

LICENSING COMMITTEE

ABERDEEN, 21 February 2012. Minute of Meeting of the LICENSING COMMITTEE. Present:- Councillor Kirsty Blackman, Convener; and Councillors Allan, Boulton, Collie, Cormack, Dean, Donnelly (as substitute for Councillor Wisely), Fletcher, Hunter, Leslie, MacGregor, Noble, John Stewart and Townson.

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

<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=149&MId=2301&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:- 5.1, 5.8 and 5.9 so as to avoid disclosure of exempt information of the class described in paragraph 14 of Schedule 7(A) to the Act (Items 1, 8 and 9 of Appendix B to this minute refers); and
- (ii) in terms of the Data Protection Act 1988 (Principle 1) to exclude the press and public from the meeting during consideration of the following items of business:- 5.2 to 5.7 (Items 2 to 7 of Appendix B to this minute refers).

MINUTE OF PREVIOUS MEETING OF 17 JANUARY 2012

2. The Committee had before it the minute of its previous meeting of 17 January, 2012.

The Committee resolved:-

to approve the minute subject to amending the heading of article 8 to read "Suspension of a Taxi Driver's Licence – TD Licence Number 0491".

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

3. 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.

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COMMITTEE BUSINESS STATEMENT

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

The Committee resolved:-

to remove Items 1(2) (Criminal Justice and Licensing (Scotland) Act 2010 – Public Entertainment Licensing) and 5(2) (Review of Night Time Ranks and Closed Ranks Condition – Signage on Bridge Street) from the Statement.

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

5. 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 BLACKMAN, Convener**.

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APPENDIX A

1. **APPLICATION FOR THE GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Reference Number – 3/001
Premises - Top Floor Flat, 23 Huntly Street

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

2. **APPLICATION FOR THE GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Reference Number – 3/002
Premises - 31 Auchinyell Road

The Committee were advised that the applicant had withdrawn the application.

3. **APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**
Application Reference Number – 3/003
Premises - 191 Broomhill Road

Ally Thain, Private Sector Housing Manager advised that there was one letter of representation. However, this had been received outwith the statutory time period within which such letters must be received. He explained that the reason for this was due to a recent change in the law whereby the period allowed for submitting representations had been reduced from 28 days to 21 days. The public site notice printed forms which had been issued in this case, however, had not been amended in time to reflect this change. The respondent had therefore submitted the letter within the time period as stipulated erroneously on the form.

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. He concluded by advising 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 present.

The applicant Mr Gary MacDonald indicated that he had no objection to the letter being admitted and therefore the Committee agreed to accept the letter for consideration.

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The Committee then heard from Mr MacDonald in support of his application.

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.

**4. APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION
Application Reference Number – 3/004
Premises – First Floor Flat, 37 Lilybank Place**

With reference to Item 3 of the appendix above, Mr Thain advised that the public notice for this property had been displayed providing similar erroneous details of the extent of the required period for the submission of letters of representation. In this regard, the Committee were advised that a letter of representation had been received between 21 to 28 day period. The Committee agreed to accept the letter for consideration. Mr Thain concluded by advising 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 present.

The Committee had before them a further two letters of representation, which had been received within the 21 day period, and heard from the respondents in this regard.

The Committee heard from the applicant Ms Jayne Fish in support of her application.

Councillor Donnelly, seconded by Councillor Hunter moved:-
“that the application be granted for a one year period”

Following receipt of further information from officers, Councillor Donnelly withdrew his motion.

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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5. APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION
Application Reference Number – 3/005
Premises – 28 The Spital

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

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

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.

6. APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION
Application Reference Number – 3/006
Premises – 148 Bannermill Place

The Committee had before it a letter of representation.

The Committee heard from the applicant Aileen Gray and Neil Gray in support of the application.

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.

7. APPLICATION FOR THE VARIATION OF A LATE HOURS CATERING LICENCE
Application Ref No. 3/007
Premises – Burger King Limited – Wellington Circle, Altens
Days/Times – Monday to Sunday, 23:00 to 05:00

The Convener advised that the applicant's agent sought approval to defer the application as he had recently been appointed and therefore required time to prepare for Committee.

The Committee resolved:-

to defer consideration of the application until its meeting of 17 April, 2012.

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

Application Ref No. 3/008

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

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

With reference to Item 7 of the appendix above, the Convener sought the Committee's approval to defer the application.

The Committee resolved:-

to defer consideration of the application until its meeting of 17 April, 2012.

9. APPLICATION FOR THE VARIATION OF A LATE HOURS CATERING LICENCE

Application Ref No. 3/009

Premises – Burger King Limited – 221-229 Union Street

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

With reference to Item 7 of the appendix above, the Convener sought the Committee's approval to defer the application.

The Committee resolved:-

to defer consideration of the application until its meeting of 17 April, 2012.

10. APPLICATION FOR THE GRANT OF A SECOND HAND DEALER LICENCE

Application Ref No. 3/010

Applicant – Instant Cash Loans Ltd “The Money Shop”

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

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

Application Ref No. 3/011

Sites – Souterhead Road South Side, 280 metres east of Crawpeel Road

Days/Times – Monday to Sunday, 07:00 to 15:00

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

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12. APPLICATION FOR A TEMPORARY STREET TRADER (GENERAL) LICENCE

Application Ref No. 3/012

Sites – Area Outside 15A Victoria Street

Days/Times – Saturday, 08:00 to 16:00

The Committee were advised that the application had been withdrawn.

13. APPLICATION FOR THE GRANT OF A STREET TRADER (HOT FOOD) LICENCE

Application Ref No. 3/013

Sites – Kirkhill Drive, Dyce, 50 metres north of that section which lies east to west.

Days/Times – Monday to Saturday, 07:00 to 16:00

The Committee agreed to have circulated for consideration, correspondence from Doug Ritchie, Team Leader, Traffic Management Team, Enterprise Planning and Infrastructure. The correspondence recommended that the van used for trading be situated midway between the access points to the neighbouring businesses on Kirkhill Drive and not opposite their access areas.

The applicant, Mr Edison Siason accepted the recommendation to relocate his van as recommended above.

The Committee resolved:-

to grant the application on the basis that the applicant's vehicle is located in accordance with the recommendation as proposed by the Traffic Management Team.

14. APPLICATION FOR THE GRANT OF A TAXI DRIVER LICENCE

Application Ref No. 3/014

Applicant – Neil McKenzie

The applicant failed to attend.

The Committee heard from Sergeant Keith Middler, Grampian Police who advised that the applicant had also failed to attend his appointment to undertake his Street Knowledge Test.

The Committee resolved:-

to refuse the application.

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15. APPLICATION FOR THE GRANT OF A TAXI DRIVER LICENCE

Application Ref No. 3/015

Applicant – Valentine Ekeh

The Committee were advised that the application had been withdrawn.

16. APPLICATION FOR THE GRANT OF A TAXI DRIVER LICENCE

Application Ref No. 3/016

Applicant – John Toms

The applicant failed to attend.

The Committee heard from Sergeant Keith Middler, Grampian Police who advised that the applicant had also failed to attend his appointment to undertake his Street Knowledge Test.

The Committee resolved:-

to refuse the application.

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APPENDIX B

1. APPLICATION FOR THE RENEWAL OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION
Application Ref No. 5/001
Premises – 150 Morrison Drive

The Committee heard from Mr Ally Thain, Private Sector Housing Manager, Housing and Environment who referred to his letter, dated 6 February, 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. 5/002

The Convener sought the Committee's approval to circulate an updated letter from its medical adviser, Serco, dated 17 February, 2012. The applicant indicated that he had no objection to the letter being admitted and therefore the Committee agreed to accept the letter for consideration.

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

The Committee resolved:-
to grant the application.

3. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE
Application Ref No. 5/003

The Committee were advised that the application had been withdrawn.

4. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE
Application Ref No. 5/004

With reference to Item 3 of Appendix B of the previous minute of 17 January, 2012, the Committee had tabled correspondence from (1) its medical adviser, Serco, dated 29 November, 2011 and 30 January, 2012 relating to the applicant; and (2) the applicant's GP and Optician, dated 2 February, and 18 January,

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2012 respectively. Also circulated was an extract of the minute of meeting of the Licensing Committee dated 2 June, 2010 relating to Taxi Drivers medical standards for assessment of fitness to drive.

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

The Committee resolved:-
to grant the application.

5. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE
Application Ref No. 5/005

The Committee had before it a report from its medical adviser, Serco, dated 21 December, 2011.

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

The Committee resolved:-
that the application be granted on the condition that the applicant undertakes a further medical assessment with Serco in 12 months time.

6. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE
Application Ref No. 5/006

The Committee had before it a report from its medical adviser, Serco, dated 13 December, 2011.

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

The Committee resolved:-

- (i) to defer consideration of the application to its meeting of 17 April, 2012 and in the meantime refer the applicant for a further medical assessment from Serco; and
- (ii) agree that, in the event that the applicant receives a clear report from Serco, to allow the application to be granted by officers under delegated powers instead.

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7. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE
Application Ref No. 5/007

With reference to Article 8 of the minute of the previous meeting of 17 January, 2012, the Committee had before it a report from its medical adviser, Serco, dated 3 November, 2011.

The Committee heard Eric Anderson, Senior Solicitor provide information in relation to 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.

8. APPLICATION FOR THE GRANT OF A WINDOW CLEANER'S LICENCE
Application Ref No. 5/008

The Committee had before it a letter of objection, dated 29 December, 2011, from Grampian Police.

The applicant failed to attend.

The Committee resolved:-

to refuse the application.

9. APPLICATION FOR THE GRANT OF A SKIN PIERCING AND TATTOOING LICENCE
Application Ref No. 5/009

As a preliminary point, the Committee were advised that a letter of objection by the Chief Constable had been submitted outwith the statutory time period.

Sergeant Skinner, Grampian Police, addressed the Committee and provided details of the reasons behind the letter's late submission.

The applicant's agent Ms Lily Hunter, solicitor, indicated that the applicant objected to the admission of the letter on the basis that it was submitted outwith the statutory time period.

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The Committee considered Sergeant Skinner's request and the applicant's response and it was satisfied that there was sufficient reason why the objection was not made in the time required.

As a further preliminary point Sergeant Skinner sought the Committee's approval to introduce details of the applicant's spent conviction on the basis that justice could not be done without the Committee admitting and considering the conviction.

Ms Hunter indicated that the applicant objected to the admission of the spent conviction on the basis that it was not relevant to the proceedings.

The Committee, having considered Sergeant Skinner's request and the applicant's response was satisfied that there was no other way of doing justice and therefore agreed to admit details of the spent conviction.

Furthermore and following discussion, Sergeant Skinner revealed that Grampian Police had obtained further information in terms of the spent conviction.

At this juncture, Councillor Boulton, moved as a procedural motion, seconded by Councillor Cormack:-

“that further information in relation to the spent conviction be admitted to the proceedings for consideration”

On a division, there voted:- for the procedural motion (6) – Councillors Allan, Boulton, Cormack, Hunter, MacGregor and Townson; against the procedural motion (5) – the Convener and Councillors Dean, Donnelly, Leslie and Noble.

The Committee resolved:-

that further information in relation to the spent conviction be admitted for consideration.

Thereafter, the Committee had before it further details provided by the Chief Constable, Grampian Police relating to the offence which had led to the applicant's conviction. The Committee then heard from Sergeant Skinner in support of the Chief Constable's objection and thereafter heard from Ms Hunter in support of the application.

The Convener, seconded by Councillor Dean moved:-

“that the application be granted.”

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

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

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On a division, there voted:- for the motion (6) – the Convener and Councillors Dean, Donnelly, Leslie, Noble and Townson; for the amendment (5) - Councillors Allan, Boulton, Cormack, Hunter and MacGregor.

The Committee resolved:-
to grant the application.