

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, on 30 NOVEMBER 2022.

Present – Councillors Tony Pearson (Chair), Peter Heggie and Pauline Orr

Apologies – Councillors George Paul and Jim Dickson

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. ORDER OF BUSINESS

The Chair ruled, in terms of Standing Order 11, that agenda item 6 would be considered first followed by items 8 and 7 respectively.

3. MINUTES

The committee confirmed the draft Minutes of its meeting held on 9 November 2022 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

The licence holder was not present at the meeting.

The committee considered a report (copies of which had been circulated) by the Chief Solicitor requesting that they consider a suspension of the licence holder's private hire car driver's licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

It was recommended that the committee consider an immediate suspension of the licence on grounds of public safety in view of the fact that the licence holder had been assessed as unfit by the Council's medical advisers under Group 2 DVLA medical standards.

Decision

1. To suspend the private hire car driver's licence with immediate effect for the unexpired portion of the duration of the licence; and
2. To delegate authority to the Chief Solicitor to recall the suspension once the licence holder was certified fit to drive a private hire car by the council's medical advisers.

6. HOUSING (SCOTLAND) ACT 2006 - HOUSE IN MULTIPLE OCCUPATION (HMO) LICENCE

The applicant was not present at the meeting.

The committee considered a report (copies of which had been circulated) by the Chief Solicitor inviting them to consider and determine an application for the grant of a House of Multiple Occupancy (HMO) licence.

It was recommended that the committee consider and determine the application in light of the contents of the report.

Decision

To refuse the application for a House in Multiple Occupation (HMO) Licence.

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR AND TAXI DRIVER'S LICENCE APPLICATIONS

The applicant attended the meeting in person and was accompanied by their solicitor Ms Joanna Millar.

Police Scotland was represented by Sergeant Colleen Hope and Police Constable Donna Pearey. Both representatives attended in person.

The committee considered a report (copies of which had been circulated) by the Chief Solicitor inviting them to consider and determine the licensing applications detailed within part D3 after having regard to objections submitted by Police Scotland and information obtained further to a review of the operation of the applicant's licences by Legal Services.

Police Scotland raised a preliminary point in respect of the pending case, detailed within their documentation, and formally requested that the applications be adjourned until the pending case was disposed of. Ms Millar opposed that request. Following legal advice, members agreed to proceed to determine the applications and to disregard the information regarding the pending case.

Police Scotland made a request for their appendices B and C to be admitted into proceedings on the basis that justice could not be done without considering the information. Following legal advice the committee agreed that, in order for justice to be done, both appendices should be circulated to members and considered.

A solicitor from the Litigation Team within Legal Services was invited to join the meeting in order to present information obtained during their review of the operation of the applicant's vehicle licences. Following that presentation, Ms Millar questioned the accuracy of some of the detail contained within the presentation which was also included in documentation circulated in advance of the meeting. Following legal advice, as these points had not been raised on receipt of this documentation and within the appropriate timescale, the committee subsequently agreed not to consider the points raised by Ms Millar.

Committee then wished to direct questions to a representative from the Taxi Examination Centre. The meeting was adjourned for a period of time to enable contact to be made with the representative. Having returned, members were asked to note that Police Constable Pearey would not attend for the remainder of the meeting. The Taxi Examination Centre representative joined the meeting remotely and answered questions both from the committee and Ms Millar.

It was recommended that the committee consider and determine the licence holder's applications.

#### Decision

1. To agree to disregard the pending case during consideration of all applications;
2. To agree the circulation to members of Appendices B and C provided by Police Scotland;
3. To agree not to consider the representative's late submissions that they considered certain information to be inaccurate within the documentation circulated in advance of the meeting;
4. TAXI DRIVER'S LICENCE - To recall the suspension with immediate effect and grant the licence for a reduced period of 18 months with a warning regarding future conduct;
5. LICENCE RENEWALS - To grant all licence applications so that they would expire two years after the previous expiry dates for 2021 expiries and one year after the 2022 expiry dates and agree that a Taxi Examination Centre report be sought regarding the condition of the applicant's vehicles tested during the period 1 December 2022 - 1 September 2023, and considered by the committee and that a warning regarding future conduct be applied to all licence records; and
6. ADDITIONAL PRIVATE HIRE CAR LICENCE - To delegate authority to the Chief Solicitor to grant the licence should the Taxi Examination Centre certify the vehicle fit by 19 April 2023 or to refuse the application if the vehicle was not so certified.