

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Tuesday, 4 October 2011 at 12.00 noon.

Present: Councillors Jim Brown, Geoff Calvert, Jim Finn, Douglas McAllister, Jonathan McColl, Ronnie McColl, Willie McLaughlin and Lawrence O'Neill.

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

Councillor Jim Finn in the Chair

DECLARATION OF INTEREST

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

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 2 August 2011 were submitted and approved as a correct record.

In relation to the point raised by Councillor O'Neill concerning the item of business under the head 'Applications for Grant of Temporary Taxi/Private Hire Car Driver's Licence' for the applicant Mr David Cassels, it was noted that the applicant had since pled guilty to one of the offences with which he had been charged.

Following discussion and having heard the Principal Solicitor and the Senior Officer (Licensing Services) in answer to Members' questions, the Committee agreed:-

- (1) to note that the applicant had submitted an application for the Grant of a Taxi/Private Hire Car Driver's Licence which, following a 28 day period for any Police objections or representations, would be submitted to the November meeting of the Committee for consideration; and
- (2) that the report concerning the application for Grant of a Taxi/Private Hire Car Driver's Licence would be accompanied by details of this conviction.

APPLICATION FOR GRANT OF SECOND HAND DEALER'S LICENCE

Name and Address of Applicant

Date Applied

Sekhon Traders Ltd
93 Commerce Street
Glasgow
G5 8EP

24 June 2011

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Second Hand Dealer's Licence.

Having heard the Principal Solicitor in relation to the requirement to exclude Press and Public during consideration of this application, it was agreed to move consideration of the application to the end of the business for the meeting.

APPLICATIONS FOR GRANT OF WINDOW CLEANER'S LICENCE

(a) Name and Address of Applicant

Date Applied

Graham Buist
20 Keil Crescent
Brucehill
Dumbarton
G82 4DX

5 May 2011

With reference to the Minutes of Meeting of the Committee held on 2 August 2011, a report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Window Cleaner's Licence by the above named person.

Having heard the Principal Solicitor in further explanation of the report, 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 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;
- (c) that copies of the letter from the Police had been issued to Members of the Committee in advance of the meeting; and
- (d) that at the meeting on 2 August 2011, the Committee had noted that the applicant was not present and had 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.
It was noted that the applicant again was not in attendance and it was agreed that the application be determined in his absence.

It was noted that the representatives of the Police authority, Chief Inspector Candlish and Sergeant Stewart were in attendance.

The Committee then heard from Sergeant Stewart in relation to the representation.

After deliberation the Committee agreed that the application be refused on the grounds that the applicant was not a fit and proper person to hold a Window Cleaner's Licence having regard to the information provided by the Police and the fact that the applicant had failed to attend meetings of the Committee for hearings on two occasions.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	David Grant 132 Craigielea Road Duntocher Clydebank G81 6LA	1 August 2011

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Window Cleaner'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 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 agreed to continue consideration of the application to the next meeting as the applicant was not present.

(c)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Gary Trainer 36 Dumbarton Road Bowling Clydebank G60 5AH	14 July 2011

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Window Cleaner'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 an objection with respect to the application;
- (b) that in view of the objection 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;
- (c) that the applicant and representatives of the Police authority, Chief Inspector Candlish and Sergeant Stewart were in attendance.
- (d) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting;
- (e) that the letter from the Police authority made reference to three convictions against the applicant that were considered "spent" in terms of the Rehabilitation of Offenders Act 1974 and that references to these convictions had been redacted from the copies of the letter which had been circulated to Members; and
- (f) that spent convictions could not be considered by the Committee unless there was no other way of justice being done.

The Principal Solicitor advised that there were three spent convictions which were about six or seven years old and were fairly serious but not particularly relevant to the activity of window cleaning.

The Committee agreed that the unredacted letter from the Police authority, providing details of the spent convictions, be circulated and taken into account.

The Committee then heard Sergeant Stewart in relation to the objection which had been submitted.

The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to questions from Members.

Following discussion, the Committee agreed that the application be granted for a period of one year.

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

Name and Address of Applicant**Date Applied**

Jonathon Bradley
59 Stewart Drive
Hardgate
Clydebank
G81 6AF

19 August 2011

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Temporary Principal Street Trader'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 an objection with respect to the application;
- (b) that in view of the objection 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;
- (c) that the applicant and his representative, Ms Clare Corcoran, Lawrie Jackson Solicitors, and representatives of the Police authority, Chief Inspector Candlish and Sergeant Stewart were in attendance;
- (d) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting;
- (e) that a separate letter had been received from the Police authority detailing convictions against the applicant that were considered "spent" in terms of the Rehabilitation of Offenders Act 1974 and that it was for the Committee to decide whether or not the separate letter detailing the spent convictions should be disclosed and taken into consideration by the Committee; and
- (f) that the spent convictions could not be considered by the Committee unless there was no other way of justice being done.

The Principal Solicitor advised that there were two spent convictions which were about six to eight years old, were fairly serious and were relevant to the licence applied for.

The Committee then agreed that the letter from the Police authority providing details of the spent convictions would be circulated and taken into account.

The Committee also agreed that copies of references from Averton Landscapes Ltd and West Foot t/a CB Cars Ltd, correspondence received from Business Gateway in relation to the courses undertaken by Mr Bradley together with Mr Bradley's business plan would be circulated and taken into account.

Thereafter, the copies of the letter from Strathclyde Police and the documents submitted in support of Mr Bradley's application were accordingly circulated to Members of the Committee and to the applicant.

ADJOURNMENT

Having heard the Chair, Councillor Finn, the meeting adjourned for a short period of time to enable Members to consider the terms of the Police letter and the documents received from Ms Corcoran on behalf of Mr Bradley.

The meeting resumed after 5 minutes with the same Members on the sederunt present.

The Committee heard Sergeant Stewart in relation to the objection from Strathclyde Police and in relation to the additional letter from the Police authority providing details of the spent convictions. Sergeant Stewart was then heard in relation to the contention by the Police authority that Mr Bradley would not be a fit and proper person to be the holder of a Temporary Principal Street Traders Licence and was also heard in answer to Members' questions.

Ms Corcoran was then given the opportunity to address the Committee in support of Mr Bradley's application and thereafter both she and Mr Bradley answered questions from Members.

After discussion, the Committee agreed:-

- (1) that the application be granted for a period of six weeks and agreed that, should the applicant apply for a full licence, the application would be referred to a meeting of the Committee for consideration and the applicant would be invited to attend the meeting; and
- (2) to note the undertaking given by Mr Bradley that he would not operate his business from the business estate at Castlegreen Street, Dumbarton.

Councillor J. McColl, having failed to obtain a seconder for a proposed motion, asked that his dissent be recorded in respect of this item.

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

Name and Address of Applicant**Date Applied**

Stephen Smith
67 Redburn Estate
Bonhill
Alexandria
G83 9BS

19 July 2011

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for renewal of a Taxi/Private Hire 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 Superintendent of the Police authority making an objection in relation to the application;
- (b) that in view of the objection 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 agreed to continue consideration of the application to the next meeting as the applicant was not present.

**HEARING REGARDING POSSIBLE SUSPENSION OF
TAXI DRIVER'S/PRIVATE HIRE CAR DRIVER'S LICENCES**

A report was submitted by the Head of Legal, Democratic and Regulatory Services requesting consideration of the possible suspension of Taxi Driver/Private Hire Car Driver Licences held by Mr. Brian Rainey and Mr. John Neeson.

Having heard the Principal Solicitor, it was noted:-

- (a) that a complaint had been received by telephone from Mr Brian Rainey on 17 June 2011 who alleged that he had been physically assaulted by Mr John Neeson at the taxi rank situated on Main Street, Alexandria;
- (b) that having consulted with Mr Andrew Fraser, Head of Legal, Democratic and Regulatory Services, it was decided that due to the nature of the complaint, a hearing should take place to consider the possible suspension of both Mr Rainey and Mr Neeson's taxi drivers' licences;

- (c) that a summary of the complaint had been attached as the Appendix to the report;
- (d) that a licensing authority must, before deciding to suspend a licence, give the holder of the licence, any complainer and the Chief Constable an opportunity to be heard;
- (e) that Mr Rainey, Mr Neeson and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (f) that matters which the Committee was required to consider 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, either Mr Rainey or Mr Neeson were no longer fit and proper persons to hold a taxi driver's licence;
 - (iii) if the Committee was of the opinion that either Mr Rainey or Mr Neeson were no longer fit and proper persons, then the Committee must consider whether their respective licences should be suspended;
 - (iv) if the Committee was satisfied that either licence should be suspended, the Committee must give Mr Rainey and/or Mr Neeson an opportunity to be heard on the length of the suspension and the date from which the suspension should commence; and
 - (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension.
- (g) that letters and photographs had been submitted on behalf of the TOA in relation to Mr Neeson's alleged misconduct; and
- (h) that it was for the Committee to decide whether the letters and photographs should be taken into consideration.

It was noted that both Mr Rainey and Mr Neeson and representatives of the Police authority, Chief Inspector Candlish and Sergeant Stewart, were in attendance.

Following discussion, it was agreed that the hearing would be continued to the next meeting of the Committee to enable both Mr Rainey and Mr Neeson to have advance notice of the letters and photographs prior to the hearing.

APPLICATION FOR GRANT OF SECOND HAND DEALER'S LICENCE**Name and Address of Applicant****Date Applied**

Sekhon Traders Ltd
93 Commerce Street
Glasgow
G5 8EP

24 June 2011

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Second Hand Dealer's Licence.

Having heard the Principal Solicitor, the Committee agreed to continue consideration of the application to the next meeting as it had been necessary for the applicant to leave the meeting prior to consideration of the application.

The meeting closed at 1.08 p.m.