

# Notice of meeting and agenda

## Licensing Sub-Committee of the Regulatory Committee

**10.15 am, Wednesday, 19 February 2014**

(or at the conclusion of the Regulatory Committee whichever is the later)

Dean of Guild Room, City Chambers, High Street, Edinburgh

This is a public meeting and members of the public are welcome to attend.

### Contact

E-mail: [stephen.broughton@edinburgh.gov.uk](mailto:stephen.broughton@edinburgh.gov.uk)

Tel: 0131 529 4261

## **1. Order of business**

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**The Clerk to the meeting will advise the members of any changes to the business to be considered, or of any urgent matters that require consideration at this meeting.**

- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## **2. Declaration of interests**

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- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **3. Booking Office Licensing**

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- 3.1 Applications for (1) Grant of Booking Office Licence and (2) Variation of Booking Office Licence – Edinburgh City Private Hire Limited – report by the Head of Service - Community Safety (circulated).

### **Carol Campbell**

Head of Legal, Risk and Compliance

## **Committee Members**

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Councillors Barrie (Convener), Blacklock (Vice-Convener), Aitken, Burgess, Cairns, Gardner, Bill Henderson, Heslop and Redpath.

## **Information about the Licensing Sub-Committee**

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The Licensing Sub-Committee consists of 9 Councillors and usually meets twice a month.

The Licensing Sub-Committee usually meets in the Dean of Guild Court Room in the City Chambers on the High Street in Edinburgh. There is a seated public gallery and the meeting is open to all members of the public.

## **Further information**

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If you have any questions about the agenda or meeting arrangements, please contact Stephen Broughton, Committee Services, Legal, Risk & Compliance, Corporate Governance Directorate, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street Edinburgh, EH8 8BG; ☎ 0131 529 4261, e-mail [stephen.broughton@edinburgh.gov.uk](mailto:stephen.broughton@edinburgh.gov.uk)

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to [www.edinburgh.gov.uk/cpol](http://www.edinburgh.gov.uk/cpol).

The views expressed in any letters of representation are not necessarily the views of the City of Edinburgh Council.

# Licensing Sub-Committee of the Regulatory Committee

10 am, Wednesday, 19 February 2014

## Applications for (1) Grant of a Booking Office Licence and (2) Variation of a Booking Office Licence – Edinburgh City Private Hire Limited

Item number	3.1
Report number	
Wards	(1) Almond

### Links

Coalition pledges	<a href="#">P15 &amp; P30</a>
Council outcomes	<a href="#">C08</a>
Single Outcome Agreement	<a href="#">S01</a>

### Susan Mooney

Head of Service, Community Safety

Contact: Susan Mooney - Head of Service

E-mail: [susan.mooney@edinburgh.gov.uk](mailto:susan.mooney@edinburgh.gov.uk) | Tel: 0131 529 7587

Contact: Andrew Mitchell, Community Safety Manager

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 469 5822

# Executive summary

## Applications for (1) Grant of a Booking Office Licence and (2) Variation of a Booking Office Licence - Edinburgh City Private Hire Limited

### Summary

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This report deals with applications to either create a new booking office, or to relocate an existing booking office for private hire cars at Edinburgh Airport. Letters of objection to the latter have been received and the matters have been referred to committee for a hearing and decision.

This report sets out the legislative background to assist members in consideration of these applications.

### Recommendations

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1. In relation to the application for the new booking office licence it is recommended that Committee members:
  - a) note the contents of this report
  - b) hear from the applicant and objectors
  - c) note that no objection to the granting of this licence has been made by officers of the Council, Police Scotland or Fire Scotland
  - d) grant the application
  
2. In relation to the application for variation it is recommended that Committee members:
  - a) note the contents of this report
  - b) hear from the applicant
  - c) refuse the application.

### Measures of success

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The Council discharges its statutory duties in respect of both applications.

## **Financial impact**

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Each application attracts a fee which is designed to cover the Council's cost of processing the application. The current scale of fees was approved by full Council with effect from 1 April 2014.

## **Equalities impact**

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There are no equalities implications arising from this report.

## **Sustainability impact**

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There are no sustainability implications arising from this report.

## **Consultation and engagement**

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The Council has consulted as required by the relevant statutory provision.

## Applications for (1) Variation of a Booking Office Licence and (2) Grant of a Booking Office Licence – Edinburgh City Private Hire Limited

### 1. Background

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- 1.1 Edinburgh Airport Limited (EAL) own and control the land surrounding Edinburgh Airport. For many years EAL have entered into commercial agreements with various taxi or private hire car companies, to provide transport for passengers arriving at the airport.
- 1.2 EAL re-tendered taxi and private hire car operations at the airport in 2013. As a result EAL have entered into a contract with City Cabs (Edinburgh) Ltd (City Cabs) to operate a taxi stance, and with Edinburgh City Private Hire Ltd (ECPH) to provide primarily private hire cars. This broadly reflects previous arrangements.
- 1.3 On 24 May 2013 the Licensing Sub-Committee granted two Booking Office Licences to ECPH for two sites at the airport to facilitate the above operation. The applications for both sites attracted objections. An appeal against grant of these licences was lodged by Central Radio Taxis (Tollcross) Ltd. This appeal has been sisted (i.e. placed on hold by the Sheriff), therefore the two booking office licences are not yet in effect.
- 1.4 The requirement to hold a Booking Office licence was introduced by the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 (the Order). This requires a licence to be held for premises which are used for the taking of bookings from members of the public for hire of licensed taxis or private hire cars.

### 2. Main report

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#### Changes to Airport Layout

- 2.1 The Licensing Sub-committee granted the two Booking Office Licences in May 2013. The Council was then advised that new redevelopment plans had been agreed for the airport and as a result the two booking offices, would not be available for use. It was therefore proposed that taxis and private hire cars should be located on the ground floor of the airport multi-storey car park (the multi-storey site). EAL indicated that the timing of these changes would mean that the booking office at the existing site would have to be moved to the multi-storey site.

### **Application for Variation of Booking Office Licence**

- 2.2 On 24 June 2013, ECPH made an application (Ref 13/10106/BKOFCE) to vary the licence, granted in May 2013, in respect of the new site, (Ref 13/01988/BKOFCE) to relocate it to the multi-storey site.
- 2.3 Paragraph 10(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 ('the Act') permits the Council to vary the terms of a Booking Office Licence on any grounds it thinks fit. Applications for variation were forwarded to Police Scotland and the Scottish Fire and Rescue Service. They have made no adverse comments. There is no right of objection open to third parties.
- 2.4 The Council has considered the application and, after taking legal advice, it is suggested that it would not be appropriate to use variation procedures to move the location of licensed premises (the booking office) as in effect this would constitute creation of a new booking office. It is therefore considered that it would be more appropriate for a new licence application to be made. An application for a new licence is dealt with below.
- 2.5 The Committee should hear from the applicant on this matter before reaching a decision. It may be that the applicant would wish to withdraw their variation application.

### **Operation of Booking Office at the Multi-Story Site under a Temporary Licence**

- 2.6 An application for a Temporary Booking Office Licence (13/12153/BKOFCE) was made by ECPH on 30 July 2013 in respect of a booking office unit situated in the airport multi-storey car park. Third parties have no right of objection to temporary licences. As required by the Act, the Council consulted Police Scotland and Scottish Fire and Rescue Service prior to granting this licence. This application was granted by officers under delegated powers on 12 August 2013, after consultation with the Convenor of the Committee.
- 2.7 The licence had effect between 25 August 2013 and 5 October 2013. Paragraph 7(6) of Schedule 1 to the Act states that a temporary licence remains in effect whilst an application for a full licence is considered. As an application for the grant of a full licence for that site was received from ECPH on 3 October 2013, the booking office at the multi storey site is therefore still operating under the temporary Booking Office Licence.

### **Application for Booking Office Licence**

- 2.8 The application for a full Booking Office Licence before the Committee for consideration (Ref 13/15330/BKOFCE) was made on 3 October 2013. The application is in the name of Edinburgh City Private Hire Limited, with Allan Gibson as the nominated day to day manager. A decision on the application must be made no later than 2 April 2014. A copy of the plan attached to the application is attached at Appendix 1.



- 2.9 Council officers have been advised that, on entering the airport multi-storey car park via the covered walkway from the Airport Terminal, passengers will have the option to turn right and approach a rank of City Cabs taxis. Alternatively, passengers can walk straight ahead and approach the ECPH booking office unit. ECPH have advised that every passenger who passes through the booking office will provide their name and destination to an ECPH employee, and will be booked onto an ECPH private hire car (or one of their taxis, as ECPH has some taxis in their fleet). The booking will be logged on a computer and communicated to the driver of a vehicle in the pickup area. The passenger will then make their way out of the booking office to meet the private hire car or taxi in the pickup area outside.
- 2.10 Council Officers and the Cab Inspector from Police Scotland have visited the site on a number of occasions. Officers have been advised that ECPH will operate the booking office and private hire car operations strictly in accordance with the Act.

### **Objections to Applications**

- 2.11 Letters of objection have been received in relation to the above applications and are contained in the Committee's papers and listed below.
- a) Central Radio Taxis (Tollcross) Limited. Letter from MacRoberts, LLP. (Appendix 2)
  - b) Scottish Taxi Federation. Letter from Morisons LLP. (Appendix 3)
  - c) Edward Millar. (Appendix 4)

The Committee should hear from the objectors and the applicants.

### **Consideration of the application**

- 2.12 A number of objections have been made, and within each several issues have been raised. Where possible further enquires have been made to assist the Committee, and relevant bodies have been asked to consider and comment on the objections.

### **Police Scotland**

- 2.13 The Cab Inspector and the Police Inspector with responsibility for Edinburgh Airport are fully aware of EAL and ECPH's proposals for changes. Appropriate statutory consultations have taken place and a number of visits have taken place to the site. No objections to the application have been made by Police Scotland.

### **Scottish Fire and Rescue**

- 2.14 Scottish Fire and Rescue Service were consulted in relation to the application and have not objected. A copy of the relevant objections were forwarded to them, and in order to assist the Committee their response is attached at Appendix 5.

## **Council Services**

- 2.15 Building Standards report that a full building warrant has been issued for the new booking office, and no issues are outstanding. Environmental Health teams have been consulted on the objection and have been asked to visit the site to ensure that there are no concerns. Their comments are attached at Appendix 6.
- 2.16 In terms of licensing and trading standards there are no objections or matters of concern to raise with the Committee. Checks have been made to ascertain whether complaints have been made about the current operation of the booking office since it opened in August 2013. Two complaints have been received from members of the public. One complaint related to the pick-up charge (permitted by the fare table), and the other complained that the requirement to provide details when booking a car resulted in a delay (i.e. the traveller could not immediately enter the car without pre-booking). Specifically no one has complained that they have been misled or confused about the difference between private hire cars and taxis.
- 2.17 The Council has received four complaints from the taxi drivers and Central Taxis (Tollcross) Ltd in relation to the temporary booking office. These have been investigated, involving the Cab Inspector as appropriate, and no offence or breach of conditions has been found. The complaints included:
- a complaint by Central Taxis (Tollcross) Ltd as result of a 'mystery shopper'. The complaint was to the effect that the shopper was able to enter a PHC without their details being taken. This is disputed by the operator and the Council were not supplied the details of the shopper to allow it to investigate.
  - a complaint from a taxi driver concerning the use of marshals wearing jacket with 'Taxi' written thereon.
  - a complaint from a taxi driver alleging that the private hire cars were forming a 'rank'.
  - a complaint from a Fife licensed taxi operator concerning the pick-up facilities provided by EAL.

### **Determination of the Licence and possible grounds of refusal**

- 2.18 This is an application for a booking office for the office unit only. The licence does not extend to any area outside the actual unit. Notwithstanding the concerns of the objectors, the area in the multi storey car park used by taxis is not a taxi stance appointed by the Council under Section 19 of the Act. The waiting area for private hire cars in the multi-storey car park is not a "stance" (appointed under Section 19 or otherwise).
- 2.19 The objections rely in large part on an assertion that certain criminal offences or breaches of the licence conditions will take place. No such offence or breach has ever been proved. Any complaint made will be investigated by the Council and/or Police Scotland as appropriate.

- 2.20 Applications for licences under the Act must be granted unless the Sub-Committee considers that the grounds of refusal set out in Paragraph 5 (3) of Schedule 1 to the Act are established. These are set out in full in Appendix 7. It is important to note that the onus is on the objectors to show that there are grounds of refusal.
- 2.21 If Booking Office Licences are granted, they would be subject to mandatory conditions set out in Paragraph 3(c) of Schedule 1 to the Order, namely:
- a) that a record be kept of every booking for the hire of a relevant vehicle taken at the relevant premises;
  - b) that a record be kept of–
    - (i) the registration number of the vehicle which was hired as the result of a booking taken at the relevant premises; and
    - (ii) the name of its driver at the time of that hire; and
  - c) that the holder of the licence shall take all reasonable steps to ensure that any booking taken at the relevant premises from a member of the public for the hire of a relevant vehicle results in the hire of a vehicle which is–
    - (i) a relevant vehicle; and
    - (ii) being driven by a person who holds a licence granted under section 13 of the Act and that licence is in effect.
- 2.22 The Sub-Committee can add such other reasonable conditions as they see fit. In response to a minor point raised in the objections, it can be confirmed that no additional conditions were attached to the former 'Onward Travel' booking office at the airport - specifically there was no condition requiring screening of private hire vehicles.

### **Legal Issues relating to Operation of Private Hire Cars**

- 2.23 As there may be issues raised relating to what private hire cars and their drivers are permitted to do, the following information is provided to assist the Sub-Committee. This is a short summary of the law, and the applicant and objectors should be provided with an opportunity to provide their comments on this summary if they wish to do so.
- 2.24 Section 21(1) of the Act states that a criminal offence occurs: "If any person operates, or permits the operation of, a taxi within an area in respect of which its operation requires to be but is not licensed". Section 7(1) of the Act states that a criminal offence takes place if "Any person who without reasonable excuse does anything for which a licence is required under Part 2 of this Act without having such a licence".
- 2.25 The question as to whether any criminal offence has been committed would be a matter for the Procurator Fiscal and the criminal courts to determine. However, it is likely that incidents of this nature could also be referred to the Licensing Sub-Committee, to form a view as to whether any conduct rendered the relevant licence holder not to be a fit and proper person to hold a licence.

- 2.26 The above offences could occur if a private hire car is used as if it were a taxi. A "taxi" is defined in Section 23(1) of the 1982 Act as "a hire car which is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his behalf) and its driver for a journey beginning there and then."
- 2.27 Section 133 of the Act defines "public place" as "any place whether a thoroughfare or not) to which the public have unrestricted access and includes – (a) the doorways or entrances of premises abutting on any such place: and (b) any common passage, close, court, stair, garden or yard pertinent to any tenement or group of separately owned houses".
- 2.28 It is important to note that the phrases "pre-booking" or "pre-booking by telephone" or "plying for hire" do not form part of the Act.
- 2.29 A private hire car licence holder and a private hire car driver licence holder must ensure that they do not act in such a way so that they commit an offence in terms of Section 7(1) or Section 21(1) of the Act. The arrangements for the hire of the private hire car should not be made between the driver and the passenger for a journey beginning there and then.
- 2.30 There are a wide range of other modes of operation or activities that could possibly constitute the above offences, but each would have to be examined carefully and a decision reached on each particular case. Private hire car drivers and private hire car licence holders should obtain legal advice from their own solicitors to ensure that their actions do not result in the commission of an offence.
- 2.31 Condition 172 in the Council's Conditions for Taxis, Private Hire Cars, Taxi Drivers and Private Hire Cars also contains the following condition: "The driver of the private hire car shall not canvass or importune in any public place or street for employment, or otherwise ply for hire." This is a local licensing condition. It is a criminal offence to breach a licensing condition.
- 2.32 The driver of a private hire car would therefore have to ensure that he did not act in any way that would result in breaking the above condition. If a complaint is made against a particular driver, the driver's actions would have to be examined in detail and in context. It is difficult to state conclusively whether this condition is breached in any particular case, as it would depend on the specific circumstances.

### **3. Recommendations**

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1. In relation to the application for the new booking office licence it is recommended that Committee members:
  - a) note the contents of this report
  - b) hear from the applicant and objectors
  - c) note that no objection to the granting of this licence has been made by officers of the Council, Police Scotland or Fire Scotland
  - d) grant the application
  
2. In relation to the application for variation it is recommended that Committee members:
  - a) note the contents of this report
  - b) hear from the applicant
  - c) refuse the application

**Susan Mooney**

Head of Service

## Links

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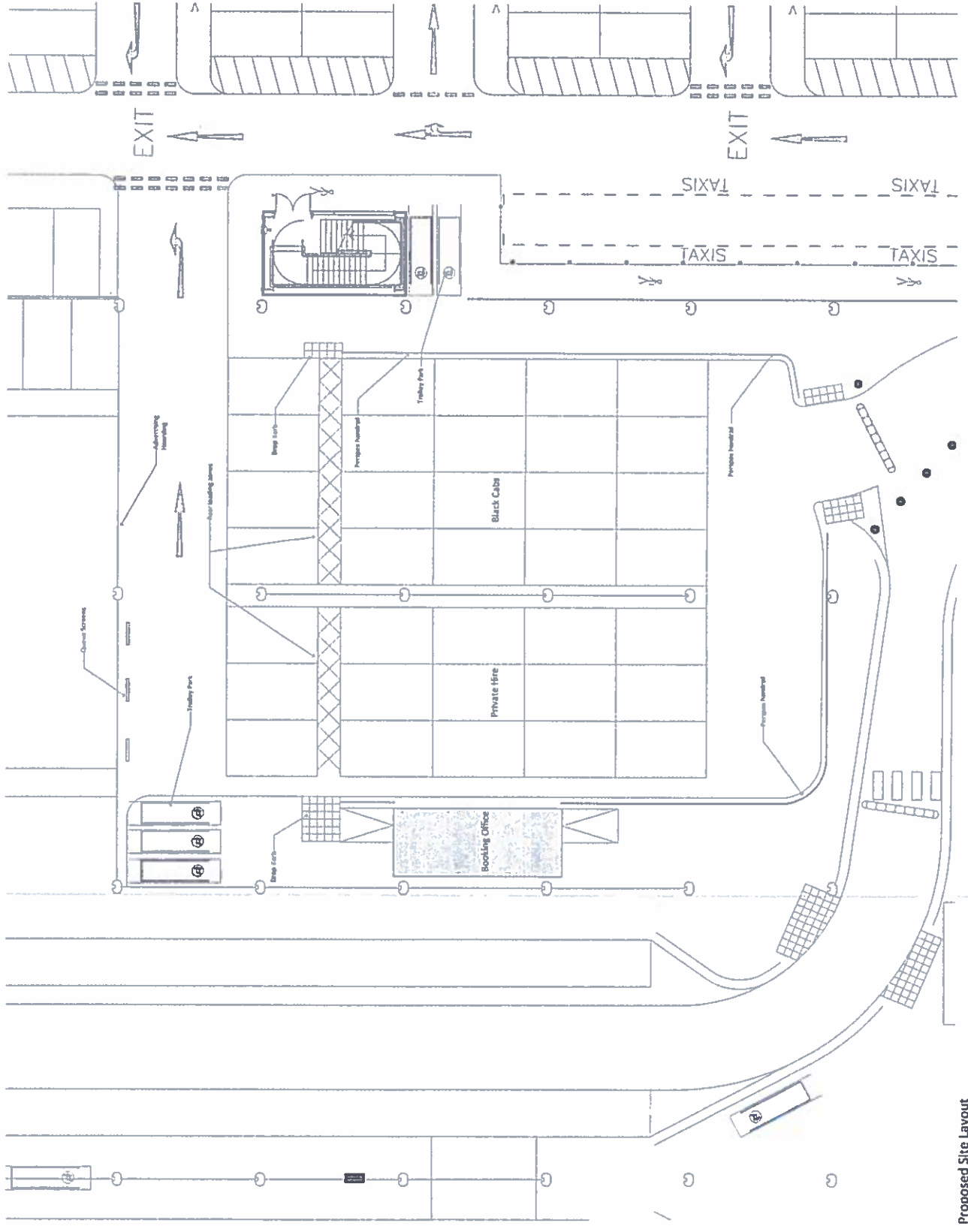
<b>Coalition pledges</b>	<b>P15</b> - Work with public organisations, the private sector and social enterprises to promote Edinburgh to investors. <b>P30</b> – continue to maintain a sound financial position including long-term financial planning.
<b>Council outcomes</b>	<b>CO8</b> - Edinburgh's economy creates and sustains job opportunities.
<b>Single Outcome Agreement</b>	<b>SO1</b> - Edinburgh's economy delivers increased investment, jobs and opportunities for all.
<b>Appendices</b>	Appendix 1 Site Plan of Booking Office Appendix 1A Site Plan of Airport Appendix 2 Objection - Central Radio Taxis (Schedules 1-3) Appendix 2A Objection – Central Radio Taxis (Schedule 4) Appendix 3 Objection - Scottish Taxi Federation Appendix 4 Objection - Edward Millar Appendix 5 Scottish Fire and Rescue Service response Appendix 6 Environmental Health response Appendix 7 Grounds of Refusal





# APPENDIX 1 SITE PLAN OF BOOKING OFFICE

<p><b>© STARAN ARCHITECTS Ltd</b>          Drawing made from this drawing.          Contractor to verify all dimensions on site and          before the architect's survey or installation. No          responsibility is accepted for any errors or omissions.          All dimensions are given in millimetres unless          otherwise stated. All dimensions are subject to          the manufacturer's tolerance. All dimensions are          given in millimetres unless otherwise stated.          All dimensions are subject to the manufacturer's          tolerance. All dimensions are given in millimetres          unless otherwise stated.</p>	<p>Rev: _____          Date: _____</p>	<p>General Notes</p>	<p><b>STARAN</b>          architects</p> <p>1000 North, George Street, Edinburgh          Telephone: 0131 225 2252 Fax: 0131 225 2253          Email: info@staran.co.uk</p>	<p>Client Name and Address          Edinburgh City Private Hire</p>	<p>Project Name          Booking Office</p>	<p>Client's Ref          General Arrangement &amp; Details</p>	<p><b>INFORMATION</b></p> <p>Drawing Number  <b>GA/00/001</b></p> <p>Date          10.06.2013</p> <p>Scale @ A1          1:100</p>
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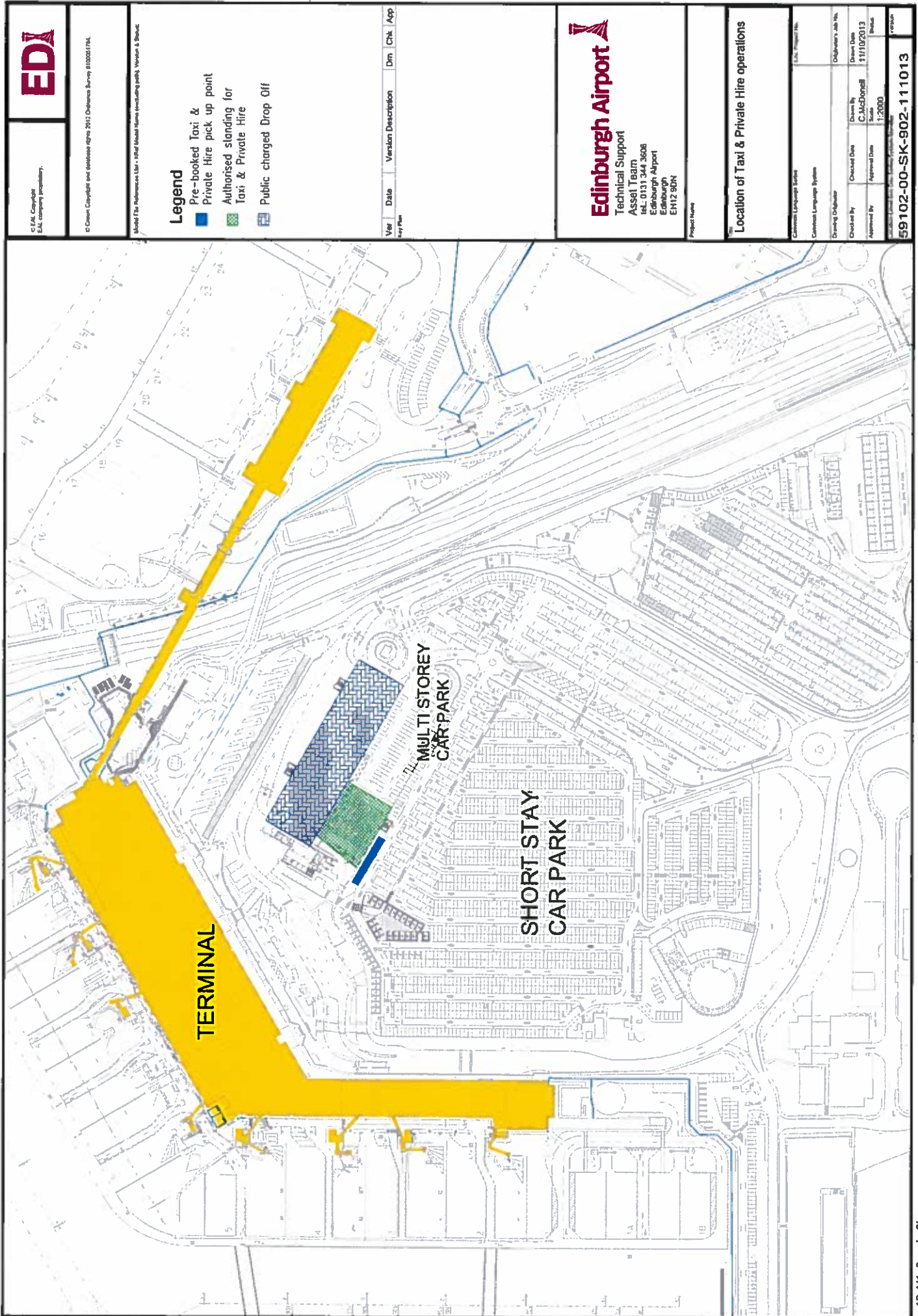


Proposed Site Layout





# APPENDIX 1A SITE PLAN OF AIRPORT



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Model 10a Information for 3rd Edition (including parts, Version 3.0) Sheet

### Legend

- Pre-booked Taxi & Private Hire pick up point
- Authorised standing for Taxi & Private Hire
- Public charged Drop Off

Ver	Date	Version Description	Dim	Chk	App



**Edinburgh Airport**  
Technical Support  
Asset Team  
0131 241 3606  
Edinburgh Airport  
Edinburgh  
EH12 9BN

Project Name

### Location of Taxi & Private Hire operations

Customer Language Service			
Customer Language System			
Drawing Checker			
Checked By	Checked Date	Drawn By	Drawn Date
Approved By	Approval Date	C. McDonald	17/10/2013

59102-00-SK-902-111013

ISO A3 Landscape

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