

Minute of Meeting



General Purposes Committee

Date	Time	Venue
20 November 2018	11.05 am	Council Chamber, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Smaill (Chair)	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Imrie
Councillor Lay-Douglas	Councillor Milligan
Councillor Muirhead	Councillor McCall
Councillor Munro	Councillor Parry
Councillor Russell	Councillor Winchester
Councillor Wallace	

In attendance:

Alan Turpie	Legal Services Manager
Verona MacDonald	Democratic Services Team Leader
Constable John Fortune	Police Scotland
Stephen Thomson	Principal Trading Standards Officer

1. Apologies

Apologies for absence were intimated on behalf of Councillors Alexander, Baird and Johnstone.

2. Order of Business

The Clerk advised that the order of business was as per the agenda circulated and an additional item raised by Councillor Cassidy, which the Chair had

deemed as urgent, would be considered prior to consideration of the applications. It was further noted that, in terms of consideration of the applications on the agenda, that only the application relating to a Private Hire Car Driver licence and the request to revoke a Street Trader's Licence would be taken in private.

3. Declarations of interest

Councillor Curran indicated that he would be declaring an interest in the application on the agenda relating to a private hire car driver application on the basis of his business interests in the taxi trade and that he would also not take part in consideration of the request for revocation of a street traders licence on the basis that, when the application for a licence was considered and granted by the Committee, he had declared an interest at that time. Councillor Cassidy advised that he would be declaring an interest in the application for a Second Hand Car Dealers licence.

4. Minute of Meeting

The Minute of Meeting of 9 October 2018 was moved by Councillor Imrie, seconded by Councillor Cassidy and subsequently unanimously approved. The Chair was thereafter authorised to sign the Minute as an accurate record.

5. Public Reports

Title
Additional Item – Taxi Driver Topographical Test
Summary of discussion
Alan Turpie advised that Councillor Cassidy had submitted a request for an urgent matter to be discussed by the Committee. The Chair had subsequently accepted the request for consideration at the meeting.
Councillor Cassidy then addressed his request which arose as a result of an approach from 2 of his constituents. He advised that it was felt that the current process whereby taxi driver applicants were afforded the opportunity of sitting and passing the knowledge test only twice and then having to wait a period of one year before being permitted to re-sit the test, was felt to be prohibitive towards people trying to earn a living. He advised that, from what he was led to believe there were only another 2 Councils who had a similar rule. He advised that when he had raised the issue with the Legal Services Manager he was informed that there was likely to be a report before the Committee in January 2019 regarding the topographical test. However he felt that, in the interim, the Committee could decide to waive the current rule thus allowing applicants to sit the test as many times as they wished.
The Chair enquired whether there was a fee for sitting the test and the Legal Services Manager advised that the cost of sitting the current tests were included in the fee paid for the application. However, if the Committee decided to waive the current rule, the costs associated with this would need to be met by the applicant.
Thereafter, some Members expressed concern with regard to the matter being deemed urgent and others raised issues relating to the interpretation of

conditions applicable to taxi and private hire vehicles particularly in relation to checks undertaken at the Taxi Examination Centre. Thereafter, the Legal Services Manager advised that aspects of the standard conditions insofar as they relate to the checks undertaken by the Taxi Examination Centre were to be discussed at a meeting with Centre representatives being held later in the week. He further advised that consultation would also take place with the taxi operators and whereas ideally he would like to report back in January that it was more important to report back having undertaken the necessary discussions and consultation.

After further discussion, Councillor Cassidy moved relaxation of the rule relating to the test to allow an applicant to re-sit without restriction on the basis that the full costs associated with the re-sit were met by the applicant. His Motion was seconded by Councillor Munro. On a vote being taken by a show of hands, 6 votes were cast against the Motion and 8 for the Motion which therefore became the decision of the Committee.

Decision

Agreed to relax the rule relating to the knowledge test for taxi car drivers to allow an applicant to re-sit without restriction on the basis that the full costs associated with this are met by the applicant.

Action

Director, Resources

Title

Application for a Metal Dealer's Licence and Application for a Second Hand Dealer's Licence – Louise McVey

Outline of report and summary of discussion

It was noted that the applicant, Mrs McVey, was present. It was further noted that one of the objectors, Loanhead and District Community Council, was represented by the Secretary of the Association, Mrs Gina Temple. The Chair noted that in respect of the application for a Metal Dealer's Licence written objections had also been lodged by S. Howard; M. Ling and J. Halsey and in respect of the application for a Second Hand Dealer's Licence, S. Howard and M. Ling were also objecting to it. For the assistance of the applicant and objector, the Chair summarised the process which would be followed by the Committee in determining the applications.

The Committee then heard from Mrs Temple on behalf of the Community Council. She advised that she also appeared for the residents whose concerns in relation to the applications were on the grounds of pollution and smell, traffic congestion, parking difficulties, the location being on the walking route for school children, difficulties experienced by fire engines trying to get down the road and restricted access to fire hydrants.

The Chair asked if the applicant would like to question Mrs Temple. The applicant advised that she was only aware of the objection from S. Howard and although she was aware of the other objections they related to the planning application which had already been determined. The Chair, having received advice from the Legal Services Manager, adjourned the meeting until 11.30 am to allow further investigation as to what objections the applicant had received notification of.

The meeting adjourned and resumed at 11.35 am. The Legal Services Manager advised that he had spoken to the applicant who was happy to proceed if the Hearing considered only the objection from S. Howard. Thereafter, Councillor Parry sought clarification as to why the Committee would proceed to consider the applications whilst accepting only one objection had been received when the Committee was aware that others had been lodged. She moved that the applications be continued to the January meeting of the Committee to allow for copies of the objections to be served on the applicant and to ascertain whether other objections had in fact been made by other residents. Her Motion was seconded by Councillor Wallace.

On a vote being taken by a show of hands, 6 votes were cast against the Motion and 7 for the Motion which therefore became the decision of the Committee.

Thereafter the applicant expressed her disquiet at the terms of the decision made and suggested that the application be continued to a meeting to be held prior to the next meeting of the Committee. The Legal Services Manager advised that both applications were well within the timescale set in the legislation for determining and that the decision taken by the Committee was therefore in accordance with the legislation. The Chair advised that should an opportunity arise whereby the applications could be considered at a Special meeting of the Committee prior to the end of the year this could be investigated but given the already heavy meeting schedule prior to the end of the year, it was unlikely.

Decision

Applications continued until the next meeting of the Committee.

Action

Director, Resources

Title

Application for a Second Hand Car Dealer's Licence – James Willison

Outline of report and summary of discussion

It was noted that the applicant, Mr Willison, was present. It was further noted that 2 objections had been received but neither objector was present. For the assistance of the applicant, the Chair summarised the process which would be followed by the Committee in determining the application.

The Committee then heard from the applicant. He advised that the majority of the information within the objections was inaccurate and that he had not sold a car since June. He advised that he did not intend to have cars outside his house with for sale signs and that all transactions were via internet adverts. He confirmed that any vehicles he was selling would be parked in the driveway at his house and not on the public road outside and therefore would not cause any inconvenience to his neighbours. He further advised that there would be no form of advertising at or near his property drawing attention to the second hand car business.

The Committee heard from Stephen Thomson of the Council's Trading Standards service who advised that whilst there was no objection to the application, the applicant had been advised that he required to have a licence and if granted, the business would be the subject of an annual inspection by Trading Standards.

Councillor Parry with reference to the terms of the objections questioned how the applicant could run a business from his property when the title deeds precluded him from doing so. The Legal Services Manager advised that this was a matter for the applicant and/or the owners of neighbouring properties and not a valid consideration for the Committee in terms of the legislation.

Councillor Milligan, seconded by Councillor Hardie, moved that the application be granted. On a vote being taken by way of a show of hands, 12 votes were cast for the Motion with one against.

Decision

Application granted

Action

Director, Resources

Sederunt: Councillor Parry left the meeting and did not return

Title

Application for a Late Hours Catering Licence – McDonald's Restaurant, Hardengreen, Dalkeith

Outline of report and summary of discussion

It was noted that the applicants, were represented by Lucy Thornton, Solicitor, Edinburgh. The restaurant manager was also present. It was further noted that 24 objections had been received from – A. and V. Dodds; G. and S. McDonald; S. Johnson; N. Saunders and V. Doneca; N. Johnson; K. and N. Joshi; E. Newman; S. Vernon and R. Beard; H. and W. Beasley; A. and J. Reid; C. Thompson; N. Gibb; K. Robson; D. Benn; A. Thompson; L. Johnston; K. Bryce; R. and E. Spinks; Eskbank and Newbattle Community Council; M. Rowley; C. and L. Dickson; L. Cockram; B. Miller; P. Docherty. It was further noted that 8 of the objectors were present and that one of the objectors, Janet Reid would speak on their behalf. It was also noted that a letter of support had been received from J. Pike. The applicant's agent confirmed receipt of the objections and letter of support.

The Chair summarised the process which would be followed by the Committee in determining the application.

The Committee then heard from Mrs Reid on behalf of the objectors. Mrs Reid advised that the public notification of the application had been inadequate because it had been erected on a boundary fence which was not adjacent to a footpath where the public has access. She advised that persons living in the vicinity of the restaurant were not aware of the application and that it was only as a result of a comment made at a Community Council meeting by one of the local Elected Members that people became aware of it. She further advised that despite not having a licence there was already in place a sign advertising the restaurant was open 24 hours. She continued by going through other relevant points raised in the letters of objection, namely, the increased disturbance to nearby residents due to the additional road and foot traffic which would go through the housing estate. She advised residents were already greatly disturbed with engines being left on, cars being revved and people gathering in the car park at the Tesco supermarket which was adjacent to the restaurant building. She questioned why, given the location, a licence to eat 24 hours a day was required and described difficulties already experienced with the spread of litter and deliveries to the Tesco store.

Mr Bill Kerr-Smith, on behalf of the Community Council, advised that the application placed a huge burden on a small local community for the greater good of a wider community. He suggested that, in respect of other unrelated matters, the local community would be protected but that this consideration was not being afforded by the licensing process.

The applicant's agent advised that she did not have any questions for the objectors.

Councillor Hackett asked the objectors to describe the type of anti-social behaviour currently experienced. Mrs Reid advised that those living in the vicinity of the restaurant and Tesco supermarket already experienced fights at the bus stop, cars gathering and that the car park at the supermarket would be used by customers going to the restaurant. Councillor McCall enquired if residents had noticed a difference since the Tesco supermarket stopped operating on a 24 hour basis which she understood had been as a result of anti-social behaviour. Mrs Reid advised that the car park continued to be a gathering place for youths.

Lucy Thornton on behalf of the applicants, advised that the restaurant is located towards the bottom of the car park at a Tesco supermarket and would have its own small car park which would be accessed via a barrier from the car park at Tesco. She submitted the licence was required to satisfy demand from late night workers. She further advised that in the vicinity only a club opened at weekends and a miners club on a Saturday evening and that both were some distance from the restaurant. She then addressed the measures which would be put in place by management, namely, there would be between 6 and 10 staff including 2 managers until 1.00 am daily. From 1.00 am there would be one manager on duty. Each manager would be trained on how to deal with anti-social behaviour and one manager would be designated to security; the expected customer standards whereby customers not behaving to the set standards would be asked to leave; the Staff Safe system operated by McDonalds whereby customers are advised that they are being recorded and when introduced in other restaurants, it led to a reduction in anti-social behaviour; extended litter patrols up to 200 metres beyond the restaurant, that all restaurant packaging would be branded and litter patrols would pick up all litter not just branded litter; the noise impact assessment had indicated there would be no increase in noise; the applicant was anticipating no more than 15 cars per hour at the restaurant; there would be no deliveries to the restaurant between the hours of 11 pm and 5 am daily; additional lighting would be installed around the restaurant. She then addressed the notification requirement of the application. She advised that 2 notices were displayed, one near the filling station and the other near to the car park at the Tesco supermarket. She submitted that this satisfied the notification requirements in the legislation. She confirmed that the restaurant manager would work with local residents and take on board their concerns with a view to resolving them.

The objectors were then given the opportunity to question the applicant's agent. Mrs Reid, on behalf of the objectors, stated that the barrier referred to would not prevent cars from getting in and that the objections lodged were in relation to a 24 hour licence which was not suitable for the locality.

Thereafter, further questions were put by Members and subsequently answered by Ms Thornton who in answering a question from Councillor Milligan confirmed

that, if necessary, her clients would comply with a condition preventing deliveries to the premises during the hours of the licence. On a further question from Councillor Milligan, Ms Thornton advised that her clients had not planned to have licensed door stewards on duty but it was something they would be willing to consider in the future. Councillor Cassidy, with regard to the advice given by Ms Thornton about noise impact and anticipated customers in cars, stated that he questioned the accuracy of the information provided given that at present many people travel back to Bonnyrigg after a night out and if they knew a McDonalds was open, they would go through Hardengreen to get to it. Councillor Hackett questioned the information provided regarding anti-social behaviour and in responding Ms Thornton advised that her clients could only use their experiences elsewhere where anti-social behaviour happened in the early evening and from younger customers. She submitted that her clients hoped late night revellers would not cause difficulties.

The applicant's agent and objectors were given the opportunity to sum-up.

Thereafter, Councillor Hardie, seconded by Councillor Winchester, moved grant of the application and on a vote being taken by a show of hands, 8 votes were cast for the Motion and 5 against.

Decision
Application granted.
Action
Director, Resources

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 item, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraphs 3, 6 and 14 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

Application for a Private Hire Car Driver's Licence – R. MacLeod

Request for Suspension of a Street Trader's Licence – L. Thomson

The Meeting terminated at 1.50 pm