

SPECIAL LICENSING COMMITTEE

At a Special Meeting of the Licensing Committee held in the Council Chamber, Clydebank Town Hall, Dumbarton Road, Clydebank on Wednesday, 1 November 2017 at 2.10 p.m.

Present: Councillors Jim Brown, Ian Dickson, John Mooney, Marie McNair, Jonathan McColl 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: Constable Alison Simpson, Police Scotland.

Apology: Apologies for absence were intimated on behalf of Councillors Jim Finn and Lawrence O'Neill.

Councillor Jonathan McColl in the Chair

CHAIR'S REMARKS

Having heard the Chair, Councillor McColl, the Committee agreed to adjourn for a period of 10 minutes to allow applicants and objectors to arrive given the road blockage caused by a road traffic incident on the A82.

DECLARATIONS OF INTEREST

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

APPLICATION FOR GRANT OF A PRINCIPAL STREET TRADER'S LICENCE

Name and Address of Applicant

Date Applied

Duncan Wrethman
5 Cordale Avenue
Renton
G82 4QF

14 July 2017

With reference to the Minutes of Meeting of the Licensing Committee held on 11 October 2017, a report was submitted by the Strategic Lead – Regulatory concerning an application for grant of a Principal Street Trader's Licence by the above named person.

It was noted:-

- (a) that Mr Wrethman had submitted an application for grant of a Principal Street Trader's Licence to Council on 14 June 2017;
- (b) that Mr Wrethman was applying to operate a snack van on ground leased from West Dunbartonshire Council in an area off Levenside Road, located within Vale of Leven Industrial Estate on Monday to Friday from 7 am till 3 pm and on Saturday from 7 am until 1 pm;
- (c) that 6 letters of objection were received plus one additional petition opposing the siting of the snack van within Vale of Leven Industrial Estate;
- (d) that, having consulted West Dunbartonshire Roads and Transportation Services, no objection or representation was received. They had however, advised that there was a traffic order in place for Levenside Road, including the area adjacent to the location Mr Wrethman had leased from the Council, which would involve the road being marked with double yellow lines;
- (e) that at the meeting on 11 October 2017 the Committee agreed to continue the application to a Special Meeting of the Licensing Committee in order that a Senior Officer from West Dunbartonshire Roads and Transportation Services be invited to attend to answer any relevant questions from Members;
- (f) that in view of the objections received, the applicant and each of the individuals who had submitted an objection to the application had been invited to attend the meeting;
- (g) that Mr Derek Barr, Roads Co-ordinator, West Dunbartonshire Roads and Transportation Services was in attendance at the meeting to provide information in relation to the Traffic Regulation Order in place on Levenside Road and to answer any relevant questions from Members;
- (h) Mr Stuart Gibson, Asset Co-ordinator, West Dunbartonshire Asset Management Section was in attendance at the meeting to provide information in relation to the ground leased from West Dunbartonshire Council;
- (i) that no police objection or representation had been received in relation to the application;
- (j) that Mr Wrethman was in attendance at the meeting;
- (k) that 3 objectors to the application, namely Mr Martyn Harris, Ms Robina Simpson and Mr Angus McMillan, were in attendance and wished to address the Committee; and

- (l) that 3 members of the Committee had attended a site visit to Vale of Leven Industrial Estate to view the proposed location of the snack van.

The Committee then heard from Mr Knighton, Licensing Standards Officer in relation to the siting of the snack van within Vale of Leven Industrial Estate.

Thereafter, the Committee heard from Mr Barr, Roads Co-ordinator. In response to questions from Members, Mr Barr advised that the Road Traffic Order for the area had recently been refreshed due to inconsiderate/illegal parking on Levenside Road, including the area adjacent to the location that Mr Wrethman had leased from the Council, and that plans were in place for the road to be marked with double yellow lines on both sides when a weather window became available.

The objectors to the application were invited to address the Committee and were heard in respect of their objections.

Mr Wrethman was then invited to address the Committee. He was heard in support of his application and in answer to Members' questions.

The Section Head (Licensing) was then heard in answer to Members' questions and in clarification of Schedule 1 Paragraph 5(3) of the Civic Government (Scotland) Act 1982, the grounds for refusal of a Principal Street Trader's Licence.

Following consideration of the application, Councillor McNair, seconded by Councillor McColl, moved:-

That the application be granted given that in their opinion that there were no grounds for refusal.

As an amendment, Councillor Dickson, seconded by Councillor Brown, moved:-

That the application be refused in terms of Schedule 1, Paragraph 5(3)(c) of the Civic Government (Scotland) Act 1982 that the location is not suitable or convenient for the conduct of the activity.

On a vote being taken 2 Members voted for the motion and 4 Members voted for the amendment which was accordingly declared carried.

DECIDED

That the application be refused in terms of Schedule 1, Paragraph 5(3)(c) of the Civic Government (Scotland) Act 1982 that the location is not suitable or convenient for the conduct of the activity.

VARIATION IN THE ORDER OF THE AGENDA

Having heard the Chair, Councillor McColl, the Committee agreed that the business be varied as hereinafter minuted.

EXCLUSION OF PRESS AND PUBLIC

The Committee passed 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 items 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 REQUEST FOR SUSPENSION 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 on 29 September 2017, a letter had been received from the Chief Constable of Police Scotland requesting the immediate suspension of the Taxi Driver’s/Private Hire Car Driver’s Licence under Paragraph 12(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the carrying on of the activity to which the licence related was likely to cause a serious threat to public safety;
- (b) that, having consulted with the Chair of the Licensing Committee it was decided that, due to the content of the letter received from the Police, the Taxi Driver’s/Private Hire Car Driver’s Licence held by the licence holder be suspended with immediate effect under Paragraph 12 of Schedule 1 to the Act;
- (c) that the licence holder’s current Taxi Driver’s/Private Hire Car Driver’s Licence expires on 1 March 2018;
- (d) that the Chief Constable of Police Scotland had also requested the suspension of the licence under Paragraph 11 of Schedule 1 to the 1982 Act whereby a licensing authority may order the suspension of a licence under Paragraph 11 if, in its opinion, the holder of the licence is not, or is no longer, a fit and proper person to hold the licence;
- (e) 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;

- (f) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting; and
- (g) that the matters which the Committee were required to consider in relation to paragraph (e) 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 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 his licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give the licence holder an opportunity of being heard on the length of the suspension and the date from which the suspension should commence; and
 - (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension.

It was noted that the licence holder and her legal representative, Mr Paul, Jonathan Paul Solicitors and a representative of Police Scotland, Constable Simpson, were in attendance.

The Committee then heard from Constable Simpson who provided details of the offence allegedly committed by the licence holder in relation to the request for suspension of the licence and answered questions from Members. It was noted that a trial date of 15 January 2018 had been set. It was also noted that the letter from Police Scotland contained factual inaccuracies and, following questioning by Members, these points were clarified by Constable Simpson at the meeting.

Thereafter, the licence holder and her legal representative, Mr Paul, were given the opportunity to address the Committee on the circumstances detailed in the letter from Police Scotland.

Thereafter, the licence holder, Constable Simpson and the Senior Officer (Licensing Services) were heard in answer to questions from Members and in relation to the circumstances relating to the alleged offences, as detailed in the letter from Police Scotland.

DECIDED:-

After consideration, the Committee agreed:-

- (1) that the alleged misconduct had not been established and that the licence holder remained a fit and proper person to hold a taxi/private hire car driver's licence; and
- (2) that the Clerk would write to the Licensing Sergeant seeking an explanation for factual inaccuracies contained in the letter from Police Scotland.

HEARING REGARDING POSSIBLE SUSPENSION OF A LATE HOURS CATERING 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 Late Hours Catering Licence.

Having heard the Section Head (Licensing), it was noted that notification had been received from the licence holder that he was no longer operating the business. It was noted that the business had been under different ownership since 2 January 2016 and was no longer trading beyond 11.00 p.m. therefore the Late Hours Catering Licence was no longer in existence.

HEARING REGARDING REQUEST FOR SUSPENSION 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 9 October 2017 requesting the immediate suspension of a Taxi Driver's/Private Hire Car Driver's Licence under Paragraph 12(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 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 on receipt of the letter from the Chief Constable of Police Scotland, having consulted with the Chair 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 be suspended with immediate effect under Paragraph 12 of Schedule 1 to the Act;
- (c)/

- (c) that an immediate suspension under Paragraph 12 of Schedule 1 to the Act had effect for six weeks or, if earlier, until the Licensing Committee made a decision on whether to suspend the licence under Paragraph 11 of Schedule 1 to the Act;
- (d) that the licensing authority may order a suspension of a licence under Paragraph 11 of Schedule 1 to the Act if, in its opinion, the holder of the licence is not, or is no longer, a fit and proper person to hold the licence or if the carrying on of the activity to which the licence relates is likely to cause a threat to public safety;
- (e) that the licensing authority must, before deciding to suspend a licence under Paragraph 11 of Schedule 1 to the Act, give the holder of the licence and the Chief Constable of Police Scotland an opportunity of being heard;
- (f) 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;
- (g) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting;
- (h) that the licence holder was not in attendance and that an email had been received from his legal representative advising that the licence holder had been remanded in custody, that no trial date had been set for the outstanding criminal case and requesting that the Hearing be continued until the outcome of the criminal proceedings;
- (i) that a representative of the Police Scotland, Constable Simpson, was in attendance at the meeting;
- (j) that the matters which the Committee were required to consider in relation to paragraph (d) 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 or whether the carrying on of the activity to which the licence relates is likely to cause a threat to public safety;
 - (iii) if the Committee was of the opinion that the licence holder was no longer a fit and proper person or that the carrying on of the activity to which the licence relates is likely to cause a threat to public safety, then the Committee must consider whether his licence should be suspended;

- (iv) if the Committee is satisfied that the licence should be suspended, the Committee must give the licence holder an opportunity of being heard on the length of the suspension and the date from which the suspension should commence; and
- (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension.

A copy of the email from the applicant's solicitor requesting a continuation of the hearing was circulated to Members for information.

The Committee then heard from Constable Simpson in relation to the request for suspension and in answer to Members' questions concerning the licence holder being held on remand.

DECIDED:-

Following consideration and having heard the Section Head (Licensing) in answer to Members' questions, the Committee agreed:-

- (1) that the alleged misconduct had been established and 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;
- (2) that the Committee was of the opinion that the licence holder was no longer a fit and proper person to hold a taxi driver's licence; and
- (3) that the period of suspension would be the remainder of the duration of the licence.

HEARING REGARDING REQUEST FOR SUSPENSION 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 on 11 October 2017, a letter had been received from the Chief Constable of Police Scotland requesting the suspension of the Taxi Driver's/Private Hire Car Driver's Licence under Paragraph 11(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the licence holder is no longer a fit and proper person to hold a licence;
- (b) that the licence holder's current Taxi Driver's/Private Hire Car Driver's Licence expired on 27 October 2018;

- (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) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting; and
- (e) that the matters which the Committee was required to consider in relation to paragraph (e) 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 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 his licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give the licence holder an opportunity of being heard on the length of the suspension and the date from which the suspension should commence; and
 - (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension.

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

The Committee then heard from Constable Simpson who provided details of the offence allegedly committed by the licence holder in relation to the request for suspension of the licence and answered questions from Members. It was noted that the court case had now been continued until 8 November 2017.

The Committee then heard from the licence holder who provided details of the offence allegedly committed by the licence holder in relation to the request for suspension of the licence and answered questions from Members.

DECIDED:-

After consideration, the Committee agreed that the alleged misconduct had not been established and that the licence holder remained a fit and proper person to hold a taxi/private hire car driver's licence.

The meeting closed at 3.42 p.m.