

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Council Chamber, Clydebank Town Hall, Dumbarton Road, Clydebank on Wednesday, 20 February 2019 at 10.09 a.m.

Present: Councillors Jim Brown, Ian Dickson, Jim Finn, Jonathan McColl, John Mooney and Lawrence O'Neill.

Attending: Raymond Lynch, Section Head (Licensing); Lawrence Knighton, Licensing Standards Officer; Carolann Anderson, Licensing Assistant and Nuala Borthwick, Committee Officer.

Also Attending: Inspector Calum Fulton, Police Scotland.

Apologies: Apologies for absence were intimated on behalf of Councillors Marie McNair and Brian Walker.

Councillor Jim Finn in the Chair

VARIATION IN THE ORDER OF BUSINESS

Having heard the Chair, Councillor Finn, the Committee agreed to vary the business as hereinafter minuted.

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 MEETINGS

- (1) The Minutes of Meeting of the Licensing Committee held on 5 December 2018 were submitted and approved as a correct record; and
- (2) The Minutes of the Special Meeting of the Licensing Committee held on 7 January 2019 were submitted and approved as a correct record subject to Councillor Dickson being included on the sederunt as present at the meeting in place of Councillor McColl.

OPEN FORUM

The Committee noted that no open forum questions had been submitted by members of the public.

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

Name and Address of Applicant

Date Applied

Scott Brownlie
12 Oxhill Place
Dumbarton
G82 4QU

9 November 2018

With reference to the Minutes of Meeting of the Licensing Committee held on 7 January 2019, a report was submitted 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.

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

- (a) that a letter dated 18 December 2018 had been received from the Chief Constable of Police Scotland submitting an objection in relation to the application and that copies of the letter had been circulated to Members in advance of the meeting;
- (b) that a separate letter had been submitted by Police Scotland detailing the applicant's previous convictions which were considered "protected" in terms of the Rehabilitation of Offenders Act 1974;
- (c) that at the meeting of the Licensing Committee held on 7 January 2019 it had been decided that the matter be continued to enable Mr Brownlie's legal representative to attend;
- (d) that in view of the letter received from Police Scotland, the applicant and a representative of Police Scotland had been invited to attend the meeting of the Committee in order that a hearing could take place; and
- (e) that the applicant was in attendance and was represented at the meeting by Mr Kenneth Clark, Adairs Solicitors and that Inspector Calum Fulton was in attendance on behalf of Police Scotland.

Having heard the Section Head (Licensing) with regard to the age, degree of seriousness and relevance of the protected convictions, the Committee agreed that the letter from Police Scotland detailing the protected convictions should be circulated and taken into account. Copies of the letter containing the protected convictions were accordingly circulated to Members of the Committee.

The Committee then heard from Inspector Fulton in relation to both letters from Police Scotland and in answer to questions from Mr Clark and Members of the Committee.

Thereafter, Mr Clark, on behalf of Mr Brownlie, was given the opportunity to address the Committee in support of the application and in connection with the circumstances relating to matters detailed in the Police letters. A copy of a letter received from West Dunbartonshire Health and Social Care Partnership's Criminal Justice Office in support of Mr Brownlie was circulated and a reference from Mr John Berry, Director, Dumbarton and Alexandria TOA was read out to the Committee. Thereafter, both the applicant and Mr Clark were heard in answer to Members' questions.

DECIDED:-

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

**APPLICATION FOR GRANT OF A TEMPORARY PRIVATE HIRE
CAR DRIVER'S LICENCE**

Name and Address of Applicant

Date Applied

Scott Brownlie
12 Oxhill Place
Dumbarton
G82 4QU

9 November 2018

With reference to the Minutes of Meeting of the Licensing Committee held on 7 January 2019, a report was submitted 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.

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

- (a) that a letter dated 18 December 2018 had been received from the Chief Constable of Police Scotland submitting an objection in relation to the application and that copies of the letter had been circulated to Members in advance of the meeting;
- (b) that a separate letter had been submitted detailing the applicant's previous convictions which were considered "protected" in terms of the Rehabilitation of Offenders Act 1974;
- (c) that at the meeting of the Licensing Committee held on 7 January 2019 it had been decided that the matter be continued to enable Mr Brownlie's legal representative to attend;

- (d) that in view of the letter received from Police Scotland, the applicant and a representative of Police Scotland had been invited to attend the meeting of the Committee in order that a hearing could take place; and
- (e) that the applicant was in attendance and was represented at the meeting by Mr Kenneth Clark, Adairs Solicitors and that Inspector Calum Fulton was in attendance on behalf of Police Scotland.

Having heard the Section Head (Licensing) with regard to the age, degree of seriousness and relevance of the protected convictions, the Committee agreed that the letter from Police Scotland detailing the protected convictions should be circulated and taken into account. Copies of the letter containing the protected convictions were accordingly circulated to Members of the Committee.

The Committee then heard from Inspector Fulton in relation to both letters from Police Scotland and in answer to questions from Mr Clark and from Members of the Committee.

Thereafter, Mr Clark, on behalf of Mr Brownlie, was given the opportunity to address the Committee in support of the application and in connection with the circumstances relating to matters detailed in the Police letters. A copy of a letter received from West Dunbartonshire Health and Social Care Partnership's Criminal Justice Office in support of Mr Brownlie was circulated and a reference from Mr John Berry, Director, Dumbarton and Alexandria TOA was read out to the Committee. Thereafter, both the applicant and Mr Clark were heard in answer to Members' questions.

DECIDED:-

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

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

Name and Address of Applicant

Date Applied

John MacRae
31 Dryburgh Road
Bearsden
G61 4DJ

19 December 2018

A report was submitted 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.

Having heard the Section Head (Licensing), it was noted that the applicant was not in attendance at the meeting.

DECIDED:-

After consideration, the Committee agreed that the application be continued to the next scheduled meeting of the Committee being held on Wednesday, 10 April 2019 to provide Mr MacRae a further opportunity to attend.

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

Name and Address of Applicant

Date Applied

Sitar Mohammad
2/2 Cart Street
Clydebank
G81 1QJ

5 December 2018

A report was submitted by the Strategic Lead – Regulatory concerning an Application for Grant of a Taxi/Private Hire Car Driver's Licence for 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 Police Scotland on 31 December 2018 submitting an objection in relation to the application and that copies of the letter had been circulated to Members in advance of the meeting;
- (b) that a separate letter had been received from the Chief Constable of Police Scotland dated 31 December 2018 detailing a conviction which was regarded as "protected" under the Rehabilitation of Offenders Act 1974 and that it was for the Committee to decide whether or not the letter detailing the protected conviction should be disclosed and be taken into consideration; and
- (c) that the applicant, Mr Sitar Mohammad, and a representative of Police Scotland, Inspector Fulton, were in attendance.

Having heard the Section Head (Licensing) with regard to the age, degree of seriousness and relevance of the protected conviction, the Committee agreed that the letter detailing the protected conviction should be circulated and be taken into account. Copies of the letter containing the protected conviction were accordingly circulated to Members.

The Committee then heard from Inspector Fulton in relation to both letters from Police Scotland and in answer to Members' questions.

Thereafter the applicant was given an opportunity to address the Committee in support of his application.

DECIDED:-

After consideration, the Committee agreed that the application be continued to the next scheduled meeting of the Licensing Committee being held on Wednesday, 10 April 2019 to enable Mr Mohammad to have legal representation given his difficulty in understanding the proceedings at the meeting.

APPLICATION FOR GRANT OF LATE HOURS CATERING LICENCE

Name and Address of Applicant

Date Applied

Shafiqullah Khalil
28 Hillstreet Square
Brucehill
Dumbarton
G82 4EB

5 December 2018

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

- (a) that a letter had been received from the Chief Constable of Police Scotland on 31 December 2018 submitting an objection in relation to the application and that copies of the letter had been circulated to Members in advance of the meeting;
- (b) that a separate letter had been received from the Chief Constable of Police Scotland dated 31 December 2018 detailing a conviction which was regarded as "protected" under the Rehabilitation of Offenders Act 1974 and that it was for the Committee to decide whether or not the letter detailing the protected conviction should be disclosed and be taken into consideration;
- (c) that the applicant, Mr Sitar Mohammad, was in attendance and was represented at the meeting by Mr Archie Maciver, Brunton Miller Solicitors; and
- (d) that a representative of Police Scotland, Inspector Fulton, was in attendance.

Having heard the Section Head (Licensing) with regard to the age, degree of seriousness and relevance of the spent conviction, the Committee agreed that the letter detailing the spent conviction should be circulated and be taken into account. Copies of the letter containing the spent conviction were accordingly circulated to Members.

The Committee then heard from Inspector Fulton in relation to both letters from Police Scotland and in answer to Members' questions.

Thereafter the applicant was given an opportunity to address the Committee in support of his application.

Thereafter Mr Maciver, on behalf of Mr Khalil, was given the opportunity to address the Committee in support of the application and in connection with the circumstances relating to the matters detailed in the Police letters.

DECIDED:-

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

ADJOURNMENT

Having heard the Chair, Councillor Finn, it was agreed to adjourn for a short period.

The Committee reconvened at 11.33 a.m. with all Members listed in the sederunt in attendance.

APPLICATION FOR RENEWAL (VARIATION) OF A PRINCIPAL STREET TRADER'S LICENCE

Name and Address of Applicant

Date Applied

Carla Rea
5 West Cochno Holdings
Hardgate
Clydebank
G81 5QQ

19 December 2018

A report was submitted by the Strategic Lead – Regulatory concerning an application for Renewal of a Principal Street Trader's Licence for the above named person.

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

- (a) that Ms Rea had submitted an application for renewal of a Principal Street Trader's Licence to the Council on 19 December 2018;
- (b) that the licence currently held by Ms Rea allowed her to operate on the following days, times and locations:-

Monday – Saturday:- 12:00 – 19:30
Faifley Road adjacent to Orbiston Road

Monday – Saturday:- 12:00 – 19:30
Beeches Road adjacent to Carleith Avenue

Monday – Friday:- 12:00 – 14:00
St. Peter the Apostle High School

- (c) that the application for renewal of the Principal Street Trader's Licence had requested changes to the existing permitted hours and the addition of a new location:-

Monday – Saturday:- 16:00 – 19:30
Faifley Road adjacent to Orbiston Drive

Monday – Saturday:- 16:00 – 19:30
Beeches Road adjacent to Carleith Avenue

Monday – Friday:- 12:00 to 14:00
St. Peter the Apostle High School

Monday – Friday: 12:00 to 14:00
Janetta Street, Clydebank (adjacent to the curtilage of Clydebank High School)

- (d) that at the meeting of the Licensing Committee on 1 February 2006, members had agreed to approve a policy whereby there would be a presumption against granting an application for a new Street Trader's Licence for a location in the vicinity of a secondary school and for operating within school hours, unless the proposed location was a minimum of two hundred and fifty metres from the curtilage of the school premises and the business was not seen as targeting school pupils; but that individual applications still required to be considered on their own merits;
- (e) that at a meeting of the Licensing Committee held on 1 March 2011, an application for the grant of a Street Trader's Licence was submitted by Miss Jean-Anne MacDonald and the application included a request to operate from 11:30 to 14:00 on Mondays to Fridays in the vicinity of Clydebank High School at Janetta Street, Clydebank;
- (f) that prior to 2011, the licence to operate in the vicinity of Clydebank High School at Janetta Street had been held by Mrs Jean Cowan who had operated at this location for approximately 20 years. Miss MacDonald had been an employee of Mrs Cowan for the previous 15 years and was applying to operate on her own. The application submitted in 2011 from Miss MacDonald had been supported by Mrs Cowan at Committee and was granted;
- (g) that Miss MacDonald has since failed to operate from this location and has since surrendered the licence on 17 January 2019;
- (h) that the applicant, Miss Carla Rea, is the daughter of Mrs Cowan and is therefore applying to operate from the location previously held by her mother; and
- (i) that there are no police objections or representations with respect to Ms Rea's application.

It was noted that the applicant, Ms Rea was in attendance and was accompanied by her mother, Mrs Cowan. Ms Rea was given the opportunity to address the Committee in support of her application and was heard in answer to questions from Members.

DECIDED:-

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

EXCLUSION OF PRESS AND PUBLIC

The Committee passed 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 items of business on the grounds that they may involve the likely disclosure of exempt information as defined in Paragraph 14 of Part 1 of Schedule 7A of the Act.”

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

Name and Address of Applicant

Date Applied

Farhan Farhan
16 Balloch Road
Alexandria
G83 8SR

13 June 2018

With reference to the Minutes of Meeting of the Licensing Committee held on 10 October 2018 and 5 December 2018, a report was submitted by the Strategic Lead – Regulatory concerning an application for Grant of a 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 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 Police Scotland had been invited to attend the meeting in order that a hearing may take place;
- (c) that Mr Farhan was in attendance at the meeting and was represented by Mr David Gallagher, Solicitor, Jonathan Paul Solicitors and that Inspector Calum Fulton was in attendance on behalf of Police Scotland;

- (d) that a letter from the Chief Constable was received on 10 July 2018 advising that Police Scotland were unable to comment further on the applicant's suitability to hold the above licence at that time due to ongoing enquiries;
- (e) that a further letter was received from the Chief Constable of Police Scotland on 7 September 2018 submitting an objection in relation to the application. 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 Farhan's application was submitted on 13 June 2018, any objection should have been submitted by 11 July 2018. There was, however, provision in the legislation for the Licensing Authority to entertain a late objection which had been received before a final decision had been made on the application if the Licensing Authority was satisfied that there had been sufficient reason why the objection had not been made in the time required;
- (f) that it would be a matter for the Committee to decide initially whether the late objection from the Police should be taken into consideration;
- (g) that at the meeting on 10 October 2018, the applicant had given advance notice that he could not attend and it was 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;
- (h) that at the meeting of the Licensing Committee held on 5 December 2018, Mr Farhan's legal representative had attended and advised that Mr Farhan's pending case had still to be marked by the Procurator Fiscal's office and therefore Members agreed that the application be continued to a future meeting;
- (i) that in terms of the legislation, licensing authorities are required to reach a final decision on Civic Government applications within 9 months of the application being made otherwise the licence will be deemed to be granted for one year;
- (j) that on 9 January 2019, Mr Farhan had advised of a change of address to 313 Main Street, Alexandria G83 0JA;

The Committee heard from Inspector Fulton, who addressed the Committee on the late objection which had been submitted outwith the statutory period.

The Committee then agreed that the Police objection would be taken into consideration. Copies of the letter containing the objection were accordingly circulated to Members of the Committee. Having heard from Inspector Fulton, it was noted that Mr Farhan's pending case had still to be marked by the Procurator Fiscal.

Thereafter, the Committee heard from Mr Gallagher in support of Mr Farhan's application and in answer to Members' questions.

DECIDED:-

After consideration, the Committee agreed that the application be granted for a period of one year and that Mr Farhan's first application for renewal of licence be referred to the Committee for consideration and determination.

The meeting closed at 11.53 a.m.