

LICENSING COMMITTEE

ABERDEEN, 17 September 2013. Minute of Meeting of the LICENSING COMMITTEE. Present:- Councillor Forsyth, Convener; and Councillors Boulton, Corall, Cormie, Delaney, Graham, Ironside CBE, MacGregor, Malik, Townson and Young (substituting for Councillor Grant).

The agenda and reports associated with this minute can be found at:-

<http://councilcommittees/ieListDocuments.aspx?CId=149&MId=2924&Ver=4>

Please note that if any changes are made to this minute at the point of approval, these will be outlined in the subsequent minute and this document will not be retrospectively altered.

ORDER OF AGENDA

1. The Convener proposed that the report at item 3.6 (Late Hours Catering Legislative Amendments) be considered prior to the applications relating to Late Hours Catering Licences.

The Convener also took the opportunity to refer to the Council's decision to amend the membership of the Committee and thanked Councillors Blackman, Nathan Morrison and Reynolds for their input during their time as members of the Committee.

The Committee resolved:

- (i) to agree to the proposal; and
- (ii) to concur with the Convener in his thanks to the above Councillors.

REQUEST FOR DEPUTATION

2. The Committee was advised that a request for deputation had been received from Unite the Union in relation to item 3.5 (Taxi Fare Review) of the agenda.

The Committee resolved:

to hear the deputation prior to consideration of the report.

MINUTE OF PREVIOUS MEETING OF 18 JUNE 2013

3. The Committee had before it the minute of its previous meeting of 18 June, 2013.

The Committee heard from Ally Thain, Private Sector Housing Manager who referred to appendix A(1) resolution (ii) of the minute, and sought clarification in terms of the

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instruction to send copies of all future letters of representation relating to HMO applications to Police Scotland.

The Committee resolved:-

- (i) to confirm the decision that copies of all future letters of representation relating to HMO applications be sent to Police Scotland; and
- (ii) to otherwise approve the minute.

MINUTE OF MEETING OF SPORTS GROUND ADVISORY WORKING GROUP OF 20 JUNE 2013

4. The Committee had before it the minute of meeting of the Sports Ground Advisory Working Group of 20 June, 2013.

The Committee resolved:-

to note the minute.

INFORMAL BUSINESS STATEMENT

5. The Committee had before it details of the business dealt with by the Informal Business Panel since 18 June, 2013.

The Committee resolved:-

to note the informal business.

LICENSING OF HOUSES IN MULTIPLE OCCUPATION - OVERPROVISION CONSULTATION FEEDBACK - REFERRAL FROM THE HOUSING AND ENVIRONMENT COMMITTEE

6. The Committee had before it by way of referral from the Housing and Environment Committee of 27th August, 2013 a report by the Director of Housing and Environment which provided detail of the outcome of the consultation on HMO overprovision in Aberdeen and policy development across Scotland.

The report recommended to the Housing and Environment Committee-

- (a) agrees that following analysis of the current HMO provision in the city and the responses to the consultation that no policy on HMO overprovision is introduced;
- (b) instructs the Director of Housing & Environment to continue to monitor policy and legal developments in HMO overprovision across Scotland and report back to Committee as appropriate if there are developments which require the Council's position on HMO overprovision to be reviewed;

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- (c) agrees that a review of the position of overprovision should be formally undertaken in 2016 if this has not been required earlier by recommendation (b) above;
- (d) notes that any HMO application that is the subject of a representation will be considered by the Licensing Committee who will decide whether to grant a HMO licence; and
- (e) remit this report and Committee decision to the Licensing Committee for their information and independent action.

The Housing and Environment Committee had resolved:-

- (i) to request officers to monitor the HMO provision in Old Aberdeen and report back in 12 months;
- (ii) to request officers to determine the scale of un-registered houses across the City available to let and report back in twelve months; and
- (iii) to otherwise approve the recommendations contained in the report.

The Committee resolved:-

to note the information provided.

APPLICATIONS FOR LICENCES

7. 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 are subject to the Council's standard conditions unless otherwise stated.

LATE HOURS CATERING GUIDELINES - LEGISLATIVE AMENDMENTS - UPDATE - CG/13/046

8. The Committee had before it a report by the Acting Director of Corporate Governance which clarified and consolidated the Committee's policy guidelines for Late Hours Catering Licences.

The report recommended:-

that the Committee –

- (a) approves its consolidated policy on late hours catering (see appendix 2 of the report); and
- (b) notes that officers will publish it online on the Committee's late hours catering licence web page.

The Committee resolved:-

- (i) to approve the recommendations; and

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- (ii) to agree that in addition to its current guidelines in respect of late hours catering licences, in the event of an application for the grant, renewal or variation of a late hours catering licence where the applicant seeks to trade beyond the committee's current guideline terminal hours and the application attracts no objection or adverse observation, the application may be granted by officers under delegated powers. Such additional delegation of powers would not apply to premises trading in hot food and/or hot beverages.

REVIEW OF NIGHT TIME RANKS - EPI/13/164

9. With reference to article 8 of the minute of meeting of 6 June, 2012, the Committee had before it a report by the Director of Enterprise, Planning and Infrastructure which provided an update in relation to the review of the night time ranks, in light of the information and recommendations contained within the Taxi Demand Survey produced by the Transport Research Institute, Taxi Studies Group Edinburgh Napier University.

The report recommended:-

that the Committee –

- (a) notes the contents of the report; and
- (b) instructs officers of Enterprise, Planning and Infrastructure and Legal and Democratic services to continue progressing the changes outlined within the report.

The Committee resolved:-

to approve the recommendations.

TAXI DEMAND SURVEY - RANK SPECIFIC RECOMMENDATIONS - EPI/13/163

10. With reference to article 8 of the minute of meeting of 17 April, 2012, the Committee had before it a report by the Director of Enterprise, Planning and Infrastructure which provided an update in relation to the taxi rank specific recommendations, in light of the information contained within the Taxi demand Survey produced by the Transport Research Institute, Taxi Studies Group, Edinburgh Napier University.

The report recommended:-

That the Committee –

- (a) notes the contents of the report;
- (b) instructs officers of Enterprise, Planning and Infrastructure and Legal and Democratic Services to commence the legal procedures for the installation of a new taxi rank on George Street; and

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- (c) instructs officers of Enterprise, Planning and Infrastructure and Legal and Democratic Services not to commence the legal procedures for the installation of a new taxi rank located on Rosemount Viaduct at this time.

The Committee resolved:-

to approve the recommendations.

TAXI LICENCES - CONDITION 16, ROOF SIGNS - CG/13/076

11. With reference to article 4 of the minute of meeting of 26 March, 2013, the Committee had before it a report by the Acting Director of Corporate Governance which proposed a variation to the Committee's roof sign condition for taxi licences and resolutions to related matters.

The report recommended:-

that the Committee –

- (a) agree in principle to the proposed variation to Condition 16 of the Conditions Applicable to Taxi Licences, both City and Airport Zones;
- (b) agree in principle to the proposed variation to Condition 16A of the Conditions Applicable to Private Hire Car Licences;
- (c) instruct officers to complete the statutory variation procedures and report back;
- (d) note that the Aberdeen City Council Taxi Testing Supplement to the VOSA M.O.T Testers Manual will be updated; and
- (e) note that a separate Aberdeen City Council Taxi Testing Supplement to the VOSA M.O.T Testers Manual will be produced for private hire cars.

The Committee resolved:-

to approve the recommendations.

TAXI LICENCE LIMIT - SURVEY UPDATE - CG/13/085

12. With reference to article 7 of the minute of meeting of 20 November, 2012, the Committee had before it a report by the Acting Director of Corporate Governance which provided information in relation to the process to review its Taxi Licence Policy.

The report recommended:-

that the Committee –

- (a) note the process to review its Taxi Licence Policy; and
- (b) instruct officers to commence the process of reviewing the policy in early 2014.

The Convener, seconded by Councillor Boulton moved:-

that the recommendations contained within the report be approved.

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Councillor Delaney, seconded by Councillor Corall moved as an amendment to the report recommendations:-

to remove the current cap on taxi licences.

Councillor Boulton had earlier moved the following as an amendment to the report recommendations but had not received a seconder and so in terms of standing order 12(6), this amendment had fallen :-

- (1) to approve the recommendations contained within the report;
- (2) to temporary suspend the current cap on taxi licences to allow the 140 people on the waiting list to apply for licences; and
- (3) to undertake a full review of the taxi licence limit following the survey in early 2014.

On a division, there voted between the Convener's motion and Councillor Delaney's amendment:- for the motion (7) the Convener and Councillors Boulton, Graham, Ironside CBE, MacGregor, Malik and Townson; for the amendment (3) Councillors Corall, Cormie and Delaney.

The Committee resolved:-

to adopt the motion.

TAXI FARE REVIEW - CG/13/036

13. As agreed at the start of the meeting (Article 2 of this minute refers), the Committee received a deputation from Steve Robertson, on behalf of Unite, the Union.

Mr Robertson requested that the Committee defer consideration of this item until Unite, the Union members hold a meeting to consider the proposals within the report.

The Committee resolved:-

to defer consideration of the report until next the meeting of the Committee.

COMMITTEE BUSINESS STATEMENT

14. The Committee had before it a statement of Committee Business from the Head of Legal and Democratic Services.

The Committee resolved:-

to remove item 1 (Taxi Demand Survey – Rank Specific Recommendations); Item 2 (Review of Night Time Ranks and Closed Ranks); and item 5 (Taxi Roof Signs) from the statement.

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EXEMPT INFORMATION

In accordance with the Data Protection Act 1988 (Principle 1), the press and public were excluded from the meeting during consideration of the following item.

APPLICATION FOR LICENCES

15. 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 FRASER FORSYTH, Convener**

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APPENDIX A**1. APPLICATION FOR THE RENEWAL OF A HOUSE IN MULTIPLE OCCUPATION****Application Reference Number – 2/001****Premises - 2 Wallacebrae Road**

The Committee had before it one letter of representation.

Ally Thain, Private Sector Housing Manager, advised that works on the premises had still to be completed, although this was not the reason it was before the Committee today.

The respondent was not in attendance.

The applicant was not in attendance.

The Committee resolved:-

to defer consideration of the application until the works were completed, after which time officers could grant the application under delegated powers if appropriate.

2. APPLICATION FOR THE RENEWAL OF A HOUSE IN MULTIPLE OCCUPATION**Application Reference Number – 2/002****Premises – 42 Skene Terrace**

The Committee were advised that the letter of representation had been withdrawn, which was the reason it was before the Committee today.

The Committee resolved:-

to defer consideration of the application until the works were completed, after which time officers could grant the application under delegated powers if appropriate.

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3. APPLICATION FOR THE RENEWAL OF A HOUSE IN MULTIPLE OCCUPATION**Application Reference Number – 2/003****Premises – 19 Rosehill Place**

Mr. Ally Thain, Public Sector Housing Manager advised that there was a letter of representation that was received outwith the statutory time period within which, such letter must be received. He further advised that the Committee may consider a late representation if it was satisfied that it was reasonable for the respondent to make the representation after the deadline.

The respondent was not present.

The applicant was not present.

The Committee resolved:-

that the letter of representation would not be admitted to the proceedings for consideration.

Mr Thain indicated that works on the premises had still to be completed, although this was not the reason it was before the Committee today.

The Committee further resolved:-

to defer consideration of the application until the works were completed, after which time officers could grant the application under delegated powers if appropriate.

4. APPLICATION FOR THE GRANT OF A HOUSE IN MULTIPLE OCCUPATION**Application Reference Number – 2/004****Premises – 13 Ashgrove Road**

The Committee had before it four letters of representation.

The Committee heard from two respondents in terms of one of the letters of representation. The respondents wished to circulate further evidence to the Committee.

The applicant had no objection to the evidence being circulated.

The Committee agreed to its circulation.

The Committee then heard from the applicant's agent, Mr Gould in support of the application.

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The Committee resolved:-

- (i) to grant the application;
- (ii) that officers provide contact details of the Council's Anti-Social Behaviour Team to the respondents who had submitted letters of representation; and
- (iii) that officers write to the landlords of the neighbouring Houses of Multiple Occupation in respect of allegations in the letters of representation regarding alleged anti-social behaviour in those properties.

**5. APPLICATION FOR THE GRANT OF A HOUSE IN MULTIPLE OCCUPATION
Application Reference Number – 2/005
Premises – 145 Crown Street**

The Committee were advised that the application had been granted under delegated powers.

**6. APPLICATION FOR THE RENEWAL OF A PUBLIC ENTERTAINMENT LICENCE
Application Reference Number – 2/006
Premises – St Andrews Cathedral Church**

The Committee were advised that the application had been withdrawn.

**7. APPLICATION FOR THE GRANT OF A LATE HOURS CATERING LICENCE
Application Reference Number – 2/007
Premises – McDonalds Restaurants Ltd, Garthdee Road
Days/Times – Monday to Sunday, 23:00 to 05:00**

The Committee had before it a letter of representation, dated 18 June, 2013 from the Chief Constable of the Police Service of Scotland, Aberdeen City Division and heard Sergeant Skinner speak in its support.

The Committee heard from the applicant's agent Lesley Johnstone in support of the application.

Councillor Townson, seconded by Councillor Young moved:-
to grant the application.

Councillor Boulton, seconded by Councillor MacGregor moved as an amendment:-
to refuse the application.

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On a division, there voted:- for the motion (9) – the Convener and Councillors Corall, Cormie, Delaney, Graham, Ironside CBE Malik, Townson and Young; for the amendment (2) – Councillors Boulton and MacGregor.

The Committee resolved:-

to adopt the motion.

8. APPLICATION FOR THE GRANT OF A LATE HOURS CATERING LICENCE

Application Reference Number – 2/008

Premises – Adies, 62-64 Bedford Road

Days/Times – Monday to Sunday, 23:00 to 05:00

The Committee had before it a letter of observation dated 7 August, 2013 from the Chief Constable of the Police Service of Scotland, Aberdeen City Division.

The applicant was not in attendance.

The Committee resolved:-

to defer consideration of the application until its next meeting to allow the applicant to attend and speak to the application.

9. APPLICATION FOR THE GRANT OF A METAL DEALER'S LICENCE

Application Reference Number – 2/009

Applicant – GB International (UK) Limited

Premises – Kiosk P2, Union Square Shopping Centre

Dates/Times – Monday to Friday, 09:00 to 20:00, Saturday, 09:00 to 19:00 and Sunday, 11:00 to 17:00

The Committee were advised that (1) the applicant had not returned the certificate to confirm the display of a site notice, which requires to be displayed at the premises for 21 days beginning with the date that the application was submitted; and (2) Companies House had listed the applicant company as being in liquidation.

The applicant had been invited to the meeting but failed to attend.

The Committee resolved:-

to refuse the application.

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- 10. APPLICATION FOR THE RENEWAL OF A STREET TRADER'S (ICE CREAM) LICENCE – ALEXANDER JACK**
Application Reference Number – 2/010
Sites – Zones 1, 2 and 6 and Westburn Park
Days/Times – Monday to Sunday, 10:00 to 22:00

The Committee had before it a letter, dated 27 March 2013, from Alexander Jack which sought the Committee's approval to trade on a slip road off Provost Fraser Drive opposite Northfield Academy, between the hours of 12:30 to 14:00. The Committee were advised that this site was located within a four hundred (400) metre radius of the outer boundary of the secondary school and therefore did not conform to the standard conditions of licence.

The Committee heard from the applicant in support of the application.

The Committee resolved:-

- (i) to grant the application subject to its standard conditions;
- (ii) to note that in terms of Condition 21 it would not be permissible for the applicant to trade within 400 metres of a secondary school.

- 11. APPLICATION FOR THE GRANT OF A STREET TRADER'S (HOT FOOD) LICENCE – ELAINE ELRICK**
Application Reference Number – 2/011
Sites – Kirkton Avenue, south side, 170 metres north east of the southern junction of Kirkton Avenue and Pitmedden Road
Days/Times – Monday to Saturday, 07:00 to 15:00

The Committee had before it correspondence from Doug Ritchie, Team Leader, Traffic Management and Road Safety which supported the application subject to the applicant's van keeping clear from the entrance/exit to the nearby business premises. The applicant had submitted a letter agreeing to this provision.

The Committee resolved:-

to grant the application.

- 12. APPLICATION FOR THE GRANT OF A STREET TRADER'S LICENCE – FENG LAN HUANG**
Application Reference Number – 2/012
Sites – Outside various public bars and nightclubs in city centre
Days/Times – Friday and Saturdays, 23:00 to 04:00

The applicant was not in attendance.

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The Committee resolved:-

to defer consideration of the application until the next meeting of the Committee to allow the applicant to attend and address the Committee on the application, or for officers to obtain further information from the applicant.

13. APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE – DAVID ROBERT BRUCE
Application Reference Number – 2/013

The Committee were advised that the applicant had failed to attend three taxi knowledge test dates.

The applicant was not in attendance.

The Committee resolved:-

to refuse the application.

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APPENDIX B

1. APPLICATION FOR THE GRANT OF A LATE HOURS CATERING LICENCE
Application Reference Number – 5/001

The Committee had before it a letter of representation from the Chief Constable of the Police Service of Scotland, Aberdeen City Division, dated 19 June, 2013 and heard Sergeant Barry Skinner speak in its support.

The Committee heard from the applicant's agent Hamish Lindsay in support of the application.

The Committee resolved:-
to grant the application.

2. APPLICATION FOR THE GRANT OF A SECOND HAND DEALER'S LICENCE
Application Reference Number – 5/002

The Committee had before it a letter of representation from the Chief Constable of the Police Service of Scotland, Aberdeen City Division, dated 26 July, 2013 and heard Sergeant Barry Skinner speak in its support.

As a preliminary point, Sergeant Skinner sought the Committee's approval to introduce details of the applicant's spent convictions on the basis that justice could not be done except by admitting or requiring evidence relating to the spent convictions.

Members heard general information as to the age, class and penalty for the offences to assist them in considering the seriousness of the spent convictions, in order to consider whether justice could not be done except by admitting the convictions.

The Committee resolved:-
not to admit the spent convictions into the proceedings for consideration.

Thereafter, the Committee heard the applicant speak in support of the application.

The Committee further resolved:-
to grant the application.

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3. APPLICATION FOR THE GRANT OF A SECOND HAND DEALER'S LICENCE
Application Reference Number – 5/003

The Committee had before it a letter of representation from the Chief Constable of the Police Service of Scotland, Aberdeen City Division, dated 17 July, 2013 and heard Sergeant Barry Skinner speak in its support.

The Committee heard the applicant speak in support of the application.

Councillor Delaney moved:-

that the application be refused on the grounds that the applicant was not a fit and proper person to hold the licence.

Councillor Delaney's motion was not seconded, and so fell in terms of standing order 12(6).

The Committee resolved:-

to grant the application.

4. APPLICATION FOR THE GRANT OF A BOOKING OFFICE LICENCE
Application Reference Number – 5/004

The Committee had before it a letter of representation from the Chief Constable of the Police Service of Scotland, Aberdeen City Division, dated 11 July, 2013 and heard Sergeant Barry Skinner speak in its support.

The Committee heard the applicant speak in support of the application.

The Committee resolved:-

to grant the application.

5. APPLICATION FOR THE TEMPORARY GRANT OF A BOOKING OFFICE LICENCE
Application Reference Number – 5/005

The Committee heard Sergeant Barry Skinner advise that the letter of representation from the Chief Constable of the Police Service of Scotland, Aberdeen City Division was withdrawn.

The Committee heard the applicants speak in support of the application.

The Committee resolved:-

to grant the application.

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6. APPLICATION FOR THE GRANT OF A PRIVATE HIRE CAR LICENCE
Application Reference Number – 5/006

The Committee had before it a letter from the licensing authority to the applicant, dated 30 August, 2013.

The Committee resolved:-
to grant the application.

7. APPLICATION FOR THE GRANT OF A PRIVATE HIRE CAR LICENCE
Application Reference Number – 5/007

The Committee had before it a letter from the licensing authority to the applicant dated 30 August, 2013.

The Committee resolved:-
to grant the application.

8. APPLICATION FOR THE GRANT OF A PRIVATE HIRE CAR LICENCE
Application Reference Number – 5/008

The Committee had before it a letter from the licensing authority to the applicant, dated 30 August, 2013.

The Committee resolved:-
to grant the application.

9. APPLICATION FOR THE GRANT OF A TAXI DRIVER LICENCE
Application Reference Number – 5/009

The Committee were advised that the application had been withdrawn.

10. APPLICATION FOR THE GRANT OF A TAXI DRIVER LICENCE
Application Reference Number – 5/010

The Committee had before it a letter of representation from the Chief Constable of the Police Service of Scotland, Aberdeen City Division, dated 21 May, 2013 and heard Sergeant Barry Skinner speak in its support.

The Committee heard the applicant speak in support of the application.

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The Convener, seconded by Councillor Delaney moved:-
that the application be refused on the grounds that that the applicant was not a fit and proper person to hold the licence.

Councillor Corall, seconded by Councillor Cormie moved as an amendment:-
that the application be granted.

On a division, there voted:- for the motion - (5) the Convener and Councillors Boulton, Delaney, Ironside CBE and Malik; for the amendment - (3) Councillors Corall, Cormie and MacGregor.

The Committee resolved:-

to adopt the motion to refuse the application on the grounds outlined above.

11. APPLICATION FOR THE RENEWAL OF A TAXI LICENCE

Application Reference Number – 5/011

The Committee had before (a) a letter dated 30 August 2013 from the licensing authority to the applicant; (b) a medical assessment of the applicant from the Committee's nominated Occupational Health Service Provider (Serco); and (c) a letter from Mr Euan Munro, Consultant, NHS Grampian in relation to the applicant.

The Committee heard Steve Robertson, Unite the Union on behalf of the applicant speak in support of the application. He also sought the Committee's approval to waive the requirement to provide a wheelchair accessible vehicle if the licence was granted.

Councillor Delaney, seconded by Councillor Cormie moved:-
that the Committee grant the application including the request to waive the requirement to provide a wheelchair accessible vehicle.

Councillor Boulton, seconded by the Convener moved as an amendment:-
that the Committee grant the application but refuse the request to waive the requirement to provide a wheelchair accessible vehicle.

On a division, there voted:- for the motion (4) – Councillors Corall, Cormie, Delaney and MacGregor; for the amendment (4) – the Convener and Councillors Boulton, Ironside CBE and Malik.

There being an equality of votes between the motion and the amendment, the Convener exercised his casting vote in favour of the amendment.

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The Committee resolved:-

- (i) to adopt the amendment to grant the application subject to its standard conditions; and
- (ii) to refuse the request to waive the requirement to provide a wheelchair accessible vehicle.

12. APPLICATION FOR THE RENEWAL OF A TAXI LICENCE**Application Reference Number – 5/012**

The Committee had before it a letter of objection from the Chief Constable of the Police Service of Scotland, Aberdeen City Division, dated 6 August, 2013 and heard Sergeant Barry Skinner speak in its support.

As a preliminary point, Sergeant Skinner sought the Committee's approval to introduce details of the applicant's spent convictions on the basis that justice could not be done except by admitting or requiring evidence relating to the spent convictions.

Members heard general information as to the age, class and penalty for the offences to assist them in considering the seriousness of the spent convictions, in order to consider whether justice could not be done except by admitting the convictions.

Councillor Cormie, seconded by Councillor Corall moved as a procedural motion:-

not to admit the spent convictions into the proceedings for consideration.

On a division, there voted:- for the procedural motion (2) – Councillors Cormie and Corall; against the procedural motion (6) – the Convener and Councillors Boulton, Delaney, Ironside CBE, MacGregor and Malik

The Committee resolved:-

to decline the procedural motion and to consider the spent convictions as they were of the view that justice could not be done except by admitting the convictions.

The Committee heard from the applicant's agent, Mr Michael Allan and his representative in support of the application.

The Committee resolved:-

to grant the application for a six month period.