

LICENSING COMMITTEE

At a Special Meeting of the Licensing Committee held by video conference on Wednesday, 17 March 2021 at 2.00 p.m.

Present: Councillors Ian Dickson, Jim Finn, Caroline McAllister and Jonathan McColl.

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

Also Attending: Police Constable Raymond Borland, Police Scotland.

Apologies: Apologies for absence were intimated on behalf of Councillors Marie McNair, Lawrence O'Neill and Brian Walker.

Councillor Jim Finn in the Chair

CHAIR'S REMARKS

Councillor Finn, Chair, welcomed everyone to the meeting which was being held remotely, in terms of Section 18B of the Civic Government (Scotland) Act 1982.

Accordingly, the Chair 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 continued 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.

PRINCIPAL STREET TRADER'S LICENCE – UPDATE

A report was submitted by the Chief Officer – Regulatory and Regeneration providing an update on the grant of a Principal Street Trader's Licence to Mr Kieran Kilpatrick, 2 Wyvis Quadrant, Blairdardie, Glasgow G13 4LX.

It was noted that Mr Kilpatrick was in attendance at the meeting and was heard in answer to Members' questions.

DECIDED:-

After consideration and having heard the Section Head (Licensing) in further explanation of the report and in answer to Members' questions, the Committee agreed:-

- (1) to note the terms of the report including the update provided by Section Head (Licensing) in respect of the current updated planning position; and
- (2) that the Section 45H Compliance Notice in terms of the Civic Government (Scotland) Act 1982 would remain in place until such time as the retrospective application for planning permission is submitted in accordance with the separate planning procedures.

EXCLUSION OF PRESS AND PUBLIC

Having heard the Section Head (Licensing) in relation to the undernoted items of business, the Committee agreed to approve 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 Chief Officer – Regulatory and Regeneration concerning a request from the Chief Constable of Police Scotland for the suspension or revocation of a Taxi Driver's/Private Hire Car Driver's Licence.

Having heard the Section Head (Licensing) in further explanation of the report, it was noted:-

- (a) that a letter had been received from the Chief Constable of Police Scotland on 12 February 2021 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 relates was likely to cause a serious threat to public order or 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, that the Taxi Driver's/Private Hire Car Driver's Licence held by the licence holder

should be suspended with immediate effect under Paragraph 12 of Schedule 1 to the Act;

- (c) that the Chief Constable had also requested 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 complaining that the licence holder was no longer a fit and proper person to hold a licence and also that the carrying on of the activity to which the licence relates was likely to cause undue nuisance or to be a threat to public order or public safety;
- (d) 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 could take place;
- (e) that the licence holder's current Taxi Driver's/Private Hire Car Driver's Licence had an expiry date of 1 December 2021;
- (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 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 and also whether the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or safety;
 - (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, Constable Raymond Borland, were in attendance. The Committee then heard from Constable Borland in relation to the letter from Police Scotland. Thereafter, both Constable Borland and the licence holder answered questions from Members.

Thereafter, the licence holder was given an opportunity to address the Committee on the circumstances detailed in the letter from Police Scotland and was again heard in answer to questions from Members.

DECIDED:-

After consideration and having heard the Section Head (Licensing) and the Senior Officer (Licensing Services) in further explanation of proceedings, it was agreed:-

- (1) that the alleged misconduct had been established; and
- (2) that the misconduct did not form grounds for suspending or revoking the licence at this time.

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

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

Having heard the Section Head (Licensing) in further explanation of the report, it was noted:-

- (a) that a letter had been received from the Chief Constable of Police Scotland on 19 February 2021 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 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 with the Chief Officer – Regulatory and Regeneration, it was decided that an immediate suspension was not appropriate in the circumstances under Paragraph 12 of Schedule 1 to the Act;
- (c) that the Chief Constable had also requested 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 complaining that the licence holder was no longer a fit and proper person to hold a licence and also that the carrying on of the activity to which the licence relates was likely to cause undue public nuisance or to be a threat to public order or public safety;

- (d) 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 could take place;
- (e) that the licence holder's current Taxi Driver's/Private Hire Car Driver's Licence had an expiry date of 13 May 2021 (extended by 3 months due to temporary changes to the Civic Government (Scotland) Act 1982, brought about by the Coronavirus (Scotland) Act 2020);
- (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 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 on the part of the licence holder, this had a bearing;
 - (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, Constable Raymond Borland, were in attendance. The Committee then heard from Constable Borland in relation to the letter from Police Scotland. Thereafter, both Constable Borland and the licence holder answered questions from Members.

Thereafter, the licence holder was given an opportunity to address the Committee on the circumstances detailed in the letter from the Police authority and was again heard in answer to questions from Members.

DECIDED:-

After consideration and having heard the Section Head (Licensing) and the Senior Officer (Licensing Services) in further explanation of proceedings, it was agreed:-

- (1) that the alleged misconduct had been established; and
- (2) that the misconduct did not form grounds for suspending or revoking the licence at this time.

The meeting closed at 2.50 p.m.