

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST LoTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LoTHIAN CIVIC CENTRE, on 10 AUGUST 2016.

Present – Councillors George Paul, Tom Conn, Dave King, Anne McMillan

Apologies – Councillor Tony Boyle (Chair), John Muir, Jim Walker

1. ORDER OF BUSINESS, INCLUDING NOTICE OF URGENT BUSINESS

Councillor Tom Conn was unable to take part in Agenda Items 6 and 12 as he had not been present at previous hearings for these items of business.

2. DECLARATIONS OF INTEREST

There were no declarations of interest made.

3. MINUTE

The committee confirmed the Minute of its meeting held on 6 July 2016 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 – PRIVATE HIRE CAR DRIVER'S LICENCE – ITEM 6

The applicant was in attendance at the meeting.

Introductions were made by all parties and the Chair explained the procedure that would be followed. The applicant confirmed he understood the procedure.

The Clerk referred the committee to the report (copies of which had been circulated) by the Chief Solicitor inviting the committee to consider an application for a private hire car driver's licence in view of an objection to the application submitted by Police Scotland.

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

The applicant was given an opportunity to question Inspector Frank Smith.

The committee had an opportunity to question Inspector Frank Smith.

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

Inspector Frank Smith was given an opportunity to question the applicant.

The committee had an opportunity to question the applicant.

Finally, each side summed up their case.

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

Following deliberations all parties returned to hear the decision of the committee.

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 Medical Commission on Accident Prevention's publication entitled "Medical Aspects of Fitness to Drive; or
2. To refuse the application in the event the applicant fails the medical examinations by the council's Medical Examiners.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TAXI LICENCE VARIATION – ITEM 7

The applicant was in attendance at the hearing.

Introductions were made by all parties and the Chair explained the procedure that would be followed. The applicant confirmed he understood the procedure.

The Clerk referred the committee to the report (copies of which had been circulated) by the Chief Solicitor inviting them to consider an application by a taxi licence holder to vary condition 2 of the council's standard conditions of fitness for taxis in relation to his taxi licence.

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

The Senior Examiner from the Taxi Examination Centre was given an opportunity to question the licence holder.

The committee had an opportunity to question the licence holder.

The committee heard the Senior Examiner from the Taxi Examination

Centre speak in relation to the report.

The licence holder was given an opportunity to question the Senior Examiner.

The committee had an opportunity to question the Senior Examiner.

Finally, each side summed up their case.

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

Following deliberations all parties returned to hear the decision of the committee.

Decision

To agree to vary condition 2 of the standard conditions for this licence holder as follows:-

- Delete “a retractable step” and:
- Replace with “a fixed step subject to its having VCA type approval and being fitted by a manufacturer approved by the CAB Inspector.

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER’S LICENCE – ITEM 8

The licence holder was present and was accompanied by his partner.

Introductions were made by all parties. The Chair explained the procedures that would be followed. The licence holder advised that he was not sure how this all came about. The Clerk then asked the licence holder if he would like to request an adjournment to give him an opportunity to obtain representation.

The licence holder advised that he did not want an adjournment and wanted the case to continue. The Clerk further explained the process.

The Clerk referred the committee to the report (copies of which had been circulated) by the Chief Solicitor advising that a request for the recall of the suspension of the licence holder’s licence had been received.

The committee heard the licence holder speak in relation to his application. The licence holder’s partner requested that a letter from the Procurator Fiscal addressed to her be allowed to be circulated.

Inspector Smith had no objection to the letter being circulated.

The committee allowed the letter to be circulated.

Inspector Smith was given an opportunity to question the licence holder

The committee had an opportunity to question the licence holder.

The committee heard Inspector Smith, Police Scotland speak in relation to the application.

The licence holder was given an opportunity to question Inspector Smith.

The committee had an opportunity to question Inspector Smith.

Finally, each side summed up their case.

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

Following deliberations all parties returned to the room to hear the decision of the committee.

Decision

To refuse to recall the suspension of the licence holder's licence.

At this point Councillor Conn left the meeting and took no further part in the remaining items of business.

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

The licence holder was present at the hearing.

Introductions were made by all parties. The Chair explained the procedures that would be followed. The applicant advised he was unsure of the process. The Clerk asked the licence holder if he would to request an adjournment to allow him an opportunity to obtain legal advice.

The licence holder advised that he would like to request an adjournment.

Decision

To adjourn to 7 September 2016 to allow the licence holder an opportunity to obtain legal representation.

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

The applicant was in attendance at the meeting.

Introductions were made by all parties and the Chair explained the procedure that would be followed. The applicant confirmed he understood the procedure.

The Clerk referred the committee to the report (copies of which had been

circulated) by the Chief Solicitor inviting the committee to consider an application for a private hire car driver's licence in view of an objection to the application submitted by Police Scotland.

It was noted that Police Scotland had requested that information regarding a previous offence that was considered protected in terms of the Rehabilitation of Offenders Act 1974, (Exclusions and Exemptions) (Scotland) Act 2015 be taken into consideration.

The applicant had no objections to the information regarding the protected offence being considered by the committee.

The committee agreed to allow the information regarding the protected offence to be circulated.

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

The applicant was given an opportunity to question Inspector Frank Smith.

The committee had an opportunity to question Inspector Frank Smith.

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

Inspector Frank Smith was given an opportunity to question the applicant.

The committee had an opportunity to question the applicant.

Finally, each side summed up their case.

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

Following deliberations all parties returned to hear the decision of the committee.

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 by 2 December 2016 as being fit to drive in terms of the standards set out in the Medical Commission on Accident Prevention's publication entitled "Medical Aspects of Fitness to Drive; or
2. To refuse the application in the event the applicant fails the medical examinations by the council's Medical Examiners, by 2 December 2016.

LICENCE – ITEM 11

The licence holder was in attendance at the hearing accompanied by his Solicitor, Mr Sandeman.

Introductions were made by all parties. The Chair explained the procedures that would be followed.

Mr Sandeman advised that he was disputing some of the information contained within the appendix submitted by Police Scotland, and therefore requested that an evidential hearing be set.

The Clerk suggested the following schedule for exchanging witness details and documentation if the committee was to agree to adjourn for an evidential hearing.

- Police Scotland to submit all relevant witness details and documentation to Committee Services by 7 September 2016.
- Committee Services to forward all relevant details and documentation received from Police Scotland to Mr Sandeman.
- Mr Sandeman to submit all relevant witness details and documentation to Committee Services by 26 September 2016.

The schedule was agreed by all parties.

Decision

To adjourn to 5 October 2016 for an evidential hearing.

11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – STREET TRADER'S LICENCE – ITEM 12

The applicant was in attendance at the hearing accompanied by her Solicitor Mr Lawson.

Introductions were made by all parties. The Chair explained the procedures that would be followed. Mr Lawson advised he understood the procedures.

Mr Lawson advised he disputed part of Police Scotland's submission.

A short adjournment took place to allow Mr Lawson and Inspector Robertson to discuss the issues in dispute.

All parties returned and Mr Lawson advised that he was happy to proceed after Inspector Robertson agreed to delete the word "intentionally" contained in Police Scotland's submission.

The Chair advised that the hearing would commence but due to time

constraints it would be necessary to adjourn the meeting at 4.00pm.

The committee heard Inspector Robertson speak in relation to the report.

Mr Lawson was given the opportunity to question Inspector Robertson.

The committee had an opportunity to question Inspector Robertson.

The committee heard Mr Lawson speak in relation to the report.

After Mr Lawson presented his case, the Chair adjourned the hearing part heard to a date yet to be fixed

Decision

To adjourn to a date yet to be fixed to allow the case to be completed.