

**DRAFT****FALKIRK COUNCIL****MINUTE of MEETING of the CIVIC LICENSING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 4 JUNE 2008 at 9.30 AM.**

**PRESENT:** Provost Reid; Councillors Blackwood, Kenna, McLuckie, Nicol, Nimmo, Thomson and Waddell

**CONVENER:** Councillor Nicol

**APOLOGIES:** Councillor Hughes and McNally

**ATTENDING:** Director of Development Services; Acting Director of Law and Administration Services; Consumer Protection Manager; Solicitor (P Gilmour); Licensing Co-ordinator (B Douglas) and Committee Services Officer (A Rose).

During the course of the meeting the Convener informed Members that agenda item 7 had been withdrawn by the applicant and would therefore not be considered.

**CL17. MINUTE**

There was submitted (circulated) and **APPROVED** Minute of Meeting of the Civic Licensing Committee held on 7 May 2008.

**CL18. 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.

**CL19. APPLICATION FOR A NEW HOUSE IN MULTIPLE OCCUPATION LICENCE**

The applicant, Mr C, entered the meeting at this point, along with Mrs C, his interpreter, Ms. M, the proposed day to day manager and Mr McPhee, his legal representative.

With reference to Minute of Meeting of the Civic Licensing Committee held on 7 May 2008 (Paragraph CL12 refers), Committee gave further consideration to Report (circulated) by the Director of Development Services dated 30 April 2008 and an additional Report dated 29 May 2008 on an application for a new House in Multiple Occupation Licence detailing the background to the licence.

The proposed day to day Manager spoke in support of the application

Questions were then asked by Members of the Committee.

**AGREED** to **GRANT** the licence for the usual period of one year with the standard conditions.

**CL20. SUSPENSION HEARING IN RELATION TO PRIVATE HIRE CAR DRIVER LICENCE No. 205**

The licensee, Mr M, entered the meeting.

There was submitted (circulated) Report by the Director of Development Services dated 29 May 2008 detailing (a) the licence held by the applicant; (b) the background to the circumstances prompting a suspension hearing, and (c) the licensee's record.

The licensee confirmed that he had no preliminary matters to raise.

A letter from Central Scotland Police was circulated to Members

The licensee spoke in his defence.

The Committee also heard from Lesley Kenny, Special Needs Transport Officer.

Questions were then asked by Members of the Committee.

Following a short recess the Committee **AGREED** to allow the license to continue in effect and to issue a warning letter to the licence holder emphasising the importance of the full disclosure of information when completing forms in relation to his licence.

**CL21. APPLICATION FOR A NEW HOUSE IN MULTIPLE OCCUPATION LICENCE**

The applicant, Mr D, together with the proposed day to day Manager, Mr K, and a Director of the applicant's company, Mr H, entered the meeting.

There was submitted (circulated) Report by the Director of Development Services dated 29 May 2008 detailing (a) information regarding the applicant and the proposed day to day manager for the premises; (b) background to the application; (c) conditions of the licence; (d) outstanding documentation awaited from the applicant; (e) advice provided by officers to the applicant regarding documentation to be submitted; (f) consultations undertaken and the responses received; (g) the records of the applicant and the proposed day to day manager (subject to the restrictions imposed by the Rehabilitation of Offenders Act 1974), and (h) objections and representations received. The Director of Development Services further added that the documentation listed in paragraph 4.3 of the report (namely a safety certificate for electrical installations and a list of current tenants in the property) had now been received by officers.

The Committee was advised that the objector to the application was not present and was therefore unable to advise Members as to the reasons for her objection being outwith the statutory 21 day period beyond what was narrated in the report.

Councillor Kenna, seconded by Councillor Thomson, moved that the Committee consider the objection there being sufficient reason in accordance with Paragraph 3(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

By way of an Amendment, Councillor Nicol, seconded by Provost Reid, moved that the Committee should not consider the objection as there was insufficient reason to justify the objection being made outwith the statutory deadline.

On a division both the Motion and the Amendment received 4 votes. There being an equality of votes the Convener exercised his casting vote in accordance with Standing Order 21.6

Accordingly, **AGREED** not to hear the objection.

The applicant spoke in support of his application.

Questions were then asked by Members of the Committee.

Following a short recess, Councillor Nicol, seconded by Councillor Nimmo, moved that the Committee be **MINDED TO GRANT** the licence subject to the premises meeting the requirements of Environmental Health and that in the event the applicant fails to do so within 4 weeks, the Director of Development Services be authorised to refuse the application without further reference to Committee; and that the Director of Development Services be instructed to send the applicant a letter warning him to co-operate more quickly with the licensing authority in future to enable the authority to discharge its statutory duties.

By way of an Amendment, Councillor Waddell, seconded by Councillor Thomson, moved that consideration of this item of business be **CONTINUED** to a further meeting of the Civic Licensing Committee to allow the applicant to ensure all outstanding works required by Environmental Health are completed and to warn the applicant that failure to deal with outstanding matters would be taken into account in considering his suitability to hold a licence.

On a division, the Motion defeated the Amendment by 6 votes to 2 and accordingly **AGREED** in terms of the Motion.

## **CL22. APPLICATION FOR A NEW HOUSE IN MULTIPLE OCCUPATION LICENCE**

The applicant, Mrs M, together with her daughter, Ms. H, entered the meeting. Mr M and Mr S, objectors to the application, entered the meeting.

All parties confirmed that they had no preliminary matters to raise.

There was submitted (circulated) Report by the Director of Development Services dated 29 May 2008 detailing (a) information regarding the applicant and the proposed day to day manager for the premises; (b) background to the application; (c) conditions of the licence; (d) outstanding documentation awaited from the applicant; (e) advice provided

by officers to the applicant; (f) consultations undertaken and the responses received, and (g) objections and representations received.

The objectors spoke in support of their written objections.

Questions were asked of the objectors by the applicant and Ms. H

Questions were then asked of the objectors by Members of the Committee

The applicant spoke in support of her application.

Questions were asked of the applicant by the objectors

Questions were then asked of the applicant by Members of the Committee.

The objectors summed up their case

The applicant summed up her case

Following a short recess, the Committee **AGREED** to **REFUSE** the application in terms of the Civic Government (Scotland) Act 1982, Schedule 1 paragraph 5 (3) on the grounds:

- (i) that in the manner in which she had dealt with her application for a licence and, in particular, in her failure to provide the necessary documentation and information to the licensing authority, the applicant was deemed to be not a fit and proper person to hold a licence; and
- (ii) that there is other good reason for refusing the application, namely that the applicant's failure to provide the required information to the licensing authority has not allowed the Committee to determine the suitability of the premises for the grant of a licence.

Provost Reid left the meeting during consideration of the foregoing item of business.

### **CL23. APPLICATION FOR THE RENEWAL OF A LATE HOURS CATERING LICENCE No. 124**

The applicant, Mr D, entered the meeting.

There was submitted (circulated) Report by the Director of Development Services dated 29 May detailing (a) an introduction to the application; (b) consultations undertaken and the responses received, and (c) the record of the applicant and the day to day manager.

The applicant spoke in support of his application.

Questions were then asked by Members of the Committee.

**AGREED** to **GRANT** the licence, with the standard conditions, for a period of 6 months, and thereafter, unless any complaints have been made by members of the public or any issues have arisen which give concern to officers, that the Director of Development Services be authorised to determine any application to renew the licence.

#### **CL24. APPLICATION FOR THE RENEWAL OF TAXI OPERATOR LICENCE**

The applicant, Mr M, entered the meeting.

There was submitted (circulated) Report by the Director of Development Services dated 29 May 2008 detailing (a) background to the application; (b) consultations undertaken and responses received, and (c) the applicant's record (subject to the restrictions imposed by the Rehabilitation of Offenders Act 1974).

The Committee **AGREED** to admit evidence relating to the spent convictions of the applicant on the basis that justice could not be done in this case without said admission.

Following a request by the applicant it was **AGREED** that consideration of this item of business be **CONTINUED** to a future meeting of the Civic Licensing Committee to allow the applicant to have legal representation.