

## **BUSINESS SERVICES COMMITTEE**

### **LICENSING SUB-COMMITTEE**

**GORDON HOUSE, INVERURIE, 26 APRIL, 2019**

**Present:** Councillors F Hood (Chair), R Bruce, M Ewenson (as substitute for Councillor A Stirling), A Forsyth, V Harper, D Lonchay, D Robertson and M Roy.

**Apology:** Councillor A Stirling.

**Officers:** Senior Committee Officer (Allan Bell), Senior Solicitor (Fiona Stewart), Solicitor (Iain Meredith) and Abdul Elghedafi (Trainee Solicitor), all Legal and Governance; and Shirley Duthie (HMO Officer), Infrastructure Services.

**In attendance:** Sergeant G Flett and Sergeant G Donald (Police Scotland).

#### **ADDITIONAL ITEM TAKEN AS A MATTER OF URGENCY**

The Chair indicated that he had directed, in terms of Standing Order 4.1(2)(c) and Section 50 B(4)(b) of the Local Government (Scotland) Act 1973, that an additional item be taken as a matter of urgency at Item 6B below, in order to facilitate a taxi firm continuing to trade viably, after the death of the company owner

#### **1. DECLARATION OF MEMBERS' INTERESTS**

The Chair asked members if they had any interests to declare, in terms of the Councillors' Code of Conduct. Councillor Forsyth declared an interest in respect of item 5, on the grounds that he was a member of Formartine Area Committee and had been involved in the application for a taxi booking office licence when it had first been considered. He advised that he would leave the meeting and take no part in the item.

#### **2A. PUBLIC SECTOR EQUALITY DUTY**

In taking decisions on the undernoted items of business, the Sub-Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

- (1) to have due regard to the need to:-
  - (a) eliminate discrimination, harassment and victimisation;
  - (b) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
  - (c) foster relations between those who share a protected characteristic and persons who do not share it, and
- (2) to consider, where an equality impact assessment has been provided, its contents and to take those into consideration when reaching a decision.

## **2B. CONFIDENTIAL AND EXEMPT INFORMATION**

The Sub-Committee **agreed**, in terms of Section 50A (2) of the Local Government (Scotland) Act 1973, to exclude the public from the meeting during consideration of Items 4 and 6 below, on account of the likely disclosure of confidential information in breach of the obligation of confidence, and in terms of Section 50A (4) and (5) of the 1973 Act, to exclude the public during consideration of Item 5 below, so as to avoid disclosure of exempt information of the class described in paragraph 6 of Part 1 of Schedule 7A of the Act.

### **3. MINUTE OF MEETING OF THE SUB-COMMITTEE OF 1 FEBRUARY, 2019**

On consideration of the circulated Minute of Meeting of the Sub-Committee of 1 February, 2019, members **approved** the Minute as a correct record. It was thereafter signed by the Chair.

### **4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATIONS FOR DETERMINATION**

#### **(a) Application for a Taxi Driver's Licence (Case No. 967)**

There had been circulated a report dated 28 March, 2019, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 967), in respect of which the Chief Constable had lodged an objection and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the application be refused, on the grounds that the applicant was not a fit and proper person to hold a taxi driver's licence, due to his serious offending history, including convictions for road traffic offences and crimes of violence.

#### **(b) Application for a Taxi Driver's Licence (Case No. 968)**

There had been circulated a report dated 28 March, 2019, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 968), in respect of which the Chief Constable had lodged an objection and (2) detailed information relevant to the application.

In the absence of the applicant and having heard from the representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the application be refused, on the grounds that the applicant was not a fit and proper person to hold a taxi driver's licence, due to the serious nature of his previous convictions, including those for crimes of violence and road traffic offences.

#### **(c) Application for a Taxi Driver's Licence (Case No. 969)**

There had been circulated a report dated 28 March, 2019, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 969), in respect of which the Chief Constable had lodged an objection and (2) detailed information relevant to the application.

In the absence of the applicant and having heard from the representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the application be refused, on the grounds that the applicant was not a fit and proper person to hold a taxi driver's licence, due to the serious nature of his previous convictions.

**(d) Application for a Taxi Driver's Licence (Case No. 970)**

There had been circulated a report dated 20 March, 2019, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 970), in respect of which the Chief Constable had lodged an objection and (2) detailed information relevant to the application.

Having heard from the representatives of both the applicant and the Chief Constable, the Sub-Committee **agreed** unanimously that the application be refused, on the grounds that the applicant was not a fit and proper person to hold a taxi driver's licence, as he had not demonstrated a suitable understanding of the responsibilities associated with being a taxi driver.

**(e) Application for a Taxi Driver's Licence (Case No. 971)**

There had been circulated a report dated 20 March, 2019, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 971), in respect of which the Chief Constable had made representations and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, Councillor Hood, seconded by Councillor Forsyth, **moved** that the application be refused, on the basis that the applicant was not a fit and proper person to hold a taxi driver's licence, due to his previous conviction and having come to the attention of the police on another occasion.

As an amendment, Councillor Lonchay, seconded by Councillor Ewenson, **moved** that the Sub-Committee grant the application for a period of one year.

Members of the Sub-Committee voted as follows:-

for the motion	(4)	Councillors Hood, Bruce, Forsyth and Roy.
for the amendment	(4)	Councillors Ewenson, Harper, Lonchay and Robertson.

There being an equality of votes, the Chair cast his in vote in favour of the motion.

**The motion was carried** in the following terms:-

that the application be refused, on the basis that the applicant was not a fit and proper person to hold a taxi driver's licence, due to his previous conviction and having come to the attention of the police on one other occasion.

**(f) Application for a Taxi Driver's Licence (Case No. 972)**

There had been a circulated a report dated 26 March, 2019, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence (identified as Case No. 972), in respect of which the Chief Constable had made representations and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the licence be granted for a period of one year.

**(g) Application for a Private Hire Car Driver's Licence (Case No. 973)**

There had been circulated a report dated 12 February, 2019, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a private hire car driver's licence (identified as Case No. 973), in respect of which the Chief Constable had made representations and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the application be refused, on the grounds that the applicant was not a fit and proper person to hold a private hire car driver's licence, by virtue of having had a number of speeding convictions.

**5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR THE GRANT OF TAXI BOOKING OFFICE LICENCE (CASE NO. 974)**

With reference to the Minutes of Meetings of (1) Formartine Area Committee of 5 June, 2018 (Item 13), when it had been agreed unanimously to refuse an application for a taxi booking office licence and (2) the Business Services Committee of 28 February, 2019 (Item 6), when it had been noted that the decision had been appealed to the Sheriff, who had ruled that the application be referred back to the Council for re-determination by a differently-constituted committee, there was circulated a report dated 14 March, 2019, by the Director of Business Services, which (1) explained the background to the application for the grant of a taxi booking office licence (identified as Case No. 974), in respect of which a number of objections had been received and (2) detailed information relevant to the application.

Having heard from the representative of the applicant in support of the substantive application, and thereafter from a number of the objectors regarding matters of concern which had been raised by them, the Sub-Committee, after detailed discussion, concluded that the legal tests had not been met to refuse the application and **agreed**, by a majority, to grant the taxi booking office licence, subject to the condition that no more than three vehicles would be kept at the premises in question at any given time.

**6. HOUSING (SCOTLAND) ACT 2006 – APPLICATIONS FOR RENEWAL OF LICENCES FOR HOUSES IN MULTIPLE OCCUPATION (CASE NO. 975)**

There had been circulated reports dated 14 March, 2019, by the Director of Business Services, which (1) requested that consideration be given to applications for the renewal of licences for houses in multiple occupation (identified as Case No. 975), in respect of which representations had been made by the statutory consultees and (2) detailed information relevant to the applications.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** unanimously to grant the licences for each of the properties for a period of three years.

**6A. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – REQUEST TO EXTEND EXISTING TAXI VEHICLE LICENCES**

On consideration of an oral report by the Senior Solicitor (Democratic Services), the Sub-Committee **agreed** to extend the existing vehicle licences which had previously been issued to a local taxi firm from three months to six months, in order to assist transition to a new company after the death of the previous owner and to enable the deceased's successors to continue trading prior to applying for new vehicle licences in their own names.

## **7. UPDATE OF GUIDANCE IN RESPECT OF THE LICENSING OF TAXIS/PRIVATE HIRE CARS**

With reference to the Minute of Meeting of the Sub-Committee of 20 April, 2018 (Item 6), when approval had been given to the authority's guidance document on taxi and private hire cars, there was circulated and **noted** a report dated 5 April, 2019, by the Director of Business Services, which (1) advised that the document had been reviewed and (2) highlighted amendments which required to be made, in respect of vehicles registered in one area and tested in another, and body panels not matching the original colour of a vehicle.

After consideration, the Sub-Committee **approved** the changes to the taxi/private hire car guidance booklet, as detailed within the appendices to the report.

## **8. STREET TRADER LICENCES – STANDARD CONDITIONS**

Consideration was given to a circulated report dated 15 January, 2019, by the Director of Business Services, which (1) explained the background to the setting of standard conditions, subject to which licences might be granted to street trader businesses, (2) proposed that separate sets of standard conditions be devised for the owners of businesses and those who were employed by those businesses and (3) provided details of the review process and the comments received.

After consideration, the Sub-Committee **noted** and **approved** the standard conditions for both principal street traders and employee street traders, as appended to the report.

