

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST LoTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LoTHIAN CIVIC CENTRE, on 21 MARCH 2018.

Present – Councillors Peter Heggie (Chair), George Paul, Chris Horne, Dom McGuire

Apologies – Councillor Harry Cartmill

1. DECLARATIONS OF INTEREST

Councillor Peter Heggie declared an interest in Agenda Item 8, in that the applicant was a former colleague. He advised he would leave the meeting room and would take no part in the consideration or decision of this item of business.

2. MINUTES

- a) The committee confirmed the Minute of its meeting held on 24 January 2018 as a correct record. The Minute was thereafter signed by the Chair.
- b) The committee confirmed the Minute of its meeting held on 21 February 2018 as a correct record. The Minute was thereafter signed by the Chair.

3. PRIVATE SESSION

The committee resolved under Section 50(A) (4) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 3, 12 and 14 of Part 1 of Schedule 7A of the Act.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 7

The applicant was in attendance and unrepresented. The applicant confirmed he was content to proceed without representation.

Police Scotland was represented by Inspector Euan Smith.

Introductions were made by all parties.

The Clerk advised that there were two preliminary matters that were required to be dealt with before proceeding with the case. It was advised that Police Scotland had submitted a late letter dated 20 February 2018 providing information that had not been presented at the time of

submitting the objection.

The applicant was given a copy of the late letter at a previous hearing when it was agreed to adjourn to allow him an opportunity to consider the letter.

Preliminary Matter 1 – Late Submission of Police Scotland Letter

In relation to the late submission Inspector Smith requested that the committee allow the information that was contained in the late letter to be circulated and considered by the committee as he was of the opinion the information was relevant to the initial objection. He stated that the later letter contained information relevant to their objection that they had become aware of after their letter of objection.

The applicant objected to the letter being considered by the committee as it had arrived late and asked the committee to disregard the later letter.

The Clerk asked the applicant if he wished to seek legal advice.

The applicant advised he was content to proceed without legal representation.

Before making its decision the Clerk advised the committee if it agreed to consider the later letter it would be an agreement in principal at this stage until the second preliminary matter was considered.

Inspector Smith and the applicant had no comment to make in relation to the legal advice provided to the committee by the Clerk.

Both parties then left the room to allow the committee to deliberate in private.

Following private deliberations both parties returned to hear the decision of the committee.

Decision

The committee agreed in principal to accept the later letter from Police Scotland.

Preliminary Matter 2 – Appendix B

Inspector Smith requested that the committee allow the information contained in Appendix B and their later letter to be circulated and submitted that justice could not be done in the matter without the committee considering this information. Inspector Smith submitted that he was of the opinion that the information was relevant as it demonstrated a course of conduct linked to his other previous convictions.

The applicant had no objection to the information contained in Appendix B being disclosed to the committee.

The committee accepted the explanation provided by Inspector Smith and

noted that the applicant had no objection to the information contained in Appendix B being circulated.

Decision

To agree to consider the information contained in Appendix B.

The late submission and Appendix B were then circulated to the committee.

Consideration of Application

The applicant advised he disputed an alternative to prosecution contained in Appendix 1.

Inspector Smith agreed to withdraw this alternative to prosecution as there was no further information he could provide at an evidential hearing.

The applicant advised as Inspector Smith had withdrawn the alternative to prosecution he was content to proceed.

The committee heard Inspector Smith speak in relation to the objection.

The applicant was given an opportunity to question Inspector Smith.

The committee had an opportunity to question Inspector Smith.

The committee heard the applicant speak in support of the application.

Inspector Smith was given an opportunity to question the applicant.

The committee had an opportunity to question the applicant.

Finally, both parties summed up.

The Clerk provided legal advice to the committee and both parties had no comment to make on this advice before leaving the room to allow the committee to deliberate in private.

After deliberations both parties returned. The Clerk advised that he had provided no further legal advice to the committee.

Decision

To refuse to grant the application in terms of Schedule 1 of the Civic Government (Scotland) Act 1982 paragraph 5(3)(a).

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 8

The applicant was in attendance and accompanied by her employer.

Police Scotland was represented by Inspector Euan Smith.

Introductions were made by all parties.

The applicant confirmed she did not dispute the contents of the report and that she was content to proceed without legal representation.

The committee heard Inspector Smith speak in relation to the objection.

The applicant was given an opportunity to question Inspector Smith.

The committee had an opportunity to question Inspector Smith.

The committee heard the applicant speak in support of her application.

Inspector Smith was given an opportunity to question the applicant.

The committee had an opportunity to question the applicant.

Finally both parties were given an opportunity to sum up before leaving the room to allow the committee to deliberate in private.

After deliberations both parties returned. The Clerk advised of the legal advice The committee then made its decision.

Decision

1. To delegate authority to the Chief Solicitor to grant the application subject to the applicant being certified by the council's Medical Examiners as being fit to drive in terms of the standards set out in the DVLA publication entitled "Assessing Fitness to Drive – A Guide for Medical Professionals" by 31 August 2018; or
2. To delegate authority to the Chief Solicitor to refuse the application in the event a valid medical certificate was not granted by 31 August 2018.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – ITEM 10

Mr Sandeman was in attendance and accompanied by his client.

The Clerk advised that this was a preliminary hearing to provide an update and identify a date for the application to be considered and determined.

The Clerk advised that the Sheriff had granted an extension of the time period for the application to be decided until 28 August 2018.

The Clerk advised that the licence holder had provided details of three types of vehicle that the committee could consider to be licensed as a taxi for him to drive. The Clerk further advised that this information had been passed to Robert Grieve at the Taxi Examination Centre and he prepared reports on these vehicles and their compliance with current council conditions for taxi vehicles. Copies of these reports were given to Mr Sandeman.

The Clerk also invited Mr Sandeman to indicate if he had any objection to the council's occupational health report regarding the licence holder.

Mr Sandeman confirmed he and his client were available on 16 May 2018, acknowledged receipt of Mr Grieve's reports, and confirmed he had no objection to the occupational health report being considered by the committee.

Decision

To adjourn to a hearing on 16 May 2018 with all parties in attendance.

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE -ITEM 9

The applicant was in attendance and unrepresented. He advised that he was content to proceed without legal representation.

Police Scotland was represented by Inspector Euan Smith.

Introductions were made by all parties.

The applicant confirmed that he had no objections to the report.

The Clerk explained the procedure that would be followed.

The committee heard Inspector Smith in relation to the objection.

The applicant was given an opportunity to question Inspector Smith.

The committee had an opportunity to question Inspector Smith.

The committee heard the applicant speak in support of the application.

Inspector Smith was given an opportunity to question the applicant.

The committee had an opportunity to question the applicant.

Finally both parties summed up before leaving the room to allow the committee to deliberate in private.

Following deliberation both parties returned. The Clerk advised of the legal advice provided to the committee, neither party had any comment to make.

The committee then made its decision.

Decision

To grant the application for a private hire car driver's licence for a period of one year.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 6

The committee noted that this was the third occasion that the applicant had been cited to attend. The committee also noted that he was not in attendance again and being satisfied that he had been properly cited agreed to consider the case in his absence.

The committee heard Inspector Euan Smith speak in relation to the report.

The committee had an opportunity to question Inspector Smith.

Inspector Smith was then given an opportunity to sum up before leaving the room to allow the committee to deliberate in private.

Following deliberations Inspector Smith returned. The committee then made its decision.

Decision

To refuse to grant the application in terms of Schedule 1 of the Civic Government (Scotland) Act 1982, paragraph 5(3)(a).

9. NOTE ACTION TAKEN IN TERMS OF STANDING ORDER 31

To note the action taken in terms of Standing Order 31 to recall the suspension of a Private Hire Car Driver's Licence.