

**General Purposes Committee
Tuesday 1 October 2013
Item No 4**

MINUTES of MEETING of the MIDLOTHIAN COUNCIL GENERAL PURPOSES COMMITTEE held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 20 August 2013 at 2.00pm.

Present:- Councillors Rosie (Chair), Baxter, Beattie, Bryant, Constable, Coventry, Imrie, Johnstone, Milligan, Montgomery, Muirhead, Pottinger and Wallace.

Apologies for Absence:- Councillors Bennett, Russell, Thompson and de Vink.

1 Order of Business

The Chair ruled, as urgent for consideration at this meeting, submissions containing draft answers to questions relating to consultation documents about (a) the licensing of Sexual Entertainment and (b) the Better Regulation Regime and the proposed introduction of Primary Authority initiatives in relation to devolved regulatory matters, as described at paragraphs 5(c) and 7 below; and the Committee approved an adjustment in the order of business ie that an application for a Period Approval for a Place for the Solemnisation of Marriages be considered at the conclusion of the public business, as described at paragraph 8 below.

2 Declarations of Interest

Councilor Johnstone declared an interest in the application described at Paragraph 8 below as she resided near the premises.

3 Minutes

On a motion by Councillor Wallace, seconded by Councillor Muirhead, the Minutes of Meeting of 21 May 2013 were approved as a correct record.

4 Gourlaw Sub Committee

There was submitted Minutes of Meeting of the Gourlaw Sub Committee of 13 June 2013, as shown in the **Appendix**.

Decision

To adopt the relative recommendations, subject to the approval of the coaling company.

(Action – Head of Customer Services)

5 Civic Government (Scotland) Act 1982

(a) Procedure for Disposing of Applications

There was submitted report, dated 10 August 2013, by the Director, Resources, concerning the procedure for disposing of applications for licences, in terms of the Civic Government (Scotland) Act 1982.

Decision

To note the report.

(b) Licensing of Places of Sexual Entertainment – Consultation

There was submitted report, dated 10 August 2013, by the Director, Resources, concerning a consultation issued by the Scottish Government (SG) in relation to the regulation of Sexual Entertainment.

In his report, the Director advised that:-

- (i) the Scottish Government (1) considered that (a) it was appropriate that sexual entertainment venues should be licensed in order that both performers and customers could benefit from a safe, regulated environment and (b) the licensing of these venues would limit the risk of criminality, such as prostitution and human trafficking; (2) had advised that Sexual entertainment covered a range of different legal activity, including lap dancing, strip shows, peep shows and live sex shows, involving male and female performers; (3) were clear that the licensing of sexual entertainment venues should not inadvertently hinder artistic performance and licensing would not cover or authorise currently illegal activity, such as brothel keeping or trading in prostitution; and (4) considered that a specific licensing regime for sexual entertainment venues was the best solution for future regulation of the industry as it removed uncertainty around attempting to regulate under alcohol licensing, matters that went beyond the remit of that scheme; and offered local licensing authorities the ability to consider local circumstances and develop approaches appropriate to those circumstances and local authorities should be enabled to set a desired number of sexual entertainment premises for their area (and for that number to be zero); and to set conditions that control the conduct of activities on premises in their area.
- (ii) by and large the proprietors of such premises generally also sold alcohol and, hitherto, it had been thought that it was best to leave the control of such establishments to Local Licensing Boards but recent court judgements had provided persuasive guidance against conditions of licensing which strayed away from the control of the sale of alcohol; and

- (iii) in 2010, a suggestion that a specific system of licensing be introduced had been rejected by the Scottish Parliament, principally on account of the difficulties created by a dual licensing regime; and accordingly attention focused on a review of the position in order to address the change of circumstance.

Appended to the report was the Consultation document.

A draft response was tabled.

Decision

- (1) To note the report; and
- (2) To remit to the Director, Resources, in consultation with the Chair, the submission of a response on the basis of the draft answers, adjusted to reflect any comments made by the Members.

(Action – Head of Customer Services)

Sederunt

Councillor Beattie joined the meeting during discussion of the foregoing item (2.05pm).

(c) Licensing of Second Hand Dealers in Textiles

With reference to paragraph 5(h) of the Minutes of 5 June 2012, there was submitted report, dated 2 May 2013, by the Director, Resources, concerning the Licensing of Second Hand Dealers in Textiles in bulk via the imposition of amended conditions related to the method of operation.

In his report the Director confirmed that licence-holders had confirmed that it appeared that the revised condition was working satisfactorily.

Appended to the report was a copy of the initial report, dated 30 January 2012, by the Director, Corporate Resources.

Decision

- (i) To note the report; and
- (ii) To agree to continue with the amended condition.

6 Better Regulation Regime – Review of Primary Authority Regulation

With reference to paragraph 4 of the Minutes of 2 October 2012, there was submitted report, dated 13 May 2013, by the Director, Resources, concerning a consultation issued by the Scottish Government (SG) in relation to the Better Regulation Regime, with particular reference to the establishment of Primary Authority initiatives.

In his report, the Director the Director explained that:-

- (a) the Scottish Government had agreed to seek supplementary views on whether some equivalent of the UK Primary Authority initiative should be adopted in Scotland, in the context of devolved Scottish regulation; and
- (b) the UK Government had established Primary Authority initiatives which allowed a business which had branches in a number of local authority areas to form a partnership with one local authority in order to receive tailored support in relation to a specified range of regulation by providing assured advice, co-ordinating enforcement action across all locations used by the business; and developing an inspection plan for the business as a whole.

A copy of the consultation document was appended to the report. A draft response was tabled.

- (1) To note the report; and
- (2) To remit to the Director, Resources, in consultation with the Chair, the submission of a response on the basis of the draft answers, adjusted to reflect any comments made by the Members.

(Action – Head of Customer Services)

7 European Services Directive – Tacit Approval

With reference to paragraph 4 of the Minutes of 19 February 2013, there was submitted report, dated 8 August 2013, by the Director, Resources, in which he confirmed the periods which limited the amount of time available to the Council to process those applications for licences which were not currently subject to such restrictions and it had been decided meantime that that a period of three months and six months be allowed under tacit approval for these.

Decision

To agree that Tacit Approval periods of three and six months for the consideration and determination of such applications, respectively, continue to apply.

(Action – Head of Customer Services.)

Sederunt

Councillor Johnstone left the meeting at this stage (2.10pm).

8 The Marriage (Approval Of Places) (Scotland) Regulations 2002 - Period Approvals of Places for the Solemnisation of Marriages in the presence of a Registrar

(a) Draft Procedure for Disposal of Applications

There was submitted report, dated 7 August 2013, by the Director, Resources, concerning the draft procedure for the disposal of applications for period approvals.

Decision

To adopt the draft procedure for the disposal of applications for period approvals.

(b) Application - Hall of Lodge Newbattle St Mary 1063, 26 Newbattle Road, Newtongrange

There was submitted report, dated 9 August 2013, by the Director, Resources, concerning an application by Lodge Newbattle St Mary 1063 and Mr J Cooper, for a Period Approval as a Place for The Solemnisation of Marriages in the presence of a Registrar, in respect of the Hall at 26 Newbattle Road, Newtongrange, with a maximum capacity of sixty persons.

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

- (i) that objections had been submitted by Ms A Gunn, 1 Galadale Crescent, Newtongrange, with the support of 22 residents;
- (ii) the guidance provided by the Registrar General; and
- (iii) the legislative provisions.

Appended to the report were (1) letter, dated 2 August 2013, from Mrs Gunn and a petition signed by 22 residents; and (2) the standard conditions attaching to the grant of Period Approvals.

The Committee heard Mrs Gunn and Mr May in respect of the various grounds of objection, particularly in relation to car parking, noise and nuisance; Messrs Cooper and Reid for Lodge Newbattle St Mary 1063; a representative of the Chief Constable; and the Roads Services Manager.

Decision

- (a) To grant the Period Approval for a period of three years, subject to a report back earlier if appropriate and the following conditions:-
 - (i) measures shall be taken, proactively with the residents, to mitigate any noise disturbance, including that caused by patrons, temporarily exiting the premises;

- (ii) in partnership with the residents, measures shall be taken to alleviate car parking problems in order to maintain access for residents, other road users and the emergency services in the vicinity, including an examination of the feasibility of using the Car Park at the Former Services and Artisans Club premises in Newbattle Road; and
 - (iii) effective measures shall be introduced to ensure that patrons are directed to use the smoking shelter; and
- (2) To remit to the Business Manager, Roads Services to monitor, randomly, car parking in Galadale Crescent and Drive and report back if necessary.

9 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.

Decision

- (a) Street Trader's Licence – Consideration of Application – Refused as the Applicant was not a fit and proper person to be the holder of a licence;
- (b) Window Cleaner's Licence – Consideration of Application – Granted.
- (c) Metal Dealer's Licence – Application for Renewal – Refused as the Applicant was not a fit and proper person to be the holder of a licence; and
- (d) Private Hire Car Driver's Licence - Consideration of Application – Refused as the Applicant was not a fit and proper person to be the holder of a licence.

The Meeting terminated at 4.07pm.

APPENDIX

(relative to paragraph 4)

MINUTES of MEETING of the GOURLAW SUB-COMMITTEE held in the Committee Room, Midlothian House, Buccleuch Street, Dalkeith on Thursday 13 June 2013 at 10.00am.

Present:- Councillors Rosie (Chair), Constable and Imrie.

Apologies for Absence:- Councillors Baxter, Coventry and Thompson.

1 Order of Business

The Sub Committee noted that the Chair had ruled as urgent, a report by the Director, Corporate Resources, concerning a request for financial assistance from Hawthornden Primary School Parent Council, as described at Item No 4(c) below.

2 Minutes of Meeting

On the motion of Councillor Constable, seconded by Councillor Imrie, the Sub-Committee approved the Minutes of Meeting of 2 October 2012.

With reference to paragraph 4 thereof, the Sub Committee noted that:-

- (a) a further request for support for the 14th Midlothian Scout Group had been received, as described at paragraph 4(b) below;
- (b) the Open Space Improvements at Rosewell Park would be subjected to a tendering exercise in the autumn;
- (c) the works at Ferguson Park, Rosewell had been completed at a cost of £25,481.03;
- (d) Sportscotland had approved the application for the award of funding towards the construction of the Wheeled Sports Facility at King George V Park, Bonnyrigg, subject to formal conclusion of a contract; and preparations for the tendering process would begin thereafter; and
- (e) it was anticipated that the Bonnyrigg After School Club had been reimbursed.

3 Gourlaw, Shewington and Newbigging Opencast Coal Funds

There was submitted report, dated 29 May 2013, by the Director, Corporate Resources, providing an up-date on the position in relation to the Opencast mines and relative Funds.

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

- (a) as reported to the General Purposes Committee on 21 May 2013, Scottish Coal had gone into Liquidation on 19 April 2013;
- (b) coaling had ceased in 2011;
- (c) it was thought that any outstanding business related to the restoration of the site; and
- (d) notwithstanding that, it was possible that an application for planning permission for the extraction of coal (10 million tonnes) would be submitted in respect of Cauldhall Moor.

Appended to the report was a statement showing commitments and the remaining balances.

Decision

To note the report.

4 Requests for Disbursements

(a) Bonnyrigg Parish Church

There was submitted report, dated 31 May 2013, by the Director, Corporate Resources, concerning a request for financial assistance by Bonnyrigg Parish Church towards the cost of replacing windows and doors at the Pitcairn Centre on the basis of either (i) providing seven new windows at the front of the building at a cost of £4,000 + VAT or (ii) replacing all windows and all doors at a cost of £14,000 + VAT.

Appended to the report was letter, dated 18 February 2013, from the Clerk to the Congregational Board.

Decision

To recommend that the request be granted in respect of (i) above in the amount of £5,000, in view of the benefit as regards (1) supporting healthy, caring and diverse communities where local needs were met by providing suitable infrastructure for the efficient and effective delivery of services to meet the full range of community needs; and (2) improving Opportunities for People in Midlothian by promoting social and financial inclusion in Midlothian.

(b) 14th Midlothian Scout Group

With reference to paragraph 4(a) of the Minutes of 11 October 2012, there was submitted report, dated 31 May 2013, by the Director, Corporate Resources, confirming that, in respect of the request for financial assistance by the 14th Midlothian (Bonnyrigg) Scout Group towards the cost of upgrading and improvement works at the Scout Group Hall, 13 Eldindean Road, Bonnyrigg, it had been found that the electrical installation was not capable of supporting the improvements to the central heating system; and the relative estimated additional cost of £6,000.

Decision

To recommend that a further disbursement of £6,000 be made to the 14th Midlothian Scout Group, to meet the cost of upgrading the electrical installation, in view of the benefit as regards (1) supporting healthy, caring and diverse communities where local needs were met by providing suitable infrastructure for the efficient and effective delivery of services to meet the full range of community needs; and (2) improving opportunities for People in Midlothian by promoting social and financial inclusion in Midlothian.

(c) Hawthornden Primary School Parent Council

There was submitted report, dated 13 June 2013, by the Director, Corporate Resources, concerning a request for financial assistance of £5,000 by Hawthornden Primary School Parent Council towards the cost of providing playground equipment at the School.

Decision

To recommend that the request be granted in the amount of £5,000, with a view to (1) supporting healthy, caring and diverse communities where local needs were met by providing suitable infrastructure for the efficient and effective delivery of services to meet the full range of community needs; and (2) improving opportunities for people in Midlothian by promoting social and financial inclusion in Midlothian.

(Action – (a) – (c) - Director, Corporate Resources)

The meeting terminated at 10.28am.