

WEST DUNBARTONSHIRE COUNCIL

Report by Chief Officer – Regulatory and Regeneration

Licensing Committee – 2 August 2023

Subject: Hearing regarding possible suspension or revocation of a Late Hours Catering Licence

1. Purpose

- 1.1** To consider a request from the Chief Constable of Police Scotland for the suspension of a Late Hours Catering Licence held by Mr. Shafiqullah Khalil for the premises, Aladdin Hot For You located at 6 High Street, Dumbarton G82 1LL. 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 17 May 2023, a letter was received from the Chief Constable of Police Scotland requesting the immediate suspension of the Late Hours Catering Licence held by Mr. Khalil under Paragraph 12(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the carrying on of the activity to which the licence relates is likely to cause a serious threat to public safety.
- 3.2** Having consulted with the Chief Officer, Regulatory and Regeneration, it was decided that the Late Hours Catering Licence held by Mr. Khalil did not merit an immediate suspension under Paragraph 12 of Schedule 1 to the Act.
- 3.3** Mr. Khalil previously held a Late Hours Catering Licence for the premises having been granted the licence at Committee on 20 February 2019. The licence expired on 19 February 2022 and no renewal application was submitted at that time.
- 3.4** Mr. Khalil's current Late Hours Catering Licence has an expiry date of 23 June 2025 having had the licence granted on 24 June 2022 The operating hours of the Late Hours Catering Licence are:-

Monday	11.00 pm to 1 am
Tuesday	11.00 pm to 1 am

Wednesday	11.00 pm to 1 am
Thursday	11.00 pm to 2 am
Friday	11.00 pm to 4.30 am
Saturday	11.00 pm to 4.30 am
Sunday	11.00 pm to 2 am

3.5 At the Meeting of the Licensing Committee held on 14 June 2023, having heard from the legal representative of the licence holder, Members decided to continue consideration of the matter to the next Meeting of the Licensing Committee due to be held on 2 August 2023.

4. Main Issues

4.1 In his letter the Chief Constable also requested a suspension of the licence under Paragraph 11 of Schedule 1 to the 1982 Act. A licensing authority may, in these circumstances, order the suspension or revocation of a licence under Paragraph 11 if, in its opinion:-

- (a) the holder of the licence is not, or is no longer, a fit and proper person to hold the licence and/or;
- (b) the activity to which the licence relates is being managed by or carried on for the benefit of a person, other than the licence holder, who would have been refused the grant or renewal of the licence under paragraph 5(3) and/or;
- (c) the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety and/or;
- (d) a condition of the licence has been contravened

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 to suspend) or, if an appeal has been lodged, until the appeal has been abandoned or determined in favour of the suspension or revocation. However, if the licensing authority determines that the circumstances of the case justify immediate suspension or revocation, it may order that the licence be suspended or revoked immediately.

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 Chief Constable have been invited to the meeting of the Committee on 2 August 2023 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 on the part of the licence holder, this has a bearing on Mr Khalil's fitness to hold a licence.
 - (c) If the Committee is of the opinion that Mr. Khalil is no longer a fit and proper person, or the activity to which the licence relates is being managed by or carried on for the benefit of a person, other than the licence holder, who would have been refused the grant or renewal of the licence under paragraph 5(3), or that the carrying on of the activity has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety, the Committee must consider whether his licence should be suspended or revoked.
 - (d) If the Committee is of the opinion that a condition of the licence has been contravened then it may order the suspension or revocation of the licence.
 - (e) If the Committee is satisfied that the licence should be suspended, the Committee must give Mr. Khalil an opportunity of being heard on the length of the suspension and the date from which the suspension should commence.
 - (f) The Committee must then consider what length of suspension is appropriate and whether the circumstances of the case justify immediate suspension.
 - (g) If the Committee is satisfied that circumstances of the case justify revocation, the Committee must consider whether the circumstances of the case justify immediate suspension of the licence as well as revocation.

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 ensure our Communities are Resilient and Thriving.

Chief Officer – Regulatory and Regeneration

Date 11 July 2023

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

Tel. No. (Direct line) 01389 738742.
robert.mackie@west-dunbarton.gov.uk

Appendices: N/A.

Background Papers:

1. Letter dated 17 May 2023 from the Chief Constable, Police Scotland.
2. Letter to Mr. Khalil dated 4 July 2023.

Wards Affected: N/A.