

## **LICENSING COMMITTEE**

At a Meeting of the Licensing Committee held in the Education Centre, St. Margaret of Scotland Hospice, East Barns Street, Clydebank on Tuesday, 1 March 2011 at 12.00 noon.

**Present:** Councillors Jim Brown, Geoff Calvert, Jim Finn, Douglas McAllister, Jonathan McColl, Ronnie McColl and Willie McLaughlin.

**Attending:** Nigel Ettles, Principal Solicitor; Robert Mackie, Senior Licensing Officer; Jim McArthur, Licensing Officer (Enforcement) and Nuala Borthwick, Committee Officer, Legal, Administrative and Regulatory Services.

**Councillor Jim Finn in the Chair**

### **DECLARATIONS OF INTEREST**

It was noted that there were no declarations of interest in relation to any of the items of business on the agenda.

### **MINUTES OF PREVIOUS MEETING**

The Minutes of Meeting of the Licensing Committee held on 11 January 2011 were submitted and approved as a correct record.

### **DUMBARTON AND ALEXANDRIA TOA – TAXI BOOKING OFFICE LICENCE – COMPLAINTS**

With reference to the Minutes of Meeting of the Licensing Committee held on 11 January 2011 (Pages 3367/3368 refer), a report was submitted by the Head of Legal, Administrative and Regulatory Services:-

- (a) advising of complaints against the Dumbarton and Alexandria TOA; and
- (b) providing information on the ongoing dispute between the TOA and drivers.

The Committee heard from the Principal Solicitor who advised that the report had been continued from the meeting of the Licensing Committee held on 11 January 2011 to enable Members of the Committee to ask questions of the TOA and that the report had been amended slightly to take account of the Application for grant of a Taxi Booking Office Licence by Alexandria and Dumbarton TOA Ltd.

The Committee then heard from Mr Steven Docherty, Solicitor, Wright, Johnston & Mackenzie LLP who was in attendance on behalf of Dumbarton and Alexandria TOA. Mr Docherty addressed the Committee on the issues referred to in the report and in doing so, stated that the matters raised in the report in relation to the running of TOA were entirely private matters for the TOA. Mr Docherty also stated that TOA were legally entitled to withdraw services from drivers if they wished to do so and that those drivers who had been excluded from receiving taxi referrals from the TOA had been taking taxi referrals from the TOA whilst advising passengers of their own services. He further stated that the TOA had not acted contrary to their constitution. Following the allegations made against the TOA which had been reported in the press and elsewhere, the matters had been fully disposed of as detailed in the report.

Thereafter, the Senior Officer (Licensing Services) and Mr Docherty were heard in answer to Members' questions concerning the allegations made against excluded drivers and how these allegations had been dealt with by both the Council as Licensing Authority and the TOA.

Following further questioning, Mr Docherty stated that the excluded drivers had not been reported to the Licensing Authority as the TOA had preferred to deal with the allegations internally and had acted within its powers and in terms of the Constitution in doing so. It was noted that there had been no investigation into the allegations, no opportunity for review of the decision to exclude the drivers and no right of appeal for excluded drivers.

Following discussion and having heard the Senior Officer (Licensing Services) in answer to Members' questions, the Committee agreed to take no further action in relation to the complaints, agreed to urge the TOA and the excluded drivers to take steps to resolve their differences and agreed to urge the TOA to take on board the comments made in relation to reporting incidents to the licensing authority in the future.

### **APPLICATION FOR GRANT OF TAXI BOOKING OFFICE LICENCE**

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Taxi Booking Office Licence submitted by Alexandria and Dumbarton TOA Ltd., 107 Main Street, Alexandria.

Having heard the Principal Solicitor, it was noted:-

- (a) that 12 letters of objection had been received in relation to the application for the grant of a Taxi Booking Office Licence and that all of the objections had been received late;
- (b) that in view of the objections that had been received in relation to the application, the applicant and the objectors had been invited to attend the meeting in order that a hearing may take place;

- (c) that the applicant was represented at the meeting by Mr Steven Docherty, Solicitor, Wright Johnston & Mackenzie LLP and the objectors in attendance were Mr John Lavery and Councillor Jim Bollan;
- (d) that in terms of the relevant legislation, an objection with respect to an application should have been submitted within 21 days of display of the notice of the application. As the Certificate of Compliance for display of Alexandria and Dumbarton TOA Ltd's Application Notice had advised that the Notice had been displayed from 20 January 2011, any objection should have been submitted by 10 February 2011. There is, however, provision in the legislation for the Licensing Authority to entertain a late objection which has been received before a final decision has been made on an application if the Licensing Authority was satisfied that there had been sufficient reason why the objection had not been made in the time required;
- (e) that 9 of the 12 late letters of objection received had referred to the Application Notice not being displayed for the 21 day period; and
- (f) that it would be a matter for the Committee to decide initially whether the Application Notice was displayed properly.

Mr Docherty was then given an opportunity to address the Board and stated that the Application Notice had been displayed for the statutory 21 day period, from 20 January 2011 to 10 February 2011 and that Mr Jim McArthur, Licensing Officer (Enforcement) had viewed the Application Notice displayed at the premises on 7 February 2011.

Having heard the Principal Solicitor in clarification, it was noted that letters of objection had been posted late and that 9 of the 12 letters had advised that the Application Notice had not been displayed for the statutory 21 day period. The Principal Solicitor then advised that 2 objectors were in attendance and wished to comment on whether the Application Notice had been displayed for the 21 day period.

Thereafter Mr Lavery was invited to come forward and advised that he and other taxi drivers had an avid interest in the application and as such passed the premises every day. Mr Lavery then advised that the Application Notice was not on display at the premises until 7 or 8 February 2011 and that the Notice was displayed at a height of approximately 10 feet high and that he was unable to read it.

Thereafter, having heard the Licensing Officer (Enforcement) in response to a question from Councillor R. McColl, it was noted that on 7 February 2011, the Licensing Officer (Enforcement) had witnessed the Application Notice displayed at the premises at a height of approximately 5 foot 10 inches and that he was able to read the Notice.

Thereafter, Councillor Bollan was invited to come forward to address the Committee on this aspect of his objection.

In relation to a point raised by Mr Docherty concerning the competency of Councillor Bollan's objection given that it was received via email, the Committee agreed to hear from Councillor Bollan in relation to the period for which the Application Notice had been displayed.

Thereafter, the Committee heard from Councillor Bollan in support of continuation of the application to enable it to be advertised for a period of 21 days in accordance with the Civic Government (Scotland) Act 1982.

Copies of the Certificate of Compliance in respect of the posting of the Notice were distributed to Members of the Committee.

Following discussion and having heard the Principal Solicitor in answer to Members' questions, the Committee agreed:-

- (1) that the application be continued to the next meeting of the Licensing Committee to enable the Application Notice to be displayed at the premises for a period of 21 days commencing from 7 March 2011; and
- (2) that Licensing Officers be instructed to visit the premises on 7 March 2011 to ensure that the Application Notice is displayed in accordance with the requirements of the Civic Government (Scotland) Act 1982.

### **ADJOURNMENT**

After hearing Councillor Finn, the Committee agreed to adjourn for a period of 5 minutes.

The meeting reconvened at 1.07 p.m. with all those Members shown on the Sederunt in attendance.

### **VARIATION IN ORDER OF BUSINESS**

At this point in the meeting the Committee agreed to vary the order of business as hereinafter minuted.

### **APPLICATION FOR RENEWAL OF TAXI/ PRIVATE HIRE CAR DRIVER'S LICENCE**

(a) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Michael McGlashan 203 O'Hare Bonhill Alexandria G83 9DX	28 October 2010

With reference to the Minutes of Meeting held on 11 January 2011 (Pages 3371/3372 refer), a report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for renewal of a Taxi/Private Car Hire Driver's Licence by the above named person.

Following hearing the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the applicant;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Sergeant Stewart, were in attendance.

The Committee heard Sergeant Stewart in relation to the representation which had been submitted and in answer to Members' questions.

Thereafter, the Principal Solicitor provided details from a letter received from Mr McGlashan in which Mr McGlashan gave his response to the pending case against him.

Mr McGlashan was then given the opportunity to address the Committee in support of the application.

Following discussion and having heard the Principal Solicitor and Sergeant Stewart in answer to Members' questions, the Committee agreed that the application be granted on the basis that a report on the possible suspension of the licence would be submitted to the Committee should the applicant be convicted of the charge against him.

#### **APPLICATION FOR GRANT OF TAXI/PRIVATE HIRE DRIVER'S LICENCE**

##### **Name and Address of Applicant**

##### **Date Applied**

William Currie  
160 Braehead  
Alexandria  
G83 9ND

10 November 2010

With reference to the Minutes of Meeting of the Licensing Committee held on 11 January 2011 (Pages 3369/3370 refer), a report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that at the meeting on 11 January 2011, the Committee had agreed that the late representation by the Police would be taken into consideration;
- (b) that Members had decided to continue Mr Currie's application to the next meeting of the Committee in order that the outcome of a report to the Procurator Fiscal for an alleged contravention of the Civic Government (Scotland) Act 1982, Section 7(4) against the applicant may be known;
- (c) that notification of Mr Currie's report to the Procurator Fiscal for a Contravention of the Civic Government (Scotland) Act 1982, Section 7(4) had been received from Strathclyde Police on 7 February 2011 and stated that a pleading diet had been held on 2 February 2011, marked 'continued without plea' until 23 February 2011; and
- (d) that in view of the representation, the applicant and a representative of the Police authority had been invited to attend the meeting.

It was noted that the applicant and the representative of the Police authority, Sergeant Stewart, were in attendance.

It was also noted that a further pleading diet was scheduled for 16 March 2011 and that the application could be continued to the meeting of the Committee scheduled to be held on 3 May 2011.

The Committee then heard from Sergeant Stewart in relation to the representation which had been submitted and in answer to Members' questions. The applicant was then given the opportunity to address the Committee in support of the application and was heard in answer to Members' questions.

Councillor J. McColl proposed a motion but failed to find a seconder.

After consideration and having heard the Principal Solicitor and Sergeant Stewart in answer to Members questions, Councillor Calvert, seconded by Councillor McAllister, moved:-

That the application be granted.

As an amendment, Councillor R. McColl, seconded by Councillor Brown, moved:-

That the application be refused on the ground that the applicant was not a fit and proper person to be the holder of a Taxi/Private Hire Car Driver's Licence.

On a vote being taken, 3 Members voted for the motion and 4 Members voted for the amendment, which was accordingly declared carried.

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

<b>(b)     <u>Name and Address of Applicant</u></b>	<b><u>Date Applied</u></b>
Thomas Walker 13A Ellinger Court Dalmuir Clydebank G81 4PB	3 December 2010

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

After hearing the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Constable of the Police authority making a representation in relation to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

The Committee then heard Sergeant Stewart in relation to the Police representation and in answer to a question from a Member.

Thereafter, the applicant was invited to come forward. With the permission of the Chair, the applicant provided details of a letter from his solicitor advising that he had been admonished in respect of the Breach of the Peace conviction dated 28 October 2010 as detailed in the letter from the Police.

Thereafter the applicant answered questions from Members, providing information on the circumstances relating to the convictions against him as detailed in the letter from the Police.

After consideration the Committee agreed that the application be continued to the next meeting of the Committee in order that the outcome of the pending case against the applicant may be known and that the applicant and a representative of the Police authority be again invited to attend the meeting.

(c) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Scott Patrick 325 Main Street Alexandria G83	10 January 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that the letter of 3 February 2011 from the Chief Superintendent, making a representation in relation to the application, had been received on 3 February 2011. In terms of the relevant legislation, a representation with respect to an application should have been submitted within 21 days of receipt of an application. As Mr Patrick's application had been submitted on 10 January 2011, any representation should have been submitted by 31 January 2011. There is, however, provision in the legislation for the Licensing Authority to entertain a late representation which has been received before a final decision has been made on an application if the Licensing Authority was satisfied that there had been sufficient reason why the representation had not been made in the time required;
- (c) that in view of the representation, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (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 the terms of the letter from the Police authority would be made known to the Committee as appropriate.

The Committee heard Sergeant Stewart who explained why the Police representation had been submitted outwith the statutory period.

The Committee agreed that the Police representation would be taken into consideration. Copies of the letter from the Police were accordingly circulated to Members of the Committee.



The Committee heard from Sergeant Stewart in relation to the representation which had been submitted and in answer to Members' questions. The applicant was then given the opportunity to address the Committee in support of his application. Thereafter the applicant answered questions from Members, providing information on the circumstances relating to the convictions against him and the alleged offence reported to the Procurator Fiscal, as detailed in the letter from the Police.

After consideration the Committee agreed that the application be granted for a period of one year.

### **APPLICATION FOR GRANT OF TEMPORARY STREET TRADER'S LICENCE**

#### **Name and Address of Applicant**

#### **Date Applied**

Martin Lawson  
16 Dewar Drive  
Drumchapel  
Glasgow  
G15 7TJ

12 January 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Temporary Street Trader's Licence by the above named person.

After hearing the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation in relation to the application;
- (b) that the letter from the Police had been received late; the Committee had discretion to consider the late representation if there was sufficient reason why the letter had been submitted late; and that it would be a matter for the Committee to decide whether to entertain the representation after hearing the representative of the Police authority with respect to this issue; and
- (c) that in view of the representation, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place.

It was noted that the applicant and a representative of the Police authority, Sergeant Stewart, were inattendance.

After hearing Sergeant Stewart, who explained why the representation had been submitted outwith the statutory period, the Committee agreed that the representation would be taken into consideration. Copies of the letter from the Police were accordingly circulated to Members of the Committee.

## ADJOURNMENT

Having heard Councillor McAllister in relation to the scheduled meeting of the Local Review Body due to commence at 2.00 p.m., the Committee agreed to continue with the remainder of the business and that the Committee Members and Officers of the Local Review Body be notified of the Licensing Committee's decision to continue beyond 2.00 p.m. Thereafter, the Committee agreed to adjourn at 2.49 p.m. for a short period of time.

At this point, the Committee Officer left the meeting to advise those Members and Officers who had arrived at the venue to attend the meeting of the Local Review Body of the Licensing Committee's decision to continue with the business.

The meeting resumed at 2.54 p.m. with all those Members shown on the sederunt in attendance.

Sergeant Stewart was then heard in relation to the representation and in answer to questions from Members. The applicant was then given the opportunity to address the Committee in support of his application and he explained the background with respect to the incidents referred to in the letter from Police. The applicant was then heard in response to questions by Members of the Committee.

After consideration, the Committee agreed that the application be granted for a period of 6 weeks and agreed that, should the applicant apply for a full licence, the application for a full licence would be referred to a meeting of the Committee for consideration and the applicant would be invited to attend that meeting.

## APPLICATION FOR GRANT OF LATE HOURS CATERING LICENCE

### **Name and Address of Applicant**

### **Date Applied**

Steve Tomlin (t/a McDonald's)  
15 Dennistoun Road  
Langbank  
PA19 6XH

29 October 2010

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Late Hours Catering Licence by the above named person.

After hearing the Principal Solicitor, it was noted:-

- (a) that the applicant was seeking a licence to allow him to open the restaurant 7 days per week between the hours of 11.00 p.m. and 1.00 a.m.;
- (b) that there was no Police objection or representation in relation to the application;

- (c) that in recent years, applications for late hours catering have generally been granted by the Committee subject to the operating hours being restricted to co-relate to the closing hours of the nearest licensed premises, i.e. the late hours catering premises being allowed to operate until 30 minutes after the closing time of the nearest public house or nightclub; and
- (d) that the nearest licensed premises in relation to McDonald's Restaurant is the Atlantis, 246/262 Kilbowie Road, Clydebank and John Brown's Bar, 1-3 & 6 Chalmers Street, Clydebank. Both premises are licensed from Sunday to Thursday until 12 midnight and on Friday and Saturday until 1.00 a.m.

The applicant was then given the opportunity to address the Committee in support of his application.

After discussion and having heard the Principal Solicitor and the applicant in answer to Members' questions, the Committee agreed that the application be granted for three years, subject to the operating hours being restricted as undernoted:-

On Sundays to Thursdays	11.00 p.m. to 12.30 a.m. the following day
On Fridays and Saturdays	11.00 p.m. to 1.00 a.m. the following day

#### **APPLICATION FOR GRANT OF A PRINCIPAL STREET TRADER'S LICENCE**

##### **Name and Address of Applicant**

##### **Date Applied**

Jean-Ann MacDonald  
84 Windsor Crescent  
Clydebank  
G81 3JZ

25 January 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Principal Street Trader's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that Ms MacDonald was applying to take over the licence held by Mrs Cowan who operated in Kirkwood Avenue, Linnvale on Monday to Saturday from 4.00 p.m. until 7.30 p.m. and Clydebank High School on Monday to Friday from 11.30 a.m. until 2.00 p.m.;
- (b) that Ms McDonald was also applying to extend the area of operation to include streets within South Drumry; and
- (c) that there were no Police objections or representations with respect to Ms MacDonald's application.

It was noted that the applicant was inattendance and was accompanied by Mrs Cowan. Ms MacDonald was then given the opportunity to address the Committee in support of the application and was heard in answer to questions from Members.

After consideration the Committee agreed that the application be granted.

Note: Councillor R. McColl left the meeting at this point in the proceedings.

### **APPLICATION FOR GRANT OF A SKIN PIERCING AND TATTOOING LICENCE**

<b><u>Name and Address of Applicant</u></b>	<b><u>Date Applied</u></b>
Jeffrey Grimet 16 Braehead Bonhill Alexandria G83 9NA	13 January 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Skin Piercing and Tattooing Licence submitted by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a facsimilie was received from the Chief Superintendent of the Police authority on 8 February 2011 advising that the Chief Constable had a representation in make in relation to the application;
- (b) that the letter from the Police had been received late; the Committee had discretion to consider the late representation if there was sufficient reason why the letter had been submitted late; and that it would be a matter for the Committee to decide whether to entertain the representation after hearing the representative of the Police authority with respect to this issue; and
- (c) that in view of the representation, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place.

It was noted that the applicant and a representative of the Police authority, Sergeant Stewart, were in attendance.

After hearing Sergeant Stewart, who explained why the representation had been submitted outwith the statutory period, the Committee agreed that the representation would be taken into consideration. Copies of the letter from the Police were accordingly circulated to Members of the Committee.

Sergeant Stewart was then heard in relation to the representation and in answer to questions from Members. The applicant was then given the opportunity to address the Committee in support of his application and he explained the background with respect to the incidents referred to in the letter from Police. The applicant was then heard in response to questions by Members of the Committee.

The Committee agreed that the application be granted.

The meeting closed at 2.22 p.m.