

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in Committee Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 14 June 2017 at 10.00 a.m.

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

Attending: Peter Hessett, Strategic Lead – Regulatory; Raymond Lynch, Section Head (Licensing); Robert Mackie, Senior Officer (Licensing Services); Lawrence Knighton, Licensing Standards Officer and Nuala Borthwick, Committee Officer.

Also Attending: Sergeant Angela Walker, Police Scotland.

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

Councillor Jim Finn in the Chair

MINUTE OF SILENCE

After hearing the Chair, Councillor Finn, the Committee stood and observed a one minute of silence as a mark of respect for the victims of the recent tragic events in London and Manchester.

VARIATION TO THE ORDER OF BUSINESS

Councillor Finn, Chair, welcomed everyone present to the meeting and thereafter it was agreed that the order of business be varied 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.

MANAGEMENT RULES FOR THE ADMINISTRATION OF SHOPPING CENTRES

A report was submitted by the Strategic Lead – Regulatory:-

- (a) advising of proposed amendments to Management Rules for Administration of Shopping Centres following a review which has recently been undertaken; and
- (b) seeking approval to advertise the Management Rules for the Administration of Shopping Centres, as required under Section 112 of the Civic Government (Scotland) Act 1982.

DECIDED:-

The Committee agreed:-

- (1) to approve the proposed amendments to the Management Rules for Administration of Shopping Centres and authorise Officers to advertise the Rules as required under Section 112 of the Civic Government (Scotland) Act 1982;
- (2) to note that if objections to the proposed Management Rules for Administration of Shopping Centres are received, a further report on the matter would require to be considered by the Committee; and
- (3) that should no objections be received in relation to the proposed amendments, authority would be delegated to the Strategic Lead - Regulatory to execute the Management Rules for Administration of Shopping Centres without the requirement for the Committee to consider a further report on the matter.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 PART V – PUBLIC PROCESSIONS – POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 – NOTICE OF PROPOSAL TO HOLD A PUBLIC PROCESSION: DUMBARTON ORANGE & PURPLE DISTRICT NO. 27

A report was submitted by the Strategic Lead - Regulatory requesting consideration of whether to depart from the Code of Conduct, which prohibits the playing of music until 9.00 a.m., to allow the playing of music at 8.45 a.m. as requested by the Dumbarton Orange & Purple District No. 27 within their notice of proposal to hold a Public Procession submitted on 22 May 2017.

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

- (a) that Mr Iain Turner, District Manager, Dumbarton Orange & Purple District No. 27 was in attendance;
- (b) that similar applications had been brought before the Committee in previous years and Members had granted these without issue; and

- (c) that Police Scotland's only observation to the request to play music at 8.45 a.m. was that it fell outwith the Council's code of conduct.

DECIDED:-

After discussion and having heard Mr Turner in answer to a Member's question, the Committee agreed to approve the request from Dumbarton Orange & Purple District No. 27 to allow the accompanying band, The Pride of the Rock Flute Band, to play music at 8.45 a.m. as the Dumbarton Orange & Purple District No. 27 procession passes through Alexandria on the morning of Saturday, 1 July 2017.

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

Name and Address of Applicant

Date Applied

Brian Stewart
Flat 4/12 Bonhill Road
Dumbarton
G82 2ER

16 March 2017

With reference to the Minutes of Meeting of the Licensing Committee held on 19 April 2017, 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 that the application had been withdrawn by the applicant.

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

(a) Name and Address of Applicant

Date Applied

Richard Kearney
14A Lussett View
Radnor Street
Clydebank
G81 3DA

27 March 2017

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 advising that the Chief Constable had an objection to make in relation to the application;
- (b) that in view of the objection, the applicant and a representative of the Police authority had been invited to attend the meeting of the Committee in order that a hearing could take place;
- (c) that the applicant and a representative of the Police authority, Sergeant Walker, were in attendance; and
- (d) that a separate letter had been received from the Police authority detailing the applicant's alternatives to prosecution 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 letter detailing the spent alternatives to prosecution should be disclosed and taken into consideration.

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

The Committee then heard from Sergeant Walker in relation to both letters from the Police authority and in answer to Members' questions.

The Committee then heard from Mr Kearney who was given an 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. Thereafter, Mr Kearney answered questions from Members.

DECIDED:-

That the application be refused on the grounds that the applicant was not a fit and proper person to be the holder of a Taxi/Private Hire Car Driver's Licence.

(b) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Scott Brownlie Flat 2/2, 62 Glasgow Road Dumbarton G82 1HQ	10 April 2017

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 advising that the Chief Constable had an objection to make in relation to the application;
- (b) that in view of the objection, the applicant and a representative of the Police authority had been invited to attend the meeting of the Committee in order that a hearing could take place; and
- (c) that the applicant and a representative of the Police authority, Sergeant Walker, were in attendance.

The Committee heard from Sergeant Walker in relation to the letter of objection from the Police authority and in answer to Members' questions.

Mr Brownlie was then 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. Thereafter, Mr Brownlie answered questions from Members.

DECIDED:-

Following consideration of all matters before the Committee, it was agreed that the application be refused on the grounds that the applicant was not a fit and proper person to be the holder of a Taxi/Private Hire Car Driver's Licence.

(c) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Graeme Ness 137 Cumbrae Crescent South Castlehill Dumbarton G82 5AW	2 May 2017

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 applicant, Mr Ness, it was noted that the applicant's solicitor was not in attendance at the meeting. It was agreed that the application would be considered later in the meeting to enable the applicant to contact his solicitor.

(d)/

(d) Name and Address of Applicant Date Applied

George McLeod
17 Dumbuie Avenue
Dumbarton
G82 2JH

26 April 2017

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 a representation with respect to the application;
- (b) that in view of the representation which 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
- (c) that copies of the letter from the Police authority containing the representation 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 Walker, were in attendance.

The Committee then heard from Sergeant Walker in relation to the representation and in answer to Members' questions. Mr McLeod was then given the opportunity to address the Committee in support of his application and in connection with the matter detailed in the Police letter. Thereafter, Mr McLeod answered questions from Members.

DECIDED:-

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

**APPLICATIONS FOR RENEWAL OF A TAXI/PRIVATE
HIRE CAR DRIVER'S LICENCE**

(a) Name and Address of Applicant Date Applied

William McLeod
2 Barwood Hill
Bellsmyre,
Dumbarton
G82 3DX

19 March 2017

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

Having heard the Section Head (Licensing), it was noted that the applicant had intimated in advance of the meeting that he would be unable to attend the meeting due to a pre-booked holiday and had requested that the application be continued to the next meeting of the Committee.

DECIDED:-

It was agreed that consideration of the application be continued to the next meeting of the Licensing Committee.

(b) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Alan McDade Flat 2/1, 2 Trafalgar Street Clydebank G81 4EB	15 March 2017

A report was submitted by the Strategic Lead – Regulatory concerning an application for Renewal 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 advising that the Chief Constable had a representation to make 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 of the Committee in order that a hearing could take place; and
- (c) that the applicant and a representative of the Police authority, Sergeant Walker, were in attendance.

The Committee heard from Sergeant Walker in relation to the letter of representation from the Police authority and in answer to Members' questions.

Mr McDade, having heard the Police letter of representation, was then given the opportunity to address the Committee in support of the application. Thereafter, Mr McDade answered questions from Members.

ADJOURNMENT

Having heard the Chair, Councillor Finn, the Committee agreed to adjourn for a short period of time to consider what was put to the Committee by both the applicant and Police Scotland.

The Committee resumed at 11.38 a.m. with all Members shown on the sederunt in attendance.

DECIDED:-

Following consideration of all matters before the Committee and having heard in summary from Mr McDade, it was agreed that the application be refused on the grounds that the applicant was not a fit and proper person to be the holder of a Taxi/Private Hire Car Driver's Licence.

(c)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Dean McPhee 17 Old Mill Walk Balloch Alexandria G83 8PT	13 April 2017

A report was submitted by the Strategic Lead – Regulatory concerning an application for Renewal 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 advising that the Chief Constable had a representation to make 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 of the Committee in order that a hearing could take place; and
- (c) that the applicant and a representative of the Police authority, Sergeant Walker, were in attendance.

The Committee heard from Sergeant Walker in relation to the letter of representation from the Police authority and in answer to Members' questions. Mr McPhee was then given the opportunity to address the Committee in support of his application and was heard in answer to questions from Members.

DECIDED:-

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

(d)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	David Mills 257 Pappert Estate Bonhill, Alexandria G83 9LQ	10 April 2017

A report was submitted by the Strategic Lead – Regulatory concerning an application for Renewal 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 advising that the Chief Constable had a representation to make 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 of the Committee in order that a hearing could take place; and
- (c) that the applicant and a representative of the Police authority, Sergeant Walker, were in attendance.

The Committee heard from Sergeant Walker in relation to the letter of representation from the Police authority and thereafter both Sergeant Walker and the Section Head (Licensing) were heard in answer to Members' questions relating to the convictions. Mr McPhee was given the opportunity to address the Committee in support of his application and was heard in answer to questions from Members.

DECIDED:-

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

(e)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Garry Cosgrove c/o Flat 2/2, 17 Burns Street Clydebank G81 4BW	5 February 2017

A report was submitted by the Strategic Lead – Regulatory concerning an application for Renewal 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 advising that the Chief Constable had an objection to make in relation to the application;
- (b) that in view of the objection, the applicant and a representative of the Police authority had been invited to attend the meeting of the Committee in order that a hearing could take place; and
- (c) that Mr Cosgrove had advised in advance of the Committee that he would be unable to attend for personal reasons;
- (d) that Mr Cosgrove had attended a meeting of the Licensing Committee on 22 June 2016, having been the subject of a suspension request submitted by Police Scotland where Members decided that Mr Cosgrove was no longer a fit and proper person to hold a Taxi Driver's Licence and suspended the licence for the unexpired portion of the licence that being till 8 January 2017;
- (e) that Mr Cosgrove submitted an appeal to the Sheriff Court and as the matter was continued at Court until after the expiry date of the licence, the appeal was subsequently dismissed; and
- (f) that, as the suspension imposed by the Licensing Committee was for the unexpired portion of the licence, Mr Cosgrove had his licence returned to him on the date that he submitted the application for renewal on 6 February 2017;

DECIDED

The Committee agreed that consideration of the application would be continued to a Special Meeting of the Licensing Committee if required in order that the outcome of the pending case against the applicant may be known and that the applicant be again invited to appear before the Committee.

(f)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Paul Monaghan 33 Alclutha Avenue Dumbarton G82 2NX	11 May 2017

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

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

DECIDED:-

It was agreed that consideration of the application be continued to the next meeting.

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

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Joseph Elvin 70 Carleith Avenue Duntocher Clydebank G81 6JA	17 March 2017

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 that the applicant was not in attendance at the meeting.

DECIDED:-

It was agreed that consideration of the application be continued to the next meeting.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Darren Gallacher 10 Briar Drive Parkhall Clydebank G81 3HX	19 April 2017

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 that the applicant was not in attendance at the meeting.

DECIDED:-

It was agreed that consideration of the application be continued to the next meeting.

(c) **Name and Address of Applicant** **Date Applied**

Dylan Howie
13C Park Court
Littleholm Place
Clydebank
G81 4PH

20 April 2017

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 Constable of the Police authority on 5 May 2017 submitting comments in relation to the application and for consideration by the Committee;
- (b) that copies of the letter from the Police authority dated 5 May 2017, had been issued to Members of the Committee in advance of the meeting; and
- (c) that the licence holder and a representative of the Police authority, Sergeant Walker, were in attendance.

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

Thereafter, the licence holder was given the opportunity to address the Committee in support of his application and in connection with the circumstances relating to matters detailed in the Police letter. The licence holder was also heard in answer to Members' questions.

DECIDED:-

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

(d) **Name and Address of Applicant** **Date Applied**

Bryan Kale
35 Barrs Road
Cardross
Dumbarton
G82 5PR

23 May 2017

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 Constable of the Police authority on 31 May 2017 submitting comments in relation to the application and for consideration by the Committee;
- (b) that copies of the letter from the Police authority dated 31 May 2017, had been issued to Members of the Committee in advance of the meeting; and
- (c) that the licence holder and a representative of the Police authority, Sergeant Walker, were in attendance.

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

Thereafter, the licence holder was given the opportunity to address the Committee in support of his application and in connection with the circumstances relating to matters detailed in the Police letter. The licence holder was also heard in answer to Members' questions.

DECIDED:-

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

**HEARING REGARDING POSSIBLE SUSPENSION OF TAXI DRIVER'S/
PRIVATE HIRE CAR DRIVER'S LICENCE**

A report was submitted by the Strategic Lead – Regulatory requesting consideration of a request for suspension of a Taxi Driver's/Private Hire Car Driver's Licence held by Mr John Slevin.

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

- (a) that on 17 May 2017, 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 John Slevin under Paragraph 11(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 threat to public safety;
- (b) that a licensing authority must, before deciding to suspend a licence, give the holder of the licence and the Chief Constable an opportunity to be heard;

- (c) that in view of the request for suspension of the licence received from the Police, the licence holder and a representative from the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (d) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting; and
- (e) that the matters which the Committee was requested 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, Mr Slevin was no longer a fit and proper person to hold a taxi driver's licence; and
 - (iii) if the Committee was of the opinion that Mr Slevin was no longer a fit and proper person, then the Committee must consider whether his licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give Mr Slevin the 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.

It was noted that the licence holder and representatives of the Police authority, Sergeant Walker and Mr Slevin, were in attendance.

The Committee then heard from Sergeant Walker who provided details of the offences committed by Mr Slevin and in relation to the request for suspension of the licence which had been submitted.

Thereafter the licence holder was invited to come forward. Mr Slevin was given the opportunity to address the Committee on the circumstances relating to the offences as detailed in the letter from the Police authority. Mr Slevin then answered questions from Members.

DECIDED:

- (1) that the alleged misconduct had been established; and
- (2) that the misconduct did not form grounds for suspending Mr Slevin's licence and that a warning letter be issued to Mr Slevin in relation to the request for suspension of the licence.

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

Name and Address of Applicant

Date Applied

Graeme Ness
137 Cumbrae Crescent South
Castlehill
Dumbarton
G82 5AW

2 May 2017

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 a representation with respect to the application;
- (b) that a letter had been received from Dr Carlin, Consultant Physician, Gartnavel Hospital providing a medical opinion that Mr Ness was physically fit to resume occupational driving;
- (c) that in view of the representation which 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 copies of the letter from the Police authority containing the representation and the letter from Dr Carlin, had been issued to members of the Committee in advance of the meeting.

It was noted that the applicant and his representative, Mr Thomson, Solicitor Advocate, McArthur Stanton Solicitors and a representative of the Police authority, Sergeant Walker, were in attendance.

The Committee then heard from Sergeant Walker in relation to the representation and in answer to Members' questions. Mr Thomson, on behalf of Mr Ness, was then given the opportunity to address the Committee in support of his application and in connection with the matter detailed in the Police letter. Thereafter, Mr Thomson and Mr Ness answered questions from Members.

DECIDED:-

After consideration, the Committee agreed that the application be granted and that Mr Ness' first application for renewal of the licence be referred to the Committee for consideration and determination.

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 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 OF TAXI DRIVER’S/ PRIVATE HIRE CAR DRIVER’S LICENCE

A report was submitted by the Strategic Lead – Regulatory requesting consideration of the possible suspension of a Taxi Driver’s/Private Hire Car Driver’s Licence following a complaint which has been submitted by Police Scotland.

After discussion and having heard the Section Head (Licensing) in further explanation of the report and in answer to Members’ questions, the Committee agreed to continue consideration of the possible suspension under Paragraph 11 to the next meeting of the Licensing Committee given that matters were currently sub judice.

The meeting closed at 12.37 p.m.