

Agenda



Meeting of Licensing Committee

Date: Wednesday, 8 May 2019

Time: 10:00

Venue: Civic Space, Council Offices, 16 Church Street, Dumbarton

Contact: Nuala Borthwick, Committee Officer
Tel: 01389 737594 nuala.borthwick@west-dunbarton.gov.uk

Dear Member

Please attend a meeting of the **Licensing Committee** as detailed above. The business is shown on the attached agenda.

Yours faithfully

JOYCE WHITE

Chief Executive

Distribution:

Councillor Jim Finn (Chair)
Councillor Jim Brown
Councillor Ian Dickson
Councillor Jonathan McColl (Vice Chair)
Councillor Marie McNair
Councillor John Mooney
Councillor Lawrence O'Neill
Councillor Brian Walker

All other Councillors for information

Chief Executive
Strategic Director – Regeneration, Environment and Growth
Strategic Director – Transformation and Public Service Reform
Chief Officer of Health & Social Care Partnership

Date issued: 24 April 2019

LICENSING COMMITTEE

WEDNESDAY, 8 MAY 2019

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members are invited to declare if they have an interest in any of the undernoted items of business on this agenda and, if so, state the reasons for such declarations.

3 MINUTES OF PREVIOUS MEETING 5 - 10

Submit for approval as a correct record, Minutes of Meeting of the Licensing Committee held on 10 April 2019.

4 OPEN FORUM

The Committee is asked to note that no open forum questions have been submitted by members of the public.

5 CONTINUED APPLICATION FOR GRANT OF A TEMPORARY TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE 11 - 13

Name and Address of Applicant

Date Applied

Sean McElhill
82 Kirkwood Avenue
Linnvale
Clydebank
G81 2ST

31 January 2019

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

6 APPLICATION FOR GRANT OF A TEMPORARY TAXI/ PRIVATE HIRE CAR DRIVER'S LICENCE 15 - 16

Name and Address of Applicant

Date Applied

Jerome Fitzpatrick
Flat 0/2, 183 Glasgow Road
Clydebank
G81 1LQ

5 March 2019

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

7 EXCLUSION OF PRESS AND PUBLIC 17

The Committee is asked to consider 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.”

8 APPLICATION FOR GRANT OF A TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE 19 - 21

Name and Address of Applicant

Date Applied

Alasdair Kerr
12 Union Street
Old Bonhill
Alexandria
G83 9AH

13 March 2019

Submit report by the Strategic Lead - Regulatory concerning an Application for Grant of a Taxi/Private Hire Car Driver's Licence by the above name person.

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Civic Space, Council Offices, 16 Church Street, Dumbarton on Wednesday, 10 April 2019 at 10.00 a.m.

Present: Councillors Jim Brown, Ian Dickson, Jonathan McColl, Lawrence O'Neill and Brian Walker.

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

Also Attending: Sergeant Mairi Capaldi, Police Scotland.

Apologies: Apologies for absence were intimated on behalf of Councillors Jim Finn, Marie McNair and John Mooney.

Councillor Jonathan McColl in the Chair

CHAIR'S COMMENTS

Councillor McColl, Chair advised that Councillor Jim Finn, Convener of Licensing and Planning had recently undergone heart surgery and was recovering well at home. On behalf of the Committee, Councillor McColl wished Councillor Finn a speedy recovery.

DECLARATIONS OF INTEREST

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

VARIATION IN THE ORDER OF BUSINESS

Having heard the Chair, Councillor McColl, the Committee agreed to vary the business as hereinafter minuted.

MINUTES OF PREVIOUS MEETINGS

The following were submitted and approved as correct records:-

- (1) the Minutes of Meeting of the Licensing Committee held on 20 February 2019; and
- (2) the Minutes of Special Meeting of the Licensing Committee held on 6 March 2019.

OPEN FORUM

The Committee noted that no open forum questions had been submitted by members of the public.

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

A report was submitted by the Strategic Lead – Regulatory concerning an Application for Grant 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 dated 15 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;
- (c) that a separate letter had been submitted detailing the applicant's previous convictions which were considered "protected" in terms of the Rehabilitation of Offenders Act 1974;
- (d) 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

- (e) that both the applicant and a representative of Police Scotland, Sergeant Mairi Capaldi, were in attendance at the meeting.

Having heard the Section Head (Licensing) with regard to the age, degree of seriousness and relevance of the protected convictions, the Committee agreed that the letter from Police Scotland detailing the protected convictions be circulated and taken into account. Copies of the letter containing the protected convictions were accordingly circulated to Members of the Committee.

The Committee then heard from Sergeant Capaldi in relation to both letters from Police Scotland. It was noted that a trial date set for 8 April 2019 at Edinburgh Sheriff Court had been moved to the later date of 25 June 2019.

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

ADJOURNMENT

Having heard the Chair, Councillor McColl, it was agreed to adjourn for a short period.

The Committee reconvened at 10.40 a.m. with all Members listed in the sederunt in attendance.

DECIDED:-

After consideration, the Committee agreed that the application be continued to the meeting of the Licensing Committee scheduled to be held on Wednesday, 7 August 2019 at 10.00 a.m.

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

Name and Address of Applicant

Sitar Mohammad
2/2 Cart Street
Clydebank
G81 1QJ

Date Applied

5 December 2018

With reference to the Minutes of Meeting of the Licensing Committee held on 20 February 2019, a report was submitted by the Strategic Lead – Regulatory concerning an Application for Grant 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 31 December 2018 submitting an objection in relation to the application;
- (b) that a further letter had been received from the Chief Constable of Police Scotland on 31 December 2018 detailing spent convictions in terms of the Rehabilitation of Offenders Act 1974;
- (c) that both letters had been considered by the Committee at its meeting on 20 February 2019;
- (d) that at the meeting on 20 February 2019, it was agreed that the application would be continued to the next scheduled meeting to enable Mr Mohammed to have an opportunity to instruct legal representation given his difficulty in understanding proceedings at that meeting;
- (e) that in view of the submissions received from the Police, the applicant and a representative of the Police authority had again been invited to attend the meeting; and
- (f) that the applicant, Mr Mohammed, and a representative of the Police, Sergeant Capaldi, were in attendance.

The Chair, Councillor McColl, asked the applicant if he would be represented at the meeting given the Committee's decision to continue the application at the meeting on 20 February 2019 to enable Mr Mohammed to instruct legal representation. In response, Mr Mohammed advised that he had been unable to appoint a representative to represent him at the meeting and wished to proceed.

At the invitation of the Chair, the Committee then heard from Sergeant Capaldi in relation to both letters from Police Scotland.

Thereafter, the applicant was given the opportunity to address the Committee in support of his application and was heard in connection with the circumstances relating to the matters detailed in both letters from Police Scotland and in answer to questions from Members.

DECIDED:-

After consideration, the Committee agreed that the application be refused on the grounds that the applicant was not a fit and proper person to hold a Taxi/Private Hire Car Driver's Licence by virtue of the convictions listed in the letters from Police Scotland.

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

(a) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
John MacRae 31 Dryburgh Road Bearsden G61 4DJ	19 December 2018

With reference to the Minutes of Meeting of the Licensing Committee held on 20 February 2019, a report was submitted by the Strategic Lead – Regulatory concerning an Application for Grant of a Temporary 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 21 December 2018 submitting a comment in relation to the application;
- (b) that at the meeting of the Committee held on 20 February 2019, it was noted that the applicant was not present and thereafter it was agreed that the application be continued to the next meeting in order that the applicant be given a further opportunity to appear before the Committee;
- (c) that in view of the submission received 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;
- (d) that Sergeant Capaldi, Licensing Sergeant, Police Scotland, was in attendance at the meeting; and
- (e) that the applicant was not in attendance at the meeting despite having been sent a letter inviting him to attend and having been contacted by telephone by Licensing officers the day prior to the meeting.

The Committee then heard from Sergeant Capaldi in relation to the letter from Police Scotland.

Thereafter, Councillor O'Neill, seconded by Councillor Dickson, moved that the application be granted.

As an amendment, Councillor McColl, seconded by Councillor Walker, moved:-

that the application be refused on the grounds that the applicant was not a fit and proper person to hold a Temporary Taxi/Private Hire Car Driver's Licence given that he had not attended the meeting of the Licensing Committee on two occasions when his application was being considered and had not declared his previous conviction during the application process; that being a relevant conviction that the Committee was entitled to consider in terms of the applicant's fitness to hold a licence.

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

DECIDED:-

It was agreed that the application be refused on the grounds that the applicant was not a fit and proper person to hold a Temporary Taxi/Private Hire Car Driver's Licence given that he had not attended the meeting of the Licensing Committee on two occasions when his application was being considered and had not declared his previous conviction during the application process; that being a relevant conviction that the Committee was entitled to consider in terms of the applicant's fitness to hold a licence.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Sean McElhill 82 Kirkwood Avenue Linnvale Clydebank G81 2ST	31 January 2019

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

Having heard the Section Head (Licensing), it was noted that the applicant was not in attendance at the meeting.

DECIDED:-

After consideration, the Committee agreed that the application be continued to the next scheduled meeting of the Licensing Committee being held on Wednesday, 8 May 2019.

The meeting closed at 11.07 a.m.

WEST DUNBARTONSHIRE COUNCIL

Report by Strategic Lead – Regulatory

Licensing Committee – 8 May 2019

Subject: Application for grant of a temporary Taxi/Private Hire Car Driver's Licence

1. Purpose

- 1.1** To consider an application for grant of a temporary Taxi/Private Hire Car Driver's Licence submitted by Mr. Sean McElhill, 82 Kirkwood Avenue, Linnvale, Clydebank G81 2ST.

2. Recommendations

- 2.1** It is recommended that the application be considered and determined by the Committee.

3. Background

- 3.1** Mr. McElhill submitted an application for grant of a temporary Taxi/Private Hire Car Driver's Licence to the Council on 31 January 2019.
- 3.2** A letter was received from the Chief Constable of the Police authority on 6 March 2019 submitting a comment in relation to the application.
- 3.3** A further letter received from the Chief Constable of the Police authority on 6 March 2019 details protected convictions in terms of the Rehabilitation of Offenders Act 1974.
- 3.4** At the meeting on 10 April 2019, it was noted that the applicant was not present. It was agreed that consideration of the application be continued to the next meeting in order that the applicant may be given a further opportunity to appear before the Committee.

4. Main Issues

- 4.1** In view of the submission received from the Police, the applicant and a representative of the Police authority have been invited to attend the meeting of the Committee to be held on 8 May 2019.
- 4.2** The terms of the letters from the Police will be made known to the Committee at the meeting as appropriate.

5. People Implications

- 5.1** There are no personnel issues.

6. Financial Implications

6.1 There are no financial implications

7. Risk Analysis

7.1 There is no increased risk to the Council associated with the contents of this report.

8. Equalities Impact Assessment (EIA)

8.1 No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9. Consultation

9.1 Police Scotland were consulted in relation to the application.

10. Strategic Assessment

10.1 In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Strategic Lead - Regulatory

Date 12 April 2019

Person to Contact: Robert Mackie,
Senior Officer (Licensing Services),
Licensing Team,
Municipal Buildings,
College Street,
Dumbarton,
G82 1NR.

Tel. No. (Direct line) 01389 738742.
robert.mackie@west-dunbarton.gov.uk

Appendices: N/A.

Background Papers:

- 1.** Application for grant of a temporary Taxi/Private Hire Car Driver's Licence from Mr. Sean McElhill, 82 Kirkwood Avenue, Linnvale, Clydebank G81 2ST.
- 2.** Letters dated 6 March 2019 from the Chief Constable, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton G82 3PT.

3. Letter to Mr. McElhill dated 22 March 2019.

4. Letter to Mr. McElhill dated 23 April 2019.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL**Report by Strategic Lead – Regulatory****Licensing Committee – 8 May 2019**

Subject: Application for grant of a temporary Taxi/Private Hire Car Driver's Licence

1. Purpose

- 1.1** To consider an application for grant of a temporary Taxi/Private Hire Car Driver's Licence submitted by Mr. Jerome Fitzpatrick, Flat 0/2 183 Glasgow Road, Clydebank G81 1LQ.

2. Recommendations

- 2.1** It is recommended that the application be considered and determined by the Committee.

3. Background

- 3.1** Mr. Fitzpatrick submitted an application for grant of a temporary Taxi/Private Hire Car Driver's Licence to the Council on 5 March 2019.
- 3.2** A letter was received from the Chief Constable of the Police authority on 27 March 2019 submitting a comment in relation to the application.

4. Main Issues

- 4.1** In view of the submission received from the Police, the applicant and a representative of the Police authority have been invited to attend the meeting of the Committee to be held on 8 May 2019.
- 4.2** The terms of the letter from the Police will be made known to the Committee at the meeting as appropriate.

5. People Implications

- 5.1** There are no personnel issues.

6. Financial Implications

- 6.1** There are no financial implications

7. Risk Analysis

- 7.1** There is no increased risk to the Council associated with the contents of this report.

8. Equalities Impact Assessment (EIA)

- 8.1** No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9. Consultation

- 9.1** Police Scotland were consulted in relation to the application.

10. Strategic Assessment

- 10.1** In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Strategic Lead - Regulatory

Date 29 March 2019

Person to Contact: Robert Mackie,
Senior Officer (Licensing Services),
Licensing Team,
Municipal Buildings,
College Street,
Dumbarton,
G82 1NR.

Tel. No. (Direct line) 01389 738742.
robert.mackie@west-dunbarton.gov.uk

Appendices: N/A.

Background Papers:

1. Application for grant of a temporary Taxi/Private Hire Car Driver's Licence from Mr. Jerome Fitzpatrick, Flat 0/2 183 Glasgow Road, Clydebank G81 1LQ.
2. Letter dated 27 March 2019 from the Chief Constable, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton G82 3PT.
3. Letter to Mr. Fitzpatrick dated 23 April 2019.

Wards Affected: N/A.



NOT FOR PUBLICATION

**by virtue of Paragraph 14 of Part 1 of Schedule 7A of
the Local Government (Scotland) Act, 1973**

**ANY ACTION TAKEN OR TO BE TAKEN IN
CONNECTION WITH THE PREVENTION,
INVESTIGATION OR PROSECUTION OF CRIME**

