

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST Lothian Council held within CONFERENCE ROOM 3, WEST Lothian Civic Centre, on 17 DECEMBER 2014.

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

1. ORDER OF BUSINESS, INCLUDING NOTICE OF URGENT BUSINESS

The Chair ruled that Agenda Item 7 would be considered before Agenda Item 6.

2. DECLARATIONS OF INTEREST

Councillor John Muir declared a non-financial interest stating that as a former police officer he did not favour the views of Police Scotland but took into account the views and evidence/information submitted by all parties.

MINUTE

3. The committee confirmed the minute of its meeting held on 19 November 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 – ITEM 7

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 applicant 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 committee consider whether it was appropriate to grant the application subject to the requests made by the applicant and 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 had an opportunity to question the council's Solicitor and Police Scotland.

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

The council's Solicitor and Police Scotland had an 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.

It was noted that Councillor Paul did not agree with removing conditions 3 and 4 from the standard conditions.

Decision

To grant the Second Hand Dealer's application subject to standard conditions with the exception of conditions 3 and 4 and the following additional conditions requested 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 has been reported lost/stolen or blocked.

6. CIVIC GOVERNMENT SCOTLAND ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – ITEM 6

The committee noted that this item of business had previously been adjourned for an interpreter to be present.

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

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

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

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

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

The committee heard the applicant through his interpreter speak in relation to the report.

The applicant through his interpreter advised that he disputed the facts of the report.

As the facts of the report had been disputed the committee agreed to adjourn the case to an evidential hearing and for witnesses to be present.

Decision

To adjourn for an evidential hearing and for witnesses to be present to either 18 February 2015 or 18 March 2015.

7. SECOND HAND DEALER'S LICENCE

a) CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – SECOND HAND DEALER'S LICENCE – ITEM 8(A)

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 applicant to disapply conditions 3 and 4 of the second hand dealer's standard conditions and that an objection to the application had been submitted late.

The report recommended that the committee decide whether to consider the late letter of objection and subject to:-

1. Whether it was appropriate to grant the application in view of the letter of objection; and
2. Whether to disapply conditions 3 and 4 of the council's standard conditions if the application was granted.

The report advised that in terms of the Civic Government (Scotland) Act 1982, paragraph 3(1)(e) an objection should be lodged within 28 days of the date the application was made.

The report further advised that paragraphs 3(2) gave the committee the discretion to consider the objection if it was satisfied that there were sufficient reasons as to why it was out with the 28 day period. As the current objection was out with the 28 day period allowed for lodging an objection the committee requested an explanation as to why it was late from the council's Solicitor as the objector was not in attendance.

The committee accepted the reasons given for the late submission of the objection and exercised its discretion to hear the objection.

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

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

The council's Solicitor and Police Scotland were given an 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.

It was noted that Councillor Paul did not agree with removing conditions 3 and 4 from the standard conditions.

DECISION

To grant the Second Hand Dealer's application subject to standard conditions with the exception of conditions 3 and 4 and the following additional conditions requested 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 has been reported lost/stolen or blocked.

b) CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – SECOND HAND DEALER'S LICENCE – ITEM 8(B)

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 applicant to disapply conditions 3 and 4 of the second hand dealer's standard conditions and that a letter of objection to the application had been submitted.

The report recommended that the committee decide whether it was appropriate to grant the application in view of the letter of objection received and, subject to this, whether conditions 3 and 4 of the council's standard conditions were to be disapplied in respect of the licence.

The committee accepted the reasons given for the late submission of the objection and exercised its discretion to hear the objection.

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

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

The council's Solicitor and Police Scotland were given an 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.

It was noted that Councillor Paul did not agree with removing conditions 3 and 4 from the standard conditions.

DECISION

To grant the Second Hand Dealer's application subject to standard conditions with the exception of conditions 3 and 4 and the following additional conditions requested 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 has been reported lost/stolen or blocked.

Councillor Tom Conn left after this item of business and took no further part in the meeting.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TAXI LICENCE – ITEM 9

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that an application had been made for the renewal of a taxi licence.

The report recommended that the committee delegate authority to the Chief Solicitor to either:-

1. Grant the application if the existing licensed vehicle or a replacement vehicle had been tested successfully by the Taxi Examination Centre (TEC) by 14 January 2015; or
2. Refuse the application if a suitable vehicle has not been tested successfully by the TEC by 14 January 2015.

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

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

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

The committee had an opportunity to question the applicant.

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

Decision

1. To delegate authority to the Chief Solicitor to grant the application subject to satisfactory vehicle checks by the Taxi Examination Centre; or
2. To delegate authority to the Chief Solicitor to refuse the application in the event that the vehicle had not passed Taxi Examination Centre checks.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – LATE HOURS CATERING – ITEM 10

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

The report recommended that the committee determine the application in light of the representation by 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 had an opportunity to question the council's Solicitor and Police Scotland.

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

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

The committee had an 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 Late Hours Catering Licence.

10. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – ITEM 11

The committee noted that the licence holder was not present and not being satisfied that he had been properly cited agreed to adjourn the case.

The council's Solicitor had no objections to this course of action.

DECISION

To adjourn to 21 January 2015 to allow the licence holder an opportunity to be in attendance.