

FALKIRK COUNCIL

MINUTE of MEETING of the CIVIC LICENSING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 7 SEPTEMBER 2011 at 9.30 A.M.

PRESENT: Provost Reid; Councillors Hughes, Jackson, Kenna, McLuckie, Nicol and Nimmo.

CONVENER: Councillor Nicol.

APOLOGIES: Councillors Thomson and Waddell.

ATTENDING: Chief Governance Officer; Consumer Protection Manager; Licensing Co-ordinator (B Douglas); Senior Solicitor (F Kobiela); and Committee Officer (A Sobieraj).

DECLARATION OF INTEREST: None

CL33. MINUTE

There was submitted and **APPROVED** Minute of Meeting of the Civic Licensing Committee held on 10 August 2011.

CL34. LIST OF APPLICATIONS GRANTED UNDER DELEGATED POWERS IN JULY 2011

There was submitted Report (circulated) dated 31 August 2011 by the Chief Governance Officer on applications granted under delegated powers between 1 and 31 July 2011 in terms of the Civic Government (Scotland) Act 1982 and the Marriage (Approval of Places) (Scotland) Regulations 2002.

NOTED.

CL35. 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 involve the likely disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 7A of the said Act.

CL36. APPLICATIONS FOR THE RENEWAL OF A TAXI OPERATOR AND TAXI DRIVER LICENCE

The applicant, Mr W, entered the meeting.

There was submitted Report (circulated) dated 29 August 2011 by the Chief Governance Officer on applications for the renewal of taxi operator and taxi driver licences (a) advising on the background to the applications; (b) detailing the consultations undertaken and the responses received; and (c) detailing the applicant's record.

Mr W spoke in support of the applications. He submitted a letter of support from Stenhouse TOA and this was received by the Committee.

The Chief Governance Officer clarified procedures in relation to consideration of the applicant's spent convictions following which the Committee resolved that justice could be done without admitting said convictions as part of the process. The list of spent convictions was therefore not circulated to the Committee.

Questions were then asked by Members of the Committee.

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

CL37. APPLICATIONS FOR THE RENEWAL OF A TAXI DRIVER AND TAXI OPERATOR LICENCE

The applicant, Mr M, entered the meeting.

There was submitted Report (circulated) dated 29 August 2011 by the Chief Governance Officer on applications for the renewal of taxi driver and taxi operator licences (a) advising on the background to the applications; (b) detailing the consultations undertaken and the responses received; and (c) detailing the applicant's record.

Mr M spoke in support of the applications. He submitted a letter from Central Scotland Police detailing appreciation for recent charity work undertaken and this was received by the Committee.

Questions were then asked by Members of the Committee.

AGREED to **RENEW** the licences for a period of one year, with a warning letter detailing the standards expected of taxi drivers, and subject to the standard conditions.

CL38. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE

The applicant, Mr McL, entered the meeting together with her colleague Mr S.

There was submitted Report (circulated) dated 29 August 2011 by the Chief Governance Officer on an application for the renewal of a taxi driver licence (a) advising on the background to the application; (b) setting out the procedural issue that required to be considered in terms of paragraph 8(5A) of Schedule 1 to the Civic Government (Scotland) Act 1982, and (c) detailing the consultations undertaken and the responses received.

Ms McL spoke in explanation of the late submission of her application.

Questions were then asked by Members of the Committee.

Being satisfied that good cause had been shown as required by paragraph 8 of the Civic Government (Scotland) Act 1982, Committee **AGREED** to **RENEW** the licence for a period of one year, subject to the standard conditions.

CL39. APPLICATION FOR THE RENEWAL OF A TAXI OPERATOR LICENCE

The applicant, Mr D, entered the meeting.

There was submitted Report (circulated) dated 29 August 2011 by the Chief Governance Officer on an application for the renewal of a taxi operator licence (a) advising on the background to the application; (b) setting out the procedural issue that required to be considered in terms of paragraph 8(5A) of Schedule 1 to the Civic Government (Scotland) Act 1982, and (c) detailing the consultations undertaken and the responses received.

Mr D spoke in support of the application.

Questions were then asked by Members of the Committee.

Being satisfied that good cause had been shown as required by paragraph 8 of the Civic Government (Scotland) Act 1982, Committee **AGREED** to **RENEW** the licence for a period of one year, subject to the standard conditions.

CL40. APPLICATIONS FOR THE RENEWAL OF A PRIVATE HIRE CAR OPERATOR AND PRIVATE HIRE CAR DRIVER LICENCE

The applicant, Mr H, entered the meeting.

There was submitted Report (circulated) dated 29 August 2011 by the Chief Governance Officer on applications for the renewal of private hire car operator and private hire car driver licences (a) advising on the background to the applications; (b) detailing the consultations undertaken and the responses received, and (c) detailing the applicant's record.

Mr H spoke in support of the applications.

Questions were then asked by Members of the Committee.

AGREED to **RENEW** the licences for a period of one year, with a warning letter detailing the standards expected of private hire car drivers, including the strict adherence to speed limits, and subject to the standard conditions.

The Convener agreed a 10 minute recess prior to consideration of the following item of business. The meeting reconvened with all Members present as per the sederunt.

CL41. APPLICATION FOR THE GRANT OF A NEW HOUSE IN MULTIPLE OCCUPATION LICENCE

The applicant, Mr D, together with his representative, Mr T, entered the meeting.

Chief Inspector G Taylor, PC S Leishman and PC A Kane, Central Scotland Police and objectors Ms M, Mr S, Ms A, Mr W, Ms O, Ms B, Mr B, Ms P, Mr P, Ms G, Mr R, Mr McD, Ms McD and Mr J, all entered the meeting.

There was submitted Report (circulated) dated 29 August 2011 by the Chief Governance Officer on an application for a new house in multiple occupation licence (a) advising of the background to the application; (b) providing confirmation of the premises proposed to be licensed under the terms of the licence; (c) outlining the supporting documentation which was required to be submitted in support of the application; (d) detailing the consultations undertaken and responses received, and (e) attaching as an appendix the location plan.

The Consumer Protection Manager clarified the procedural issues in relation to Schedule 1 paragraph 6 of the Civic Government (Scotland) Act 1982. In summary, the previous application, refused by the Civic Licensing Committee on 13 January 2010 (Paragraph CL67 refers), related to housing for 22 tenants and the current application related to housing for 15 tenants.

The Committee **NOTED** that Schedule 1 paragraph 6 of the Act stated:-

‘Where a licensing authority had refused an application for the grant or renewal of a licence they shall not, within one year of their refusal, entertain a subsequent application from the same applicant for the grant of the same activity in the same area or, where the activity consists of or includes the use of premises or a vehicle or vessel, in respect of an activity consisting of or including the same use of the same premises, vehicle or vessel unless in their opinion there has been, since their refusal, a material change of circumstances’.

Members would therefore be required to consider:-

- (a) whether the current application was the same as the previous application refused on 13 January 2010; and
- (b) should the application be considered to be the same as the previous application, whether there had been a material change in circumstances to allow the application to be considered within the statutory period of 12 months from the date the application was lodged with the Licensing section.

The applicant's representative, Mr T, advised that he had no preliminary points to make in relation to the application. He contended, however, that the appropriate interpretation of the word 'same' within the legislation was 'identical.' Mr T indicated that the current application was not 'identical' to the previous application but was materially different due to there being a significant reduction in the activity and the footprint of the specific premises to be licensed.

Following advice from the Chief Governance Officer and considerable discussion, the Committee **AGREED** that a short adjournment take place to enable Committee to consider the submissions.

On reconvening, with all members present as per the sederunt, **AGREED** that the current application was not the same in all respects as the previous application and that it was not therefore caught by paragraph 6 of Schedule 1.

The applicant's representative, Mr T then advised that he had no preliminary points to make in relation to the competency of the objections.

Chief Inspector G Taylor then spoke in amplification of the Police objection, a copy of which had been circulated to the Committee.

Questions were then asked of Chief Inspector G Taylor by Members of the Committee and the applicant's representative.

The objectors, Mr W and Ms O, spoke in amplification of their objections. Copies of all objection letters were circulated to the Committee.

Questions were then asked of Chief Inspector G Taylor and other objectors present by Members of the Committee and the applicant's representative.

Provost Reid left the meeting at this point and took no further part in consideration of the item.

The Committee adjourned for lunch at 1.10 p.m. and reconvened at 1.40 p.m. and reconvened with all Members present as per the sederunt, with the exception of Councillor McLuckie and Provost Reid.

The objectors, Mr S, Ms P and Ms G, spoke in amplification of their objections.

Mr T, the applicant's representative, spoke in support of the application.

Mr D spoke in support of the application.

Questions were then asked of the applicant's representative and the applicant by Chief Inspector G Taylor, other objectors and Members of the Committee.

Chief Inspector G Taylor, other objectors and Mr T, the applicant's representative, provided a summing up in respect of their submissions.

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

The applicant, Mr D, his representative, Mr T, Chief Inspector G Taylor, PC S Leishman and PC A Kane, and the objectors still present, left and were then recalled to the meeting.

AGREED to **REFUSE** the application in terms of the Civic Government (Scotland) Act 1982, Schedule 1 paragraph 5(3)(c) on the grounds that the premises were not suitable for the conduct of the activity having regard to:-

- (i) the location, character or condition of the premises;
- (ii) the nature and extent of the proposed activity;
- (iii) the kind of persons likely to be in the premises;
- (iv) the possibility of undue public nuisance; and
- (v) public order or public safety.

The applicant's representative requested a Statement of Reasons.