 1973.

The Committee had before it for its consideration, the applications listed in appendix B to this minute.

The Committee resolved:-

that all applications be determined on the basis shown in appendix B and that all licences be subject to the Council's normal conditions unless otherwise stated.

- **COUNCILLOR JOHN REYNOLDS, Convener.**

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APPENDIX A

1. **APPLICATION FOR THE GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Ref No. 2/001
Premises – 130 Hamilton Place, Aberdeen

The Committee heard from Alastair Thain, Private Sector Housing Manager, who spoke to his memo of 1 November 2010. Mr Thain advised the Committee that there were still outstanding works to be done before a licence could be granted. However, even if these works had been done he would still be bringing the matter to the Committee because of a fire in the property on 17 October, 2010. He referred to his memo and the fact that attending crews Grampian Fire and Rescue Service noted evidence of five individuals residing at the property at the time of the fire, notwithstanding the fact that the property currently does not have a licence to operate as a house in multiple occupation.

Thereafter the Committee heard from Bill Black, who was representing the applicant. Mr Black stated that the official tenants in the house at the time of the fire were a mother and son and that the additional people should not have been there. He advised the Committee that as soon as the applicant had discovered that the other people were there he had moved them out as soon as possible.

The Committee resolved:-
to refuse the application.

2. **APPLICATION FOR THE GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Ref No. 2/002
Premises – 2C Maberly Street, Aberdeen

The Committee was advised that the application had been granted by delegated powers.

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3. **APPLICATION FOR THE GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Ref No. 2/003
Premises – 313 Hardgate, Aberdeen

The Committee was advised that the application had been granted by delegated powers.

4. **APPLICATION FOR THE GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Ref No. 2/004
Premises – 55 Spital, Aberdeen

The Committee was advised by Alastair Thain, Private Sector Housing Manager, that the applicant could not be present and had requested that consideration of the application be deferred.

The Committee resolved:-

to defer consideration of the application to its next meeting to be held on 19 January, 2011.

5. **APPLICATION FOR THE RENEWAL OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Ref No. 2/005
Premises – Flat 3, 43 Wallfield Crescent, Aberdeen

The Committee was advised that the application had been granted by delegated powers.

6. **APPLICATION FOR THE GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Ref No. 2/006
Premises – Hayfield Riding Centre, Hazlehead, Aberdeen

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The Committee was advised that this application was before it because it had been less than one year since a similar application had been refused. The Committee must decide whether there has been a material change in circumstances that would allow it to consider the application.

The Committee then heard from the applicant who advised that in his opinion there had been a material change because all the outstanding works which were required previously, and on which basis that the application was refused, had now been completed, including extensive electrical work.

The Committee agreed that in the circumstances there had been a material change in circumstances to enable it to consider the application.

Thereafter the Committee heard from Alastair Thain, Private Sector Housing Manager, who confirmed that all the works were now complete.

The Committee resolved:-
to grant the application.

7. **APPLICATION FOR THE RENEWAL OF A LICENCE FOR A HOUSE IN
MULTIPLE OCCUPATION**
Application Ref No. 2/007
Premises – 11 Canal Street, Aberdeen

The Committee was advised that the application was before it because a letter of objection had been received. Only the paragraph in the letter referring to the parking is relevant to the HMO application. The applicant, who could not attend, had submitted documentation detailing what steps she had taken to address the parking issue. This documentation was circulated to the Committee and to the objector who was personally present.

Mr Thain, Private Sector Housing Manager, advised the Committee that all works were now complete and that contrary to what it stated in his memo of 2 November, 2010, the applicant was a registered landlord.

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The Committee then heard from the objector, who stated that after reading the applicant's correspondence she was satisfied that parking would no longer be an issue.

The Committee resolved:-
to grant the application.

8. **APPLICATION FOR THE GRANT OF A LATE HOURS CATERING LICENCE**
Application Ref No. 2/008
Premises – Qismat, Hillhead Halls of Residence, Don Street, Aberdeen
Times – Monday to Sunday, 23:00 to 02:30

The Committee was advised that the application was before it because the hours the applicant was seeking to trade were outwith the guidelines for premises outwith the city centre. Thereafter the Committee heard from Mr Openshaw, James and George Collie Solicitors, who spoke on behalf of the applicant.

The Committee resolved:-
to grant the application.

9. **APPLICATION FOR THE GRANT OF A STREET TRADER (GENERAL) LICENCE**
Application Ref No. 2/009
Site – Pilot Square, Footdee, Aberdeen
Times - Monday to Sunday, 07:00 to 22:00

The Convener advised that this application had been refused by the Committee on 15 September, 2010 on the basis that it would set an unwelcome precedent in a conservation area. However, it has since come to light that there is another street trader in the area already selling similar goods therefore it was felt that the best course of action would be for the Committee to reconsider the application.

There were two objectors to the application.

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The Committee heard from the second objector, who circulated photographs which he claimed demonstrated how invasive any stall would be to neighbouring properties. He further stated that street trading would encourage tourists to congregate in the area, blocking access to other properties.

The Committee then heard from the first objector, who stated that his principal objection is to street trading in Fittie per se. The proposed area of trade is directly in front of his door and would be invasive to him.

Thereafter the Committee heard from the applicant. She stated that she had deliberately made the size of her stall very small so that it would not interfere with access. Furthermore, she had received letters of support from other members of the community.

Councillor Hunter, seconded by Councillor Fletcher moved:-
to grant the application between the hours of 10:00 and 18:00, seven days per week.

Councillor Dunbar, seconded by Councillor Boulton, moved as an amendment:-
to refuse the application on the grounds that the premises is not suitable or convenient for the conduct of the activity, having regard to the nature and extent of the proposed activity.

On a division, there voted:- for the motion (8) – the Convener; and Councillors Allan, Collie, Corral, Fletcher, Hunter, Noble and Kirsty West; for the amendment (4) - Councillors Boulton, Dunbar, Farquharson and John Stewart.

The Sub Committee resolved:-
to adopt the motion and grant the application.

10. **APPLICATION FOR THE GRANT OF A STREET TRADER (HOT FOOD) LICENCE**
Application Ref No. 2/010
Site – Burnside Drive, Dyce, 120 metres east of Wellheads Road
Times - Monday to Friday, 07:00 to 15:00

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The Committee was advised that this application was before it because it was for a new site. The applicant had now obtained a certificate of compliance from Environmental Health.

The Sub Committee resolved:-
to grant the application.

11. **APPLICATION FOR THE GRANT OF A SKIN PIERCING AND TATTOOING LICENCE**

Application Ref No. 2/011

Premises – Temple Aesthetics, The Courtyard, Cults

The Committee was advised that this application was before it because it has been less than twelve months since the applicant was previously refused a similar licence.

The Committee would have to make a decision as to whether it could consider the application based on whether there had been a material change in circumstances. In the absence of the applicant,

The Committee resolved:-
to decline to consider the application.

12. **APPLICATION FOR A THEATRE LICENCE**

Application Ref No. 2/012

Premises – Hazlewood School, Aberdeen

The Committee was advised that the application had been granted by delegated powers.

13. **APPLICATION FOR A THEATRE LICENCE**

Application Ref No. 2/013

Premises – Milltimber School, Aberdeen

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The Committee was advised that the application had been granted by delegated powers.

14. **APPLICATION FOR A THEATRE LICENCE**
Application Ref No. 2/014
Premises – Peterculter Parish Church, Aberdeen

The Committee was advised that the application had been granted by delegated powers.

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APPENDIX B

1. APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE
Application Ref No. 9/001

The Committee was advised that the application had been withdrawn.

2. APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE
Application Ref No. 9/002

The Committee heard from Sergeant Keith Middler, Grampian Police, who spoke to the Chief Constable's letter of objection dated 14 September, 2010.

Thereafter the Committee heard from the applicant.

Councillor Hunter, seconded by Councillor Allan moved:-
to grant the application for six months.

Councillor Dunbar, seconded by Councillor Farquharson moved as an amendment:-
to refuse the application.

On a division, there voted:- for the motion (3) – Councillors Allan, Corral and Hunter; for the amendment (7) – The Convener; and Councillors Boulton, Dunbar, Fletcher, Farquharson, Noble and Kirsty West.

The Committee resolved:-
to adopt the amendment and refuse the application.

3. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE
Application Ref No. 9/003

The Committee heard from Sergeant Keith Middler, Grampian Police, who spoke to the Chief Constable's letter of observation dated 8 October, 2010.

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Thereafter the Committee heard from the applicant.

The Committee resolved:-
to refuse the application.

4. APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE
Application Ref No. 9/004

The Committee heard from Sergeant Keith Middler, Grampian Police, who spoke to the Chief Constable's letter of observation dated 4 October, 2010.

Thereafter the Committee heard from the applicant.

The Committee resolved:-
to give delegated powers to grant the application for six months provided the applicant passes his street knowledge test and his medical report is clear.