

FALKIRK COUNCIL**MINUTE of MEETING of the CIVIC LICENSING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 17 NOVEMBER 2010 at 9.30 A.M.**

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

CONVENER: Councillor Nicol.

ATTENDING: Acting Director of Law and Administration Services; Licensing Co-ordinator (B Douglas); Solicitor (F Kobiela), and Committee Officer (A Sobieraj).

DECLARATION OF INTEREST: Councillor Nicol declared a non-financial interest in item 8 (CL60) as the applicant was known to him as an acquaintance, and while he did not consider that this fell foul of the Code of Conduct, he had determined nevertheless that he would take no part in consideration of this item of business.

CL53. MINUTE

There was submitted and **APPROVED** Minute of Meeting of the Civic Licensing Committee held on 20 October 2010.

CL54. ORDER OF BUSINESS

In terms of Standing Order 15.2(i), Councillor Nicol advised of a variation 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.

CL55. 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.

CL56. APPLICATION FOR THE RENEWAL OF A WINDOW CLEANER'S LICENCE

The applicant, Mr C, Chief Inspector G Taylor, Sergeant B Daye and Mr N McLean, Licensing Officer, Central Scotland Police, all entered the meeting.

There was submitted Report (circulated) dated 10 November 2010 by the Acting Director of Law and Administration Services on an application for the renewal of a window cleaner's 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 Committee heard that, while the representation from Central Scotland Police had been submitted outwith the time limit referred to in the Civic Government (Scotland) Act 1982,

this was because notice of the application to the police had been given late. The Committee accordingly agreed that there was sufficient reason to receive the representation.

Mr C spoke in support of the application.

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

The Acting Director of Law and Administration Services clarified procedures in relation to consideration of the applicant's spent convictions following which the Committee resolved that justice could not be done except by admitting said convictions as part of the process. The applicant confirmed that he had no objection to this. The list of spent convictions was thereafter circulated to Committee.

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

The applicant, Mr C, Chief Inspector Taylor, Sergeant Daye and Mr McLean left and were then recalled to the meeting.

AGREED to **RENEW** the licence for a period of six months from the date of the meeting together with a warning letter and subject to the standard conditions.

CL57. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE (CONTINUATION)

The applicant, Mr S, was not in attendance. Chief Inspector G Taylor, Sergeant B Daye and Mr N McLean entered the meeting. The Licensing Co-ordinator advised that, although notice of the meeting had been issued timeously to the applicant, the date of the meeting referred to in the notice had been incorrect. While an amended notice was issued, it did not give the necessary period of notice. Attempts to contact the applicant by phone had been unsuccessful.

AGREED that a short adjournment take place to establish whether contact could be made with the applicant.

Chief Inspector G Taylor, Sergeant B Daye and Mr N McLean left and were then recalled to the meeting.

The Committee **AGREED** to **CONTINUE** the matter until later on in the agenda to allow the Licensing Co-ordinator and the representatives from Police to continue their efforts to contact the applicant.

CL58. APPLICATION FOR THE RENEWAL OF LATE HOURS CATERING LICENCE NUMBER 172

A representative of the applicant company, Mr K, and Mr B McMillan, Area Estates Co-ordinator, entered the meeting.

There was submitted Report (circulated) dated 10 November 2010 by the Acting Director of Law and Administration Services on an application for the renewal of a late hours

catering licence (a) advising of the background to the application; (b) detailing the consultations undertaken and the responses received; and (c) attaching as appendices the late hours catering conditions and a location plan.

Prior to consideration of the application, clarification was sought regarding Mr K's relationship to the applicant company. Mr K confirmed that he was a Director of the applicant company.

Mr B McMillan, Area Estates Co-ordinator, spoke in amplification of his objection based on the licenceholder having failed to comply with condition 4 of the late hours catering licence. A copy of a memorandum dated 26 July 2010 to the Licensing Section, constituting the objection, and the photographs referred to therein were circulated to the Committee.

Mr K 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 six months from the date of the meeting, subject to the standard conditions and that the situation be closely monitored by appropriate officers to ensure that the applicant complies with the licensing conditions, and
- (2) that should a future renewal application be received, the application should be referred to Committee and not dealt with under delegated powers.

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

CL59. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE

The applicant, Mr H, entered the meeting.

There was submitted Report (circulated) dated 10 November 2010 by the Acting Director of Law and Administration Services 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 H 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 six months from the date of the meeting together with a warning letter and subject to the standard conditions, and
- (2) that should a future renewal application be received, the application should be referred to Committee and not dealt with under delegated powers.

In accordance with his declaration of interest Councillor Nicol left the meeting and Provost Reid took the Chair for the following item of business.

CL60. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE

The applicant, Mr McK, entered the meeting.

There was submitted Report (circulated) dated 10 November 2010 by the Acting Director of Law and Administration Services 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 McK 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 six months from the date of the meeting together with a warning letter and subject to the standard conditions, and
- (2) that should a future renewal application be received, the application should be referred to Committee and not dealt with under delegated powers.

Councillor Nicol re-entered the meeting following consideration of the foregoing item of business and took the Chair for the following items.

CL61. 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 10 November 2010 by the Acting Director of Law and Administration Services on an application for the grant of a new private hire car 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 B spoke in support of the application. The applicant submitted a letter of explanation from himself and this was received by the Committee.

Questions were then asked by Members of the Committee.

AGREED to **GRANT** the licence for a period of one year and subject to the standard conditions.

CL62. APPLICATION FOR THE RENEWAL OF A TAXI DRIVER LICENCE (CONTINUED)

Chief Inspector G Taylor, Sergeant B Daye and Mr N McLean, Licensing Officer, Central Scotland Police, all entered the meeting.

With reference to Minute of Meeting of the Civic Licensing Committee held on 8 September 2010 (Paragraph CL38) and part consideration at this meeting (CL57), Chief

Inspector Taylor advised that officers of Central Scotland Police had now spoken to Mr S at his home address. Mr S had indicated that he was unwell and therefore could not be present at the Committee. He had intended to contact the Licensing Co-ordinator to this effect but had not been able to do so. In addition, he indicated the letter of notification of the meeting was sent to him five days previously.

Questions were then asked by Members of the Committee.

Following clarification from the Licensing Co-ordinator **AGREED** to **CONTINUE** consideration of this item of business to a future meeting to ensure that the statutory period of notice was given.

CL63. CONTINUATION OF SUSPENSION HEARING IN RELATION TO LATE HOURS CATERING LICENCES NOS. 046, 047, 049, 073 AND 184

Mr and Mrs D, together with their representative Mrs Hamilton, Chief Inspector G Taylor, Sergeant Daye and Mr N McLean, Central Scotland Police, all entered the meeting.

With reference to Minute of Meeting of the Civic Licensing Committee held on 20 October 2010 (Paragraph CL52 refers), there was submitted Report (circulated) dated 10 November 2010 by the Acting Director of Law and Administration Services (a) outlining the nature of the complaint; and (b) attaching as an appendix, a copy of a Report submitted to the Civic Licensing Committee on 20 October 2010. The matter had been continued from that meeting at the request of the licensee's representative as she had a prior engagement at Falkirk Sheriff Court that afternoon.

The Convener sought clarification from Mrs Hamilton, the licensee's representative, that she was satisfied that the matter be considered afresh with the present Members, on the basis that no matters of substance were considered by Committee at the previous meeting. Mrs Hamilton advised that she was satisfied that the matter be heard afresh.

Mrs Hamilton was heard in relation to the complaint lodged by Central Scotland Police, noting in particular her preliminary point that criminal charges were pending and her client, Mr D, would therefore be limited in what could be said to the Committee at this time in respect of the complaint. Mrs Hamilton submitted that this would be prejudicial to her client and requested a continuation to a future meeting.

Chief Inspector Taylor advised that due to the serious nature of the complaint, the Police were of the opinion that the hearing should proceed and that the letter of complaint should be considered.

Mrs Hamilton also advised that Mr D was no longer a Director of the company and had resigned due to stress in September 2010.

Members therefore considered whether Mr D continued to have a management role in the company and heard from Mrs Hamilton, Chief Inspector Taylor and Mrs D.

A newspaper article was then circulated to Members by Central Scotland Police and clarification was sought from Mrs Hamilton.

Following discussion in relation to a number of procedural matters, the Committee adjourned and reconvened with all Members present as per the sederunt, with the exception of Councillor Hughes.

After consideration, the Committee **AGREED**:-

- (1) that the licence holder not being a natural person, Mr D remained a person responsible for its management in accordance with paragraph 11(2) of Schedule 1 to the Civic Government (Scotland) Act 1982, and
- (2) that it would reserve its position with regard to the request for a further continuation pending circulation of the letter of complaint.

On an issue being raised among Members, the Committee adjourned again for a short period and reconvened with all Members present as per the sederunt, with the exception of Councillor Hughes.

Chief Inspector Taylor then spoke in amplification of the police complaint in response to which Mrs Hamilton spoke briefly and questions were asked by Members of the Committee.

The Committee adjourned again for a short period and reconvened with all Members present as per the sederunt, with the exception of Councillor Hughes.

Councillor Nicol, seconded by Provost Reid, moved that the matter be continued to a future meeting, to take place after the conclusion of court proceedings or should they not conclude as anticipated in January/February 2011, to the next available meeting of the Committee.

By way for an Amendment, Councillor Nimmo, seconded by Councillor Thomson, moved that the hearing should continue and be brought to a conclusion at this meeting.

On a division, 5 Members voted for the Motion and 4 Members voted for the Amendment.

Accordingly, **AGREED** to **CONTINUE** the matter to a future meeting, to take place after the conclusion of court proceedings or should they not conclude as anticipated in January/February 2011, to the next available meeting of the Committee.