

**FALKIRK COUNCIL**

**MINUTE of MEETING of the CIVIC LICENSING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on THURSDAY 14 FEBRUARY 2013 at 9.30 A.M.**

**PRESENT:** Provost Reid; Councillors Blackwood, D Goldie, Hughes, McLuckie, McNally, Nicol and Turner.

**CONVENER:** Councillor Nicol.

**ATTENDING:** Chief Governance Officer; Licensing Co-ordinator; Senior Solicitor (F Kobiela); and Committee Officer (A Sobieraj).

**CL95. APOLOGIES**

Apologies were intimated on behalf of Councillors Buchanan and Ritchie.

**CL96. DECLARATIONS OF INTEREST**

No declarations were made at the commencement of business. Councillor D Goldie however subsequently declared an interest detailed at item 11 (minute CL105).

**CL97. MINUTE**

There was submitted and **APPROVED** Minute of Meeting of the Civic Licensing Committee held on 16 January 2013.

**CL98. LIST OF APPLICATIONS GRANTED UNDER DELEGATED POWERS AND NOTIFICATIONS OF PUBLIC PROCESSIONS RECEIVED IN DECEMBER 2012**

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer detailing (a) applications granted under delegated powers between 1 and 31 December 2012 in terms of the Civic Government (Scotland) Act 1982 and the Marriage (Approval of Places) (Scotland) Regulations 2002; and (b) notifications for public processions received during the same period.

**NOTED**

## **CL99. CIVIC LICENSING ENFORCEMENT - AN OVERVIEW**

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer setting out the approach taken to enforcement within the Council's Licensing section.

**NOTED**

## **CL100. 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 ground 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.

Councillors Hughes and McLuckie entered the meeting prior to consideration of the following item of business.

## **CL101. APPLICATION FOR THE GRANT OF A NEW TAXI DRIVER LICENCE**

The applicant, Mr M, entered the meeting.

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer on an application for the grant of a new taxi driver licence (a) advising of the background to the application; (b) detailing the consultations undertaken and the responses received, and (c) detailing the applicant's record.

Mr M spoke in support of the 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;
- (2) that, should the applicant fail the knowledge test, the Chief Governance Officer is authorised to refuse the licence in terms of the Civic Government (Scotland) Act 1982 Section 13 (5) without further reference to Committee;
- (3) that, should the applicant pass the knowledge test, officers will arrange for the applicant to sit the Council's medical examination and the applicant shall thereafter provide evidence to show that he has met the DVLA Group 2 Regulations Standards;
- (4) that, should the applicant pass both tests, the Chief Governance Officer is authorised to grant the licence; and

- (5) that, should the applicant pass the knowledge test but fail the medical test, the application will be further considered at a future meeting of the Committee.

#### **CL102.APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE**

The applicant, Mr M, entered the meeting.

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer on an application for the renewal of a taxi driver licence (a) advising of the background to the application; (b) detailing the consultations undertaken and the responses received, and (c) detailing the applicant's record.

Mr M spoke in support of the application.

Questions were then asked by Members of the Committee.

**AGREED** to **RENEW** the licence for a period of one year, subject to the standard conditions.

#### **CL103.APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE**

The Licensing Co-ordinator advised that the applicant, Mr M, was not present at the meeting. The applicant had contacted the Licensing section the previous day to advise that he was due to attend hospital on the morning of the meeting and was unable to attend the meeting. The applicant had therefore requested that the matter be continued to a future meeting to allow him to be present.

**AGREED** to **CONTINUE** consideration to a future meeting to enable the applicant to be present.

#### **CL104.APPLICATION FOR THE GRANT OF A NEW PRIVATE HIRE CAR DRIVER LICENCE**

The applicant, Mr B, entered the meeting.

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer on an application for the grant of a new private hire car driver licence (a) advising of the background to the application, and (b) detailing the consultations undertaken and the responses received.

Mr B spoke in support of the 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.

Mr B left and was then recalled to the meeting.

**AGREED** to **CONTINUE** consideration to a future meeting to obtain further medical clarification from the General Practitioner who undertook the recent medical examination.

#### **CL105.APPLICATION FOR THE GRANT OF A NEW ITINERANT METAL DEALER LICENCE**

Prior to commencement of this item of business, Councillor D Goldie declared a non-financial interest in respect of the application by virtue of him being acquainted with the applicant, and considered that he required to recuse himself from consideration of the item, having regard to the objective test in the Code of Conduct. Councillor Goldie thereafter left the meeting.

The applicant, Mr McP, entered the meeting.

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer on an application for the grant of a new itinerant metal dealer licence (a) advising of the background to the application; (b) detailing the consultations undertaken and the responses received, and (c) detailing the applicant's record.

Mr McP spoke in support of the application.

Questions were then asked by Members of the Committee.

**AGREED** to **GRANT** the licence for a period of three years, subject to the standard conditions.

#### **CL106.APPLICATION FOR THE RENEWAL OF A SECOND HAND DEALER LICENCE (USED VEHICLES)**

Directors of the applicant company, Mr S and Ms S, entered the meeting.

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer on an application for the renewal of a second hand dealer licence (used vehicles) (a) advising of the background to the application; (b) detailing the consultations undertaken and the responses received, and (c) detailing the records of the two Directors.

Mr S and Ms S spoke in support of the application.

Questions were then asked by Members of the Committee.

**AGREED:-**

- (1) to **RENEW** the licence for a period of three years, subject to the standard conditions; and

- (2) that in the event of an application being submitted by the same applicant for its other premises at Graham's Road, Falkirk on the impending expiry of the current licence, and in respect of which the applicant would normally be required to appear again before the Committee, authority to determine the application without appearance before the Committee is delegated to officers provided that no supervening circumstances occur which would require the application to come before Committee.

#### **CL107. APPLICATION FOR THE RENEWAL OF A STREET TRADER LICENCE**

The applicant, Mr G, was not present at the meeting. The Licensing Co-ordinator advised that a telephone call had been received from the applicant's partner to advise that the applicant had had an accident and was in hospital. Having heard from the Licensing Co-ordinator, the Committee agreed to consider the application in the applicant's absence due to its routine nature.

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer on an application for the renewal of a street trader licence (a) advising of the background to the application; (b) detailing the consultations undertaken and the responses received, and (c) detailing the applicant's record.

Questions were then asked by Members of the Committee.

**AGREED** to **RENEW** the licence for a period of three years, subject to the standard conditions.

#### **CL108. APPLICATION FOR THE GRANT OF A NEW TAXI DRIVER LICENCE**

The applicant, Mr L, Inspector D Gibson and PC S Leishman, Central Scotland Police, all entered the meeting.

There was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer on an application for the grant of a new taxi driver licence (a) advising of the background to the application; (b) detailing the consultations undertaken and the responses received, and (c) detailing the applicant's record.

The applicant, Mr L, advised that he had no preliminary points to make on the competency of the objection submitted by Central Scotland Police, following which the letter of objection was circulated.

Inspector D Gibson then spoke in amplification of the objection.

Questions were asked of Inspector Gibson by Members of the Committee. The applicant stated that he had no questions for Inspector Gibson.

Mr L was then heard in relation to the objection and to his application.

Questions were asked of the applicant by Members of the Committee. The representative from Central Scotland Police stated that he had no questions for the applicant.

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

The applicant, Mr L, Inspector D Gibson and PC S Leishman, left and were then recalled to the meeting.

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

Councillor D Goldie re-entered the meeting during consideration of the foregoing item of business but took no part in consideration thereof.

#### **CL109. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE**

The applicant, Mr A, together with his representative, Mr T, Inspector D Gibson and PC S Leishman, Central Scotland Police, all entered the meeting.

With reference to Minutes of Meetings of the Civic Licensing Committee held on 18 June and 15 November 2012 (Paragraphs CL29 and CL78 refer), there was submitted Report (circulated) dated 7 February 2013 by the Chief Governance Officer on an application for the renewal of a taxi driver licence (a) advising of the background to the application; (b) detailing the consultations undertaken and the responses received; (c) detailing the applicant's record, and (d) attaching as an appendix, copies of Reports submitted to the Civic Licensing Committee on 18 June and 15 November 2012. The application had been continued on 15 November 2012 to a future meeting pending the outcome of court proceedings.

The applicant's representative, Mr T, raised by way of preliminary point, the ex parte nature of the witness statements as presented in the objection letter lodged by Central Scotland Police. Mr T submitted that this would be prejudicial to his client. In addition, inaccurate information was contained in the report in relation to one recent conviction. This conviction was not as presented.

In response, Inspector Gibson indicated that he did not have any information on Police record in relation to the nature of the aforementioned conviction other than the charge itself.

After consideration, and following clarification from the Chief Governance Officer in relation to procedures for the presentation of witness statements from either party, the Committee resolved to consider the Police objection letter but indicated that Central Scotland Police must provide clarification of the exact nature of the conviction identified by the applicant's representative.

Inspector D Gibson then spoke in amplification of the objection.

Members of the Committee and the applicant's representative stated that they had no questions for Inspector Gibson.

Mr T was then heard in relation to the objection and this included clarifying the specific charge in relation to one incident.

Questions were asked of the applicant's representative by Members of the Committee. The representative from Central Scotland Police stated that he had no questions for the applicant's representative.

After consideration, the Committee **AGREED** that a short adjournment take place to enable the Committee to consider the submissions.

The applicant, Mr A, together with his representative, Mr T, Inspector D Gibson and PC S Leishman, left and were then recalled to the meeting in order to clarify the wording of the charge to which the applicant pled guilty on 16 January 2013.

Mr T confirmed the wording contained in the charge and this was accepted by Inspector Gibson.

Further questions were then asked by Members of the Committee.

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

The applicant, Mr A, together with his representative, Mr T, Inspector D Gibson and PC S Leishman, left and were then recalled to the meeting.

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