

THE MORAY COUNCIL
MINUTE OF MEETING OF THE LICENSING COMMITTEE

WEDNESDAY 18 JUNE 2008

COUNCIL OFFICE, ELGIN

PRESENT

Councillors R Shepherd (Chair), D Ross, J Divers, J Hamilton, M McConachie, A McDonald,
E McGillivray, G McIntyre, A McKay, M Shand, J Sharp and D Stewart.

IN ATTENDANCE

The Principal Solicitor (Litigation & Licensing) (for Agenda Item 12), Mrs L May, Solicitor (Litigation and Licensing) and Mrs S. Kennedy, Committee Services Officer who acted as Clerk to the meeting.

APOLOGIES

Apologies for absence were intimated on behalf of Councillor Cree.

1. ADDITIONAL BUSINESS

In terms of Standing Order 25 (iv) the Committee agreed to accept, as an additional item of business, to be transacted at the meeting a report by the Chief Legal Officer in regard to a letter of complaint received in respect of a Taxi Drivers Licence in case no STD/08/04, on the Chairman certifying that, in his opinion, it required to be considered on the grounds of urgency given the timescales involved.

2. ORDER OF BUSINESS

In terms of Standing Order 25, the meeting agreed to vary the order of business set down on the Agenda and take Item 11 "Application for a Licence for a House in Multiple Occupation (HMO) at 2 Croft Road, Elgin as item 10 on the Agenda.

3. DECLARATION OF GROUP DECISIONS

In terms of the relevant Standing Order 20 and the Councillor's Code of Conduct the meeting noted that Councillor Stewart declared a personal interest in Item 7 'Application for a Licence for a House in Multiple Occupation (HMO), 72 Seatown, Buckie AB56 1JS.

There were no other declarations from group leaders or spokespersons in regard to any prior decisions taken on how Members will vote on any item on the Agenda nor any declarations of Members interest in respect of any item on the Agenda.

4. EXEMPT INFORMATION

The Meeting agreed, in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, that the public and media representatives be excluded from the Meeting during consideration of the items of business appearing at the relevant paragraphs of this Minute as specified below so as to avoid disclosure of exempt information of the class described in the appropriate paragraph of Part I of Schedule 7A of the Act.

<u>Para No. of Minute</u>	<u>Para No. of Schedule 7A</u>
9	6
10	6
13	6

5. WRITTEN QUESTIONS

There were no written questions for this meeting.

6. LICENCES DEALT WITH UNDER DELEGATED POWERS

There was submitted and noted a report by the Chief Legal Officer informing the Committee of Licences which have been dealt with under delegated powers in terms of the legislation as detailed in the report.

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A TAXI DRIVER LICENCE (Case No. TD/08/003)

There was submitted a report by the Chief Legal Officer inviting the Committee to consider an application for a Taxi Driver Licence submitted in Case No TD/08/003.

The Committee noted that the applicant was not present.

Mrs L May, Solicitor, (Litigation & Licensing) advised the meeting that a Recorded Delivery Letter had been sent on 23 May 2008 advising the Applicant that his application had been deferred from the previous meeting of the Licensing Committee to allow him the opportunity to make a personal appearance. The Committee noted that there had been no response from the Applicant and unanimously agreed to consider the case in his absence.

In response to a query from Councillor Hamilton seeking clarification from Grampian Police on the relevant codes and sections of the various acts quoted in their letter of objection, Sergeant J Reid clarified this issue.

On the invitation of the Chairman, Sergeant J Reid addressed the meeting and advised that she had nothing further to add to Grampian Police's letter of observation.

Thereafter, Councillor Ross, seconded by Councillor A McKay moved refusal of the application as the applicant was not a fit and proper person to be the holder of a Taxi Driver Licence due to the serious nature of his conviction.

There being no one otherwise minded the Committee agreed to refuse the application for a Taxi Driver Licence in case number TD/08/003.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION (HMO) – 72 SEATOWN, BUCKIE AB56 1JS

There was submitted a report by the Environmental Health Manager/Chief Legal Officer inviting the Committee to consider an application for a Licence for a House in Multiple Occupation (HMO) at 72 Seatown, Buckie.

The Committee noted that one of the objectors to the application was present.

The Chair advised the Committee that there had been four objections received in response to the application and moved that consideration of the application be deferred to allow the Committee the opportunity to visit the premises.

There being no-one otherwise minded the Committee unanimously agreed to defer consideration of the application to allow for a site visit to be carried out and that all interested parties would be advised in writing of the date and time of the meeting.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION (HMO) – 66B HIGH STREET, FORRES IV36 1PG

There was submitted a report by the Environmental Health Manager/Chief Legal Officer inviting the Committee to consider an application for a Licence for a House in Multiple Occupation (HMO) at 66B High Street, Forres.

The Committee noted that the Applicant and his Solicitor, Mr Adams were present.

On the invitation of the Chairman, Mr Adams, the Applicants Solicitor addressed the Committee and outlined the background to the case.

The meeting noted that Grampian Police wished any reference to the schedule of spent convictions deleted from their letter of observation.

Councillor Hamilton, as the Ward Member requested that consideration of the application be deferred to allow the Committee the opportunity to visit the premises.

There being no-one otherwise minded the Committee unanimously agreed to defer consideration of the application to allow for a site visit to be carried out and that all interested parties would be advised in writing of the date and time of meeting.

10. QUESTION TIME

Councillor Hamilton raised a question in regard to the 'no smoking' legislation, and in particular if steps could be taken to address the issue that Taxi Drivers have been seen smoking when driving.

Mrs L May, Solicitor (Litigation & Licensing) advised the meeting that an advice note had been issued to all Taxi Drivers on the 'no smoking' legislation and if Members felt that there was an issue surrounding the legislation she could refer the matter to the Council's Tobacco Control Officer.

The Committee agreed to refer the issue to the Council's Tobacco Control Officer.

11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION (HMO) – 2 CROFT ROAD, ELGIN IV30 6DR

There was submitted a report by the Environmental Health Manager/Chief Legal Officer inviting the Committee to consider an application for a Licence for a House in Multiple Occupation (HMO) at 2 Croft Road, Elgin.

The Committee noted that Grampian Police's letter of observation had been withdrawn.

The Committee noted that the Applicant was present.

On the invitation of the Chairman, Mr Younie, HMO Officer advised the meeting that he had visited the premises and had no observations to make. He also advised that the Fire Service were now satisfied that the applicant had complied with the Fire Safety Regulations 2006.

In response to a question from Councillor Ross regarding para 13 of the application form, pertaining to the displaying of notices, the HMO Officer clarified the situation and advised that two forms namely Cert 1 & 2 were issued along with the application form. Cert 1 was displayed and Cert 2 was sent back to the Council confirming that notices had been displayed appropriately by the applicant.

Thereafter, the Committee unanimously agreed to grant a Licence for a House in Multiple Occupation at 2 Croft Road, Elgin.

12. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION (HMO) – CLUNY HOTEL, 2 HIGH STREET, BUCKIE AB56 1AQ

There was submitted a report by the Environmental Health Manager/Chief Legal Officer inviting the Committee to consider an application for a Licence for a House in Multiple Occupation (HMO) at Cluny Hotel, 2 High Street, Buckie.

The meeting noted that the Applicant and her Manager were in attendance.

On the invitation of the Chairman, Inspector A McBey addressed the meeting and outlined the background to Grampian Police's letter of objection in relation to the Manager.

The Committee noted the procedure to be followed in respect of spent convictions and agreed that Mrs L May, Solicitor, (Litigation & Licensing) review the spent convictions. Having done so, she advised the Committee that due to the serious nature of the offences the spent convictions were of relevance to the application and justice could not be done without admitting them into their consideration. The Committee accepted the advice and the Clerk circulated copies of the spent convictions to the Committee.

On the invitation of the Chairman, the Applicant and her Manager addressed the meeting and thereafter responded to Members Questions.

On the invitation of the Chairman, the HMO Officer advised the Committee that all conditions had been met with the exception of the electrical certificate in relation to smoke detectors and that a licence would not be issued until all conditions had been met in full.

The Applicants' Manager advised the Committee that he had brought along a reference from a tenant in support of their application. The Committee agreed to accept the reference and the Clerk circulated copies to the Committee.

The Chair advised the Committee that he proposed to adjourn the meeting in order for the Committee to deliberate the case in private and seek Legal advice from the Principal Solicitor (Litigation & Licensing) and consider the same without the parties, press and public present.

Following resumption of the meeting the Chair thanked everyone for their patience as this was a complicated case.

The Principal Solicitor (Litigation & Licensing) advised the meeting of the legal advice given to the Committee during the adjournment.

Thereafter, the Chair invited all parties to sum up.

Councillor Sharp, seconded by Councillor McGillivray moved to grant a Licence for 12 months.

As an Amendment, Councillor Ross, seconded by Councillor A McKay moved refusal of the application on the grounds that the manager was not a fit and proper person.

On a division there voted:

For the Motion (7)	-	Councillors Sharp, McGillivray, Divers, McConachie, A McDonald, R Shepherd and D Stewart.
For the Amendment (5)	-	Councillors Ross, A McKay, Hamilton, McIntyre and Shand

