

Agenda



Meeting of Licensing Committee

Date: Wednesday, 2 December 2020

Time: 10:00

Format: Zoom Video Conference

Contact: Nuala Borthwick, Committee Officer,
nuala.borthwick2@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: 19 November 2020

LICENSING COMMITTEE

WEDNESDAY, 2 DECEMBER 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 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 21 October 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

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 APPLICATION FOR GRANT OF A TEMPORARY WINDOW CLEANER'S LICENCE 9 - 10

Name and Address of Applicant

Date Applied

Harry McLachlan
7 Broom Drive
Clydebank
G81 3JB

16 October 2020

Submit report by the Strategic Lead – Regulatory concerning an Application for Grant of a Temporary Window Cleaner's Licence for the above named person.

8 APPLICATION FOR GRANT OF A TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE 11 - 12

Name and Address of Applicant

Date Applied

Drew Stewart
10 Cameron Drive
Alexandria
G83 0JT

29 September 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 HEARING REGARDING POSSIBLE SUSPENSION OR REVOCATION OF A TAXI DRIVER'S LICENCE 13 - 16

Submit report by the Strategic Lead – Regulatory concerning a request from the Chief Constable of Police Scotland for the suspension of a Taxi Driver's Licence.

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held by video conference on Wednesday, 21 October 2020 at 2.00 p.m.

Present: Councillors Ian Dickson, Jim Finn, Jonathan McColl, and Brian Walker.

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

Also Attending: Sergeant Wendy Maginnis, Licensing Sergeant and Constable Raymond Borland, Police Scotland.

Apologies: Apologies for absence were intimated on behalf of Councillors Caroline McAllister, Marie McNair and Lawrence O'Neill.

Councillor Jim Finn in the Chair

CHAIR'S REMARKS

Councillor Finn, Chair, welcomed everyone to the meeting which was being held remotely, in terms of Section 18B of the Civic Government (Scotland) Act 1982.

Accordingly, the Chair 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 continued 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 9 September 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

Having heard the Section Head (Licensing) in relation to the undernoted item of business, the Committee agreed to approve 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) and the Senior Officer (Licensing Services) in further explanation of the report, it was noted:-

- (a) that a letter had been received from the Chief Constable of Police Scotland on 16 September 2020 requesting the immediate suspension of the Taxi Driver's/Private Hire Car Driver's Licence under Paragraph 12(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that 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 with the Vice Chair of the Licensing Committee, it was decided that, due to the content of the letter received from the Police, that the Taxi Driver's/Private Hire Car Driver's Licence held by the licence holder should be suspended with immediate effect under Paragraph 12 of Schedule 1 to the Act;
- (c) that the Chief Constable had also requested the suspension of the 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 and also that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or safety;
- (d) 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 could take place;

- (e) that the licence holder had previously held a Taxi/Private Hire Car Driver's for 1 year between March 2015 and March 2016 but did not apply for the renewal of the licence. The licence holder had been the subject of a previous request for the immediate suspension of the licence at that time but having failed to apply for renewal, the suspension request had fallen. The licence holder then re-applied for the grant of a Taxi/Private Hire Car Driver's Licence in July 2018 and following an objection received from Police Scotland, the licence was granted for one year with the subsequent renewal being granted under delegated powers having received no adverse comment from Police Scotland at the time of the renewal in 2019;
- (f) that the licence holder's current Taxi Driver's/Private Hire Car Driver's Licence had an expiry date of 12 September 2020 and that to date, an application for renewal had not been received. However due to temporary changes to the Civic Government (Scotland) Act 1982, brought about by the Coronavirus (Scotland) Act 2020, applicants had a 3 month period in which they could apply for renewal after the expiry date of their current licence. In effect, the licence holder had until 12 December 2020 to apply for renewal of the licence;
- (g) that a verbal summary of the licence holder's previous matters considered by the Committee was provided for Members' information;
- (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 required to consider in relation to paragraph (d) 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 and also whether the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or safety;
 - (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 representatives of Police Scotland, Sergeant Wendy Maginnis, Licensing Sergeant and Constable Raymond Borland were in attendance. The Committee then heard from Constable Borland in relation to the letter from Police Scotland, advising the Committee of the updated position on the matter. Thereafter, both Constable Borland and the licence holder answered questions from Members.

Thereafter, the licence holder was given an opportunity to address the Committee on the circumstances detailed in the letter from the Police authority and both he and Constable Borland were again heard in answer to questions from Members.

DECIDED:-

After consideration and having heard the Section Head (Licensing) and the Senior Officer (Licensing Services) in further explanation of proceedings, it was agreed:-

- (1) that the alleged misconduct had been established; and
- (2) that the misconduct did not form grounds for suspending or revoking the licence and that a warning letter be issued to the licence holder.

The meeting closed at 2.40 p.m.

WEST DUNBARTONSHIRE COUNCIL
Report by Strategic Lead – Regulatory
Licensing Committee – 2 December 2020

Subject: Application for grant of a temporary Window Cleaner’s Licence

1. Purpose

- 1.1 To consider an application for grant of a temporary Window Cleaner’s Licence submitted by Mr. Harry McLachlan, 7 Broom Drive, Clydebank G81 3JB.

2. Recommendations

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

3. Background

- 3.1 Mr. McLachlan submitted an application for grant of a temporary Window Cleaner’s Licence to the Council on 16 October 2020.
- 3.2 A letter was received from the Chief Constable of the Police authority on 5 November 2020 submitting a comment in relation to the application.

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 2 December 2020.
- 4.2 The terms of the letter 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 9 November 2020

Person to Contact: Robert Mackie,
Senior Officer (Licensing Services),
Licensing Team,
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G82 1NR.

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Appendices: N/A.

Background Papers:

1. Application for grant of a temporary Window Cleaner's Licence from Mr. Harry McLachlan, 7 Broom Drive, Clydebank G81 3JB.
2. Letter dated 5 November 2020 from the Chief Constable, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton G82 3PT.
3. Letter to Mr. McLachlan dated 11 November 2020.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL
Report by Strategic Lead – Regulatory
Licensing Committee – 2 December 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. 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 Taxi/Private Hire Car Driver's Licence on 29 September 2020.
- 3.2 A letter was received from the Chief Constable of the Police authority on 26 October 2020 submitting an objection in relation to the application.
- 3.3 Mr. Stewart appeared before the Licensing Committee on 19 August 2020 having applied for the grant of a temporary Taxi/Private Hire Car Driver's Licence. A police letter was submitted in relation to the application and after consideration, Members decided to grant the temporary Taxi/Private Hire Car Driver's Licence for a period of 6 weeks.

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 2 December 2020.
- 4.2 The terms of the letter 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 9 November 2020

Person to Contact: Robert Mackie
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Appendices: N/A.

Background Papers:

1. Application for grant of a Taxi/Private Hire Car Driver's Licence from Mr. Drew Stewart, 10 Cameron Drive, Alexandria G83 0JT.
2. Letter from Police Scotland dated 26 October 2020.
3. Letter to Mr. Stewart dated 11 November 2020.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL
Report by the Strategic Lead - Regulatory
Licensing Committee – 2 December 2020

Subject: Hearing regarding possible suspension or revocation of a Taxi Driver's/Private Hire Car Driver's Licence

1. Purpose

- 1.1 To consider a request from the Chief Constable of Police Scotland for the suspension of a Taxi Driver's/Private Hire Car Driver's Licence held by Mr. Kenneth Sweeney, 3 Canberra Avenue, Dalmuir, Clydebank G81 4LH. Members also have the option to revoke the licence.

2. Recommendations

- 2.1 The Committee are asked to consider the terms of this report, the terms of the letter from the Chief Constable and any evidence presented at the hearing and thereafter determine whether the licence should be suspended and, if so, the duration of the suspension and date of commencement thereof or alternatively revoke the licence.

3. Background

- 3.1 On 28 October 2020, a letter was received from the Chief Constable of Police Scotland requesting the suspension of the Taxi Driver's/Private Hire Car Driver's Licence held by Mr. Kenneth Sweeney under Paragraph 11(2) (a) of Schedule 1 to the Civic Government (Scotland) Act 1982 complaining that Mr. Sweeney is no longer a fit and proper person to hold a licence and also under Paragraph 11 (2) (c) complaining that the carrying on of the activity to which the licence relates is likely to cause a threat to public safety.
- 3.2 Mr. Sweeney's current Taxi Driver's/Private Hire Car Driver's Licence expires on 11 August 2021.

4. Main Issues

- 4.1 In his letter the Chief Constable requested a suspension of the licence under Paragraph 11 (2) (a) and Paragraph 11 (2) (c) of Schedule 1 to the 1982 Act. A licensing authority may order the suspension of a licence under Paragraph 11 (2) (a) if, in its opinion, the holder of the licence is not, or is no longer, a fit and proper person to hold the licence or, under Paragraph 11 (2) (c) if, in its opinion, the carrying on of the activity to which the licence relates is likely to cause a threat to public safety.
- 4.2 The period of suspension of a licence is the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix.

- 4.3** Where a licensing authority decides to order the suspension or revocation of a licence, the suspension or revocation generally does not take effect until the expiry of the time within which the holder of the licence may appeal against the suspension or revocation (28 days from the date of the decision) or, if an appeal has been lodged, until the appeal has been abandoned or determined in favour of the suspension or revocation.
- 4.4** A licensing authority must, before deciding to suspend or revoke a licence under Paragraph 11, give the holder of the licence and the Chief Constable an opportunity of being heard.
- 4.5** The licence holder and a representative of the Police authority have been invited to attend the meeting of the Committee on 2 December 2020 in order that a hearing may take place with regard to the possible suspension or revocation of the licence.
- 4.6** 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.
- 4.7** The matters which the Committee will require to consider in relation to paragraph 4.1 above are as follows:-
- (a) Whether the alleged misconduct has been established.
 - (b) If the Committee is satisfied that the alleged misconduct has been established, whether, having regard to the misconduct, Mr. Sweeney is no longer a fit and proper person to hold a taxi/private hire car driver's licence or if the carrying on of the activity to which the licence relates is likely to cause a threat to public safety.
 - (c) If the Committee is of the opinion that Mr. Sweeney is no longer a fit and proper person or, if the activity to which the licence relates is likely to cause a threat to public safety, the Committee must consider whether his licence should be suspended or revoked.
 - (d) If the Committee is satisfied that the licence should be suspended, the Committee must give Mr. Sweeney an opportunity of being heard on the length of the suspension and the date from which the suspension should commence.
 - (e) The Committee must then consider what length of suspension is appropriate and whether the circumstances of the case justify immediate suspension.
 - (f) If the Committee is satisfied that circumstances of the case justify revocation, the Committee must consider whether this revocation should be immediate.

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 No consultation was required in relation to this request for suspension from Police Scotland.

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 9 November 2020

Person to Contact: Robert Mackie,
Senior Officer (Licensing Services)
Licensing Team
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Appendices: N/A.

Background Papers:

1. Letter dated 28 October 2020 2019 from the Chief Constable, Police Scotland.
2. Letter to Mr. Sweeney dated 11 November 2020.

Wards Affected: N/A.