

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Council Chamber, Clydebank Town Hall, Dumbarton Road, Clydebank on Wednesday, 7 August 2019 at 10.00 a.m.

Present: Councillors Jim Brown, Ian Dickson, Marie McNair and Lawrence O'Neill.

Attending: Raymond Lynch, Section Head (Licensing); Robert Mackie, Senior Officer (Licensing Services); Lawrence Knighton, Licensing Standards Officer, Carolann Anderson, Licensing Assistant and Nuala Borthwick, Committee Officer.

Also Attending: Constable Alison Simpson, Police Scotland.

Apologies: Apologies for absence were intimated on behalf of Councillors Jim Finn, Jonathan McColl and Brian Walker.

APPOINTMENT OF CHAIR

In the absence of the Chair, Councillor Finn, and Vice Chair, Councillor McColl, it was agreed that Councillor Dickson would chair the meeting.

Accordingly, Councillor Dickson assumed 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.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 19 June 2019 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.

**CONTINUED APPLICATION FOR GRANT OF A TAXI/
PRIVATE HIRE CAR DRIVER'S LICENCE**

Name and Address of Applicant

Date Applied

Mark Shields
Flat 2, Quebec House
Clydebank
G81 4QP

15 February 2019

With reference to the Minutes of Meeting of the Licensing Committee held on 10 April 2019, a report was submitted by the Strategic Lead – Regulatory concerning an Application for Grant of a Taxi/Private Hire Car Driver's Licence for the above named person.

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

- (a) that a letter dated 13 March 2019 had been received from the Chief Constable of Police Scotland submitting an objection in relation to the application and that copies of the letter had been circulated to Members in advance of the meeting;
- (b) that Mr Shields had previously attended a meeting of the Licensing Committee on 7 January 2019 where a hearing was held to determine an application for the grant of a Temporary Taxi/Private Hire Car Driver's Licence following receipt of a comment from Police Scotland and that the Committee had granted the application for a period of six weeks;
- (c) that Mr Shields had attended the meeting of the Licensing Committee held on 10 April 2019 where Members had agreed that the current application be continued to 7 August 2019;
- (d) that the Committee had previously agreed to consider a separate letter which had been submitted at the meeting of the Licensing Committee on 10 April 2019 detailing the applicant's previous convictions which were considered "protected" in terms of the Rehabilitation of Offenders Act 1974 and that copies of this letter had been circulated to Members in advance of the meeting;
- (e) that in view of the objection from Police Scotland, the applicant and a representative of Police Scotland had been invited to attend the meeting in order that a hearing could take place; and
- (f) that both the applicant and a representative of Police Scotland, Constable Alison Simpson, were in attendance at the meeting.

The Committee then heard from Constable Simpson in relation to both letters from Police Scotland.

Thereafter, Mr Shields was given the opportunity to address the Committee in support of his application and was heard in answer to Members' questions in connection with the circumstances relating to matters provided by Police Scotland.

DECIDED:-

Following discussion and having heard the Section Head (Licensing) and the Senior Officer (Licensing Services) in further explanation and in answer to Members' questions, it was agreed that the application be granted for a period of one year and that Mr Shields' first application for renewal of licence would be referred to the Committee for consideration and determination.

APPLICATION FOR GRANT OF A TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE

(a) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Asif Khan 67 Risk Street Dumbarton G82 1SG	27 March 2019

A report was submitted by the Strategic Lead – Regulatory concerning an Application for Grant of a Taxi/Private Hire Car Driver's Licence for the above named person.

Having heard the Section Head (Licensing), it was noted that the application had been withdrawn by the applicant.

(b) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Darren Gallacher 10 Briar Drive North Kilbowie Clydebank G81 3HX	19 June 2019

A report was submitted by the Strategic Lead – Regulatory concerning an Application for Grant of a Taxi/Private Hire Car Driver's Licence for the above named person.

Having heard the Section Head (Licensing), it was noted that the applicant had advised officers in advance of the meeting that he would be unable to attend the Hearing and had requested that the matter be continued to a future date.

DECIDED:-

After consideration, the Committee agreed that the application be continued to the next scheduled meeting of the Licensing Committee to be held on 4 September 2019.

APPLICATIONS FOR RENEWAL OF A TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE

<u>Name and Address of Applicant</u>	<u>Date Applied</u>
Stuart Douglas Flat 3/1, 79 Beardmore Place Dalmuir Clydebank G81 4HU	4 June 2019

A report was submitted by the Strategic Lead – Regulatory concerning an Application for Renewal of a Taxi/Private Hire Car Driver's Licence.

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

- (a) that a letter dated 2 July 2019 had been received from the Chief Constable of Police Scotland advising that further enquiries were being made following which their response would be submitted;
- (b) that two further letters were received from the Chief Constable of the Police authority on 4 July 2019. The first letter provided an explanation for the late response whilst the second letter contained the Police submission in relation to the representation to the application;
- (c) that the letter of representation from the Chief Constable was received on 4 July 2019 and in terms of the legislation, a representation with respect to an application should be submitted within 28 days of receipt of the application. As Mr Douglas' application was submitted on 4 June 2019, any representation should have been submitted by 2 July 2019. There is, however, provision in the legislation for a Licensing authority to entertain a late representation which had been received before a final decision had been made on the application if the licensing authority was satisfied that there had been sufficient reason why the representation had not been made in the time required;
- (d) that it would be a matter for the Committee to decide initially whether the late representation from the Police should be taken into consideration; and
- (e) that both the applicant and a representative of Police Scotland, Constable Alison Simpson, were in attendance at the meeting.

The Committee then agreed that the Police representation would be taken into consideration. Copies of the letter containing the representation were accordingly circulated to Members of the Committee and the Committee heard from Constable Simpson in relation to the letter of representation.

The Committee heard from Mr Douglas in support of his application and in relation to the circumstances detailed in the letter from Police Scotland. Thereafter, Mr Douglas answered questions from Members.

DECIDED:-

After consideration, it was agreed that the application be granted.

**APPLICATION FOR TEMPORARY TAXI/PRIVATE HIRE
CAR DRIVER'S LICENCE**

Name and Address of Applicant

Date Applied

James Johnston
5 Lusset Glen
Old Kilpatrick
G60 5DD

28 May 2019

A report was submitted by the Strategic Lead – Regulatory concerning an Application for Renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

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

- (a) that a letter had been received from the Chief Constable of Police Scotland on 6 June 2019 submitting a comment in relation to the application;
- (b) that in view of the letter from Police Scotland, the applicant and a representative of Police Scotland had been invited to attend the meeting of the Committee in order that a hearing could take place;
- (c) that the applicant had held a Taxi Driver's/Private Hire Car Driver's Licence prior to submitting the application for Temporary Licence however the licence had expired on 29 April 2019. It was further noted that Mr Johnston had requested a 28 day extension which effectively extended the duration of his licence until 27 May 2019. As Mr Johnston had failed to submit the application within the 28 day period, he was no longer able to apply for a renewal and instead had to apply for a grant; and
- (d) that both the applicant and a representative of Police Scotland, Constable Alison Simpson, were in attendance at the meeting.

The Committee then heard from Constable Simpson in relation to the letter from Police Scotland.

Thereafter, Mr Johnston was given the opportunity to address the Committee in support of his application.

DECIDED:-

After consideration, the Committee agreed that the application be granted for a period of 6 weeks.

HEARING REGARDING POSSIBLE SUSPENSION OR REVOCATION OF A PRINCIPAL STREET TRADER'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 Principal Street Trader's Licence held by Paul Duncan.

Having heard the Section Head (Licensing), it was noted that Mr Duncan had surrendered his Principal Street Trader's Licence and therefore the licence ceased to have effect.

APPLICATION FOR VARIATION TO A PRINCIPAL STREET TRADER'S LICENCE

Name and Address of Applicant

Date Applied

Lori Serapiglia
34 Tweed Drive
Bearsden
G61 1EJ

8 May 2019

A report was submitted by the Strategic Lead – Regulatory concerning an Application for Variation to a Principal Street Trader's Licence.

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

- (a) that the licence currently held by Mrs Serapiglia allowed her to operate on the following days, times and locations:-

Each Day:- 10.30 a.m. – 10.30 pm.
Whitecrook

- (b) that the application for variation to the existing Principal Street Trader's Licence requested the addition of the following locations:-

Monday – Friday:- 12.00 p.m. – 11.00 p.m.
Dalmuir, Boquhanran, Radnor and North Drumry

Monday – Friday:- 12.00 p.m. – 2.00 p.m.
Clydebank High School, Janetta Street (adjacent to the curtilage of Clydebank High School); and

- (c) that the locations and times which Mrs Serapiglia was seeking to add to her existing licence had been listed on the licence of the aforementioned Principal Street Trader which had since been surrendered; and

- (d) that the applicant was on holiday and that Mr Campbell, the applicant's father and employee, was in attendance at the meeting.

The Committee then heard from Mr Campbell in support of the application. It was noted that Mrs Serapiglia no longer wished to include the location of Clydebank High School in her application during the duration of school hours.

DECIDED:-

After consideration, the Committee agreed that the amended application be granted as undernoted:-

Monday – Friday:- 12.00 p.m. – 11.00 p.m.
Dalmuir, Boquhanran, Radnor Park and North Drumry

TEMPORARY PUBLIC ENTERTAINMENT LICENCES FOR COMMERCIAL FUNFAIRS, FIREWORKS EVENTS AND LIVE AMPLIFIED MUSIC EVENTS

A report was submitted by the Strategic Lead – Regulatory:-

- (a) providing information on the current procedure for notification requirements on receipt of applications for temporary public entertainment licences (commercial funfairs, firework events and live amplified music events); and
- (b) seeking consideration on whether the Committee would wish to amend current procedure for notification requirements to include additional notification requirements by the applicant.

DECIDED:-

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

- (1) to impose additional notification requirements on applicants requesting a temporary public entertainment licence for a commercial funfair, a firework event or a live amplified music event:
- (2) to delegate authority to the Strategic Lead – Regulatory to decide the revised procedure so that an applicant for a commercial funfair, firework event or live amplified music event would have to display a notice at or near to the site, and that the local Council would advertise the application in the relevant local newspaper at the applicant's cost. This cost would be reflected in an increased fee for an application for a commercial temporary public entertainment licence;

- (3) that all relevant Community Councils, local ward Elected Members and Members of the Licensing Committee would be informed of such applications who would require to provide these additional notification requirements; and
- (4) that the advertisement requirements for temporary public entertainment licences would be for a period of 14 days, and that any relevant representations/objections would be made to the Clerk to the Licensing Committee within 14 days of publication of such notifications. Thereafter, in the event that any relevant objections or representations were received, the Committee would determine such applications where the applicant had applied timeously which would require to be within three months of the proposed event.

EXCLUSION OF PRESS AND PUBLIC

The Committee passed the following resolution for agenda items 13 and 14 as undernoted:-

“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), it was noted:-

- (a) that a letter had been received from the Chief Constable of Police Scotland on 23 May 2019 requesting the suspension of a 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 on the grounds that a condition of the licence had been breached;
- (b) that at the meeting of the Committee held on 19 June 2019, the Committee agreed to the licence holder's request to continue consideration of the Suspension of the Taxi Driver's/Private Hire Car Driver's Licence to the meeting of the Licensing Committee being held on 7 August 2019;
- (c) that the applicant's current licence expired on 31 August 2019 however an application for Renewal of the Licence had been submitted on 2 May 2019;

- (d) that, in view of the request for suspension of the licence from Police Scotland, the licence holder and a representative of Police Scotland had been invited to attend the meeting in order that a hearing may take place;
- (e) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting; and
- (f) that the matters which the Committee were 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;
 - (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 Simpson, were in attendance.

The Committee then heard from Constable Simpson in relation to the letter from Police Scotland and in answer to Members' questions. Thereafter, the licence holder was given an opportunity to address the Committee on the circumstances detailed in the letter from Police Scotland and in answer to Members' questions.

DECIDED:-

After consideration, the Committee agreed:-

- (1) that the alleged misconduct had not been established; and
- (2) that the licence holder remained a fit and proper person to hold a taxi/private hire car driver's licence.

**APPLICATIONS FOR RENEWAL OF A TAXI/
PRIVATE HIRE CAR DRIVER'S LICENCE**

Name and Address of Applicant

Date Applied

Gerard Divers
11B Cowal View
Duncan Street
Clydebank
G81 3DF

2 May 2019

A report was submitted by the Strategic Lead – Regulatory concerning an Application for Renewal of a Taxi/Private Hire Car Driver's Licence.

After hearing the Section Head (Licensing), it was noted:-

- (a) that a letter had been received from the Chief Constable of the Police authority on 23 May 2019 submitting an objection in relation to the application;
- (b) that at the meeting of the Licensing Committee held on 19 June 2019, the Committee had agreed to continue consideration of the application for renewal of a Taxi Driver's/Private Hire Car Licence to the meeting of the Licensing Committee on 7 August 2019;
- (c) that Mr Divers' current Taxi Driver's/Private Hire Car Driver's Licence was due to expire on 31 August 2019; and
- (d) that the applicant, Mr Divers and a representative from Police Scotland, Constable Simpson, were in attendance in order that a hearing could take place.

The Committee then heard from Constable Simpson in answer to a Member's questions¹.

DECIDED:-

After consideration, the Committee agreed that the application be granted.

The meeting closed at 10.47 a.m.

¹ As corrected by the Licensing Committee at its meeting on 4 September 2019.