

Agenda



Meeting of Licensing Committee

Date: Wednesday, 19 August 2020

Time: 14:00

Venue: By Zoom Video Conference

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

Dear Member

The Convener has directed that the powers contained in Section 18B of the Civic Government (Scotland) Act 1982 that the hearing cannot be held in person because of a reason relating to coronavirus will be used and so Members and parties to the proceedings will attend this meeting of the **Licensing Committee** remotely. The business is shown on the attached agenda.

Yours faithfully

JOYCE WHITE

Chief Executive

Distribution:

Councillor Jim Finn (Chair)
Councillor Ian Dickson
Councillor Caroline McAllister
Councillor Jonathan McColl (Vice Chair)
Councillor Marie McNair
Councillor Lawrence O'Neill
Councillor Brian Walker
Vacancy

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: 6 August 2020

LICENSING COMMITTEE

WEDNESDAY, 19 AUGUST 2020

AGENDA

1 STATEMENT BY THE CHAIR – ZOOM VIDEO CONFERENCING

2 APOLOGIES

3 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.

4 MINUTES OF PREVIOUS MEETING 5 - 8

Submit for approval as a correct record, Minutes of Meeting of the Licensing Committee held on 10 June 2020.

5 OPEN FORUM

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

6 EXCLUSION OF PRESS AND PUBLIC 9

The Committee is asked to consider passing the following resolution prior to consideration of each of the undernoted items of business:-

“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.”

7/

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

Name and Address of Applicant

Date Applied

Scott Brownlie
12 Oxhill Place
Dumbarton
G82 4QU

4 December 2019

With reference to the Minutes of Meeting of the Licensing Committee held on 5 February 2020, submit report by the Strategic Lead – Regulatory concerning an Application for Grant of a Taxi/Private Hire Car Driver's Licence for the above named person.

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

Name and Address of Applicant

Date Applied

Thomas Kearney
30 Delhi Avenue
Clydebank
G81 4JS

27 January 2020

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

9 APPLICATION FOR GRANT OF A TEMPORARY TAXI/ PRIVATE HIRE CAR DRIVER'S LICENCE 17 - 19

Name and Address of Applicant

Date Applied

Drew Stewart
10 Cameron Drive
Alexandria
G83 0JT

17 July 2020

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

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held by video conference on Wednesday, 10 June 2020 at 2.00 p.m.

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

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

Also Attending: Sergeant Wendy Maginnis, Licensing Sergeant, Police Scotland.

Apologies: Apologies for absence were intimated by Councillors Jim Finn and Marie McNair.

Councillor Jonathan McColl in the Chair

CHAIR'S REMARKS

Councillor McColl, Vice Convener, welcomed everyone to the June meeting of the Licensing Committee which was being held remotely, in terms of Section 18B of the Civic Government (Scotland) Act 1982.

Accordingly, the Vice Convener advised that a process/procedure had been developed for the meeting (a copy of which had previously been circulated to Members). Thereafter, the Committee agreed to note the procedure in place for the conduct of the meeting and the meeting then commenced by video conferencing.

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 5 February 2020 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.

EXCLUSION OF PRESS AND PUBLIC

The Committee approved 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.”

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 20 May 2020 requesting the immediate 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 the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or public safety;
- (b) that, having consulted the Depute Convener of the Licensing Committee it was decided that, due to the content of the letter received from Police Scotland, the Taxi Driver's/Private Hire Car Driver's Licence should be suspended with immediate effect under Paragraph 12 of Schedule 1 of the Act;
- (c) that in view of the request for suspension of the licence received 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;
- (d) to note that the licence holder had previously attended the Licensing Committee on 18 September 2018 having been the subject of a comment submitted by Police Scotland in relation to an application to grant the Temporary Taxi Driver's/Private Hire Car Driver's Licence. After consideration, Members had agreed to grant the Temporary Taxi Driver's/Private Hire Car Driver's Licence for a period of 6 weeks;

- (e) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting;
- (f) that the applicant's current licence expired on 22 November 2020;
- (g) 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;
- (h) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting; and
- (i) that the matters which the Committee were required to consider in relation to paragraph (c) 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, Sergeant Maginnis, were in attendance.

The Committee then heard from the Senior Officer (Licensing Services) in relation to the applicant's previous convictions included in the Police letter submitted to the meeting of the Licensing Committee on 18 September 2018. Sergeant Maginnis was then heard in relation to the current letter from Police Scotland dated 20 May 2020. Thereafter the applicant and Sergeant Maginnis were heard in response to Members' questions concerning the details provided in the letter from Police Scotland.

The licence holder was then given an opportunity to address the Committee in relation to the suspension request and was heard in answer to questions from Members.

ADJOURNMENT

Having heard the Chair, Councillor McColl, the Committee agreed to adjourn at 2.40 p.m. for a short period.

The Committee resumed at 2.46 p.m. with all Members shown in the sederunt in attendance.

DECIDED:-

Following consideration and having heard the Section Head (Licensing) in clarification of proceedings and the Senior Officer (Licensing Services) in answer to Members' questions, the Committee agreed:-

- (1) to note that the licence holder's licence was currently suspended;
- (2) that the alleged misconduct by the licence holder had been established;
- (3) that the licence holder was no longer a fit and proper person to hold a Taxi Driver's/Private Hire Car Driver's Licence;
- (4) that the licence be suspended with immediate effect for the duration of the remaining period of the licence on the grounds that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or public safety; and
- (5) to note that should no action be taken in relation to the licence holder's pending court proceedings, the suspension of the licence could be reconsidered and may be recalled by the Licensing Committee at a future meeting/special meeting.

The meeting closed at 2.55 p.m.



EXCLUSION OF PRESS AND PUBLIC

The Committee is asked to consider passing the following resolution prior to consideration of each of the following items of business on the agenda:-

"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."

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**

WEST DUNBARTONSHIRE COUNCIL
Report by Strategic Lead – Regulatory
Licensing Committee – 19 August 2020

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

1. Purpose

- 1.1** To consider an application for grant of a Taxi/Private Hire Car Driver's Licence submitted by Mr. Scott Brownlie, 12 Oxhill Place, Dumbarton G82 4QU

2. Recommendations

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

3. Background

- 3.1** Mr. Brownlie submitted an application for grant of a Taxi/Private Hire Car Driver's Licence to the Council on 4 December 2019.
- 3.2** A letter was received from the Chief Constable of the Police authority on 30 December 2019 submitting an objection in relation to the application.
- 3.3** A further letter received from the Chief Constable of the Police authority on 30 December 2019 details a number of convictions regarded as protected in terms of the Rehabilitation of Offenders Act 1974.
- 3.4** At a meeting of the Committee held on 1 March 2017, Members decided to grant Mr. Brownlie a temporary Taxi/Private Hire Car Driver's Licence.
- 3.5** Mr. Brownlie subsequently applied for the full grant of a Taxi/Private Hire Car Driver's Licence and at the meeting of the Committee held on 14 June 2017, having considered the objection submitted by Police Scotland and having heard from Mr. Brownlie, Members refused the application. Mr. Brownlie subsequently appealed the decision of the Council but was unsuccessful as the Sheriff upheld the Committee's decision.
- 3.6** Mr. Brownlie subsequently attended a meeting of the Licensing Committee on 20 February 2019 where a hearing was held to determine an application for the grant of a temporary Taxi Driver's/Private Hire Car Driver's Licence having received a comment from Police Scotland. Having heard from the Police, Members decided to refuse the application.
- 3.7** At the meeting of the Licensing Committee held on 5 February 2020 Members agreed to continue consideration of the application to the meeting of the Licensing Committee scheduled to be held on Wednesday, 1 April 2020.

- 3.8** The application was due to be determined at the meeting of the Licensing Committee scheduled for 1 April 2020 however due to the impact of the Covid-19 pandemic all Committees were cancelled and the application was therefore continued until the first available that being 19 August 2020.

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 19 August 2020.
- 4.2** It will also be a matter for the Committee to decide whether the applicant's protected convictions should be disclosed and taken into consideration. It should be noted that protected convictions cannot be considered unless there is no other way of doing justice.
- 4.3** 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 22 July 2020

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 Taxi/Private Hire Car Driver's Licence from Mr. Scott Brownlie, 12 Oxhill Place, Dumbarton, G82 4QU.
2. Letters dated 30 December 2019 from the Chief Constable, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton.
3. Letter to Mr. Brownlie dated 27 July 2020.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL
Report by Strategic Lead – Regulatory
Licensing Committee – 19 August 2020

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

1. Purpose

- 1.1** To consider an application for grant of a Taxi/Private Hire Car Driver's Licence submitted by Mr. Thomas Kearney, 30 Delhi Avenue, Clydebank, G81 4JS.

2. Recommendations

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

3. Background

- 3.1** Mr. Kearney submitted an application for grant of a Taxi/Private Hire Car Driver's Licence to the Council on 27 January 2020.
- 3.2** A letter was received from the Chief Constable of the Police authority on 24 February 2020 submitting an objection in relation to the application.
- 3.3** The Police objection relates to a further letter received from the Chief Constable of the Police authority on 24 February 2020 which details convictions regarded as 'protected' in terms of the Rehabilitation of Offenders Act 1974.
- 3.4** The application was due to be determined at the meeting of the Licensing Committee scheduled for 1 April 2020 however due to the impact of the Covid-19 pandemic all Committees were cancelled and the application was therefore continued until the first available that being 19 August 2020.

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 19 August 2020.
- 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 14 July 2020

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 Taxi/Private Hire Car Driver's Licence from Mr. Thomas Kearney, 30 Delhi Avenue, Clydebank, G81 4JS.
- 2.** Letters dated 24 February 2020 from the Chief Constable, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton G82 3PT.
- 3.** Letter to Mr. Kearney dated 27 July 2020.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL

Report by Strategic Lead – Regulatory

Licensing Committee – 19 August 2020

Subject: Application for grant of 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. Drew Stewart, 10 Cameron Drive, Alexandria G83 0JT.

2. Recommendations

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

3. Background

- 3.1** Mr. Stewart submitted an application for the grant of a temporary Taxi/Private Hire Car Driver's Licence on 17 July 2020.
- 3.2** A letter was received from the Chief Constable of the Police authority on 5 August 2020 in relation to the application.
- 3.3** A report was also submitted by the Senior Officer (Licensing Services) on 5 August 2020 in relation to the application.

4. Main Issues

- 4.1** In view of the submissions received from both the Police and the Senior Officer (Licensing Services), the applicant has been invited to attend the meeting of the Committee to be held on 19 August 2020.
- 4.2** The terms of the letter from the Police will be made known to the Committee at the meeting as appropriate.
- 4.3** The terms of the report from the Senior Officer (Licensing Services) 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 6 August 2020

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

Tel. No. (Direct line) 01389 738741
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. Drew Stewart, 10 Cameron Drive, Alexandria G83 0JT.

2. Letter to Mr. Stewart dated 9 April 2020 from the Senior Officer (Licensing Services).
3. Letter to Mr. Stewart dated 3 July 2020 advising of the expiry of his Taxi Driver's Licence.
4. Email from Mr. Stewart dated 3 July 2020.
5. Email from Clydebank Taxis dated 20 July 2020.
6. Representation from Senior Officer (Licensing Services) dated 5 August 2020.
7. Letter from Police Scotland dated 5 August 2020..
8. Letter to Mr. Stewart dated 6 August 2020.

Wards Affected: N/A.