

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST LOTHIAN COUNCIL held within CONFERENCE ROOM 3, WEST LOTHIAN CIVIC CENTRE, on 29 JULY 2014.

Present – Councillors Tony Boyle (Chair), George Paul, Tom Conn, Dave King, Anne McMillan, John Muir

Apologies – Councillor Martyn Day

1. ORDER OF BUSINESS

The Chair ruled in terms of Standing Order 11 to change the order of business as follows:

Agenda Item F Case 6 to be considered after approval of Minute.

Agenda Item J Case 10 to be considered after item F Case 6.

2. DECLARATIONS OF INTEREST

Councillor Tony Boyle declared a non-financial interest in Agenda Item F Case 6 as he was acquainted with the applicant and would leave the room taking no part in the deliberation or decision.

Councillor Tony Boyle declared a non-financial interest in Agenda Item J Case 10 as he was a council appointed member of the Citizens Advice Bureau which had objected to the application, and would leave the room taking no part in the deliberation or decision.

3. MINUTES

- a) The committee confirmed the Minute of its meeting held on 18 June 2014 as a correct record. The Minute was thereafter signed by the Chair.
- b) The committee confirmed the Minute of its Special Meeting held on 2 July 2014 as a correct record. The Minute was thereafter signed by the Chair.

4. 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 Schedule 7A of the Act.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – SECOND HAND DEALER'S LICENCE – J CASE 10

Councillor Boyle left the meeting for this and the following item of business and Councillor Paul took the chair.

The Clerk informed the committee that objectors had not been invited to attend the hearing and therefore his advice was that the committee should consider adjourning the case for objectors to be in attendance.

Decision

To adjourn the case to 27 August 2014 to allow objectors an opportunity to be in attendance.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TEMPORARY PUBLIC ENTERTAINMENT LICENCE – F CASE 6

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that representations had been submitted by Police Scotland in respect of the application for a Temporary Public Entertainment Licence.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The applicant and his Solicitor were given the opportunity to question the council's Solicitor and Police Scotland.

The committee then had the opportunity to question the council's Solicitor and Police Scotland.

The committee heard the applicant and his Solicitor speak in relation to report. The committee allowed the applicant's Solicitor to table additional documentation.

The council's Solicitor and Police Scotland were given the opportunity to question the applicant and his Solicitor.

The committee then had an opportunity to question the applicant and his Solicitor.

Finally, each side summed up before the committee deliberated the merits of the case.

Decision

To grant the application for a Temporary Public Entertainment Licence subject to Standard Conditions and the following two additional conditions:-

- A site plan is to be provided to the West Lothian Licensing Section

prior to the start date of the licence, outlining the nature and size of the units to be utilised – any additional units must be positioned during hours of closure and an up-to-date site plan submitted prior to re-opening, showing the new layout.

- The applicant ensures that he complies with all health and safety requirements.

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – A CASE 1

Councillor Boyle returned to the meeting and resumed the chair.

The council's Solicitor advised that this item of business was withdrawn as the issue had been resolved.

Decision

To note that the licence had been issued under delegated powers and that the item should be withdrawn from the agenda.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TAXI DRIVER'S LICENCE – B CASE 2

The committee noted that the applicant was not present and, following correspondence with his solicitor, being satisfied that he had been properly cited agreed to consider the case in his absence.

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor requesting the suspension of a taxi driver's licence.

The report recommended that the committee suspend the taxi driver's licence for the unexpired portion of the duration of the licence with immediate effect in view of:-

1. Information contained in a letter received from Inspector Smith at the Taxi Examination Centre advising that the licence holder was subject of a pending court case.
2. Subsequent information received in respect of pending case.
3. That it was submitted in the circumstances that to allow the licence holder to operate as a taxi driver would be likely to cause a threat to public safety.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The committee then had an opportunity to question the council's Solicitor and Police Scotland.

Finally, the council's Solicitor summed up before the committee deliberated the merits of the case.

#### Decision

1. To suspend the licence holder's taxi driver's licence for the unexpired port of the licence, in terms of Schedule 1 of the Civic Government (Scotland) Act 1982, paragraph 11(2)(c) as it was the opinion of the committee that the carrying on of the activity was likely to cause a threat to public safety.
2. To immediately suspend the licence in terms of Schedule 1 of the Civic Government (Scotland) Act 1982, paragraph 11(10).

#### 9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – C CASE 3

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that an objection to the application for a private hire car driver's licence had been submitted by Police Scotland.

The report recommended that the committee refuse to grant the application in light of the Police Scotland objection.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The applicant and his partner were given an opportunity to question the council's Solicitor and Police Scotland.

The committee then had an opportunity to question the council's Solicitor and Police Scotland.

The committee heard the applicant and his partner speak in relation to the report.

The council's Solicitor and Police Scotland were given an opportunity to question the applicant and his partner.

The committee then had an opportunity to question the applicant and his partner.

Finally, each side summed up before the committee deliberated the merits of the case.

#### Decision

To grant the application for a private hire car driver's licence for a period of 12 months.

10. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – D CASE 4

The committee noted that the applicant was not present and being satisfied that he had been properly cited agreed to consider the case in his absence.

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that an objection to the private hire car application had been submitted by Police Scotland.

The report recommended that the committee refuse to grant the application in view of the objection by Police Scotland.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The committee had the opportunity to question the council's Solicitor and Police Scotland.

Finally, the council's Solicitor summed up before the committee deliberated the merits of the case.

Decision

To refuse to grant the application for a private hire car driver's licence in terms of the Civic Government (Scotland) act 1982, Paragraph 5(3)(a) as it was the opinion of the committee that the applicant was not a fit and proper person to hold such a licence due to the number and nature of his previous convictions and his failure to fully disclose them.

11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – SECOND HAND DEALER'S LICENCE – E CASE 5

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that Police Scotland had submitted representations in respect of an application for a second hand dealer's licence.

The report recommended that the committee refuse to grant the licence in light of the applicant's previous convictions and the representation from Police Scotland.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The applicant and his partner were given an opportunity to question the council's Solicitor and Police Scotland.

The committee then had an opportunity to question the council's Solicitor and Police Scotland.

The committee then heard the applicant speak in relation to the report.

The council's Solicitor and Police Scotland were given the opportunity to question the applicant and his partner.

The committee then had an opportunity to question the applicant and his partner.

Finally, each side summed up before the committee deliberated the merits of the case.

#### Decision

To refuse to grant the application for a second hand dealer's licence in terms of the Civic Government (Scotland) Act 1982, paragraph 5(3)(a) as it was the opinion of the committee that the applicant was not a fit and proper person to hold the licence due to the number and nature of his previous convictions and his failure to fully declare them.

#### 12. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – WINDOW CLEANER'S LICENCE – I CASE 9

Councillor Conn gave his apologies and left the meeting before consideration of the remainder of the committee's business.

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that a Police Scotland had submitted a representation in respect of an application for a window cleaner's licence.

The report recommended that the committee determine the application in light of the representation from Police Scotland.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The applicant was given an opportunity to question the council's Solicitor and Police Scotland.

The committee heard the applicant speak in relation to the report. The Chair allowed the applicant to table additional information.

The council's Solicitor and Police Scotland were given the opportunity to question the applicant.

The committee then had the opportunity to question the applicant.

Finally, each side summed up before the committee deliberated the merits of the case.

#### Decision

To grant the application for a window cleaner's licence.

13. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – SECOND HAND DEALER’S LICENCE – K CASE 11

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that a request had been made by the applicants to disapply conditions 3 and 4 of the second hand dealer’s standard conditions, and a request made by Police Scotland to impose three additional conditions.

The report recommended that the determine the application and if minded to grant, consider whether to either:-

(a) disapply or vary any standard conditions to which the licence was subject to; and/or

(b) impose any additional conditions on the licence

The applicants’ agent was advised the committee that the applicants had no objection to the three additional conditions being imposed on any licence granted.

The committee heard the council’s Solicitor and Police Scotland speak in relation to the report.

The applicants’ agent was given the opportunity to question the council’s Solicitor and Police Scotland.

The committee had the opportunity to question the council’s Solicitor and Police Scotland.

The committee then heard the applicants’ agent speak in relation to the report.

The council’s Solicitor and Police Scotland were given the opportunity to question the applicants’ agent and their representative.

The committee had an opportunity to question the applicants’ agent and representative.

Finally, each side summed up before the committee deliberated the merits of the case.

Decision

To grant the application for a Second Hand Dealer’s Licence subject to all standard conditions with the exception of conditions 3 and 4 and the following additional conditions as suggested by Police Scotland:-

- Two forms of identification shall be required from each seller. One form of identification shall be photographic, where this is available, and the other shall show the seller’s name and address and be no more than 3 months old.

- Pedal cycles shall not be purchased unless the seller produces proof of ownership, a copy of which shall be retained.
- Prior to purchasing a mobile phone, a check shall be carried out on the IMEI number of the phone to establish whether the phone had been reported lost/stolen or blocked.

14. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – STREET TRADER EMPLOYEE LICENCE – G CASE 7

The committee noted that the applicant was not present and not being satisfied that he had been properly cited agreed to adjourn the case to allow the applicant an opportunity to be in attendance.

Decision

To adjourn to 27 August 2014 to allow the applicant an opportunity to be in attendance.

15. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – SECOND HAND DEALER'S LICENCE – H CASE 8

The committee noted that the applicant was not present and being satisfied that the applicant had been properly cited agreed to consider the case in his absence.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The committee had an opportunity to question the council's Solicitor and Police Scotland.

Finally, the council's Solicitor summed up before the committee deliberated the merits of the case.

The Chair moved that the application be granted but for a restricted period of six months, seconded by Councillor King.

Councillor Paul moved that the application be refused, seconded by Councillor Muir.

On a vote being taken, the motion was approved by three votes to two.

Decision

To grant the application for a second hand dealer's licence for a period of 6 months.

16. ACTION TAKEN IN TERMS OF STANDING ORDER 31 (URGENT



BUSINESS)

- a) Noted action taken on 27 June 2014 to immediately suspend a taxi driver's licence.