

**EAST AYRSHIRE COUNCIL**

**LOCAL GOVERNMENT LICENSING PANEL**

**MINUTES OF MEETING HELD ON THURSDAY 27 OCTOBER 2005 AT 1000 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

**PRESENT:** Councillors Jim O'Neill, Daniel Coffey, Isabella Macrae and George Smith.

**ATTENDING:** David Mitchell, Head of Administrative and Legal Services; John F Crawford, Head of Protective Services; David Johnstone, Licensing and Community Safety Manager; and Sharon McHarg, Administrative Officer.

**APOLOGIES:** Councillors Jim Raymond, Gordon Cree, John Weir, Harry Wilson, William Menzies, Neil McGhee and Elaine Stewart.

**CHAIR:** Councillor Jim O'Neill, Chair.

**CHAIR**

1. In the absence of Councillor Raymond, it was agreed that Councillor O'Neill take the Chair.

**EXCLUSION OF PRESS AND PUBLIC**

2. The Panel resolved that under Section 50A(4) of the Local Government (Scotland) Act 1973, as amended, the Press and public be excluded from the Hearings relating to the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 3 of Schedule 7A of the Act.

**ORDER OF BUSINESS**

3. The Chair, at his discretion and in terms of Standing Order 19, agreed to alter the order of business.

**APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE - GEORGE FERGUSON**

4. There was submitted a report dated 23 September 2005 (circulated) by the Executive Director of Neighbourhood Services which invited the Panel to consider, by way of a Hearing, an application for the grant of a Taxi Driver's Licence.

The Chair outlined the agreed Hearing Procedure.

**4.1 Hearing**

The Panel heard Chief Inspector Lawrence, representing Strathclyde Police, in explanation of the Police observations, and George Ferguson, the applicant, who spoke to the matters raised, all in accordance with the agreed Hearing Procedure.

The applicant and the Police Representatives then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

#### **4.2 Decision**

It was agreed that the application for the grant of a Taxi Driver's Licence be granted for a period of 3 years subject to the standard conditions.

The applicant was further advised that any offences or complaints brought to the attention of the Panel in future would be likely to be severely dealt with.

### **APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE - ANN WATSON**

5. There was submitted a report dated 21 September 2005 (circulated) by the Executive Director of Neighbourhood Services which invited the Panel (a) to consider whether or not to entertain an out-of-time representation from Strathclyde Police; and (b) if so, to agree to consider by way of a Hearing, the application for grant of a Taxi Driver's Licence.

The Chair heard Chief Inspector Lawrence explain that the nature and extent of the enquiries which required to be undertaken had precluded the Chief Constable from meeting the statutory timescales. Ms Watson, the applicant, confirmed that she had no objection to the Police representation being accepted by the Panel.

The Panel, being satisfied that there was sufficient reason for the submission from the Chief Constable not being made timeously, agreed (i) to accept the late submission from Strathclyde Police (then circulated); and (ii) to determine the application by way of a Hearing.

The Head of Administrative and Legal Services outlined the agreed Hearing Procedure.

#### **5.1 Hearing**

The Panel heard Chief Inspector Lawrence, representing Strathclyde Police, in explanation of the Police representation, and the applicant, who spoke to the matters raised, all in accordance with the agreed Hearing Procedure.

The applicant and the Police Representatives then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

#### **5.2 Decision**

It was agreed that the application for the grant of a Taxi Driver's Licence be granted for a period of twelve months, subject to the standard conditions.

The applicant was further advised that any offences or complaints brought to the attention of the Panel in future would be likely to be severely dealt with.

### **APPLICATION FOR GRANT OF A STREET TRADER'S LICENCE - EDWARD FINDLAY AND APPLICATION FOR GRANT OF A STREET TRADER'S (EMPLOYEE) LICENCE – STEWART AITKEN**

6. As a preliminary matter, the Head of Administrative and Legal Services advised the Panel that a letter had been received on 26 October 2005 from the Solicitor of

Edward Findlay and Stewart Aitken requesting that both hearings be continued to a future meeting of the Panel.

The Panel invited Edward Findlay and Stewart Aitken into the meeting to seek clarification on the preliminary matter. Edward Findlay and Stewart Aitken advised that they were not aware that their solicitor had submitted a written request that both hearings be continued and further requested that both hearings proceed in the absence of a solicitor.

The Panel adjourned at 1040 hours to allow the Panel to take and consider legal advice on the matter. The Panel reconvened with the same Members and Officers present at 1050 hours.

## **6.1 APPLICATION FOR GRANT OF A STREET TRADER'S LICENCE – EDWARD FINDLAY**

There was submitted a report dated 27 September 2005 (circulated) by the Executive Director of Neighbourhood Services which invited the Panel (a) to consider whether or not to entertain an out-of-time objection from Strathclyde Police; (b) to consider whether to receive information relevant to the applicant's spent convictions, in accordance with the Rehabilitation of Offenders Act 1974, as amended; and (c) if appropriate, to agree to consider, by way of a Hearing, the application for grant of a Street Trader's Licence.

The Chair advised the applicant that the Panel had agreed that Stewart Aitken (employee) could be in attendance during the hearing as a representative/advisor for Mr Findlay. Stewart Aitken then re-entered the meeting.

The Head of Administrative and Legal Services confirmed that the Panel had agreed to proceed with a Hearing in respect of Mr Findlay's application and then outlined the agreed Hearing Procedure.

In respect of the first preliminary matter, the Panel then heard Chief Inspector Lawrence, representing Strathclyde Police, explain that the nature and extent of the enquiries which required to be undertaken had precluded the Chief Constable from meeting the statutory timescales.

Mr Findlay confirmed that he objected to the Police representation being accepted by the Panel out of time, on the grounds that he believed that if he had submitted late information, this would not have been accepted.

The Head of Administrative and Legal Services advised that the Civic Government (Scotland) Act 1982 allowed 21 days for objections, however, in certain circumstances where there was a justifiable reason for not meeting the required timescales, the Act allowed the Panel discretion.

The Panel, being satisfied that there was sufficient reason for the submission from the Chief Constable not being made timeously, agreed to accept the late objection from Strathclyde Police, which was then circulated to the Panel members.

The Panel then heard from both parties in respect of the second preliminary matter, before determining to receive a letter (then circulated) from Strathclyde Police providing information relevant to the applicant's spent convictions in terms of the Rehabilitation of Offenders Act 1974, as amended.

### **6.1.2 Hearing**

The Panel heard Chief Inspector Lawrence, representing Strathclyde Police, in explanation of the Police objections, and the applicant, who spoke to the matters raised, all in accordance with the agreed Hearing Procedure.

The applicant, Mr Aitken and the Police Representatives then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

### **6.1.3 Decision**

It was agreed that the application for the grant of a Street Trader's Licence be refused on the grounds that the applicant was not a fit and proper person to be the holder of such a licence.

## **6.2 APPLICATION FOR GRANT OF A STREET TRADER'S (EMPLOYEE) LICENCE - STEWART AITKEN**

The Panel noted that Stewart Aitken had withdrawn his application following the refusal of the application for grant of a street trader's licence for Edward Findlay.

The meeting terminated at 1140 hours.