

LICENSING COMMITTEE

At a Special Meeting of the Licensing Committee held in Committee Room 2, Council Offices, Garshake Road, Dumbarton on Wednesday, 1 March 2017 at 1.05 p.m.

Present: Provost Douglas McAllister and Councillors Jim Brown, Jim Finn, John Mooney, Lawrence O'Neill, Tommy Rainey and Hazel Sorrell.

Attending: Raymond Lynch, Section Head (Licensing); Robert Mackie, Senior Officer (Licensing Services); Lawrence Knighton, Licensing Standards Officer and Craig Stewart, Committee Officer.

Also Attending: Constable Calum Fulton and Constable Alison Simpson, Police Scotland.

Apology: An apology for absence was intimated on behalf of Councillor Jonathan McColl.

Councillor Lawrence O'Neill in the Chair

DECLARATIONS OF INTEREST

Provost McAllister declared an interest in relation to Item 5 on the agenda ('Hearing regarding possible suspension of Taxi Driver's/Private Hire Car Driver's Licence') and advised that he would leave the meeting during consideration of that item.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 PART V – PUBLIC PROCESSIONS – POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 – NOTICE OF PROPOSAL TO HOLD A PUBLIC PROCESSION: CLYDEBANK PROTESTANT MARTYRS

A report was submitted by the Strategic Lead – Regulatory concerning a Notice of Proposal to hold a Public Procession submitted by Clydebank Protestant Martyrs.

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

- (a) that a Notice of Proposal to hold a public procession and risk assessment had been submitted by Mr Cameron Russell on behalf of the Protestant Martyrs Loyal Orange Lodge 2000 on 10 January 2017. The reason for the procession, as stated on the notice of proposal, was for an Annual Clydebank Blitz Anniversary Parade;
- (b) that notification of the proposed procession had been sent to all Councillors whose ward the procession passes through along with Members of the Licensing Committee and all Community Councils whose route the procession affected;
- (c) that a precursory meeting had been held on 25 January 2017 at which there had been no issues regarding the notice of proposal other than advice being given to the organiser that an objection had been received and that the report would be subject to a report to the Licensing Committee on 15 February 2017;
- (d) that during the course of the Licensing Committee held on 15 February 2017, officers became aware that due to an administrative error, the organiser, Mr Russell, had not received a letter inviting him to attend the meeting of the Licensing Committee. Having taken this into consideration, Members decided to continue the matter to a Special Meeting of the Licensing Committee to be held on 1 March 2017 and offered apologies to those who had attended the Committee in relation to this item of business. Apologies have since been issued by officers to Constable Miller, Community Councillors John Hailey and Mary McAleer and the organiser, Mr Russell; and
- (e) that the applicant, a representative of the Police authority and the two community councillors, who had made a representation, had been invited to attend this meeting of the Committee in order that a hearing may take place.

Thereafter, the Committee heard from Constable Calum Fulton of Police Scotland, Mr Edward McGonnell, County Grand Master and applicant Mr Russell, and Community Councillor John Hailey in relation to the proposal.

DECIDED:-

After consideration, the Committee agreed that the procession be approved as per the notification of proposal.

Note: At this point, Constable Fulton left the meeting. Councillor O'Neil, Chair, handed over to Provost McAllister, Vice-Chair, at this point, for the next item.

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

Name and Address of Applicant

Scott Brownlie
Flat 2/2, 62 Glasgow Road
Dumbarton
G82 1HQ

Date Applied

7 December 2016

With reference to the Meeting of the Licensing Committee held on 15 February 2017, 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 the Police authority on 29 December 2016 supplying information for consideration by the Committee;
- (b) that at the meeting of the Licensing Committee held on 15 February 2017 it had been decided that the matter be continued to a Special Meeting of the Licensing Committee to be held on 1 March 2017 to allow Mr Brownlie the opportunity to present further information in support of his application;
- (c) that copies of the letter from the Police authority dated 29 December 2016, providing information in relation to the application, had been issued to Members of the Committee in advance of the meeting; and
- (d) that the licence holder and a representative of the Police authority, Constable Simpson, were in attendance.

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

Thereafter, the licence holder was given the opportunity to address the Committee in support of his application and in connection with the circumstances relating to matters detailed in the Police letter. A copy of a letter received from the Criminal Justice Social Work section was circulated. The licence holder was also heard in answer to Members' questions.

DECIDED:-

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

Note: Councillor O'Neill assumed the Chair again shortly after this item had commenced. As referred to earlier in these minutes, Provost McAllister, having declared an interest in the following item, left the meeting at this point.

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

A report was submitted by the Strategic Lead – Regulatory requesting consideration of the possible suspension of a Taxi Driver's/Private Hire Car Driver's Licence following a complaint which had been submitted by Police Scotland.

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

- (a) that on 1 June 2016, the licence holder applied for the grant of a Taxi/Private Hire Car Driver's Licence. Notification had been received from the Chief Constable of Police Scotland on 8 June 2016 stating that there were no police objections in relation to the application. The licence had subsequently been granted under delegated powers on 30 June 2016, valid for 1 year;
- (b) that a complaint had been received by the Licensing Team on 24 January 2017 regarding a conduct issue relating to the licence holder which prompted an investigation by the Senior Officer (Licensing Services). On examining the licence holder's original application form, an issue came to light regarding the declaration of convictions which he had completed at the time of his application;
- (c) that on request by the Senior Officer (Licensing Services), a letter had been received from the Chief Constable of Police Scotland dated 26 January 2017 providing details of the conviction declared on the application form submitted by the licence holder on 1 June 2016;
- (d) that new information then came to light with regard to a previous conviction which the licence holder had failed to declare on the application form which he submitted on 1 June 2016. Following a further request by the Senior Officer (Licensing Services), a second letter had been received from the Chief Constable of Police Scotland dated 7 February 2017. The letter detailed a conviction considered spent under the Rehabilitation of Offenders Act 1974. As the licence holder had not received adequate notice of the contents of the second letter it had been decided that Members would continue the matter to a Special Meeting of the Licensing Committee to be held on 1 March 2017;
- (e) that due to the information contained within the Police letter dated 26 January 2017, subsequently replaced by 2 letters dated 7 February 2017, officers felt it appropriate that the licence holder be asked to attend a meeting of the Licensing Committee in order that Members can decide whether he is a fit and proper person to hold a Taxi Driver's/Private Hire Car Driver's Licence;
- (f) that the licensing authority may order the suspension or revocation of a licence if, in its opinion, the holder of the licence is not, or is no longer, a fit and proper person to hold the licence;
- (g) that the licence holder and a representative of Police Scotland had been invited to attend the meeting in order that a hearing may take place;

- (h) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting;
- (i) that Constable Simpson was in attendance on behalf of the Chief Constable; and
- (j) that the matters which the Committee was required to consider in relation to paragraph (f) above were as follows:-
 - (i) in considering whether to suspend or revoke a licence the licensing authority may have regard to any misconduct on the part of the licence holder which in the opinion of the authority has a bearing on his fitness to hold a licence;
 - (ii) 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 his licence should be suspended or revoked;
 - (iii) 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 if the Committee decided that the licence should be suspended or revoked then the date from which the suspension or revocation should commence; and
 - (iv) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension or revocation.

It was noted that the licence holder, his representative Mr Scott McQuire and a representative of Police Scotland, Constable Simpson, were in attendance. Having heard the Section Head (Licensing), a revised letter from the Police was circulated, along with a letter detailing a previous spent conviction.

The Committee then heard from Constable Simpson who provided details of the information contained in the Police letters which had been submitted. Thereafter, the Committee heard from the licence holder's representative, Mr McQuire, in relation to the background and current position in respect of this matter.

DECIDED:-

After consideration, it was agreed that the licence holder remained a fit and proper person to hold a taxi/private hire car driver's licence.

Note: Councillor Mooney left the meeting at this point, as he had another meeting to attend.

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

A report was submitted by the Strategic Lead – Regulatory requesting consideration of the possible suspension of a Taxi Driver's/Private Hire Car Driver's Licence following a complaint which had been submitted by Police Scotland.

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

- (a) that a letter had been received from the Chief Constable of Police Scotland 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 on the grounds that the carrying on of the activity to which the licence relates is likely to cause a serious threat to public safety;
- (b) that in view of the request for suspension of the licence received from the Police, the licence holder and a representative of Police Scotland had been invited to attend the meeting in order that a hearing may take place;
- (c) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting; and
- (d) that the 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, the licence holder was no longer a fit and proper person to hold a taxi 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 his licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give the licence holder 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.

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.

Thereafter, the licence holder was given the opportunity to address the Committee on the circumstances detailed in the letter from the Police authority and answered questions from Members.

DECIDED:-

After consideration, it was agreed that the licence holder remained a fit and proper person to hold a taxi/private hire car driver's licence.

The meeting closed at 2.03 p.m.