

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST Lothian Council held within CONFERENCE ROOM 3, WEST Lothian Civic Centre, on 15 MARCH 2017.

Present – Councillors Tom Conn, Dave King, Anne McMillan, John Muir, Jim Walker

Apologies – Councillor Tony Boyle (Chair), George Paul

As the Chair and Vice Chair had submitted their apologies the Licensing Committee nominated Councillor Anne McMillan to Chair the meeting.

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTE

The committee confirmed the Minute of its meeting held on 15 February 2017 as a correct record. The Minute was thereafter signed by the Chair.

3. PRIVATE SESSION

The committee resolved under Section 50(A) 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 - TAXI DRIVER'S LICENCE

The applicant was in attendance with his solicitor Mr Sandeman.

Inspector Smith, Police Scotland was in attendance at the meeting and was accompanied by PC Tom White.

Introductions were made by all parties.

The Chair explained the procedure that would be followed to deal with the two preliminary matters.

Neither Mr Sandeman nor Inspector Smith had any comments regarding the procedure.

First Preliminary Matter – Competency of the Police Scotland Objection

The committee heard Mr Sandeman speak in relation to the first

preliminary matter.

Inspector Smith, Police Scotland was given an opportunity to question Mr Sandeman.

The committee had an opportunity to ask questions of Mr Sandeman.

The committee heard Inspector Smith speak in relation to the first preliminary matter.

Mr Sandeman was given an opportunity to question Inspector Smith.

The committee had an opportunity to ask questions of Inspector Smith.

Finally, all parties were given an opportunity to sum up in relation to the first preliminary matter.

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

After deliberations all parties returned.

The Clerk advised all parties of the legal advice she provided to the committee during private deliberations and invited comments from Mr Sandeman and Inspector with regard to that advice.

Mr Sandeman advised he did not think it was right for him to comment on the advice given at this stage.

Inspector Smith agreed with the advice given.

The committee then made its decision.

Decision

The committee agreed that the objection by Police Scotland was competent and could be circulated.

The objection by Police Scotland was then distributed to the committee.

Second Preliminary Matter - CCTV Evidence

The committee heard Mr Sandeman speak in relation to the second preliminary matter.

Inspector Smith was given an opportunity to question Mr Sandeman.

The committee then had an opportunity to ask questions of Mr Sandeman.

The committee then heard Inspector Smith speak in relation to the second preliminary matter.

Mr Sandeman was given an opportunity to question Inspector Smith.

The committee then had an opportunity to ask questions of Inspector

Smith.

Finally, all parties were given an opportunity to sum up in relation to the second preliminary matter.

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

After deliberations all parties returned.

The Clerk advised all parties of the legal advice she provided to the committee during private deliberations and invited comments from Mr Sandeman and Inspector Smith with regard to the advice.

Mr Sandeman advised he had no comments to make with regard to the Clerk's legal advice at this stage.

Inspector Smith agreed with the advice given.

The committee then made its decision.

Decision

The committee agreed to allow the CCTV evidence to be shown.

Before the start of the evidential hearing, Councillor Tom Conn left the meeting taking no part in the deliberation or decision of the remaining items of business.

Evidential Hearing

Following the decisions with regard to the two preliminary matters the committee went on to hold an evidential hearing following the procedure that was previously provided to all parties.

Mr Sandeman advised that he was aware of the procedure.

The committee heard Inspector Smith give evidence in relation to the objection. The committee was then shown the CCTV evidence.

Mr Sandeman was given an opportunity to question Inspector Smith.

The committee had an opportunity to ask questions of Inspector Smith.

Mr Sandeman then led evidence from his client, the applicant.

Inspector Smith was given an opportunity to question the applicant.

The committee was given an opportunity to ask questions of the applicant.

Finally, Inspector Smith and Mr Sandeman were given an opportunity to sum up.

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

After deliberations all parties returned and the committee then made its decision.

Decision

The Licensing Committee agreed:-

1. To grant the application for one year; and
2. To issue a warning to the applicant that would be taken into consideration should he commit any further offences or breach any of his licence conditions.

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

The applicant was in attendance at the meeting and was unaccompanied. He confirmed that he was aware of the procedure to be followed which was attached to the report.

Introductions were made by all parties.

The Clerk advised that there was a mistake in report in that the date of 8 November 2016 detailed in the conclusion of the report should in fact be 6 February 2017.

The Clerk referred the committee to the report by the Chief Solicitor advising that an objection to the application had been submitted by Police Scotland outwith the statutory 28 day period.

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

The report further advised that paragraph 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 outwith the 28 day period.

Inspector Frank Smith, Police Scotland provided the committee with an explanation as to why the objection was submitted late.

The applicant advised that he had no objection to the objection being circulated.

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

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 ask questions of Inspector Smith.

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

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

The committee had an opportunity to ask questions of the applicant.

Finally, all parties were given an opportunity to sum up.

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

After deliberations all parties returned and 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 Medical Commission on Accident Prevention's publication entitled "Medical Aspects of Fitness to Drive by 26 May 2017.
2. To delegate authority to the Chief Solicitor to refuse the application in the event a valid medical certificate has not been granted by 26 May 2017.

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

The Clerk advised the committee that the applicant had sent an email enclosing documentation that confirmed he was not in the country and that he was therefore was requesting an adjournment.

Inspector Robertson had no objection to an adjournment.

Decision

To adjourn to 19 April to allow the applicant an opportunity to be in attendance at the hearing.

At this stage Councillor King left the meeting room taking no part in the deliberation or decision of the remaining items of business.

7. ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004 - REGISTRATION AS A LANDLORD UNDER THE LANDLORD REGISTRATION SCHEME

The applicant was in attendance at the hearing and was unaccompanied.

Introductions were made by all parties. The Clerk explained the procedure that would be followed. The applicant advised that he understood the procedures.

The Clerk referred the committee to the report and to the letter submitted by Police Scotland.

The report recommended that the committee consider and determine the application in light of the report and letter from Police Scotland.

The committee heard Inspector Scott Robertson, Police Scotland speak in relation to the Police Scotland letter.

The applicant was given an opportunity to question Inspector Robertson.

The committee had an opportunity to question Inspector Robertson.

The committee heard the applicant speak in relation to the report and the Police Scotland letter.

Inspector Robertson was given an opportunity to question the applicant.

The committee had an opportunity to question the applicant.

Finally, the applicant and Inspector Robertson were given an opportunity to sum up.

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

Following deliberations all parties returned and the committee then made its decision.

Decision

To grant the application to continue registration under the Landlord Registration Scheme.