

THE MORAY COUNCIL
MINUTE OF SPECIAL MEETING OF THE LICENSING COMMITTEE

WEDNESDAY 19 AUGUST 2009

COUNCIL OFFICE, ELGIN

PRESENT

Councillors R Shepherd (Chair), D Ross (Depute Chair), J Cree, J Divers, J Hamilton, A McDonald, A McKay, M Shand, J Sharp and D Stewart

IN ATTENDANCE

Mrs R Gunn, Senior Solicitor (Litigation & Licensing), Mr T Haynes, Solicitor (Litigation & Licensing), Mr K Sturgeon, Principal Building Standards Officer, Mr D Mackay, Environmental Health Manager, Mr I Younie, HMO Officer, Sergeant K Middler and Sergeant S DGLISH, (Grampian Police), and Mrs S Kennedy, Committee Services Officer, who acted as Clerk to the meeting.

APOLOGIES

Apologies for absence were intimated on behalf of Councillors McConachie, McGillivray, McIntyre, and A Wright (ex-officio).

1. DECLARATION OF GROUP DECISIONS

In terms of Standing Order 20 and the Councillors' Code of Conduct the meeting noted that there were no declarations from group leaders or spokespersons with regard to any prior decisions taken on how Members will vote on any item on the Agenda or any declarations of Members Interest in respect of any item on the Agenda.

2. 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.

Para No. of Minute
13

Para No. of Schedule 7A
14

3. WRITTEN QUESTIONS

There were no written questions at this meeting

4. 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.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - ZONE 1 TAXI PLATES

There was submitted a report by the Chief Legal Officer inviting the Committee to consider whether it wishes to instruct a review of the level of taxi operator licences issued in Zone 1 (Elgin).

Following consideration the Committee agreed to instruct a review of the level of taxi operator licences in Zone 1 (Elgin) and instructed the Chief Legal Officer to bring forward a report to a future meeting of the Committee with recommendations as to the Committee's options for establishing whether or not there is a significant unmet demand for the services of taxis in Zone 1.

6. KNIFE DEALERS LICENSING SCHEME

There was submitted a report by the Chief Legal Officer inviting the Committee to finalise a new scheme for the licensing of knife dealers and instruct its implementation.

Following consideration the Committee agreed:

- (i) that the draft proposals contained in Appendices I - III relative to the licensing of knife dealers, be implemented with effect from 1 September 2009 subject to amendment of the emboldened wording at the foot of the criminal conviction boxes on the application forms on pages 8 and 13 of the report to replace "may" with "will" in each case;
- (ii) to instruct the Chief Legal Officer to carry out the implementation;
- (iii) that Discretionary Conditions 1 to 5 in Appendix III of the report should be added to the list of mandatory conditions, and that the Chief Legal Officer be instructed to prepare a final list of conditions on this basis. It was also agreed to incorporate into the wording of the CCTV conditions, a requirement that if identification of the purchaser was the crucial issue, an image of the purchaser of the knife must be captured so that dealers do not incur unnecessary expense and find that should an issue arise, the images are worthless; and
- (iv) an application fee of £200 for a 3-year knife dealer's licence.

7. LICENSING OF BOOKING OFFICES FOR TAXIS AND PRIVATE HIRE VEHICLES

There was submitted a report by the Chief Legal Officer inviting the Committee to finalise a new scheme for the licensing of booking offices for taxis and private hire vehicles and to instruct its implementation.

Following consideration the Committee agreed:

- (i) that the draft proposals contained in Appendices I-III relative to a new licensing scheme for booking offices for taxis and private hire vehicles be implemented with effect from 1 September 2009 subject to the amendment of the emboldened wording at the foot of the criminal convictions boxes on the application forms on pages 7 and 12 of the report to replace “may” with “will” in each case;
- (ii) to instruct the Chief Legal Officer to carry out this implementation;
- (iii) the Discretionary Conditions in Appendix III should be added to the list of mandatory conditions, and to instruct the Chief Legal Officer to prepare a final list of conditions on this basis; and
- (iv) a application fee of £100 for a 3-year booking office licence.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR A TAXI DRIVER LICENCE (CASE NO TD/09/012)

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/09/012.

The Committee noted that the Applicant was present.

Sergeant K Middler addressed the meeting and re-iterated the terms of the Chief Constable’s letter of representation.

The applicant addressed the meeting.

Thereafter, the Chair, seconded by Councillor Cree moved approval of the Licence.

There being no one otherwise minded the Committee agreed to grant a Taxi Driver Licence in Case Number TD/09/012.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR A TAXI DRIVER LICENCE (CASE NO TD/09/013)

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/09/013.

The Committee noted that the Applicant was present.

The applicant addressed the meeting.

Thereafter the Chair, seconded by Councillor A McDonald moved approval of the Licence.

There being no one otherwise minded the Committee agreed to grant a Taxi Driver Licence in Case Number TD/09/013.

10. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - LICENSING OF LATE HOURS CATERING (CASE NO LHC/09/002)

Councillor Hamilton left the meeting during discussion of this item.

There was submitted a report by the Chief Legal Officer inviting the Committee to consider an application for a renewal of a Late Hours Catering Licence by Tasneem Khan to permit late hours catering from 11.00pm - 12 midnight each Sunday to Thursday and from 11.00pm - 1.30am each Friday and Saturday at 27 West Church Street, Buckie.

The Committee noted that the Applicant was present.

The Committee noted that three letters of objection had been received outwith the statutory time limit. One of the objectors had submitted a letter in time, however following a discussion with Mr Haynes, Solicitor (Litigation & Licensing) regarding the fact that meetings were held in public, the objector had withdrawn her original letter and submitted a second letter of objection. This second letter had been submitted outwith the statutory time limit.

The Committee were minded to accept the second letter of objection in view of the fact that the original objection had been made within the statutory timescale and the nature of the objection in the second letter was broadly in line with the original objection. The Committee were satisfied that this amounted to sufficient reason in terms of the 1982 Act. This letter of objection was then circulated to the meeting.

There were no Objectors present.

Sergeant K Middler addressed the meeting and re-iterated the terms of the Chief Constable's letter of representation.

The applicant addressed the meeting and responded to members' questions. It was noted that in the letter of objection before the Committee it was argued that longer opening hours would increase the level of noise. However it was also noted that this was an application for renewal of an existing licence rather than for grant of a new licence. The applicant confirmed that the late hours sought in her application were no different from the later hours she had been licensed for previously.

Thereafter, the Chair, seconded by Councillor Divers moved approval of a renewal of a Late Hours Catering Licence.

There being no-one otherwise minded the Committee agreed to grant a renewal of a Late Hours Catering Licence to the applicant in Case number LHC/09/002 from 11:00pm – 12 midnight each Sunday to Thursday and from 11:00 pm – 1:30 am each Friday and Saturday at 27 West Church Street, Buckie

11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION (HMO) - SPEYVIEW, SPEY STREET, FOCHABERS IV32 7EH

Under reference to paragraphs 10 & 14 of the Minutes of the Licensing Committee Meetings of 27 May and 15 July 2009 respectively, there was submitted a joint report by the Environmental Health Manager and Chief Legal Officer inviting the Committee to consider an application for a Licence for a House in Multiple Occupation (HMO) licence at Speyview, Spey Street, Fochabers IV32 7EH submitted by Mr Ian Innes, Upper Auchenwreath, Fochabers.

The Applicant was present.

Mrs R Gunn, Senior Solicitor, (Litigation and Licensing) updated the meeting and advised that there were two outstanding issues e.g. the character and condition of the interior of the premises and whether the applicant was a fit and proper person to be the holder of an HMO Licence. She further advised that the premises were not currently an HMO, however the applicant had agreed to carry out alterations to make it an HMO. She added that there was no statutory framework in place to grant a provisional HMO licence for the premises in such circumstances, however the Committee could grant a licence subject to suspensive conditions requiring the premises to be brought up to standard within a fixed period of time. This meant that the licence would not come into effect until the conditions were satisfied and if they were not satisfied within the time limit indicated, the licence would not come into effect at all.

The Applicant addressed the meeting and responded to members' questions.

Mr K Sturgeon, the Principal Building Standards Officer addressed the meeting and responded to members' questions. He advised that he had met with the applicant and his agent and had clarified what works were required to bring the building up to standard e.g. the re-instatement of the kitchen and communal areas. This means that the work no longer constitutes a 'conversion' and a lesser standard applies. Mr Sturgeon advised he had received a letter from the applicant confirming he would be submitting an application within 3-4 weeks for Building Warrant and he further advised that there should be no delays from Building Standards.

Mr I Younie, the HMO Officer addressed the meeting and advised that he had no further comments to make in relation to this application.

Thereafter, the Chair moved approval of the application for a House in Multiple Occupation subject to a suspensive condition "that by no later than 18 November 2009, the applicant completes all works necessary to bring the premises up to a condition which is judged by both the Chair and Depute Chair of the Moray Licensing Committee to be suitable and convenient for use as an HMO in terms of paragraph

5(3) (c) of Schedule 1 of the Civic Government Act 1982, failing which the said HMO licence shall cease to have effect”.

12. QUESTION TIME

There were no questions asked at this meeting.

13. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR A TAXI DRIVER LICENCE (CASE NO TD/09/014) (PARA 14)

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/09/014.

The Committee noted that the applicant was not present.

Sergeant K Middler on behalf of Grampian Police advised the Committee the reason why the representation was submitted outwith the statutory time period

The Committee agreed that there was sufficient reason why it was not made in time and decided to accept the late letter of representation from the Chief Constable. The Clerk circulated the letter to the Committee.

Thereafter, the Chair moved that the application be deferred to allow the applicant the opportunity to make a personal appearance. There being nobody otherwise minded the application was deferred.