

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held by video conference on Wednesday, 21 October 2020 at 2.00 p.m.

Present: Councillors Ian Dickson, Jim Finn, Jonathan McColl, and Brian Walker.

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

Also Attending: Sergeant Wendy Maginnis, Licensing Sergeant and Constable Raymond Borland, Police Scotland.

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

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.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 9 September 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

Having heard the Section Head (Licensing) in relation to the undernoted item 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 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) and the Senior Officer (Licensing Services) in further explanation of the report, it was noted:-

- (a) that a letter had been received from the Chief Constable of Police Scotland on 16 September 2020 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 Vice 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 a serious threat to public order or 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 had previously held a Taxi/Private Hire Car Driver's for 1 year between March 2015 and March 2016 but did not apply for the renewal of the licence. The licence holder had been the subject of a previous request for the immediate suspension of the licence at that time but having failed to apply for renewal, the suspension request had fallen. The licence holder then re-applied for the grant of a Taxi/Private Hire Car Driver's Licence in July 2018 and following an objection received from Police Scotland, the licence was granted for one year with the subsequent renewal being granted under delegated powers having received no adverse comment from Police Scotland at the time of the renewal in 2019;
- (f) that the licence holder's current Taxi Driver's/Private Hire Car Driver's Licence had an expiry date of 12 September 2020 and that to date, an application for renewal had not been received. However due to temporary changes to the Civic Government (Scotland) Act 1982, brought about by the Coronavirus (Scotland) Act 2020, applicants had a 3 month period in which they could apply for renewal after the expiry date of their current licence. In effect, the licence holder had until 12 December 2020 to apply for renewal of the licence;
- (g) that a verbal summary of the licence holder's previous matters considered by the Committee was provided for Members' information;
- (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 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 representatives of Police Scotland, Sergeant Wendy Maginnis, Licensing Sergeant and Constable Raymond Borland were in attendance. The Committee then heard from Constable Borland in relation to the letter from Police Scotland, advising the Committee of the updated position on the matter. 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 both he and Constable Borland were 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 and that a warning letter be issued to the licence holder.

The meeting closed at 2.40 p.m.