

LICENSING COMMITTEE

ABERDEEN, 17 January 2012. Minute of Meeting of the LICENSING COMMITTEE. Present:- Councillor Kirsty West, Convener; and Councillors Allan, Boulton, Collie, Cormie, Donnelly (as substitute for Councillor Wisely), Hunter, Leslie, MacGregor, Noble, Robertson (as substitute for Councillor Cormack) and Townson.

The agenda and reports associated with this minute can be found at:-
<http://councilcommittees/ieListDocuments.aspx?CId=149&MId=2394&Ver=4>

DETERMINATION OF EXEMPT BUSINESS

1. Members were requested to resolve that any exempt business on the agenda be considered with the press and public excluded.

The Committee resolved:-

- (i) in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973, to exclude the press and public from the meeting during consideration of the following items of business:- 7.1 and 7.4 to 7.8 so as to avoid disclosure of exempt information of the class described in paragraph 14 of Schedule 7(A) to the Act (Items 1 and 4 to 8 of Appendix B to this minute refers); and
- (ii) in terms of the Data Protection Act 1998 (Principle 1) to exclude the press and public from the meeting during consideration of the following items of business:- 6.1 to 6.8 (articles 8 to 15 of this minute refers) and 7.2 and 7.3 (Items 2 and 3 of Appendix B to this minute refers).

MINUTES OF PREVIOUS MEETINGS OF 23 NOVEMBER AND 7 DECEMBER 2011

2. The Committee had before it the minutes of its previous meetings of 23rd November and 7th December 2011

The Committee resolved:-

to approve both minutes subject to amending article 18 of the minute of 23rd November 2011 by replacing the name "Ross" with "Insch" in the second paragraph.

WHEELCHAIR ACCESSIBLE TAXI VEHICLES – PROVISION AND POLICY

3. The Committee heard the Convener advise that officers will submit a report to the Licensing Committee meeting on 17 April 2012 on its policy requiring wheelchair accessible vehicles (WAV's) on taxi licences.

With this in mind, the Convener sought the Committee's approval to defer consideration

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of items 6.2 to 6.8 on the agenda in relation to requests for exemption from the WAV policy, until the Committee considers the aforesaid report. She concluded by intimating that an Equalities and Human Rights Impact Assessment would be submitted with the report.

The Committee resolved:-

- (i) to defer items 6.2 to 6.8 on the agenda until the Committee considers the report on its policy requiring wheelchair accessible vehicles (WAV's) on taxi licences; and
- (ii) that the above report also contain details of the current number of WAV taxis and their percentage in relation to taxi fleet.

REVIEW OF PUBLIC ENTERTAINMENT LICENSING – CG/12/001

4. With reference to Article 13 of the Minute of the previous meeting of 23rd November 2011, the Committee had before it a report by the Director of Corporate Governance which provided information to enable members to reach a decision on the level of fee reduction to offer to community and charity groups in respect of the public entertainment licensing scheme.

The report included the definition of community, charity, voluntary and religious groups as set out in the Gambling Act 2005 and defined in the Charities and Trustee Investments (Scotland) Act 2005.

The report recommended:-

that the Committee –

- (a) adopts the definition of community, charity and voluntary groups as set out at paragraph 4.5 of the report; and
- (b) sets the level of fee reduction from 1st April 2012 for temporary public entertainment licenses at 75% of the full temporary fee for community, charity, voluntary and religious groups.

The Committee resolved:-

- (i) to approve the recommendations contained within the report, subject to (1) applying the level of reduction (75%) to all application fees (Grant, Renewal and Temporary) for community, charity, voluntary and religious groups as defined in the report, and (2) including community centres within the definition of groups in respect of which the reduction would apply; and
- (ii) that a report reviewing the scheme be brought back to the Committee in 12 months time.

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

5. The Committee had before it for 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.

COMMITTEE BUSINESS STATEMENT

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

In relation to item 5(2) of the statement, the Committee were advised that a report on the Bridge Street taxi rank would be submitted to the Enterprise, Planning and Infrastructure Committee (EPI) on 31st January 2012, following which EPI officers could be instructed to complete the statutory procedures for revocation of the rank's traffic restrictions and if required to report back to the EPI committee for approval. Officers of Legal and Democratic Services were separately instructed to carry out the statutory procedures for revocation of the rank.

The Committee resolved:-

to note the information provided.

MOTIONS LIST

7. The Committee had before it a Motions List from the Head of Legal and Democratic Services.

The Committee resolved:-

In light of the decision taken at Article 4 above, the Committee agreed to remove the motion relating to public entertainment licensing.

EXEMPT INFORMATION

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In accordance with the decision recorded under Article 1 of this minute, the following items were considered with the press and public excluded.

SUSPENSION OF A TAXI DRIVER'S LICENCE – TD LICENCE NUMBER 0491

8. The Committee had before it a report from its nominated medical adviser, the Occupational Health Service Provider (Serco), dated 3rd November 2011. The Committee heard from the applicant.

The Committee resolved:-

to suspend the applicant's licence for the unexpired portion of its duration.

REQUEST TO APPLY FOR A TAXI OPERATOR'S LICENCE AND WAIVE THE REQUIREMENT TO PROVIDE A WHEELCHAIR ACCESSIBLE VEHICLE – LESLIE WILSON

9. The Committee agreed to defer consideration of this request until the meeting on 17th April 2012 (Article 3 above refers).

REQUEST TO SUBSTITUTE A SALOON CAR ONTO A TAXI OPERATOR'S LICENCE – JAMES WILSON

10. The Committee agreed to defer consideration of this request until the meeting on 17th April 2012 (Article 3 above refers).

REQUEST TO SUBSTITUTE A SALOON CAR ONTO A TAXI OPERATOR'S LICENCE – THOMAS TIMMS

11. The Committee agreed to defer consideration of this request until the meeting on 17th April 2012 (Article 3 above refers).

REQUEST TO SUBSTITUTE A SALOON CAR ONTO A TAXI OPERATOR'S LICENCE – DONNA MCDONALD

12. The Committee agreed to defer consideration of this request until the meeting on 17th April 2012 (Article 3 above refers).

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REQUEST TO SUBSTITUTE A SALOON CAR ONTO A TAXI OPERATOR'S LICENCE – WILLIAM NICOL

13. The Committee agreed to defer consideration of this request until the meeting on 17th April 2012 (Article 3 above refers).

REQUEST TO SUBSTITUTE A SALOON CAR ONTO A TAXI OPERATOR'S LICENCE – ESTHER KENNEDY

14. The Committee agreed to defer consideration of this request until the meeting on 17th April 2012 (Article 3 above refers).

REQUEST TO SUBSTITUTE A SALOON CAR ONTO A TAXI OPERATOR'S LICENCE – HENRY PETRIE

15. The Committee agreed to defer consideration of this request until the meeting on 17th April 2012 (Article 3 above refers).

APPLICATIONS FOR GRANT RENEWAL OR VARIATION OF LICENCES - LIST OF APPLICATIONS TO BE HEARD IN PRIVATE

16. 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 KIRSTY WEST, Convener.

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APPENDIX A

1. **APPLICATION FOR THE GRANT OF A MARKET OPERATOR'S LICENCE**
Application Ref No. 4/001
Applicant – Continental Market Limited
Sites – Union Terrace, Aberdeen
Dates/Times – Various dates in 2012 to 2014, 09:00 to 18.00

The Committee had before it a letter of objection and heard from the objector in its support.

The Committee then heard from the applicant's representative Mr Ali Yaich in support of the application.

Councillor Boulton, seconded by Councillor Donnelly moved:-
“that the application be granted.”

Councillor Cormie, seconded by Councillor Hunter moved as an amendment:-
“that the application be refused in terms of Paragraph 5(3)(d) of Schedule 1 to the Civic Government (Scotland) Act 1982 (there is other good reason for refusing the application) on the grounds that there is already a contract in effect for the operation of a Continental Market in the City Centre and further markets would be detrimental to local businesses.”

On a division, there voted:- for the motion (8) – the Convener and Councillors Boulton, Collie, Donnelly, Leslie, Noble, Robertson and Townson; for the amendment (4) Councillors Allan, Cormie, Hunter and MacGregor.

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

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2. **APPLICATION FOR THE RENEWAL OF A STREET TRADER (HOT FOOD) LICENCE**

Application Ref No. 4/002

Sites – (1) St Machar Road, where double yellow lines end on right side when entering St Machar Road

(2) Ardarroch Road, 75 metres north of Pittodrie Street,

(3) Beach Esplanade, east side 101 metres south of Wellington street

Dates/Times –(1) Monday to Saturday, 07:00 to 15:00

(2) Football match days only, 07:00 to 22:00

(3) Monday to Sunday, 08:00 to 20:00

The Committee were advised that the application had been withdrawn.

3. **APPLICATION FOR THE RENEWAL OF A STREET TRADER (ICE CREAM) LICENCE**

Application Ref No. 4/003

Sites – Zones 1 and 2

Dates/Times – Monday to Sunday, 10.30 to 22.30

The Committee were reminded of the recent changes to the standard conditions applicable to Street Trader's Licences and in particular the addition of the following condition: "subject to the explicit consent in writing from the Licensing Authority, no street trader shall engage in the hawking, selling or offering or exposing for sale any type of food and/or drinks within a four hundred (400) metres radius of a secondary school at any time. Without prejudice to any statutory rights that the licence holder may have, the Council shall be the ultimate arbiter in determining what may constitute the outer boundary of a school for this purpose".

The Committee agreed to consider a letter prepared by the applicant Mr Michael Cordiner and then heard from him in support of his application.

Councillor Hunter, seconded by Councillor Townson moved:-

"that the application be granted."

The Convener moved as an amendment:-

"that the application be refused."

The Convener's motion was not seconded, and so fell in terms of standing order 12(7).

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Councillor Boulton, seconded by Councillor Noble moved as a further amendment:-

“that the application be deferred until the next meeting and that officers submit a report to that meeting to review the current 400m trading policy referred to above.”

On a division, there voted:- for the motion (9) – Councillors Allan, Collie, Cormie, Donnelly, Hunter, Leslie, MacGregor, Robertson and Townson; for the amendment (2) Councillors Boulton and Noble; declined to vote (1) the Convener.

The Committee resolved:-

- (i) to grant the application subject to its standard conditions; but
- (ii) to permit the applicant to trade within 400 metres of the boundary of secondary schools.

4. **APPLICATION FOR THE VARIATION OF A STREET TRADER (HOT FOOD) LICENCE**

Application Ref No. 4/004

Sites – Wellington Road at Charlestown, 70 metres south of the A956 dual carriageway

**Dates/Times – (1) Monday to Friday, 06:30 to 14:30; and
(2) Saturday, 07:00 to 12:00**

The Committee agreed to have circulated for consideration, correspondence from Andrew Smith, Traffic Engineering Manager, Enterprise, Planning and Infrastructure. The applicant failed to appear.

The Committee resolved:-

to refuse the application.

5. **APPLICATION FOR THE GRANT OF A SECOND HAND DEALER’S LICENCE**

Application Ref No. 4/005

Applicant – Mayreddy Manmohan

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

6. **APPLICATION FOR THE VARIATION OF A LATE HOURS CATERING LICENCE**

Application Ref No. 4/006

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Premises – Burger King Limited – Wellington Circle, Altens
Days/Times – Monday to Sunday, 23:00 to 05:00

The Convener sought the Committee's approval to defer the application as the applicant was not in attendance.

The Committee resolved:-
to defer consideration of the application.

7. **APPLICATION FOR THE VARIATION OF A LATE HOURS CATERING LICENCE**

Application Ref No. 4/007

Premises – Burger King Limited – Unit 8, Queens Links Leisure Park

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

The Convener sought the Committee's approval to defer the application as the applicant was not in attendance.

The Committee resolved:-
to defer consideration of the application.

8. **APPLICATION FOR THE VARIATION OF A LATE HOURS CATERING LICENCE**

Application Ref No. 4/008

Premises – Burger King Limited – 221-229 Union Street

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

The Convener sought the Committee's approval to defer the application as the applicant was not in attendance.

The Committee resolved:-
to defer consideration of the application.

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APPENDIX B

1. **APPLICATION FOR PRIVATE LANDLORD REGISTRATION**
Application Ref No. 7/001

The Committee heard from Mr Ally Thain, Private Sector Housing Manager, Housing and Environment who referred to his letter, dated 5th January 2012.

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

The Committee resolved:-

to grant the application.

2. **APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE**
Application Ref No. 7/002

The Committee had before it a report from its medical adviser, Serco, dated 24 October 2011.

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

The Committee resolved:-

(i) to grant the application but to suspend the licence with immediate effect; and
(ii) in the event of receiving a favourable future report from Serco to refer the matter to its Informal Business Panel to consider the recall of the suspension.

3. **APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE**
Application Ref No. 7/003

The Committee had before it a report from its medical adviser, Serco, dated 29 November 2011

The Committee heard from Mr Tommy Campbell, Unite Union, on behalf of the applicant and also from the applicant

The Committee resolved:-

to defer consideration of the application till its next meeting on 21 February 2012 and in the interim await further medical assessments to be provided by the applicant.

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4. APPLICATION FOR THE GRANT OF A STREET TRADERS (HOT FOOD) LICENCE
Application Ref No. 7/004

The Committee had before it a letter of objection from the Chief Constable, Grampian Police, dated 25th November, 2011.

As a preliminary point, Inspector Soutar, Grampian Police, addressed the Committee on the admission of the applicant's spent convictions on the basis that justice could not be done without the Committee admitting and considering the convictions.

The applicant's representative Mr Steven Reynolds indicated that the applicant had no objection to the spent convictions being admitted.

The Committee considered Inspector Soutar's request and the applicant's response and it was satisfied that there was no other way of doing justice and therefore agreed to the request.

Thereafter, the Committee also had before it a schedule of the applicant's convictions provided by the Chief Constable, Grampian Police and dated 25th November, 2011. The Committee then heard from Inspector Soutar in support of the Chief Constable's objection and thereafter heard from the applicant's representative in support of the application.

The Convener, seconded by Councillor Townson moved:-

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

Councillor Hunter, seconded by Councillor Allan moved as an amendment:-

“that the application be granted.”

On a division, there voted:- for the motion (9) – Councillors Allan, Boulton, Cormie, Donnelly, Hunter, Leslie, MacGregor, Noble, and Robertson; for the amendment (2) the Convener and Councillor Townson.

The Committee resolved:-

to grant the application subject to the applicant obtaining the required Food Safety, Certificate of Compliance .

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5. APPLICATION FOR THE GRANT OF A WINDOW CLEANER'S LICENCE
Application Ref No. 7/005

The Committee had before it a letter of objection from the Chief Constable, Grampian Police, dated 24th October, 2011. The letter queried the competency of the application and the Committee heard from Inspector Soutar in its support.

Having received legal advice the Committee noted the objection but thereafter agreed to consider the application.

The Committee heard from the applicant and his representative in support of the application.

The Committee resolved:-
to grant the application.

6. APPLICATION FOR THE GRANT OF A WINDOW CLEANER'S LICENCE
Application Ref No. 7/006

The Committee had before it a letter of objection from the Chief Constable, Grampian Police, dated 24th October, 2011. The letter queried the competency of the application and the Committee heard from Inspector Soutar in its support.

Having received legal advice the Committee noted the objection but thereafter agreed to consider the application.

The Committee heard from the applicant and his representative in support of the application.

The Committee resolved:-
to grant the application.

7. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE
Application Ref No. 7/007

The Committee had before it a letter of representation, from the Chief Constable, Grampian Police, dated 14th November 2011, and heard from Sergeant Middler in its support.

The Committee heard from Mr Tommy Campbell, Unite Union, on behalf of the applicant and also from the applicant.

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The Committee resolved:-
to grant the application.

8. **APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE**
Application Ref No. 7/008

The Committee had before it a letter of objection from the Chief Constable, Grampian Police, dated 10th November 2011 and heard from Sergeant Middler in its support.

The Committee heard the applicant in support of the application.

The Committee resolved:-
to refuse the application.