

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Council Chamber, Municipal Buildings, Station Road, Dumbarton on Tuesday, 12 June 2012 at 12.00 noon.

Present: Councillors Jim Finn, Jonathan McColl, Patrick McGlinchey and Lawrence O'Neill.

Attending: Nigel Ettles, Principal Solicitor; Robert Mackie, Senior Officer (Licensing Services) and Craig Stewart, Committee Officer, Legal, Democratic and Regulatory Services.

Apologies: Apologies for absence were intimated on behalf of Provost Douglas McAllister and Councillor Tommy Rainey.

Councillor Lawrence O'Neill 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.

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

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Martin McEwan 17 Helenslee Court Dumbarton G82 4HT	5 April 2012

A report was submitted by the Head of Legal, Democratic 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 in further explanation of the report, 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 the letter of 1 May 2012 from the Chief Superintendent making a representation in relation to the application, had been received on 10 May 2012. In terms of the relevant legislation, a representation with respect to an application should be submitted within 28 days of receipt of the application. As Mr McEwan's application was submitted on 5 April 2012, any representation should have been submitted by 3 May 2012. There was, 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 the 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 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;
- (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.

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

The Committee then heard from Sergeant Stewart with regard to the reason why the Police representation had been submitted outwith the statutory period.

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

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

The agent for the applicant, Ms Corcoran, was then heard in respect of the representation from the Police and thereafter answered a question from a Member.

After consideration, it was agreed that the application be granted.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	James McGowan 73/2 Colquhoun Drive Rosshead Alexandria G83 0QS	16 February 2012

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

It was noted that the applicant and the representative of the Police authority has been invited to the meeting in order to make their views known. In this respect, it was further noted that the applicant, Mr McGowan, was not present at the meeting despite being invited to attend.

Following a question by a Member, the Principal Solicitor confirmed that the application could not be continued to the next meeting of the Committee in view of the timescale that had elapsed and that it would be a deemed grant in terms of the relevant legislation.

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.

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

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	James Murray 348 Halley Street Yoker Glasgow G13 4DT	20 April 2012

A report was submitted by the Head of Legal, Democratic 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 in further explanation of the report, it was noted:-

- (a) that a facsimile 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.

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

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

Thereafter, the applicant, Mr Murray, was invited to come forward and addressed the Committee in support of his application.

Following discussion, Councillor McColl, seconded by Councillor O'Neill, moved:-

That the application be continued for consideration to the next meeting of the Committee.

As an amendment, Councillor Finn, seconded by Councillor McGlinchey, moved:-

That the application be granted.

On the Convener's casting vote, it was decided that the application be continued to the next meeting of the Committee.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
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Graeme Ness
137 Cumbrae Crescent South
Dumbarton
G83 5AW

5 April 2012

A report was submitted by the Head of Legal, Democratic 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 in further explanation of the report, 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 the letter of 2 May 2012 from the Chief Superintendent making a representation in relation to the application, had been received on 10 May 2012. In terms of the relevant legislation, a representation with respect to an application should be submitted within 28 days of receipt of the application. As Mr Ness's application was submitted on 5 April 2012, any representation should have been submitted by 3 May 2012. There was, 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 the 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 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;
- (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.

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

The Committee then heard from Sergeant Stewart with regard to the reason why the Police representation had been submitted outwith the statutory period.

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

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

Mr Ness was then given the opportunity to address the Committee in support of his application and thereafter answered questions from Members.

After consideration, it was agreed that the application be granted.

(c)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Lachlan MacFarlane 311 Pappert Estate Bonhill Alexandria G83 9LH	23 February 2012

A report was submitted by the Head of Legal, Democratic 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 in further explanation of the report, 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.

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

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

Thereafter, the applicant, Mr MacFarlane, was invited to come forward. It was noted that Mr MacFarlane was accompanied by his representative, Mr John Corrigan and Mr Corrigan addressed the Committee in support of Mr MacFarlane's application.

After consideration, it was agreed that the application be granted.

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

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	James Clarke 3 Milton Mains Road Parkhall Clydebank G81 3NF	8 March 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Temporary Taxi/Private Hire Car Driver'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 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.

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

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

Thereafter, the applicant, Mr Clarke, was invited to come forward and addressed the Committee in support of his application and answered questions from Members.

After consideration, it was agreed that the application be refused on the ground that the applicant was not a fit and proper person to hold a Temporary Taxi/Private Hire Car Driver's Licence.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Russell Friel 35 New Cordale Road Renton Dumbarton G82 4DE	26 March 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Temporary Taxi/Private Hire Car Driver'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 Constable 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.

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

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

Thereafter, the applicant, Mr Friel, was invited to come forward and addressed the Committee in support of his application and answered questions from Members.

After consideration, the Committee agreed that the application be granted and agreed that any application for a full Taxi/Private Hire Car Driver's Licence would require to be determined by the Committee.

APPLICATION FOR GRANT OF SECOND HAND CAR DEALER'S LICENCE

Name and Address of Applicant

Date Applied

Julie Gillies
9 Norman McLeod Crescent
Bearsden
G61 3BF

12 March 2012

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

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that 2 letters of objection had been received in relation to the application, both of which were received within the statutory 28 day period following the date on which the application was submitted;
- (b) that a letter had been received from the Chief Constable of the Police authority intimating no police objections or representations in relation to the application; and
- (c) that in view of the objections, outlined at (a) above, the applicant and the objectors had been invited to attend the meeting in order that a hearing may take place.

The Committee noted that the objectors were not present. Thereafter, the applicant, Ms Gillies, was invited to come forward. It was noted that Ms Gillies was accompanied by her representative, Mr John Gilmour and Mr Gilmour addressed the Committee in support of Ms Gillies' application and answered questions from Members.

After consideration, it was agreed that the application be granted.

APPLICATIONS FOR GRANT OF WINDOW CLEANER'S LICENCE

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	David White 254 Moffat Street Gorbals Glasgow G5 0ND	11 April 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Window Cleaner's Licence submitted 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 Constable of the Police authority making a representation in relation to the application;
- (b) that the letter of 1 May 2012 from the Chief Superintendent making a representation in relation to the application, had been received on 10 May 2012. In terms of the relevant legislation, a representation with respect to an application should be submitted within 28 days of receipt of the application. As Mr White's application was submitted on 11 April 2012, any representation should have been submitted by 9 May 2012. There was, 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 the 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 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;
- (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.

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

The Committee then heard from Sergeant Stewart with regard to the reason why the Police representation had been submitted outwith the statutory period.

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

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

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

After consideration, it was agreed that the application be granted.

ADJOURNMENT

Having heard the Chair, Councillor O'Neill, it was agreed that the meeting should be adjourned for a short period.

The meeting resumed at 1.22 p.m. with all those Members on the sederunt in attendance.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	David Henry 'Rosa' Ferry Loan Alexandria G83 0UW	15 March 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Window Cleaner's Licence submitted by the above named person.

It was noted that the applicant was not in attendance.

The Committee agreed to continue consideration of the application to the next meeting of the Committee.

[illegible]

Craig McGhee
16 Blairdardie Road
Knightswood
Glasgow
G13 2AD

25 April 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Window Cleaner's Licence submitted by the above named person.

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that a facsimile had been received from the Chief Superintendent of the Police authority making an objection with respect to the application;
- (b) that a further facsimile 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 facsimile letter detailing the spent convictions should be disclosed and taken into consideration;
- (c) that in view of the objection that had been received from the Police authority, 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
- (d) that the spent convictions could not be considered by the Committee unless there was no other way of justice being done.

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

Having heard the Principal Solicitor with regard to the nature of the spent convictions, the Committee agreed that the letter from the Police authority providing details of the applicant's spent convictions should be circulated and taken into account.

Thereafter, copies of the letter from Strathclyde Police, detailing the applicant's spent convictions, were accordingly circulated to Members of the Committee. A copy of a letter from Adairs Solicitors clarifying the position of some of the convictions listed against the applicant was also circulated for Members' information.

The Committee then heard from Sergeant Stewart in relation to both the objection which had been submitted and in relation to the applicant's spent convictions. Thereafter, Sergeant Stewart was heard in answer to Members' questions.

Thereafter, the applicant, Mr McGhee, was invited to come forward. It was noted that Mr McGhee was accompanied by his representative, Councillor George Black and Councillor Black addressed the Committee in support of Mr McGhee's application.

After discussion and having heard Councillor Black in answer to Members' questions, Councillor J. McColl, seconded by Councillor Finn, moved:-

That the application be granted.

As an amendment, Councillor McGlinchey, seconded by Councillor O'Neill, 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 Window Cleaner's Licence.

On a vote being taken, 1 Member voted for the amendment and 3 for the motion which was accordingly declared carried.

APPLICATION FOR GRANT OF LATE HOURS CATERING LICENCE

Name and Address of Applicant

Date Applied

Dilmir Zamir
50a Marchfield Avenue
Paisley
PA3 2QD

15 March 2012

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

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that a letter of objection had been received in relation to the application, on the basis outlined in Section 2.5 of the report;
- (b) that a letter had been received from the Chief Constable of the Police authority intimating no police objections or representations in relation to the application; and

- (c) that in view of the objection, outlined at (a) above, the applicant and the objectors had been invited to attend the meeting in order that a hearing may take place.

The Committee noted that the objectors were not present but in the circumstances agreed to entertain the objection. Copies of the letter of objection were accordingly circulated to Members. Thereafter, the applicant, Mr Zamir, was invited to come forward. It was noted that Mr Zamir was accompanied by his representative, Mr John Gilmour and Mr Gilmour addressed the Committee in support of Mr Zamir's application and answered questions from Members.

Following discussion, it was agreed that the application be granted on the basis detailed below:-

11pm to 1.30am, Monday to Wednesday;
11pm to 2am, Thursday
11pm to 3.30am, Friday and Saturday; and
11pm to 2am, Sunday

Councillor McColl, having failed to find a seconder for a proposed amendment, requested that his dissent be recorded.

LICENSING OF HOUSES IN MULTIPLE OCCUPATION (HMO) – CHANGES TO LEGISLATION AND GUIDANCE

A report was submitted by the Head of Legal, Democratic and Regulatory Services:-

- (a) providing information on the new legislative provisions and statutory guidance relating to Houses in Multiple Occupation (HMO) licensing; and
- (b) seeking approval of the new licence conditions and implementation dates where applicable.

The Committee agreed:-

- (1) to approve the new licence conditions as detailed at Appendix 1 to the report;
- (2) to approve an implementation date of 1 April 2012 for all local HMOs to meet the statutory safety related provisions as explained in Section 3.15 of the report;
- (3) to approve the implementation date of non safety related provisions for existing HMOs as being the date of application for a new licence or expiry of the existing licence, whichever is sooner; and

- (4) to approve no change to the existing licence fee but a fee of £128.96 for the processing of a new licence where a material change in an existing licence required a new licence.

The meeting closed at 2.12 p.m.