

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held by video conference on Wednesday, 10 June 2020 at 2.00 p.m.

Present: Councillors Ian Dickson, Caroline McAllister, Jonathan McColl, Lawrence O'Neill and Brian Walker.

Attending: Raymond Lynch, Section Head (Licensing); Robert Mackie, Senior Officer (Licensing Services); Lawrence Knighton, Licensing Standards Officer and Nuala Borthwick, Committee Officer.

Also Attending: Sergeant Wendy Maginnis, Licensing Sergeant, Police Scotland.

Apologies: Apologies for absence were intimated by Councillors Jim Finn and Marie McNair.

Councillor Jonathan McColl in the Chair

CHAIR'S REMARKS

Councillor McColl, Vice Convener, welcomed everyone to the June meeting of the Licensing Committee which was being held remotely, in terms of Section 18B of the Civic Government (Scotland) Act 1982.

Accordingly, the Vice Convener advised that a process/procedure had been developed for the meeting (a copy of which had previously been circulated to Members). Thereafter, the Committee agreed to note the procedure in place for the conduct of the meeting and the meeting then commenced by video conferencing.

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest in any of the items of business on the agenda.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 5 February 2020 were submitted and approved as a correct record.

OPEN FORUM

The Committee noted that no open forum questions had been submitted by members of the public.

EXCLUSION OF PRESS AND PUBLIC

The Committee approved the following resolution:-

“That under Section 50A(4) of the Local Government (Scotland) Act, 1973 the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Paragraph 14 of Part 1 of Schedule 7A of the Act.”

HEARING REGARDING POSSIBLE SUSPENSION OR REVOCATION OF A TAXI DRIVER’S/PRIVATE HIRE CAR DRIVER’S LICENCE

A report was submitted by the Strategic Lead – Regulatory concerning a request from the Chief Constable of Police Scotland for the suspension of a Taxi Driver's/Private Hire Car Driver's Licence.

Having heard the Section Head (Licensing), it was noted:-

- (a) that a letter had been received from the Chief Constable of Police Scotland on 20 May 2020 requesting the immediate suspension of a Taxi Driver's/Private Hire Car Driver's Licence under Paragraph 11(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 complaining that the licence holder was no longer a fit and proper person to hold a licence on the grounds that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or public safety;
- (b) that, having consulted the Depute Convener of the Licensing Committee it was decided that, due to the content of the letter received from Police Scotland, the Taxi Driver's/Private Hire Car Driver's Licence should be suspended with immediate effect under Paragraph 12 of Schedule 1 of the Act;
- (c) that in view of the request for suspension of the licence received from Police Scotland, the licence holder and a representative of Police Scotland had been invited to attend the meeting in order that a hearing may take place;
- (d) to note that the licence holder had previously attended the Licensing Committee on 18 September 2018 having been the subject of a comment submitted by Police Scotland in relation to an application to grant the Temporary Taxi Driver's/Private Hire Car Driver's Licence. After consideration, Members had agreed to grant the Temporary Taxi Driver's/Private Hire Car Driver's Licence for a period of 6 weeks;

- (e) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting;
- (f) that the applicant's current licence expired on 22 November 2020;
- (g) that, in view of the request for suspension of the licence from Police Scotland, the licence holder and a representative of Police Scotland had been invited to attend the meeting in order that a hearing may take place;
- (h) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting; and
- (i) that the matters which the Committee were required to consider in relation to paragraph (c) above were as follows:-
 - (i) whether the alleged misconduct had been established;
 - (ii) if the Committee was satisfied that the alleged misconduct had been established, whether, having regard to the misconduct, the licence holder was no longer a fit and proper person to hold a Taxi Driver's/Private Hire Car Driver's Licence;
 - (iii) if the Committee was of the opinion that the licence holder was no longer a fit and proper person, then the Committee must consider whether the licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give the licence holder the opportunity to be heard on the length of the suspension and the date from which the suspension should commence;
 - (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension; and
 - (vi) that if the Committee was satisfied that the circumstances of the case justified revocation, the Committee must then consider whether this revocation should be immediate.

It was noted that the licence holder and a representative of Police Scotland, Sergeant Maginnis, were in attendance.

The Committee then heard from the Senior Officer (Licensing Services) in relation to the applicant's previous convictions included in the Police letter submitted to the meeting of the Licensing Committee on 18 September 2018. Sergeant Maginnis was then heard in relation to the current letter from Police Scotland dated 20 May 2020. Thereafter the applicant and Sergeant Maginnis were heard in response to Members' questions concerning the details provided in the letter from Police Scotland.

The licence holder was then given an opportunity to address the Committee in relation to the suspension request and was heard in answer to questions from Members.

ADJOURNMENT

Having heard the Chair, Councillor McColl, the Committee agreed to adjourn at 2.40 p.m. for a short period.

The Committee resumed at 2.46 p.m. with all Members shown in the sederunt in attendance.

DECIDED:-

Following consideration and having heard the Section Head (Licensing) in clarification of proceedings and the Senior Officer (Licensing Services) in answer to Members' questions, the Committee agreed:-

- (1) to note that the licence holder's licence was currently suspended;
- (2) that the alleged misconduct by the licence holder had been established;
- (3) that the licence holder was no longer a fit and proper person to hold a Taxi Driver's/Private Hire Car Driver's Licence;
- (4) that the licence be suspended with immediate effect for the duration of the remaining period of the licence on the grounds that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or public safety; and
- (5) to note that should no action be taken in relation to the licence holder's pending court proceedings, the suspension of the licence could be reconsidered and may be recalled by the Licensing Committee at a future meeting/special meeting.

The meeting closed at 2.55 p.m.