

LICENSING COMMITTEE

At a Special Meeting of the Licensing Committee held in the Council Chamber, Council Offices, Garshake Road, Dumbarton on Wednesday, 30 August 2017 at 10.00 a.m.

Present: Councillors Jim Brown, Ian Dickson, Jonathan McColl, John Mooney, Lawrence O'Neill and Brian Walker.

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

Also Attending: Sergeant Angela Walker, Police Scotland.

Apology: An apology for absence was intimated on behalf of Councillor Jim Finn.

Councillor Jonathan McColl in the Chair

DECLARATIONS OF INTEREST

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

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 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 THE POSSIBLE SUSPENSION OF A LATE HOURS CATERING LICENCE

A report was submitted by the Strategic Lead – Regulatory requesting consideration of a possible suspension of a Late Hours Catering Licence following a complaint which had been submitted by Police Scotland.

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

- (a) that a letter had been received from the Chief Constable of Police Scotland requesting the immediate suspension of the Late Hours Catering Licence under Paragraph 12(1) and making a complaint under Paragraph 11(2)(a) & (c) of Schedule 1 to the Civic Government (Scotland) Act 1982, on the grounds that the holder of the licence is no longer a fit and proper person and that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public safety;
- (b) that, having consulted with the Strategic Lead – Regulatory, the request for the immediate suspension of the licence, under Paragraph 12(1) had not been granted on this occasion;
- (c) that copies of the letter from Police Scotland dated 4 August 2017 had been issued to members of the Committee in advance of the meeting;
- (d) that the matters which the Committee was required to consider were as follows:-
 - (i) whether the alleged misconduct had been established;
 - (ii) if the Committee was satisfied that 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 late hours catering 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 an opportunity to be 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;
- (e) that the licence holder, his solicitor, Mr Cairns, Cairns Brown Solicitors and Mr Dalawer Singh, Interpreter, Global Connects Glasgow were in attendance and that Mr Singh provided interpreting services throughout the meeting; and
- (f) that Sergeant Walker was in attendance on behalf of Police Scotland.

The Committee then heard from Sergeant Walker in relation to the letter from Police Scotland and in answer to Members questions.

Thereafter, a copy of the Licensing Committee's previous decision on the Application for Grant of a Late Hours Catering Licence and the letter of objection from Police Scotland dated 3 March 2015 objecting to that application, were circulated at the meeting. It was noted that a matter detailed within the letter dated 3 March 2015 was now a conviction and details of the incident were included in the letter dated 4 August 2017 relating to the suspension hearing.

Thereafter, the licence holder and his solicitor, Mr Cairns, addressed the Committee on the circumstances detailed in the letter from the Police authority and were heard in answer to Members' questions.

A letter from the licence holder's accountant was circulated at the meeting providing information relating to persons employed at the premises and advising of the business' heavy reliance on the late hours catering licence for its turnover and profitability.

At the request of the Chair, the Section Head (Licensing) then clarified the legal position relating to Section 11(2)(a) and (c) of the Civic Government (Scotland) Act 1982 and thereafter both the Section Head (Licensing) and Mr Cairns were heard in answer to Members' questions.

ADJOURNMENT

After hearing Councillor McColl, Chair, the Committee agreed to adjourn for a short period, to enable Mr Cairns to discuss details of the incident which led to the conviction detailed within the letter from Police Scotland dated 4 August 2017.

The meeting resumed at 11.35 a.m. with all members and officers listed in the sederunt in attendance. The Committee then heard from Mr Cairns in relation to the circumstances that led to the conviction and in answer to Members' questions.

DECIDED:-

After discussion and having heard the Section Head (Licensing) in clarification of the proceedings and in answer to Members' questions, the ¹Committee agreed:-

- (1) that the alleged misconduct by the licence holder had been established;
- (2) that, having regard to the misconduct, the licence holder was no longer a fit and proper person to hold a Late Hours Catering Licence; and
- (3) that having regard to the misconduct, the carrying on of the activity to which the licence relates has caused, or is likely to cause a threat to public safety.

The Committee then considered whether the licence should be suspended. Councillor Mooney, seconded by Councillor Dickson, moved:-

¹ As corrected by the Licensing Committee at its meeting on 11 October 2017.

The Committee agree that the licence be suspended.

As an amendment, Councillor O'Neill, seconded by Councillor McColl, moved:-

That the Committee is not satisfied that the licence be suspended.

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

ADJOURNMENT

After hearing Councillor McColl, Chair, the Committee agreed to adjourn for a short period, to enable Mr Cairns to consider the implications of a suspension and the length of a suspension with the licence holder.

The meeting resumed at 12.15 p.m. with all members and officers listed in the sederunt in attendance.

The Committee then gave Mr Cairns, on behalf of the licence holder, the opportunity to be heard on the length of suspension and thereafter Mr Cairns answered questions from Members on the effects of a suspension and possible commencement date of the suspension.

Following consideration, the Committee agreed:-

- (1) that the licence be suspended for a period of two weeks in terms of Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982;
- (2) that the suspension would commence on Thursday, 28 September 2017 and would end on Wednesday, 11 October 2017; and
- (3) that Licensing Standards Officers would meet with the licence holder and all members of staff to provide advice on the sale of alcohol to minors and on general compliance with the law.

The meeting closed at 12.28 p.m.