

**EAST AYRSHIRE COUNCIL****LOCAL GOVERNMENT LICENSING PANEL****MINUTES OF SPECIAL MEETING HELD ON THURSDAY 25 FEBRUARY 2010 AT  
1000 HOURS IN MEETING ROOM 1, COUNCIL HEADQUARTERS, LONDON  
ROAD, KILMARNOCK**

**PRESENT:** Councillors Hugh Ross, Rose-Ann Cuninghame, John MacKay, Robert Keohone, John Campbell, Gordon Cree, Neil McGhee, Jim Roberts, Barney Menzies and Elaine Dinwoodie.

**ATTENDING:** David Mitchell, Head of Legal, Procurement and Regulatory Services; Gillian Kuhn, Licensing Board Administrator; and Sharon McHarg, Administrative Officer.

**APOLOGY:** Councillor Jim Buchanan.

**CHAIR:** Councillor Hugh Ross, Chair.

**EXCLUSION OF PRESS AND PUBLIC**

1. The Panel resolved that under Section 50A(4) of the Local Government (Scotland) Act 1973, as amended, the Press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 3 of Schedule 7A of the Act.

**APPLICATION FOR GRANT OF A BOOKING OFFICE LICENCE AT 34  
TOWERHILL AVENUE, KILMAURS - DAVID HARLEY, DIRECTOR,  
BORDERNOTE LIMITED**

2. There was submitted a report dated 16 February 2010 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Booking Office Licence at 34 Towerhill Avenue, Kilmaurs.

It was confirmed that the applicant, Mr David Harley, Director, Bordernote Limited, R Harrison, accompanying the applicant and five objectors all residents of Towerhill Avenue were all in attendance.

Having confirmed that there were no preliminary matters, the Head of Legal, Procurement and Regulatory Services outlined the agreed Hearing Procedure and the Panel agreed to a slight variation to the procedure to allow each objector to be questioned by the applicant and the Panel following their presentation.

**2.1 Hearing**

The Panel heard (a) Mr D Strachan, Mrs C Devlin, Mr N Devlin, Mrs M Laurenson and Mr W Morton, all from Towerhill Avenue, in explanation of their objections, and it was agreed that a map of Towerhill Avenue be accepted (then circulated); and (b) Mr Harley, the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant, his companion and all objectors then left the meeting.

## **2.2 Adjournment/Reconvention**

The Panel then adjourned at 1130 hours and reconvened at 1135 hours with the same Members and Officers present and in attendance, and the Panel then proceeded to take and consider legal advice on the matter.

The parties were then re-admitted.

## **2.3 Decision**

Councillor Barney Menzies, seconded by Councillor John Campbell, moved to grant the booking office licence at 34 Towerhill Avenue, Kilmaurs, subject to the standard conditions.

Councillor Elaine Dinwoodie, seconded by Councillor Robert Keohone, moved as an amendment that the application be refused.

On a division by a show of hands, the motion was carried by 8 votes to 2.

The Head of Legal, Procurement and Regulatory Services (i) confirmed that the Panel had agreed by majority, that the application for the grant of a booking office at 34 Towerhill Avenue, Kilmaurs, be granted; (ii) advised that the Panel were unable to consider any private law matters relative to heritable title issues and, where appropriate, parties should seek independent legal advice on such matters; (iii) confirmed that should any concerns arise in the future with regard to the operation of the booking office, contact should be made with the Licensing Enforcement Officer and, where appropriate, this matter would be investigated; and (iv) in the event of any relevant breach of the legislation or any condition attached to the licence, a further report could be submitted to the Panel.

Councillors Elaine Dinwoodie and Barney Menzies left the meeting following consideration of the above item.

### **APPLICATION FOR GRANT OF A BOOKING OFFICE LICENCE AT 30 MAIN STREET, DALMELLINGTON - ARCHIBALD KENNEDY**

3. There was submitted a report dated 16 February 2010 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Booking Office Licence.

It was confirmed that the applicant and a representative from Strathclyde Police were in attendance.

The Head of Legal, Procurement & Regulatory Services outlined the agreed Hearing Procedure.

## **3.1 Hearing**

The Panel heard Sergeant Kelly, representing Strathclyde Police, in explanation of the Police observations and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant and the Police representative then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

### **3.2 Decision**

It was agreed that the application for the grant of a Booking Office Licence at 30 Main Street, Dalmellington, be granted subject to the standard conditions.

#### **APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE - CONTINUED APPLICATION - MALCOLM SCOTT (Item 6, Page 978, 07/12)**

4. There was submitted a report dated 16 February 2010 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the renewal of a Taxi Driver's Licence.

It was confirmed that Malcolm Scott, the applicant, and a representative from Strathclyde Police were in attendance.

The Head of Legal, Procurement and Regulatory Services (i) confirmed that, with the consent of the parties, a full hearing was not required as this was a continued hearing; and (ii) summarised the current position with regard to Malcolm Scott's application.

The Panel heard Sergeant Kelly representing Strathclyde Police who advised that their objection had been reduced to an observation in respect of the application.

The Panel then heard from Mr Scott, the applicant, who confirmed that he had left his previous employment with Cumnock Taxis for the reasons previously stated.

The Panel were then given the opportunity to question the applicant and the representative from Strathclyde Police.

The applicant and the Police representative then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

### **4.1 Decision**

It was agreed that the application for the grant of a Taxi Driver's Licence be granted for a period of 12 months, subject to the standard conditions.

The applicant was further advised that the Panel would take a very dim view of any similar offences or complaints which might be brought to their attention in future and in such circumstances would be unlikely to be minded to approve any renewal of the licence.

Councillor Neil McGhee left the meeting following consideration of the above item.

#### **APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE - JOHN ORR**

5. There was submitted a report dated 16 February 2010 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Taxi Driver's Licence.

It was confirmed that John Orr, the applicant, and a representative from Strathclyde Police, were in attendance.

The Head of Legal, Procurement and Regulatory Services outlined the agreed Hearing Procedure.

**5.1 Hearing**

The Panel heard Sergeant Kelly, representing Strathclyde Police, in explanation of the Police observations and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant and the Police representative then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

**5.2 Decision**

It was agreed that the application for the grant of a Taxi Driver's Licence be granted, subject to the standard conditions and a suspensive condition that it would not be issued until the Head of Legal, Procurement and Regulatory Services had received a letter from the applicant's GP to confirm that he was not aware of any medical reason that would render the applicant unfit to drive a taxi.

**APPLICATION FOR RENEWAL OF A STREET TRADER'S LICENCE EA/ST 415 -  
ROBERT McGAHEY**

6. It was reported and noted that this item had been withdrawn from the Agenda.

The meeting terminated at 1310 hours.