



**MINUTES OF THE MEETING OF THE  
LICENSING SUB-COMMITTEE OF THE CABINET**

**THURSDAY 12 NOVEMBER 2020  
ONLINE DIGITAL MEETING FACILITY**

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**Committee Members Present:**

Councillor J Findlay  
Councillor J Henderson  
Councillor C McGinn (Convener)  
Councillor J McMillan  
Councillor J Williamson

**Other Councillors Present:**

None

**Council Officials Present:**

Mr I Forrest, Senior Solicitor  
Ms S Fitzpatrick, Team Manager – Licensing & Landlord Registration  
Ms C Shiel, Licensing Officer

**Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor T Trotter

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – LICENSING SUB-COMMITTEE, 10 SEPTEMBER 2020**

The minutes of the meeting of the Licensing Sub-Committee on 10 September 2020 were approved as an accurate record of the meeting.

**2. APPLICATION FOR THE RENEWAL OF A LICENCE TO OPERATE A HOUSE IN MULTIPLE OCCUPATION**

**a. 16 Tyne Court, Haddington, EH41 4BL**

The Depute Chief Executive – Resources and People Services had submitted a report to advise that an application for the renewal of a licence to operate a House in Multiple Occupation had been received from Mrs Linda and Mr Bernard Gaughan to allow them to operate the property at 16 Tyne Court, Haddington as a House in Multiple Occupation (HMO).

Mr Bernard Gaughan, applicant, and Mr Greg Chandler, objector, were both present.

The Sub-Committee required to assess the suitability of the property as an HMO and to establish that the applicant was a fit and proper person to hold an HMO licence.

Ian Forrest, Legal Adviser, presented the report. He advised that the Housing (Scotland) Act 2006, Part 5 required that, where a property is to be occupied by three or more persons from three or more families, the owner must apply to the local authority for a licence to operate an HMO. In accordance with legislation, notices were to be displayed at and around the property and remain in place for the statutory minimum period of 21 days. He noted that Police Scotland had made no objection or representations to the application. He advised that one public objection had been received, which focused on antisocial behaviour, the upkeep of the property, and concerns with the effectiveness of the display of the public notice. Although this objection had been received late, the Committee had agreed to hear it.

The Legal Adviser reminded Members that, in determining the application, they were restricted to the grounds of refusal specified in Part 5 of the Housing (Scotland) Act 2006, and stated that the licence could range from a minimum of six months up to a maximum of three years, should the Sub-Committee be minded to grant.

Mr Forrest advised that Environmental Health had indicated that upgrades were required to electrical sockets. He also highlighted antisocial behaviour reports regarding excessive noise and non-recycling of waste, but noted that recycling was a choice rather than an obligation.

Sheila Fitzpatrick, Team Manager for Licensing and Landlord Registration, informed the Sub-Committee that officers from Scottish Fire and Rescue had been unable to visit, but had been informed of some outstanding work required by Environmental Health. Mr Gaughan had given reassurance that fire extinguishers and door self-closers would be replaced, and on that basis the fire service had no objections to the application.

Mr Gaughan explained that annual checks were carried out by contractors. The checks always took this time of year, and these issues would be resolved on their visit on 19 November 2020. He reassured Members that his properties were maintained to a high

standard. As such, upgrades and repairs were carried out, but Mr Gaughan noted that issues involving communal repairs coordinated by East Lothian Council were outwith his control. Addressing the posting of notices, Mr Gaughan stated that he had placed them in what he had considered to be an obvious place, and took steps to make the notices more durable when he realised they had flown away; he had not deliberately removed a notice. Mr Gaughan addressed each of Mr Chandler's objections in turn, and advised that he communicated with his tenants over issues as they arose. He noted that police had never contacted him regarding noise in the property. He highlighted the different levels of English proficiency among tenants. He noted that the other two nearby properties had exceptionally good relations with the neighbours in his property, however, some of his tenants felt that Mr Chandler had been bossy. He advised that Mr Chandler had also told employees not to park vans outside the house.

Mr Chandler explained that he had not wished to lodge a full objection but rather raise some issues and to work with the landlord going forward. He said that he had been unable to open his bathroom window due to tenants smoking outside, as well as loud phone conversations in the early hours of the morning outside the property. He stated that he had asked only for vans to be parked a few metres back. He noted various times he had contacted the council and police regarding antisocial behaviour, but the police had never attended the property. He felt that tenants needed to be educated so that neighbours could live harmoniously.

Responding to a question from Councillor McMillan, Mr Gaughan explained that his employees were not seasonal workers, but in the country and working full time. He made a policy of not visiting too often so as not to encroach on the tenants' space, as he was both their employer and landlord. He reported he also spoke to neighbours of the property.

The applicant and Members discussed smoking in communal areas, and Mr Gaughan said he would take direction from the council as to how far away tenants would have to go to smoke, as he was not sure where would be suggested as a suitable area. Ms Fitzpatrick advised that any advice would have to come from Environmental Health.

Members expressed that Mr Gaughan seemed very reasonable and willing to make compromises. Suggestions were made for changes to the tenancy agreement to include good neighbourly behaviour regarding parking, smoking, and mobile phones, but Mr Gaughan pointed out that some of the tenants would not have the language skill for this to have an impact, and it would not be financially viable for the technical legal document to be translated into several different languages. However, he pointed out that efforts were made to provide explanations to tenants when they first arrived regarding what they could and could not do.

Councillor Williamson expressed that he thought Mr Gaughan was a fit and proper person to hold an HMO licence and encouraged Mr Gaughan to make efforts to remind tenants of the responsibilities of communal living.

Councillor Findlay proposed that a one year licence be granted so that any issues could return to the Sub-Committee in the near future. Councillor Henderson expressed she would be comfortable with this, and Councillor McMillan seconded the proposal.

Mr Gaughan agreed that all issues raised by Environmental Health would be actioned.

The Convener moved to a roll call vote.

## **Decision**

The Licensing Sub-Committee unanimously agreed to grant the HMO licence for a period of one year.

### **3. UPDATE OF DELEGATED POWERS LIST**

The Depute Chief Executive – Resources and People Services had submitted a report to advise the Sub-Committee of a proposed update to the list of delegated powers granted to licensing officers.

The Legal Adviser presented the report. He advised that the list of delegated powers appended to the report had been updated for the purposes of streamlining the list to make it easier to follow than previous versions. It also added a list of legislation to which the powers applied. Mr Forrest reassured Members that any applications which attracted objection from the police, public, or from other relevant stakeholders would continue to be decided by the Sub-Committee, and licensing officers would continue to deal with straightforward applications.

Mr Forrest highlighted the previous report made to the September meeting of the Licensing Sub-Committee. At this time, some new powers had been added to the list and had caused some debate; the report had therefore been continued for further consideration. Mr Forrest explained that the new powers had been removed from the version of the delegated powers list presented today. He advised that this most recent version was purely for the purposes of streamlining the list, and therefore appeared with a recommendation only for noting.

## **Decision**

The Licensing Sub-Committee agreed to note the report.

### **4. TAXI FARE REVIEW**

The Depute Chief Executive – Resources and People Services had submitted a report to allow the Licensing Sub-Committee to consider the review of the scale of the fares or other charges currently in operation in respect of the East Lothian taxi fleet.

The Legal Adviser presented the report. He advised that a review of fares and charges took place every 18 months. Proposals from the trade to update the fee structure had been sought, but none had been received. He advised that comparative figures had been sought from neighbouring local authorities, which showed that East Lothian was roughly in line with these areas. The recommendation in the report was to complete the review and adopt the rota of fares for the following 18-month period, and to authorise officers to advertise the effect of the proposals and invite representations from the public.

Responding to questions from Members, Mr Forrest advised that the current festive tariff would continue at the same rate of £5.

The new fare structure was agreed to come into effect on 22 January 2021. **\*Post-meeting note:** to give time for representations to come in from the public, it was later understood that the new taxi fare structure would have to come into effect some time after the date agreed. The Convener later agreed a new date of 8 February 2021.\*

The Convener then moved to a roll call vote.

**Decision**

The Sub-Committee unanimously agreed to continue with the current taxi fares structure and to authorise officers to advertise the effect of the new tariff.

**SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION**

The Sub-Committee agreed to exclude the public from items 5 and 6 which contained exempt information by virtue of Paragraph 2 (information relating to individual tenants) of Schedule 7A to the Local Government (Scotland) Act 1973.

**5. FITNESS AND PROPRIETY OF A PRIVATE LANDLORD (UPDATE)**

**Decision**

The Sub-Committee agreed that the landlord could remain on the register.

**6. FITNESS AND PROPRIETY OF PRIVATE LANDLORD**

**Decision**

The Sub-Committee agreed to continue the item to a special meeting of the Licensing Sub-Committee in December 2020.