

Agenda item	7.1
Report no	HLC/070/17

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 5 December 2017

Report title: Application for the grant of a taxi driver's licence – Eddie Nkomesha (Ward 13 – Inverness West)

Report by: The Principal Solicitor – Regulatory Services

Purpose/Executive Summary

This report relates to an application for the grant of a taxi driver's licence.

This item is subject to a formal hearing procedure

Recommendation

Members are asked to determine the application in accordance with the hearings procedure.

1. Background

1.1 The Highland Council has resolved that in terms of the Act a licence will be required for the driving of a taxi. A licence for the same is issued by the Highland Council and is valid for the whole Council area.

2.0 Application

2.1 Mr Eddie Nkomesha applied for the grant of a taxi driver's licence on 29 August 2017.

The application was circulated to both Police Scotland and the Council's Trading Standards Service.

3.1 There have been no objections received in relation to the application.

4.0 Taxi driver's knowledge test

The Council's policy in respect of taxi driver's knowledge test states that an applicant is permitted a maximum of three attempts. Should they fail all three attempts the application requires to be referred to the Highland Licensing Committee for consideration. The pass mark for each of the two sections is 85%.

Mr Nkomesha has sat the test three times, the results of which are detailed below:

- 1st Attempt - Highland Area – Pass 85%
Local Area – Fail 64%
- 2nd Attempt - Local Area – Fail 69%
- 3rd Attempt – Local Area – Fail 64%

6.0 Immigration Act - Right to work check & foreign conviction check

6.1 At the time of writing Mr Nkomesha has still to complete the right to work check and submit a foreign conviction disclosure document. An update will be provided at the meeting in relation to this.

7.0 Determining issues

7.1 Paragraph 5(3) of Schedule 1 of the Civic Government (Scotland) Act 1982 states that a licensing authority may refuse an application to grant or renew a licence where:

- (a) the applicant or anyone else detailed on the application is not a fit and proper person;
- (b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;
- (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to
 - (i) the location, character or condition of premises or the character or condition of the vehicle or vessel,
 - (ii) the nature and extent of the proposed activity,
 - (iii) the kind of persons likely to be in the premises, vehicle or vessel,
 - (iv) the possibility of undue public nuisance, or
 - (v) public order or public safety; or
- (d) there is other good reason for refusing the application.

If required the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.

7.2 In addition, section 13(5) of the Act provides that a licensing authority may require an applicant for a taxi driver's licence to take a test of his knowledge of the area to which the licence is to relate, of the layout of roads in that area and such other matters relating to the operation of a taxi as the authority consider desirable, and the authority may refuse to grant a licence to a person who does not satisfy them that he has adequate knowledge of any of these matters.

8.0. Implications

8.1 Not applicable.

Date: 16 November 2017

Author: Michael Elsey

Background Papers: Civic Government (Scotland)Act 1982