

## LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Education Centre, St. Margaret of Scotland Hospice, East Barns Street, Clydebank on Tuesday, 3 April 2012 at 12 noon.

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

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

**Apology:** An apology for absence was intimated on behalf of Councillor Ronnie McColl.

### 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.

### MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 7 February 2012 were submitted and approved as a correct record.

With reference to Councillor Finn's possible financial interest in the item entitled 'Application for Grant of a Second Hand Dealer's Licence' as recorded in the Minutes under 'Declarations of Interest', Councillor O'Neill requested that Councillor Finn clarify his position in relation to the applicant company 'Hardgate Tyres'. In response, Councillor Finn, Chair advised that he had no involvement in the ownership or management of that particular business.

### 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

With reference to the Minutes of Meeting of the Licensing Committee held on 7 February 2012, 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Having heard the Principal Solicitor, the Committee agreed to note that the application had been withdrawn prior to the meeting.

### **APPLICATIONS FOR GRANT OF WINDOW CLEANER'S LICENCE**

<b>(a) <u>Name and Address of Applicant</u></b>	<b><u>Date Applied</u></b>
John Montgomery 118 Cardross Road Dumbarton G82 5DF	14 November 2011

With reference to the Minutes of Meeting of the Licensing Committee held on 7 February 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 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 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 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;
- (e) that it would be a matter for the Committee to decide initially whether the late representation 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 representative of the Police authority, Sergeant Stewart, were in attendance.

The Committee then 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 of representation from Strathclyde Police were accordingly circulated to Members of the Committee.

The Principal Solicitor advised that there were four spent convictions; three of which were more than 25 years old and one which was 15 years old, which were not particularly serious in nature but most of which were relevant to the licence applied for.

The Committee agreed that the letter from the Police authority providing details of the spent convictions would not be taken into account.

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

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

Following discussion, it was agreed that the application be refused on the grounds that the applicant was not a fit and proper person to hold a Window Cleaner's Licence.

**(b)/**

<b>(b) <u>Name and Address of Applicant</u></b>	<b><u>Date Applied</u></b>
David Martin 35 Holly Grove Mossend Bellshill ML4 1EG	16 January 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 Superintendent of the Police authority making an objection with respect to the application;
- (b) 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;
- (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 a representative of the Police authority, Sergeant George Stewart, were in attendance.

The Principal Solicitor advised that there were a number of eight spent convictions which were up about 6 to 17 years old, some of which were fairly serious in nature and most of which were relevant to the licence applied for.

The Committee then agreed that the letter from the Police authority providing details of the applicant's 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.

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.

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

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

That the application be granted for a period of one year.

As an amendment, Councillor O'Neill, seconded by Councillor W. McLaughlin, 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, 3 Members voted for the amendment and 3 for the motion. There being an equality of votes, Councillor Finn, Chair used his casting vote in favour of the motion which was accordingly declared carried.

### **APPLICATION FOR GRANT OF A TEMPORARY WINDOW CLEANER'S LICENCE**

#### **Name and Address of Applicant**

#### **Date Applied**

Barry Dorman  
9/16 Risk Street  
Dumbarton  
G82 1EF

1 February 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a temporary 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 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;

- (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 the spent convictions could not be considered by the Committee unless there was no other way of justice being done; 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 Principal Solicitor advised that there were two spent convictions; one of which was approximately 6 years old and one which was approximately 17 years old, both of which were fairly serious in nature but were not necessarily 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 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.

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

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

After consideration the Committee agreed that a Temporary Window Cleaner's Licence be granted for a period of six weeks.

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

### **Name and Address of Applicant**

### **Date Applied**

James Fleming  
103 Craigs Avenue  
Clydebank  
G81 5LQ

26 January 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, 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 a representative of the Police authority, Sergeant Stewart, were in attendance.

The Committee heard Sergeant Stewart in relation to the representation which had been submitted and in answer to a Member's question.

Thereafter, Mr Fleming was invited to come forward. It was noted that Mr Fleming was accompanied by his representative, Mr Brian Gourlay, Secretary, Clydebank Public Hire Association and Mr Gourlay addressed the Committee in support of Mr Fleming's application.

Councillor W. McLaughlin proposed a motion but failed to find a seconder.

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

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

**Name and Address of Applicant**

**Date Applied**

Paul Walker  
333 Braehead  
Bonhill  
Alexandria  
G83 9NF

3 February 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.

After hearing the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation in relation to the application;
- (b) that in view of the representation, 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 a representative of the Police authority, Sergeant Stewart, were in attendance.

Sergeant Stewart was then heard in relation to the representation and in answer to questions from Members. The applicant was then given the opportunity to address the Committee in support of his application and he explained the background with respect to the incidents referred to in the letter from Police.

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

### **VALEDICTORY**

Councillor Finn, Chair, informed the Committee that this would be the last meeting of the Licensing Committee under the present Council and took the opportunity to thank Councillor W. McLaughlin for his hard work and commitment to the Committee over the last 5 years given that he had intimated that he would not be standing for election in the Local Government Elections being held in May 2012.

Members concurred with the Chair's remarks and wished Councillor W. McLaughlin well for the future.

The meeting closed at 1.11 p.m.