

Agenda



Meeting of Licensing Committee

Date: Wednesday, 16 May 2018

Time: 10:00

Venue: Council Chamber, Clydebank Town Hall, Dumbarton Road, Clydebank

Contact: Nuala Borthwick, Committee Officer
Tel: 01389 737594 nuala.borthwick@west-dunbarton.gov.uk

Dear Member

Please attend a meeting of the **Licensing Committee** as detailed above. The business is shown on the attached agenda.

Yours faithfully

JOYCE WHITE

Chief Executive

Distribution:

Councillor Jim Finn (Chair)
Councillor Jim Brown
Councillor Ian Dickson
Councillor Jonathan McColl (Vice Chair)
Councillor Marie McNair
Councillor John Mooney
Councillor Lawrence O'Neill
Councillor Brian Walker

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: 2 May 2018

LICENSING COMMITTEE

WEDNESDAY, 16 MAY 2018

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members are invited to declare if they have an interest in any of the undernoted items of business on this agenda and, if so, state the reasons for such declarations.

3 MINUTES OF PREVIOUS MEETING 5 - 10

Submit for approval as a correct record Minutes of Meeting of the Licensing Committee held on 18 April 2018.

4 OPEN FORUM

The Committee is asked to note that no open forum questions have been submitted by members of the public.

**5 APPLICATION FOR GRANT OF A TAXI/PRIVATE HIRE 11 - 13
CAR DRIVER'S LICENCE**

Name and Address of Applicant

Date Applied

Gary McArthur
66/1 Onslow Road
Drumry, Clydebank
G81 2PN

15 January 2018

With reference to the Minutes of Meeting of the Licensing Committee held on Wednesday, 18 April 2018, submit report by the Strategic Lead – Regulatory concerning an application for Grant of a Taxi/Private Hire Car Driver's Licence by the above named person.

6/

6 EXCLUSION OF PRESS AND PUBLIC 15

The Committee is asked to pass 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.”

7 HEARING REGARDING A POSSIBLE SUSPENSION OR REVOCATION OF A LATE HOURS CATERING LICENCE 17 - 20

Submit report by the Strategic Lead – Regulatory concerning a request from the Chief Constable of Police Scotland for the suspension or revocation of a Late Hours Catering Licence.

8 HEARING REGARDING A POSSIBLE SUSPENSION OR REVOCATION OF A TAXI DRIVER’S/ PRIVATE HIRE CAR DRIVER’S LICENCE 21 - 24

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/Private Hire Car Driver’s Licence. Members also have the option to revoke the licence.

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in Committee Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 18 April 2018 at 10.04 a.m.

Present: Councillors Jim Brown, Ian Dickson, John Mooney*, Jonathan McColl, Marie McNair, Lawrence O'Neill and Brian Walker.

* Arrived later in the meeting.

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

Also Attending: Sergeant Mairi Capaldi, Police Scotland.

Apology: An apology for absence was intimated on behalf of Councillor Jim Finn.

Councillor Jonathan McColl in the Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest in the item of business on the agenda.

MINUTES OF PREVIOUS MEETINGS

The following Minutes of Meetings were submitted and approved as correct records:-

- (1) Minutes of Ordinary Meeting of the Licensing Committee held on 14 February 2018;
- (2) Minutes of Special Meeting of the Licensing Committee held on 28 February 2018; and
- (3) Minutes of Special Meeting of the Licensing Committee held on 29 March 2018.

OPEN FORUM

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

Note: Councillor John Mooney entered the meeting during consideration of the undernoted item of business.

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

Name and Address of Applicant

Gary McArthur
66/1 Onslow Road
Drumry, Clydebank
G81 2PN

Date Applied

15 January 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 Constable of Police Scotland on 7 February 2018 advising that Police Scotland had an objection to make in relation to the application;
- (b) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting;
- (c) that a separate letter dated 7 February 2018 had been received from Police Scotland detailing the applicant's alternative to prosecution which was considered "spent" in terms of the Rehabilitation of Offenders Act 1974 and that it was for the Committee to decide whether or not the letter detailing the spent alternative to prosecution should be disclosed and taken into consideration;
- (d) that in view of the objection, 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, Mr Gary McArthur, accompanied by his representative, Mr John Green, Taxi Licence Holder, and Sergeant Mairi Capaldi, Police Scotland, were in attendance.

Having heard the Section Head (Licensing) with regard to the age, degree of seriousness and relevance of the spent alternative to prosecution, the Committee agreed that the letter from Police Scotland detailing the spent alternative to

prosecution should be circulated and taken into account. Copies of the letter containing the spent alternative to prosecution was accordingly circulated to Members of the Committee.

The Committee then heard from Sergeant Capaldi in relation to both letters from Police Scotland. It was noted that a trial date of 3 May 2018 had been fixed.

Thereafter, the applicant, Mr McArthur and his representative, Mr Green, were given the opportunity to address the Committee in support of his application and in connection with the circumstances relating to the matters detailed in the letters from Police Scotland. Mr McArthur was also heard in answer to Members' questions.

DECIDED:-

After consideration, the Committee agreed to continue consideration of the application for Grant of a Taxi/Private Car Driver's Licence to the meeting of the Licensing Committee being held on 16 May 2018.

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

Name and Address of Applicant

Date Applied

George McKerry
268 Pappert Estate
Bonhill, Alexandria
G83 9LQ

15 January 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 by the above named person.

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

- (a) that a letter had been received from the Chief Contable of Police Scotland on 8 February 2018 submitting a comment in relation to the application;
- (b) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting;
- (c) that in view of the letter 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
- (d) that the applicant, Mr McKerry, accompanied by his representative, Mr John Watters and Sergeant Mairi Capaldi, were in attendance.

The Committee heard from Sergeant Capaldi in relation to the letter from Police Scotland and in answer to questions from Members. Having heard from Sergeant Capaldi, it was noted that an intermediate trial date had been set for 24 April 2018.

Mr Watters was then heard in support of Mr McKerry's application and in connection with the matter detailed in the letter from Police Scotland. Thereafter, Mr Watters and Mr McKerry answered questions from Members.

DECIDED:-

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

**REVIEW OF LICENSING CONDITIONS FOR HOME BOARDING AND
COMMERCIAL DAY BOARDING OF DOGS UNDER THE ANIMAL BOARDING
ESTABLISHMENTS ACT 1963**

A report was submitted by the Strategic Lead – Regulatory seeking a review of the licensing conditions for Home Boarding and Commercial Boarding of Dogs under the Animal Boarding Establishments Act 1963.

The Committee then heard from the Section Head (Licensing) and the Environmental Health Manager in further explanation of the report and in answer to Members' questions.

Thereafter, having heard the Chair, Councillor McColl, it was agreed that consultees who were present and likely to be affected by the amendments to licensing conditions, would have the opportunity to address the Committee in response to the proposed amendments to licensing conditions for Home Boarding of Dogs and Commercial Boarding of Dogs.

The Committee then heard from those consultees present at the meeting who provided information in relation to the proposed responses. Thereafter, both the consultees and the Environmental Health Manager answered questions from Members.

After discussion, the Committee agreed:-

- (1) to approve the proposed amendments to the conditions subject to the removal of the underlined wording at 1.9 of the West Dunbartonshire Council Animal Boarding Establishments Act 1963 Commercial Day Boarding of Dogs:-

“The maximum number of dogs permitted to be freely mixing in any individual area is 8”; and

- (2) to request that officers, as soon as is practical, provide an online public register for licence holders of home boarding and commercial day boarding of dogs.

EXCLUSION OF PRESS AND PUBLIC

The Committee agreed to pass 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 REQUEST FOR POSSIBLE SUSPENSION OF A LATE HOURS CATERING 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 Late Hours Catering Licence.

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

- (a) that a letter dated 23 March 2018 had been received from the Chief Constable of Police Scotland requesting the suspension of a Late Hours Catering Licence under Paragraph 11(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the licence holder was no longer a fit and proper person to hold a licence;
- (b) that copies of the letter from Police Scotland had been issued to Members of the Committee in advance of the meeting;
- (c) that the matters which the Committee was required to consider 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 late hours catering licence;
 - (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 holder should be suspended, the Committee must give the licence holder an opportunity to be heard on the length of the suspension and the date from which the suspension should commence; and
 - (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

- (d) that the licence holder and a representative of Police Scotland, Sergeant Mairi Capaldi, were in attendance at the meeting.

The Committee then heard from Sergeant Capaldi in relation to the letter from Police Scotland and in answer to Members' questions.

Thereafter, the licence holder answered questions from Members and circulated relevant correspondence on his own behalf.

The licence holder addressed the Committee on the circumstances detailed in the letter from Police Scotland and was again heard in answer to Members' questions.

DECIDED:-

After discussion and having heard the Section Head (Licensing) in clarification of the proceedings and in answer to Members' questions, the Committee agreed:-

- (1) that the alleged misconduct by the licence holder had not been established;
- (2) that the suspension request be dismissed; and
- (3) that the Clerk would write to Police Scotland seeking information regarding the suspension request and that any response from Police Scotland would be circulated to the Committee.

Note: Councillor O'Neill, having failed to obtain a seconder for a proposed amendment, requested that his dissent be recorded.

The meeting closed at 11.50 a.m.

WEST DUNBARTONSHIRE COUNCIL
Report by Strategic Lead – Regulatory
Licensing Committee – 16 May 2018

Subject: Application for grant of a 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. Gary McArthur, 66/1 Onslow Road, Drumry, Clydebank G81 2PN.

2. Recommendations

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

3. Background

- 3.1** Mr. McArthur submitted an application for grant of a Taxi/Private Hire Car Driver's Licence to the Council on 15 January 2018.
- 3.2** A letter was received from the Chief Constable of the Police authority on 7 February 2018 submitting an objection in relation to the application.
- 3.3** A further letter received from the Chief Constable of the Police authority on 7 February 2018 detailed an alternative to prosecution which is considered spent under the Rehabilitation of Offenders Act 1974.
- 3.4** At a meeting of the Licensing Committee held on 11 May 2016, Mr. McArthur was the subject of a suspension hearing relating to the incident outlined in paragraph 3 of the Police objection letter dated 7 February 2018. Members decided at that time to issue a warning letter to Mr. McArthur.
- 3.5** Mr. McArthur held a Taxi/Private Hire Car Driver's Licence from 28 August 2016 until 27 August however he chose not to submit a renewal application and allowed the licence to expire.
- 3.6** Mr. McArthur submitted an application for grant of a temporary Taxi/Private Hire Car Driver's Licence to the Council on 2 October 2017.
- 3.7** A letter was received from the Chief Constable of the Police authority on 18 October 2017 submitting a comment in relation to the application.
- 3.8** A further letter received from the Chief Constable of the Police authority on 18 October 2017 detailed an alternative to prosecution which is considered spent under the Rehabilitation of Offenders Act 1974.

- 3.9** On 13 November 2017 a further letter was received from the Chief Constable of the Police authority providing additional information in relation to the application.
- 3.10** At a meeting of the Licensing Committee held on 6 December 2017, having considered the information supplied by Police Scotland, Members agreed to grant a temporary Taxi/Private Hire Car Driver's Licence to Mr. Mc Arthur for a period of 6 weeks.
- 3.11** The temporary Taxi/Private Hire Car Driver's Licence currently held by Mr. McArthur expired on 17 January 2018 but is kept in existence until the application for the full Taxi Driver's/Private Hire Car Driver's Licence has been determined.
- 3.12** At the meeting held on 18 April 2018, the Committee agreed to continue consideration of the application for Grant of a Taxi/Private Car Driver's Licence to the meeting of the Licensing Committee being held on 16 May 2018.

4. Main Issues

- 4.1** In view of the submissions 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 16 May 2018.
- 4.2** At the meeting of the Licensing Committee held on 18 April 2018, Member's decided that the applicant's spent alternative to prosecution should be disclosed and taken into consideration.
- 4.3** The terms of the letters from the Police will be made known to the Committee at the meeting.

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 1 May 2018

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

Tel. No. (Direct line) 01389 738742.
robert.mackie@wdc.gcsx.gov.uk

Appendices: N/A

Background Papers:

1. Application for grant of Taxi/Private Hire Car Driver's Licence from Mr. Gary McArthur, 66/1 Onslow Road, Drumry, Clydebank G81 2PN.
2. Letters dated 7 February 2018 from the Chief Constable, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton.
3. References supplied by Mr. McArthur in support of his application.
4. Copy of warning letter dated 11 May 2016 issued to Mr. McArthur.
5. Letter to Mr. McArthur dated 1 May 2018.

Wards Affected: N/A.



NOT FOR PUBLICATION

**by virtue of Paragraph 14 of Part 1 of Schedule 7A of
the Local Government (Scotland) Act, 1973**

**ANY ACTION TAKEN OR TO BE TAKEN IN
CONNECTION WITH THE PREVENTION,
INVESTIGATION OR PROSECUTION OF CRIME**

PLEASE NOTE THAT CONFIDENTIAL PAGES HAVE BEEN REMOVED