

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST Lothian Council held within CONFERENCE ROOM 3, WEST Lothian Civic Centre, Livingston, on 21 JANUARY 2015.

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

Apologies – Councillor George Paul

Absent – Martyn Day

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTE

The committee confirmed the minute of its meeting held on 17 December 2014 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 Schedule 7A of the Act.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR LICENCE

The committee noted that the applicants were not present and being satisfied that they had been properly cited agreed to consider the application in their absence.

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 private hire car 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 29 January 2015; or
2. Refuse the application if a suitable vehicle has not been tested successfully by the TEC by 29 January 2015.

Decision

1. To delegate authority to the Chief Solicitor to grant the application subject to satisfactory vehicle checks being carried out by the Taxi Examination Centre by 29 January 2015; 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 by 29 January 2015.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR LICENCE

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

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 grant of a private hire car 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 6 February 2015; or
2. Refuse the application if a suitable vehicle has not been tested successfully by the TEC by 6 February 2015.

Decision

1. To delegate authority to the Chief Solicitor to grant the application subject to satisfactory vehicle checks being carried out by the Taxi Examination Centre by 29 January 2015; 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 by 29 January 2015.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – SECOND HAND DEALER'S LICENCE

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

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

made by Police Scotland and that a certificate of compliance confirming display of site note had not been received.

The report recommended that the application be refused if a valid certificate of compliance had not been received by the date of the hearing, otherwise it was recommended that the committee determine the application in light of the representation by Police Scotland.

The council's Solicitor confirmed that a valid certificate of compliance had been received.

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

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.

DECISION

To grant the application for a Second Hand Dealer's licence subject to standard conditions and the following additional condition 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.

7. ANTISOCIAL BEHAVIOUR (SCOTLAND) ACT 2004 – LANDLORD REGISTRATION

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor in respect of registration as registered landlord under the registration scheme. The report included a letter from former tenants of the applicants, and a letter from the applicants themselves.

The committee noted that the applicants had appointed a representative to present their case at the hearing, and that he was present.

The report recommended that the committee consider whether the applicants were fit and proper persons to be registered landlords in light of the contents of the report.

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

The applicants' representative was given an opportunity to question the council's Solicitor.

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

The committee heard the applicants' representative speak in relation to the report.

The council's Solicitor had an opportunity to question the applicants' representative.

The committee then had the opportunity to question the applicants' representative.

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

Decision

To grant the registration as registered landlords under the registration scheme.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR LICENCE

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that an application for a private hire car licence had been received which did not comply with the council's conditions of fitness in relation to private hire car vehicles. The committee was informed by the Clerk that it had previously determined the same application, but that it had been referred back to the council to reconsider following an appeal to the Sheriff Court in which the Sheriff had held that the statement of reasons was inadequate.

The report recommended that the committee determine the application and if minded to grant:-

- Determine which conditions should apply; and
- Delegate authority to the Chief Solicitor to grant the application subject to the conditions specified by the committee once the vehicle was successfully retested by the Taxi Examination Centre in relation to those conditions.

The applicant was present with her solicitor.

The committee agreed to a short adjournment to allow the council's Solicitor, the applicant and her Solicitor an opportunity to try and reach an agreement on some of the issues in dispute.

Following the adjournment the council's Solicitor advised that an agreement had been reached on a number of the issues. The council's Solicitor then handed over to the applicant's Solicitor to address the committee.

The applicant's Solicitor advised that the vehicle had been independently tested and requested that the written findings be allowed to be tabled.

After hearing from the council's Solicitor the committee allowed the document to be circulated.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report and tabled paper. The council's Solicitor also confirmed the issues which had been agreed.

The applicant and her Solicitor were 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 and her Solicitor speak in relation to the report.

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

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

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

The following matters, which had been agreed amongst the council's Solicitor, the applicant and her solicitor, were noted by the committee:-

- That the locking system in the vehicle complied with the council's standard condition and so no variation was required
- That the standard condition regarding an opening rear window or air-conditioning was now met and so no variation was required
- That the applicant would accept a requirement to install clear window glass and not tinted glass
- That the vehicle could only operate with 8 passenger seats under any licence to be issued by the council

Decision

To grant the private hire car licence application restricted to Contracts for Specialist Provision (Additional Learning Needs) only, subject to the council's standard conditions, varied as follows, and the following requirements:-

- To vary the condition with regard to the requirement for 4 doors
- The Standard Condition to apply to door locking system

- To vary the condition with regard to the positioning of the exhaust outlet
- The Standard Condition to apply to an opening rear passenger window or air conditioning
- Standard Condition to apply to requirement for clear glass
- A valid Insurance Certificate to be submitted to the Chief Solicitor
- The vehicle to have a valid certificate of compliance from the Taxi Examination Centre

Due to a prior engagement Councillor Conn left the meeting, so taking no further part in the remaining items of business.

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

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 had been submitted by Police Scotland. The report recommended that the committee determine the application in light of the objection by Police Scotland.

The applicant was present with a representative.

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

The applicant and his representative were 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 and his representative speak in relation to the report.

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

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

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.

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

The committee considered a report (copies of which had been circulated) by the Chief Solicitor advising that Police Scotland had requested that the licence be suspended.

The report recommended that the committee immediately suspend the licence for the unexpired portion on the grounds that the licence holder was no longer a fit and proper person to hold the licence.

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

The committee gave the licence holder an opportunity to accept or deny the facts of the report. He indicated his intention to plead guilty to part of the charges against him, and that the case was due to go to trial in February.

Following the licence holder's response to the contents of the report the committee agreed to adjourn the case to await the outcome of the licence holder's court case.

Decision

To adjourn to 18 March 2015 to await the outcome of the licence holder's pending court case.

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

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 18 February to allow the applicant an opportunity to be in attendance.