

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Tuesday, 7 February 2012 at 12 noon.

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

Attending: Nigel Ettles, Principal Solicitor; David McCulloch, Section Head, Trading Standards and Licensing; Robert Mackie, Senior Officer (Licensing Services) and Nuala Borthwick, Committee Officer, Legal, Democratic and Regulatory Services.

Apologies: Apologies for absence were submitted on behalf of Councillors Jim Finn and Ronnie McColl.

APPOINTMENT OF CHAIR

In the absence of the Chair, Councillor Finn and the Vice Chair, Councillor R. McColl, the Principal Solicitor invited Members to appoint a Chair for this meeting of the Committee.

It was agreed that the meeting be chaired by Councillor J. McColl. Accordingly, Councillor J. McColl assumed the Chair and welcomed everyone present to the meeting of the Licensing Committee.

DECLARATIONS OF INTEREST

Councillors Brown and J. McColl declared an interest in relation to the item entitled 'Application for Grant of Second Hand Dealer's Licence' given that it was their understanding that Councillor Finn had a possible financial interest in the business. Councillor Brown advised that he would leave the meeting during consideration of the report and Councillor J. McColl advised that he would remain in the meeting during consideration of the report.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 6 December 2011 were submitted and approved as a correct record.

**ALEXANDRIA AND DUMBARTON TOA LTD
-V- WEST DUNBARTONSHIRE COUNCIL**

A report was submitted by the Head of Legal, Democratic and Regulatory Services advising of the decision of Sheriff Simon W H Fraser in the case of Alexandria and Dumbarton TOA Ltd -v- West Dunbartonshire Council.

The Committee agreed to note the content of the report.

APPLICATION FOR GRANT OF PRINCIPAL STREET TRADER'S LICENCE

Name and Address of Applicant

Date Applied

Jonathon Bradley
59 Stewart Drive
Hardgate
Clydebank
G81 6AF

14 November 2011

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

Having heard the Principal Solicitor in further explanation of the report, the Committee 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 the letter of 28 December 2011 from the Chief Superintendent, making an objection in relation to the application, had been received on 4 January 2012. In terms of the relevant legislation, an objection with respect to an application should be submitted within 28 days of receipt of the application. As Mr Bradley's application was submitted on 14 November 2011, any objection should have been submitted by 12 December 2011. There is, however, provision in the legislation for the Licensing Authority to entertain a late objection which has been received before a final decision has been made on an application if the Licensing Authority was satisfied that there had been sufficient reason why the objection had not been made in the time required;
- (c) 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;
- (d) that in view of the objection that 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;

- (e) that it would be a matter for the Committee to decide initially whether the late objection from the Police should be taken into consideration;
- (f) that the spent convictions could not be considered by the Committee unless there was no other way of justice being done; and
- (g) that the terms of the letters from the Police authority would be made known to the Committee as appropriate.

It was noted that the applicant and the representatives of the Police authority, Sergeant Stewart and Ms Karen Queen, were in attendance.

The Committee heard from Sergeant Stewart who explained why the Police objection had been submitted outwith the statutory period.

The Committee then agreed that the Police objection would be taken into consideration.

Copies of the letter of objection from Strathclyde Police were accordingly circulated to Members of the Committee.

The Principal Solicitor advised that there were two spent convictions which were about six to eight years old, which 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.

Thereafter, copies of the letter from Strathclyde Police, detailing the applicant's spent convictions, were accordingly circulated to Members of the Committee.

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 Principal Street Trader's Licence and in answer to questions from Members.

Following discussion, it was agreed to continue the application to the next meeting of the Committee in order that details of further incidents involving Mr Bradley from October 2011 onwards could be provided by Strathclyde Police for consideration by the Committee.

APPLICATION FOR GRANT OF WINDOW CLEANER'S LICENCE

Name and Address of Applicant

Date Applied

John Montgomery
118 Cardross Road
Dumbarton
G82 5DF

14 November 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 submitted by the above named person.

After hearing the Principal Solicitor, 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 9 December 2011 from the Chief Superintendent, making a representation in relation to the application, had been received on 15 December 2011. 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 Montgomery's application was submitted on 14 November 2011, any representation should have been submitted by 12 December 2011. There is, 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 an 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 taken place; and
- (d) that the applicant was not in attendance and had intimated that he would be unable to attend the meeting due to adverse weather conditions.

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

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

Name and Address of Applicant

Date Applied

James Boyle
9C West Court
Mountblow
Clydebank
G81 4PG

14 November 2011

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, 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 the letter of 9 December 2011 from the Chief Superintendent, making a representation in relation to the application, had been received on 15 December 2011. 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 Boyle's application was submitted on 14 November 2011, any representation should have been submitted by 12 December 2011. There is, 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 an 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 that 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 letters from the Police authority would be made known to the Committee as appropriate.

It was noted that the applicant and the representatives of the Police authority, Sergeant Stewart and Ms Karen Queen, were in attendance.

The Committee heard from Sergeant Stewart who explained 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 from Strathclyde Police were accordingly circulated to Members of the Committee and Sergeant Stewart was then heard in relation to the representation. It was noted that the outstanding matter against the applicant as referred to in the letter from the Chief Superintendent had been deemed 'Not Proven' by the Procurator Fiscal.

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

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

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

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Christopher Miller Levenside House Dalquhurn Lane Renton G82	7 December 2011

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, 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; 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 representatives of the Police authority, Sergeant Stewart and Ms Karen Queen, were in attendance.

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

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

After deliberation, the Committee agreed that the application be granted for a period of one year.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Graeme Weir 11 Kirkton Old Kilpatrick G60	14 December 2011

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, 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 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;
- (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 representatives of the Police authority, Sergeant Stewart and Ms Karen Queen, were in attendance.

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

Mr Weir was then given the opportunity to address the Committee in support of his application and thereafter he answered questions from Members concerning his non payment of Procurator Fiscal fixed penalty fines.

After discussion, the Committee agreed:-

- (1) that the application be granted for a period of one year; and
- (2) that the applicant's next Application for Renewal of his Licence would be referred to a meeting of the Committee for consideration and the applicant would be invited to attend the meeting.

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

Name and Address of Applicant

James Johnston
52 Hawthorn Street
Parkhall
Clydebank
G81 3EF

Date Applied

5 December 2011

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Temporary Taxi/Private Car Hire Driver'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 a representation with respect to the application;
- (b) that in view of the representation which 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
- (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 representatives of the Police authority, Sergeant Stewart and Ms Karen Queen, were in attendance.

With the permission of the Committee, the Principal Solicitor read out a letter addressed to Mr Johnston's solicitor from the Procurator Fiscal's office concerning a pending case against him as detailed in the letter from the Police authority. It was noted that the letter advised that following review of the matter, there would be no further proceedings in the pending case against Mr Johnston.

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

Mr Johnston was then given the opportunity to address the Committee in support of his application and the position was noted in relation thereto.

After consideration of the application, the Committee agreed that the application be granted.

ADJOURNMENT

Having heard the Chair, Councillor J. McColl, the Committee agreed to adjourn for a period of 5 minutes.

The meeting reconvened at 1.12 p.m. with all those Members shown on the sederunt in attendance.

DECLARATION OF INTEREST

Councillors Brown and J. McColl declared a possible financial interest of a close associate in the undernoted item. Councillor Brown left the meeting during consideration of the application and Councillor J. McColl remained in the meeting.

APPLICATION FOR GRANT OF SECOND HAND DEALER'S LICENCE

Name and Address of Applicant

Date Applied

Hardgate Tyres
Old Mill Garage
Dalmuir
Clydebank
G81 6AU

7 December 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 by the above named company.

Having heard the Principal Solicitor, 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 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
- (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 representatives of the Police authority, Sergeant Stewart and Ms Karen Queen, were in attendance.

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

Thereafter Ms Martin was invited to come forward and addressed the Committee in support of her application, explaining the background to the offences detailed in the letter from the Police authority. Ms Martin was then heard in answer to Members' questions concerning the set up of the business. During consideration of the application, it became apparent that Ms Martin had been operating the business without a licence in the 3 week period prior to the Committee meeting. It was accepted by the Committee that whilst this was a breach of the Civic Government (Scotland) Act 1982, it had been a misunderstanding on the applicant's part following the display of the statutory notice at the premises.

Following discussion, it was agreed that the application be granted.

PROPOSED REVISIONS TO THE CODE OF CONDUCT FOR PUBLIC PROCESSIONS

A report was submitted by the Head of Legal, Democratic and Regulatory Services requesting consideration of proposed revisions to the existing Code of Conduct for Public Processions.

The Committee heard from Mr McCulloch, Section Head, Trading Standards and Licensing who provided an overview of the outcome of the consultation exercise to gain the views of both the key stakeholders and the public concerning proposed revisions to the current code of conduct applicable to organisations conducting public processions in West Dunbartonshire.

The Committee also heard from Ian Daly, Honorary Depute District Grand Master of Dumbarton Orange and Purple District No. 27 in relation to stewarding. Mr Daly advised that the organisation was happy to operate with a 1 steward to 10 participants ratio for processions held by the organisation.

Following discussion, the Committee agreed:-

(1) to make the following changes to the existing Code of Conduct for Public Processions, namely:-

(i) that the following new condition be inserted:-

The organiser shall ensure that, in the event that persons attached to or following the procession engage in behaviour which is aggressive, threatening, abusive, homophobic, sectarian or racist, and the police are of the view that the playing of music is exacerbating the situation, the organiser/band major should immediately instruct a band to cease playing when asked to do so by Strathclyde Police.

(ii) that Condition 8 should be amended to the following:-

The organiser shall take responsibility for the behaviour of all participants and, where appropriate, bands and for ensuring general compliance with the Council's Code of Conduct on Public Processions and police instructions.

(iii) that Condition 9 should be amended to the following:-

The organiser shall ensure that the behaviour of participants is not such as can be reasonably perceived to be aggressive, threatening, abusive, homophobic, sectarian or racist. The organiser shall exercise reasonable diligence to ensure that any follower of the procession also refrains from such behaviour, for example by bringing such matters to the attention of the Police as soon as possible; and

- (2) that the Code of Conduct be revised in relation to stewarding arrangements to include a ratio of 1 steward to every 10 participants for all organisations holding processions in the West Dunbartonshire area.

The meeting closed at 1.40 p.m.