

**MINUTES of MEETING of the MIDLOTHIAN COUNCIL GENERAL PURPOSES COMMITTEE** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday, 21 August 2012 at 2.00pm.

**Present:-** Councillors Russell (Chair), Baxter, Bryant, Imrie, Johnstone, Milligan, Muirhead, Pottinger, Rosie and Wallace.

**Apologies for Absence:-** Councillors Beattie, Bennett, Boyes, Constable, Coventry, de Vink Montgomery and Thompson.

**1 Order of Business**

The Meeting noted that the Chair had ruled as urgent reports on Taxi Fares and Stances as described at Items 5(c) and (f) below.

**2 Declarations of Interest**

There were no declarations of interest.

**3 Minutes**

- (a) On a motion by Councillor Baxter, seconded by Councillor Pottinger, the Minutes of Meeting of 5 June 2012 were approved as a correct record.
- (b) On a motion by Councillor Baxter, seconded by Councillor Pottinger, the Minutes of the Special Meeting of 7 August 2012 were approved as a correct record.

**4 Civic Government (Scotland) Act 1982**

**(a) (i) Procedure for Disposing of Applications**

There was submitted report, dated 7 August 2012, by the Director, Corporate Resources, concerning the procedure for disposing of applications for licences, in terms of the Civic Government (Scotland) Act 1982.

**Decision**

To note the report.

**(ii) Procedure for Considering Requests for Suspensions**

There was submitted report, dated 7 August 2012, by the Director, Corporate Resources, concerning the procedure for considering requests for suspensions of licences, in terms of the Civic Government (Scotland) Act 1982.

**Decision**

To note the report.

**(b) Application for a Second Hand Dealer's Licence - Unit 4, Poltonhall Industrial Estate**

There was submitted report, dated 8 August 2012, by the Director, Corporate Resources, concerning an application for a Second Hand Dealer's Licence, by Pitstop Northern and Mr A Kerr, 34 Acredales, Haddington, in respect of the sale of second hand cars, at Unit 4, Poltonhall Industrial Estate.

The Committee noted (i) that the applicant had been called to appear but was not present; and (ii) verbal report by the Clerk that, earlier in the day, the Planning Officer had advised that it appeared that planning permission for change of use of the premises, to expose for sale up to four or five second hand cars, would not be required and that the position would be verified later in the week.

**Decision**

To grant the application subject to the standard conditions and prior determination of any planning issues.

(Action – Head of Customer Services)

**(c) Taxi (and Private Hire Cars fitted with Taxi Meters) Fares Tariff - Review**

With reference to paragraph 4(c) of the Minutes of 5 June 2012, there was submitted report, dated 8 August 2012, by the Director, Corporate Resources, concerning the review of the Taxi Fare Tariff.

In his report, the Director confirmed, *inter alia*, that the Midlothian Taxi Owners' Association had advised that they did not consider it appropriate to increase the level of fares.

**Decision**

- (1) To note the report;
- (2) To agree that no increase be applied to the Fare Tarrif; and
- (3) To authorise intimation of the relative statutory notice in a local newspaper.

(Action – Head of Customer Services)

**(d) Request for Variation in the Conditions of Fitness of a Private Hire Car**

There was submitted report, by the Director, Corporate Resources, dated 8 August 2012, concerning a request for the variation of the Condition of Fitness that Private Hire Cars had to have four doors, in respect of a vehicle which had only one side rear door (and a tail gate).

In his report, the Director advised that the applicant had confirmed that his sole intention was to carry handicapped persons in wheelchairs under contract ie principally taking access / egress from the tail gate.

**Decision**

- (i) To note the report;
- (ii) To approve the variation during the lifetime of the vehicle licensed activity, in terms of a restricted licence for hires contracted by or on behalf of school children with special needs and their escorts; and subject to the production of certification provided by the Vehicle and Operator Services Agency, as regards the fitness of tail lift or ramp, seat and runner fittings, etc; and
- (iii) To request that the suitability of this type of vehicle be considered when the revised conditions of licensing were being reviewed in the context of the Revised Best Practice for Taxis and Private Hire Cars.

(Action – Head of Customer Services)

**(e) Late Hours Catering Licences – Sale of Food**

There was submitted report, dated 8 August 2012, by the Director, Corporate Resources, concerning the licensing of shops selling Food, generally, as opposed to meals and refreshment ie between 11pm and 5am, as Late Hours Catering Establishments.

In his report, the Director, confirmed that :-

- (i) the Small Business Federation considered it inappropriate to license such activities as there had been no threat to public order or safety, or reports of criminality at such shops;
- (ii) in 1998, the Council had agreed to alter the terms of the 1983 Resolution, in respect of the adoption of the discretionary regulatory powers, relating to Late Hours Catering Establishments, to exclude supermarkets, petrol filling stations, and similar premises operating during the period from 11.00 pm to 5.00 am, where the principal business was not that of late hours catering;
- (iii) the definition of Late Hours Catering had changed to relate to the sale of Food, generally; and

- (iv) information had been sought as to the number and extent of such shops in Midlothian and it appeared that, with the exception of the 24 hour supermarkets at Pentland and Hardengreen, there were very few if any and none that had been the source of noise, nuisance or disturbance made known to the Licensing Authority

### **Decision**

- (i) To note the terms of the report;
- (ii) To agree to consult wider in the community; and
- (iii) Meantime, to delay the commencement of the application process for premises selling food as opposed to meals or refreshment.

(Action – Head of Customer Services)

### **(f) Siting of Taxi Stances - Dalkeith**

There were submitted reports, dated 10 and 20 August 2012, by the Director, Corporate Resources, concerning a request by the Police that a Taxi Stance be appointed at the Miners' Club, Woodburn Road, Dalkeith, on Fridays and Saturdays, to relieve congestion when the premises closed.

In his reports, the Director confirmed:-

- (i) the statutory process for the appointment of Taxi Stances;
- (ii) that informal discussions had taken place with Midlothian Taxi Owners' Association and through it, the Drivers; and, the latter had indicated that whilst they would cooperate as far as possible, they would not service such a stance, formally; and
- (iii) that, in the circumstances, the Police were content with the response; had undertaken to provide a specific dispersal detail for the Club; and would work with the Club to try and alleviate any problems.

### **Decision**

To note the report and the attendant problems associated with the servicing of the demand for late night / early morning transport from such venues.

(Action – Head of Customer Services)

## **6 Housing (Scotland) Act 2006 - Houses in Multiple Occupation (HMOs) - Revised Statutory Guidance**

With reference to paragraph 3(c) of the Minutes of 4 October 2011, there was submitted report, by the Director, Corporate Resources, concerning the Revised Statutory Guidance relating to the licensing of Houses in Multiple Occupation (HMOs).

In his report, the Director confirmed, *inter alia*, that:-

- (a) in terms of the Private Rented Housing (Scotland) Act 2011, the Licensing Authority may (i) within 21 days of an application for an HMO licence, refuse to consider the application if it considers that occupation of the living accommodation concerned as an HMO would constitute a breach of planning control for the purposes of the Town and Country Planning (Scotland) Act 1997; and (ii) refuse to grant an HMO licence if it considers that there is (or, as a result of granting the licence, would be) overprovision of HMOs in the locality in which the living accommodation concerned is situated; and
- (b) the effect of the Revised Statutory Guidance on these aspects.

#### **Decision**

- (1) To note the report;
- (2) To remit to the Director, in consultation with the Chair to refuse applications and, similarly, to postpone the expiry of an existing licence where consideration of an application for a new licence for the same property was being refused; and
- (3) To note the Guidance in respect of overprovision at this stage.

(Action – Head of Customer Services)

### **7 Fraser Hogg and Sir Samuel Chisholm Bequests and MacFie Hall Fund**

There was submitted report, dated 10 August 2012, by the Director, Corporate Resources, concerning the Fraser Hogg and Sir Samuel Chisholm Bequests and the MacFie Hall Fund.

Appended to the report were the relative Draft Annual Reports and Statements of Income and Expenditure.

#### **Decision**

- (a) To note the report;
- (b) To approve the Annual Reports;
- (c) To remit consideration and approval of the relative Examiner's reports to the Director, Corporate Resources, in consultation with the Chair, subject to a report back if necessary; and
- (d) To approve submission of the returns to the Charities Regulator, thereafter.

(Action – Head of Customer Services)

## **8 Exclusion of Members of the Public**

In view of the nature of the business to be transacted, the Committee agreed that the public be excluded from the meeting during discussion of the undernoted items, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraphs 3, 12 and 14 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973:-

- (a) Private Hire Car Driver's Licence - Consideration of Application for Renewal – To grant the application for a period of six months, subject to a warning to the applicant about his future conduct; and
- (b) Taxi Driver's Licence – Consideration of Request for Suspension – To decline the request, subject to a warning to the applicant about his future conduct.

The Meeting terminated at 3.10pm.