

FALKIRK COUNCIL

MINUTE of MEETING of the CIVIC LICENSING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 21 OCTOBER 2009 at 9.30 A.M.

PRESENT: Councillors Blackwood, Hughes, Kenna, McLuckie, Nicol, Nimmo, Thomson and Waddell

CONVENER: Councillor Nicol.

APOLOGIES: Provost Reid and Councillor McNally.

ATTENDING: Director of Development Services; Acting Director of Law and Administration Services; Consumer Protection Manager; Solicitor (F Kobiela) and Committee Officer (H Oliver).

DECLARATION OF INTEREST: None.

CL43. MINUTE

There was submitted (circulated) and **APPROVED** Minute of Meeting of the Civic Licensing Committee held on 9 September 2009.

CL44. EXCLUSION OF PUBLIC

RESOLVED in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the meeting the press and public for the following items of business on the grounds that they would involve the likely disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 7A to the said Act.

CL45. ORDER OF BUSINESS

In terms of Standing Order 15.2(i), Councillor Nicol advised of variations to the order of business from that detailed on the Agenda for the meeting. The following items have been recorded in the order that they were taken at the meeting.

CL46. APPLICATION FOR THE GRANT OF A NEW TAXI DRIVER LICENCE

The applicant was not in attendance.

There was submitted Report (circulated) dated 13 October 2009 by the Director of Development Services on an application for the grant of a new Taxi Driver Licence advising that the applicant, Mr A, (a) had failed to obtain the required pass mark for the taxi driver knowledge test held on 24 June 2009, and (b) had been invited to retake the knowledge test on 4 August and 2 September 2009 and had, on both occasions, failed to attend.

AGREED to **REFUSE** to grant the application in terms of the Civic Government (Scotland) Act 1982, Section 13(5) on the grounds that the applicant, having failed to pass the knowledge test, has failed to satisfy the authority that he had adequate knowledge of matters raised therein.

Councillor Thomson entered the meeting prior to consideration of the following item of business.

CL47. APPLICATION FOR THE GRANT OF A NEW TAXI DRIVER LICENCE

The applicant, Ms D, entered the meeting.

There was submitted Report (circulated) dated 13 October 2009 on an application for the grant of a new Taxi Driver Licence (a) advising that Ms D had failed to obtain the required pass mark for the taxi driver test on three occasions, and (b) confirming the applicant's record.

Ms D, spoke in support of her application.

Questions were then asked by Members of the Committee.

AGREED:-

- (1) that the applicant be given a final opportunity to take and pass the knowledge test and thereafter provide evidence that she has passed the Council's medical test; and
- (2) should the applicant fail either test, to authorise the Director of Development Services to refuse the application without further reference to Committee.

Councillor Hughes entered the meeting prior to consideration of the following item of business.

CL48. APPLICATION FOR THE GRANT OF A LATE HOURS CATERING LICENCE

The applicant, Mr K, was in attendance.

There was submitted Report (circulated) dated 13 October 2009 on an application for the grant of a Late Hours Catering Licence (a) advising of the background to the application, and (b) attaching as appendices 1 to 3 respectively, the new late hours catering licence policy and conditions and location plan.

Mr K, spoke in support of his application.

Questions were then asked by Members of the Committee.

AGREED that a short adjournment take place to enable the Committee to consider the submission.

The applicant, Mr K, left and was recalled to the meeting.

AGREED to **GRANT** the licence to the terminal hour of 12.30a.m. in accordance with Council policy and subject to standard conditions but to **REFUSE** that part of the application which sought a terminal hour of 1a.m. on the ground that the location of the premises was not suitable or convenient for the conduct of the activity to be licensed, in terms of paragraph 5(3)(c)(i) of Schedule 1 of the Civic Government (Scotland) Act 1982.

CL49. UPDATE ON COURT OF SESSION APPEALS RELATIVE TO TAXI OPERATOR LICENCE NO. 462 & TAXI DRIVER LICENCE NO. 913

With reference to Minute of Meeting of the Civic Licensing Committee held on 16 August 2009, there was submitted Report (circulated) dated 13 October 2009 by the Director of Development Services (a) providing an update regarding the progress of the Court of Session Appeals relative to Taxi Operator Licence No 462 and Taxi Driver Licence No913, and (b) suggesting options for consideration in light of this information.

AGREED:-

- (1) to authorise the Director of Development Services to negotiate an end to both Court of Session appeals on whatever terms (including court costs) which appear to her to best protect the Council's interest, and
- (2) as part of the foregoing to arrange for the taxi operator appeal to be brought back to Committee for reconsideration.

Councillors Blackwood, Kenna and Thomson, having not been in attendance at the previous meeting where the following item of business was heard, left the meeting and took no part in the discussion or decision.

CL50. SUSPENSION HEARING IN RELATION TO LATE HOURS CATERING LICENCE NO 154

The applicant, Mr P, entered the meeting together with his representative, Mr S.

Chief Inspector Cravens and Sergeant D Simpson, Central Scotland Police, entered the meeting.

With reference to Minute of Meeting of the Civic Licensing Committee held on 3 June 2009 (Paragraph CL17 refers), there was submitted Report (circulated) dated 13 October 2009 by the Director of Development Services (a) advising of the background to a complaint made by Central Scotland Police in respect of alleged breaches of the terms of the licence holder's late hours catering licence, and (b) attaching as an appendix, previous Report submitted to the Civic Licensing Committee on 3 June 2009.

Chief Inspector Cravens and Sergeant Simpson spoke in support of the Police's complaint. Copies of the Police letter of complaint dated 29 April 2009 together with edited still images of the CCTV footage were circulated to Members.

Committee were then shown enhanced CCTV footage of a number of alleged breaches of the licence.

Questions were then asked by Members of the Committee.

AGREED that a short adjournment take place to enable the Committee to consider the submissions.

The applicant, Mr P, his representative, Mr S, Chief Inspector Cravens and Inspector Simpson left and were then recalled to the meeting.

AGREED that, having regard to the nature and detail of the evidence brought before Committee, the specific terms of the Civic Government (Scotland) Act 1982 and of the existing licence for these premises, there was no case to answer.

Councillor McLuckie requested that his dissent be recorded against the decision of Committee in relation to the foregoing item of business.

Councillors Blackwood, Kenna and Thomson re-entered the meeting following consideration of the foregoing item of business.

Councillor Nicol left the meeting following consideration of the foregoing item of business and Councillor Kenna assumed the Chair.

CL51. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE

The applicant, Mr C, entered the meeting together with his representative, Mr S.

Chief Inspector Cravens and Sergeant Simpson, Central Scotland Police entered the meeting.

There was submitted Report (circulated) dated 13 October 2009 by the Director of Development Services on an application for the renewal of a Taxi Driver Licence (a) advising of the background to the application, and (b) detailing the consultations undertaken and responses received.

Chief Inspector Craven spoke in support of the Police's complaint. Mr S, the applicant's representative voiced his objection to the contents of the first page of the complaint letter being circulated. Following discussion, the letter was then edited to remove the first page and was then circulated to Members of the Committee.

The applicant's representative, Mr S, spoke in support of his client's application.

Questions were then asked by Members of the Committee.

Councillor Kenna, seconded by Councillor Nimmo moved that the application be refused in terms of the Civic Government (Scotland) Act 1982, Schedule 1 paragraph 5(3)(a)(ii) on the basis that the applicant was not a fit and proper person to be the holder of the licence.

By way of an amendment Councillor Blackwood, seconded by Councillor Hughes moved that the application be continued pending the outcome of the ongoing court cases.

On a division, 4 Members voted for the Motion and 3 Members for the Amendment.

Accordingly, **AGREED** to **REFUSE** the application in terms of the Civic Government (Scotland) Act 1982, Schedule 1 paragraph 5(3)(a)(ii) on the basis that the applicant was not a fit and proper person to be the holder of the licence.