

# **MORAY COUNCIL**

## **Minute of Meeting of the Licensing Committee**

**Wednesday, 10 October 2018**

**Council Chambers, Council Office, High Street, Elgin, IV30 1BX**

### **PRESENT**

Councillor James Allan, Councillor Theresa Coull, Councillor Gordon Cowie, Councillor Paula Coy, Councillor John Divers, Councillor Ryan Edwards, Councillor Donald Gatt, Councillor Louise Laing, Councillor Amy Patience, Councillor Ron Shepherd

### **APOLOGIES**

Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean

### **IN ATTENDANCE**

Also in attendance at the above meeting were Sean Hoath, Senior Solicitor, Jo Larson, Licensing Standards Officer and Tracey Sutherland, Committee Services Officer.

#### **1. Declaration of Group Decisions and Members Interests \***

In terms of Standing Order 20 and the Councillor's Code of Conduct there were no declarations from group leaders or spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

#### **2. Minute of Previous Meeting - 15 August 2018**

The minute of the meeting of the Licensing Committee dated 15 August 2018 was submitted and approved.

#### **3. Written Questions \*\***

The Committee noted that no written questions had been submitted.

#### **4. Application for Late Hours Catering Licence - 18-003**

A report by the Corporate Director (Corporate Services) invited the Committee to consider an application for the grant of a late hours catering licence received on 26 April 2018 subject to adverse representation received on behalf of Police Scotland, local residents and Keith Community Council.

The Committee noted that the Applicant was not in attendance despite notifying the Senior Solicitor that they intended to be present.

Following consideration, the Committee agreed to defer this item to later in the agenda as the applicant had indicated he would attend the meeting however, was currently not in attendance. The Committee felt that by discussing the application later in the agenda, it would give the applicant time to arrive in case they had been held up in traffic.

#### **5. Application for Late Hours Catering Licence - 18-004**

A report by the Corporate Director (Corporate Services) invited the Committee to consider an application for a late hours catering licence received on 9 July 2018 subject to an adverse representation received on behalf of Police Scotland.

The Committee noted that the applicant's Solicitor, Mr Neil Ross of Grigor and Young was in attendance. The Chief Constable of Police Scotland was represented by Sergeant Wood, Police Scotland.

The applicant's Solicitor, Mr Ross addressed the Committee and responded to questions raised by the Committee.

Sergeant Wood, Police Scotland addressed the Committee and responded to questions raised by the Committee.

Following consideration, the Chair asked Mr Ross and Sergeant Wood if they were happy with the proceedings and if they felt they had received a fair hearing.

Mr Ross and Sergeant Wood advised that they were both happy with proceedings and confirmed that they felt they had had a fair hearing.

Following consideration the Committee agreed to grant the application for a late hours catering licence in respect of Case No. LHC/18/004.

#### **6. Application for Late Hours Catering Licence - 18-005**

A report by the Corporate Director (Corporate Services) invited the Committee to consider an application for the grant of a later hours catering licence received on 21 August 2018 subject to adverse representation received from local residents.

The Committee noted that the Applicant was in attendance along with his legal representative, Mr Hunter. The Committee also noted that several objectors were also in attendance and would be represented by Mr Fairclough.

The Senior Solicitor informed the Committee that following an internal process issue, 2 representations were received on time but were not included in the Committee papers distributed. The additional representations were handed out to the members of the Committee.

The Senior Solicitor also informed the Committee that 1 further representation had been received outwith the consultation deadline from Forres Community Council, the Committee were asked whether they wished to include the late representation. The reason for the representation being late was due to the timing of the Community Council meeting falling outwith the consultation period.

Following consideration Councillor Coull proposed a motion to accept the late

representation as she acknowledged that Community Council meeting dates are pre-set, this was seconded by Councillor Coy.

Councillor Cowie moved that the Community Council could have convened a special meeting to discuss the Late Hours Catering licence and therefore did not think the representation should be considered, this was seconded by Councillor Gatt.

On the division there voted:

For the motion (5) Councillors Coull, Coy, Divers, Edwards and Patience

For the Amendment (5) Councillors Cowie, Gatt, Allan, Laing and Shepherd

Absentions (0)

There being an equality of votes, and in terms of Standing Order 62(e), the Chair cast her casting vote in favour of the motion.

Accordingly the motion became the finding of the meeting and the Committee agreed to accept the late representation from Forres Community Council.

Mr Fairclough addressed the Committee and responded to questions raised by the Committee.

Mr Hunter addressed the Committee and responded to questions raised by the Committee.

Following consideration, the Chair asked Mr Fairclough and Mr Hunter if they were happy with the proceedings and if they felt they had received a fair hearing?

Mr Fairclough and Mr Hunter advised that they were both happy with proceedings and confirmed that they felt they had had a fair hearing.

Following consideration the Committee agreed to grant the application for a late hours catering licence in respect of Case No. LHC/18/005.

## **7. Application for Late Hours Catering Licence - 18-006**

A report by the Corporate Director (Corporate Services) invited the Committee to consider an application for the grant of a later hours catering licence received on 3 September 2018 subject to the difficulty in the Applicant obtaining a Foreign Convictions Certificate and if they were so minded to consider granting the application at the meeting ahead of the end of the consultation delegating to the Senior Solicitor, if no further representations were received to grant the licence to the applicant.

Following consideration, Councillor Gatt proposed a motion to suspend the Foreign Convictions Certificate Policy and review applications as merited.

In response, the Senior Solicitor explained that to suspend the Policy in its entirety would then mean that no licence applicants would need to provide Foreign Convictions Certificates, including taxi drivers, for whom the policy was introduced. He further advised, that the Committee could decide to come away from the policy for this applicant and any others of a similar nature and undertake a wider

review of the policy.

Following the Senior Solicitor's explanation, Councillor Gatt withdrew his motion.

Following consideration, the Committee agreed to suspend the policy on Foreign Conviction Certificates for this applicant given the circumstances provided to the Committee and to consider the application at the meeting. It was further agreed that a revised policy on the need for Foreign Conviction Certificates would be brought back to a future Committee.

The application form and representation from Police Scotland in relation to application LHC/18/006 were distributed to the Committee.

The Committee noted that the applicant and his Solicitor, Mr Neil Ross of Grigor and Young were in attendance. The Chief Constable of Police Scotland was represented by Sergeant Wood, Police Scotland.

The applicant's Solicitor, Mr Ross addressed the Committee and responded to questions raised by the Committee.

Sergeant Wood, Police Scotland addressed the Committee and responded to questions raised by the Committee.

Following consideration, the Chair asked Mr Ross and Sergeant Wood if they were happy with the proceedings and if they felt they had received a fair hearing.

Mr Ross and Sergeant Wood advised that they were both happy with proceedings and confirmed that they felt they had had a fair hearing.

Following consideration Councillor Coy proposed a motion to grant the licence as applied for, with a closing time of 1.30am Thursday to Sunday with the exception of Keith Show and Keith Music Festival, closing at 2.00am, subject to no further negative representations being received before the end of the consultation period, this was seconded by Councillor Coull.

Councillor Cowie moved that the licence be granted in line with other similar businesses in Keith with a closing time of 12.30am with the exception of Keith Show and Keith Music Festival where closing could be extended until 2.00am, this was seconded by Councillor Gatt.

On the division there voted:

For the Motion (5)           Councillors Coy, Coull, Allan, Laing and Patience

For the Amendment (5) Councillors Cowie, Gatt, Divers, Edwards and Shepherd

Abstentions (0)

There being an equality of votes, and in terms of Standing Order 62(e), the Chair cast her casting vote in favour of the motion.

Accordingly the motion became the finding of the meeting and the Committee agreed to grant the Late Hours Catering Licence in respect of Case No. LHC/18/006 and delegating to the Senior Solicitor on the provision that no further negative

representations are received prior to the end of the consultation period.

Councillor Divers left the meeting at the conclusion of this item.

## **8. Application for Late Hours Catering Licence - 18-003**

A report by the Corporate Director (Corporate Services) invited the Committee to consider an application for a late hours catering licence received on 26 April 2018 subject to adverse representations received on behalf of Police Scotland, Keith Community Council and a number of neighbour objections. The item had been deferred earlier in the meeting to allow the applicant, who had indicated he would attend the meeting to arrive.

The Committee noted that the applicant was still not in attendance and agreed to proceed with the application in his absence as he had been given sufficient notice of the meeting and also time to attend.

The Chief Constable of Police Scotland was represented by Sergeant Wood, Police Scotland. Also in attendance were a number of objectors, one of which acted as spokesperson.

The spokesperson for the objectors addressed the Committee and responded to questions raised by the Committee.

Sergeant Wood, Police Scotland addressed the Committee and responded to questions raised by the Committee.

Following consideration, the Chair asked the spokesperson and Sergeant Wood if they were happy with the proceedings and if they felt that they had received a fair hearing.

The spokesperson and Sergeant Wood advised that they were both happy with proceedings and confirmed that they felt they had received a fair hearing.

Following consideration the Committee was satisfied the applicant was not a fit and proper person to be the holder of that licence and so the Committee refused the application for a late hours catering licence in respect of Case LHC/18/003.

## **9. Application for Taxi Driver Licence - 18-003**

A report by the Corporate Director (Corporate Services) invited the Committee to consider an application for a Taxi Driver Licence received on 27 June 2018 subject to an adverse representation received on behalf of Police Scotland.

The Committee noted that the applicant was not in attendance and agreed to proceed with the application in his absence. The Chief Constable of Police Scotland was represented by Sergeant Wood, Police Scotland.

Sergeant Wood, Police Scotland addressed the Committee and responded to questions raised by the Committee.

Following consideration, the Chair asked Sergeant Wood if she was happy with the proceedings and if she felt she had received a fair hearing.

Sergeant Wood advised that she was happy with proceedings and confirmed that she had had a fair hearing.

Following consideration the Committee was satisfied the applicant was not a fit and proper person to be the holder of that licence and so the Committee refused the application for Taxi Driver Licence in respect of application TD/18/003 due to discrepancies in his application.

#### **10. Application for Taxi Driver Licence - 18-004**

A report by the Corporate Director (Corporate Services) invited the Committee to consider an application for a Taxi Driver Licence received on 30 July 2018 subject to an adverse representation on behalf of Police Scotland.

The Committee noted that the applicant was in attendance. The Chief Constable of Police Scotland was represented by Sergeant Wood, Police Scotland.

The Applicant addressed the Committee and responded to questions raised by the Committee.

Sergeant Wood, Police Scotland addressed the Committee and responded to the questions raised by the Committee.

Following consideration, the Chair asked the applicant and Sergeant Wood if they were happy with the proceedings and if they felt they had received a fair hearing.

The applicant and Sergeant Ross advised that they were both happy with proceedings and confirmed that they felt they had received a fair hearing.

Following consideration the Committee agreed to grant the application for a Taxi Driver Licence in respect of Case No. TD/18/004.

#### **11. Taxi Communications Strategy**

A report by the Corporate Director (Corporate Services) sought the approval of the Taxi and Private Hire Communication Strategy.

Following consideration the Committee agreed to approve the Taxi and Private Hire Communications Strategy.

#### **12. Question Time \*\*\***

There were no further questions.