
LICENSING PANEL

Meeting of Tuesday 25 June 2013
at 10:30am in Municipal Chambers, Buccleuch Street, Dumfries

Present

Members

David J McKie (Chairman)	- North West Dumfries
Jim H Dempster	- Mid and Upper Nithsdale
Alistair Geddes	- Mid Galloway
Jack Groom	- Nith
Ted Thompson	- Lochar
Roberta Tuckfield	- Wigtown West

Officials

Willie Taylor	- Service Manager Licensing
Chief Inspector John Thomson	- Police Scotland
Chief Inspector Amanda Scott	- Police Scotland

Apologies

Marion McCutcheon	- Stranraer and North Rhins
John Syme	- Mid and Upper Nithsdale

Alex Haswell

Director Chief Executive Service

1 SEDERUNT AND APOLOGIES

5 Members present, 2 apologies

2 APPOINTMENT OF CHAIRPERSON**Decision**

AGREED to appoint David J McKie as Chairman for the meeting.

PROCEDURE – David J McKie assumed the role of Chairman.

3 DECLARATIONS OF INTEREST

Alistair Geddes declared an interest in respect of Item 9 as the applicant was known to him, and deemed that his interest was such that he required to leave the meeting for this item

4 FIREWORKS (SCOTLAND) REGULATIONS : PROHIBITION OF USE OF FIREWORKS AT NIGHT – APPLICATION FOR DISPENSATION : WICKERMAN FESTIVAL FIREWORK DISPLAY – 27 JULY 2013 – REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE**Decision**

AGREED to grant a dispensation to allow a night-time firework display as part of the Wickerman Festival, East Kirkcarsewell between 11.55pm on Saturday 26 July 2013 and 12.05am on Sunday 27 July 2013

5 CINEMAS ACT: - REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE**Decision**

AGREED to grant the renewal of the cinema licence for the Robert Burns Centre Film Theatre subject to the standard conditions under exception of Condition 17, as requested by the applicant

6 REGISTRATION OF PRIVATE LANDLORDS - APPLICATION FOR REGISTRATION**Decision**

6.1 **NOTED** having heard from the applicants' agent and the HMO Licensing and Landlord Registration Manager, that although John Kelly and his mother were joint owners of the property Mr. Kelly was not and would not be involved in the letting arrangements; and

6.2 **AGREED** to invoke the Panel's discretion to approve registration subject to there being in place arrangements that only Mrs. Kelly would be involved in the letting and management activity

7 ANY OTHER BUSINESS DEEMED URGENT BY THE CHAIRMAN DUE TO THE NEED FOR A DECISION

Decision

NOTED that there was no business deemed urgent due to the need for a decision

8 LOCAL GOVERNMENT (SCOTLAND) ACT 1973

Decision

AGREED to exclude the public from the meeting in terms of Section 50A(4) of and Paragraph 14 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973

9 CIVIC GOVERNMENT (SCOTLAND) ACT 1982 : SUSPENSION HEARING – REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE

PROCEDURE: the Chairman intimated with the approval of Members, he intended to take item 9 on the agenda last. This was agreed. The items in the Minute are recorded in the order which they appeared on the agenda

MEMBER – Alistair Geddes declared an interest in respect of the following Item 9 and left the meeting - 5 Members present

Decision

NOTED

9.1 on 23 May 2013 the Panel had refused to renew the applicant's Taxi Driver's licence;

9.2 in terms of Paragraph 8(6) of Schedule 1 to the Civic Government (Scotland) Act 1982 that Taxi Driver's licence continued in effect during the time allowed for appeal of the Panel's decision;

9.3 on 24 May 2013 the Chief Constable had submitted a complaint against the licenceholder requesting consideration of suspension of this Taxi Driver's licence during the period of its continuation under Paragraph 8(6);

9.4 on 24 May 2013 the Service Manager Licensing had, under delegated powers, suspended this Taxi Driver's licence under Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982 and this suspension would lapse on 4 July 2013;

9.5 the licenceholder had advised by telephone that he would not be able to attend the Hearing.

AGREED

9.6 having heard from the Chief Inspector A. Scott on the grounds for the Chief Constable's request for suspension, to endorse the action taken by the Service Manager Licensing in suspending the relevant licence on an interim basis under Paragraph 12 of Schedule 1 to the 1982 Act;

9.7 that the grounds for suspension had been made out as the licence holder was no longer a fit and proper person to hold a licence and the carrying on of the activity to which the licence relates had caused, was causing or was likely to cause undue public nuisance or a threat to public order or safety and the Taxi Driver's Licence Number TX848 would be suspended under paragraph 11 of Schedule 1 to the 1982 Act with immediate effect for any remaining portion of the duration of the licence allowed by the 1982 Act.

10 CIVIC GOVERNMENT (SCOTLAND) ACT 1982 : SUSPENSION HEARING – REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE**Decision****AGREED**

10.1 having heard from the Chief Inspector J. Thomson on the grounds for the Chief Constable's request for suspension and from the licenceholder's agent, that the grounds for suspension had been made out as the licence holder was no longer a fit and proper person to hold a licence and the carrying on of the activity to which the licence relates had caused, was causing or was likely to cause undue public nuisance or a threat to public order or safety; and

10.2 having heard further from the licenceholder's agent on the period of any suspension and whether it should have immediate effect, to suspend Taxi Driver's Licence Number TX185 under paragraph 11 of Schedule 1 to the 1982 Act for three months with immediate effect

11 CIVIC GOVERNMENT (SCOTLAND) ACT 1982 : SUSPENSION HEARING – REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE**Decision****AGREED**

11.1 having heard from the Chief Inspector J. Thomson on the grounds for the Chief Constable's request for suspension and from the licenceholder, to endorse the action taken by the Director Chief Executive Service in suspending the relevant licence on an interim basis under Paragraph 12 of Schedule 1 to the 1982 Act;

11.2 that the grounds for suspension had been made out as the licence holder was no longer a fit and proper person to hold a licence and the carrying on of the activity to which the licence relates had caused, was causing or was likely to cause undue public nuisance or a threat to public order or safety; and

11.3 having heard further from the licenceholder on the period of any suspension and whether it should have immediate effect, to suspend the Taxi Driver's Licence Number TX660 under paragraph 11 of Schedule 1 to the 1982 Act for six months with immediate effect

12 REGISTRATION OF PRIVATE LANDLORDS - APPLICATION FOR RENEWAL OF REGISTRATION

Decision

AGREED having heard from the applicants' agent and the HMO Licensing and Landlord Registration representative, that application for registration be refused as two of the applicants were not fit and proper persons for registration

13 REGISTRATION OF PRIVATE LANDLORDS - APPLICATION FOR REGISTRATION

Decision

AGREED having heard from the applicant's representative and the HMO Licensing and Landlord Registration representative, to invoke the Panel's discretion to approve registration subject to there being in place an agreement satisfactory to the Registration Authority between the landlord and agent vesting control and responsibility in the agent for letting and management activity

14 CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE

Decision

NOTED

14.1 the applicant was not present; and

14.2 this was the second opportunity for the applicant to appear to address the Panel in support of the application.

AGREED

14.3 to determine this application at this meeting in the absence of the applicant; and

14.4 having heard from Chief Inspector A. Scott on behalf of the Chief Constable, to refuse the application for the grant of a Taxi Driver's Licence on the grounds that the applicant is not a fit and proper person to hold a Taxi Driver's Licence.

MEMBER: Jack Groom entered the meeting during consideration of the following Item: 6
Members present

15 CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE

Decision

AGREED having heard from the Chief Inspector J. Thomson on the grounds of the Chief Constable's objection and the applicant who had circulated references in support of the application, to grant the application for renewal of the Taxi Driver's licence for a period of one year.

16 CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE

Decision

AGREED having heard from Chief Inspector J. Thomson on the grounds of the Chief Constable's objection and the applicant in support of the application, to refuse the application as the applicant was not considered a fit and proper person to hold a Taxi Driver's Licence

17 CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE REPORT BY DIRECTOR CHIEF EXECUTIVE SERVICE

Decision

NOTED

17.1 the Chief Constable wished to rely on the circumstances surrounding an incident that had been the subject of a Procurator Fiscal Fine,

17.2 this Fine had become "spent" under the Rehabilitation of Offenders Act 1974 at the time of its issue and therefore could not normally be referred to in this type of hearing,

17.3 the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 provided that no convictions would be considered "spent" in relation to applicants for and holders of Taxi and Private Hire Driver's licences: that Order did not apply to Fixed Penalties and other forms of Alternatives to Prosecution issued on or after 1 November 2011; and

17.4 however, a "spent" Alternative to Prosecution may be admitted if the Panel was satisfied in terms of Section 7(3) of the 1974 Act that justice could not be done without admitting details of the Fine and surrounding circumstances.

AGREED

17.5 having heard from the Chief Inspector J. Thomson as to why justice could not be done without reference to the circumstances surrounding the Procurator Fiscal Fine and the applicant's agent had no objection to the details of the Fine being disclosed t. that in terms of

Section 7(3) of the 1974 Act justice could not be done without admitting details of the Fine and surrounding circumstances, and

17.6 having heard from the Chief Inspector J. Thomson on the grounds of the Chief Constable's objection and the Applicant's agent, who had circulated references in support of the application, to refuse the application for a Taxi Driver's Licence as the applicant was not considered a fit and proper person to hold a Taxi Driver's Licence.