

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 21 DECEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Willie Hume
Councillor Jan Brown	Councillor Mark Irvine
Councillor Amanda Hampsey	Councillor Andrew Kain
Councillor Daniel Hampsey	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace
Councillor Fiona Howard	

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
PC Raymond Borland, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

Councillor Graham Hardie declared a non-financial interest in this application as he knew the Applicant personally. He left the meeting and took no part in the determination of this application.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI DRIVER LICENCE (S OSBORNE, HELENSBURGH)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by video call, by audio call or by written submission. For this hearing Police Scotland opted to proceed by way of audio call and PC Raymond Borland joined the meeting by telephone.

At a Civic Hearing held on 22 June 2022 in respect of this application, it was agreed not to make a decision at that time and to continue consideration until the outcome of court proceedings or until December 2022, whichever was earlier.

It was noted that only those Members who participated in the hearing on 22 June 2022 could participate in the continuation of the hearing. On that basis, Councillor Daniel Hampsey left the meeting at this point.

The Chair advised the Committee that this Application would need to be continued until January 2023 due to Royal Mail delays/industrial action preventing the Applicant from receiving 14 days' notice of this hearing, in compliance with the 1982 Act (Schedule 1, Section 4 (2)). Consequently, the Application would become a "deemed grant" by default upon the expiry date for determination of the Application by the Licensing Authority, which would fall on 6 January 2023 (as per Section 3(b) of the 1982 Act).

The Chair also advised that all avenues had been explored in terms of making a determination before the expiry date, noting that due to the scheduled public holidays on 26 and 27 December 2022 and on 2 and 3 January 2023, it would not be possible to give the Applicant 14 days' notice of a hearing being held on or before that date in compliance with the 1982 Act (Schedule 1, Section 4 (4)).

The Council's Solicitor, Fiona Macdonald, further advised that the normal 28 day appeal period for Objectors would not apply in this case as it had been deemed to have been granted under Section 3(4) of the 1982 Act. She pointed out that if Police Scotland were of a view that the "deemed grant" of this Application would pose a risk on the grounds of undue public nuisance or a threat to public order or public safety, they could lodge a request for the immediate suspension of the Licence. She advised that the Council as Licensing Authority, would not be able to act on any request received until 6 January 2023, being the expiry date of the Application. If necessary, the Executive Director with responsibility for Legal & Regulatory Support could act on the request for an immediate suspension following that date, and thereafter convene a Suspension Hearing with the appropriate period of notice given to all parties to attend.

PC Borland confirmed that due to the nature of the offence a request would likely be made by Police Scotland for the immediate suspension of this Licence. He confirmed the dates of the Intermediate Diet and for the Trial.

DECISION

The Committee:

1. agreed that further consideration of the Application would need to be continued as the Applicant had not received 14 days' notice of this hearing being held;
2. noted that as a consequence of this continuation, this Application would become a "deemed grant" upon the expiry date for consideration of the Application by the Licensing Authority on 6 January 2023 as it would not be possible to give the Applicant 14 days' notice of a rescheduled hearing on or before that date;
3. noted that the normal 28 day appeal period for Objectors would not apply in this case; and
4. noted the options open to Police Scotland if they considered the "deemed grant" of this Application would pose a risk on the grounds of undue public nuisance or a threat to public order or public safety.

(Reference: Report by Head of Legal and Regulatory Support, submitted)