

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Council Chamber, Municipal Buildings, Station Road, Dumbarton on Tuesday, 6 April 2010 at 12.00 noon.

Present: Councillors Jim Brown, Jim Finn, Douglas McAllister, Jonathan McColl, Ronnie McColl and Willie McLaughlin.

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

Councillor Jim Finn in the Chair

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 2 February 2010 were submitted and approved as a correct record.

VARIATION TO THE COUNCIL'S RESOLUTION ON PUBLIC ENTERTAINMENT LICENCES

With reference to the Minutes of Meeting of the Committee held on 4 August 2009 (Page 2081 refers), a report was submitted by the Head of Legal, Administrative and Regulatory Services requesting approval for a variation to the Council's resolution on Public Entertainment licences which was previously agreed by the Committee at its meeting on 4 August 2009.

The Committee agreed to make a resolution under Section 9(9) of the Civic Government (Scotland) Act 1982 in the following terms:-

With effect from 7 April 2010, the requirement to hold a public entertainment licence in respect of Amusement Arcades (or similar premises having machines for entertainment or amusement) is set aside in relation to premises which hold Adult Gaming Centre Premises Licences.

AGE LIMIT OF VEHICLES OPERATING AS TAXIS

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning a representation submitted by Clydebank taxi operator, Mr Charles Murray, requesting:-

- (a) that consideration be given to extending the age limit of purpose built vehicles beyond the current limit of 14 years; and
- (b) that when a vehicle is replaced during the course of a licence, no age restriction is placed on the substitute vehicle.

Following consideration and having heard the Senior Licensing Officer in answer to Members' questions, the Committee agreed:-

- (1) to remove the age limit of purpose built taxis so that there is no upper limit for any such vehicle which has been approved as a taxi; and
- (2) that an age restriction of eight years be imposed on replacement purpose built vehicles except where the vehicle has been operated as a taxi in the West Dunbartonshire area within the preceding 12 months.

APPLICATIONS FOR GRANT OF WINDOW CLEANER'S LICENCE

(a) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
James Shaw 46 Caledonia Terrace Brucehill Dumbarton G82 4DZ	11 November 2009

With reference to the Minutes of Meeting of the Committee held on 2 February 2010, a further report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Window Cleaner'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 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;
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting; and

- (d) that at the meeting on 2 February 2010, the Committee had noted that the applicant was not present and had agreed that consideration of the application be continued to the next meeting in order that the applicant may be given a further opportunity to appear before the Committee.

It was noted that the applicant again was not in attendance and it was agreed that the application be determined in his absence.

After deliberation the Committee 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 having regard to the information provided by the Police and the fact that the applicant had failed to attend meetings of the Committee for hearings on two occasions.

(b) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
David Smith 11A MacLachlan Road Helensburgh G84 9BX	2 February 2010

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Window Cleaner'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 in relation to the application; and
- (b) that the letter of 23 February 2010 from the Chief Superintendent, making the representation in relation to the application, had been received on 24 February 2010. In terms of the relevant legislation, a representation with respect to an application should have been submitted within 21 days of receipt of the application. As Mr Smith's application had been received on 2 February 2010, any representation should have been submitted by 23 February 2010. 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 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 it would be a matter for the Committee to decide initially whether the late representation from the Police should be taken into consideration; and

- (e) that the terms of the letter from the Police would be made known to the Committee as appropriate.

It was noted that the applicant and the representative of the Police authority, Sergeant Fulton, were in attendance.

The Committee heard Sergeant Fulton, who explained why this and other Police representations had been submitted outwith the statutory period.

The Committee agreed that the Police representation would be taken into consideration. Copies of the letter from the Police were accordingly circulated to Members of the Committee.

The Committee heard Sergeant Fulton in relation to the representation.

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

After consideration and having heard the Principal Solicitor in answer to Members' questions, the Committee agreed that the application be granted for a period of one year.

APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE

Name and Address of Applicant

Date Applied

Ralph Moore
10 George Street Lane
Bonhill
Alexandria
G83 9JG

6 January 2010

With reference to the Minutes of Meeting of the Committee held on 1 December 2009 (Pages 2395/6 refer), a further report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Taxi 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 an objection in relation to the application;
- (b) that in view of the objection 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.

The Committee agreed to continue consideration of the application to the next meeting as the applicant was not present.

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

<u>Name and Address of Applicant</u>	<u>Date Applied</u>
Graeme Ness 12 Gilmour Avenue Hardgate Clydebank G61 6AW	19 January 2010

A report was submitted by the Head of Legal, Administrative 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 dated 10 February 2010 had been received from the Chief Constable of the Police authority making a representation in relation to the application;
- (b) that the letter from the Chief Superintendent, making a representation in relation to the application, had been received on 11 February 2010. In terms of the relevant legislation, a representation with respect to an application should have been submitted within 21 days of receipt of the application. As Mr Ness's application had been received on 19 February 2010, any representation should have been submitted by 9 February 2010. 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 required time;
- (c) that in view of the above, 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 it would be a matter for the Committee to decide initially whether the late representation from the Police should be taken into consideration; and
- (e) that the terms of the letter from the Police would be made known to the Committee as appropriate.

It was noted that the applicant and the representative of the Police authority, Sergeant Fulton, were in attendance.

The Committee agreed that the Police representation would be taken into consideration. Copies of the letter from the Police were circulated to Members of the Committee.

The Committee heard Sergeant Fulton in relation to the representation.

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

After consideration and having heard the Principal Solicitor in answer to Members' questions, the Committee agreed that the application be granted for one year.

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

(a) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Mr Neil McGraw 23 Oakburn Walk Jamestown Alexandria G83 9NR	25 January 2010

With reference to the Minutes of Meeting of the Committee held on 5 May 2009 (Pages 1951/2 refer), a further report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

After hearing the Principal Solicitor, it was noted:-

- (a) that when Mr McGraw applied for renewal of his licence last year, a representation had been made by the Chief Superintendent of the Police authority in relation to the application. After a hearing at the meeting of the Committee on 5 May 2009, it had been agreed that the application be renewed and that the applicant's next application for renewal of the licence be referred to the Committee for consideration and the applicant be invited to appear before the Committee in this connection;
- (b) that in accordance with the decision of the Committee, the applicant had been invited to attend the meeting; and
- (c) that confirmation had been received from the Police authority that there was no Police objection or representation with respect to Mr McGraw's application for renewal of his licence.

It was noted that the applicant was in attendance at the meeting.

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

(b) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Daniel Ward 4 Clark Street Clydebank G81 3RD	21 January 2010

With reference to the Minutes of Meeting of the Committee held on 5 May 2009 (Page 1952 refers), submit further report by the Head of Legal, Administrative and Regulatory Services concerning an application for renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

After hearing the Principal Solicitor, it was noted:-

- (a) that when Mr Ward applied for renewal of his licence last year, a representation had been made by the Chief Superintendent of the Police authority in relation to the application. After a hearing at the meeting of the Committee on 5 May 2009, it had been agreed that the application be renewed and that the applicant's next application for renewal of the licence be referred to the Committee for consideration and the applicant be invited to appear before the Committee in this connection;
- (b) that in accordance with the decision of the Committee, the applicant had been invited to attend the meeting; and
- (c) that confirmation had been received from the Police authority that there was no Police objection or representation with respect to Mr Ward's application for renewal of his licence.

It was noted that the applicant was in attendance at the meeting.

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

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

(a) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Andrew Paterson 1 Lennox Drive Faifley Clydebank G81	27 January 2010

A report was submitted by the Head of Legal, Administrative 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 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;
- (c) that the letter from the Chief Constable, making a representation in relation to the application, had been received on 23 February 2010. In terms of the relevant legislation, a representation with respect to an application should have been submitted within 21 days of receipt of the application. As Mr Paterson's application had been received on 27 January 2010, any representation should have been submitted by 17 February 2010. 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 required time;
- (d) that it would be a matter for the Committee to decide initially whether the late representation from the Police should be taken into consideration; and
- (e) that the terms of the letter from the Police would be made known to the Committee as appropriate.

The Committee agreed to continue consideration of the application to the next meeting as the applicant was not present.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Greg Baxter 55 Third Avenue Bonhill Alexandria G83 9BW	27 January 2010

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Temporary 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 in relation 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 the representative of the Police authority, Sergeant Fulton, were in attendance.

The Committee heard from Sergeant Fulton in relation to the representation which had been submitted. The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to questions from Members.

After consideration the Committee agreed that the application be refused on the grounds that the applicant was not a fit and proper person to hold a Temporary Taxi/Private Hire Car Driver's Licence.

(c) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Kenneth Reid 170 Nobleston Bonhill Alexandria G83 9DF	8 February 2010

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Temporary 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 an objection in relation to the application;
- (b) that in view of the objection 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;
- (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 the representative of the Police authority, Sergeant Fulton, were in attendance.

The Committee heard from Sergeant Fulton in relation to the objection which had been submitted.

The applicant was then given the opportunity to address the Committee in support of his application and provided a letter of support from Dumbarton and Alexandria Taxi Owners Association. The Committee then heard the Principal Solicitor in relation to the letter of support which had been submitted and the applicant was then heard in answer to questions from Members.

After discussion, the Committee agreed that the application be granted for a period of six weeks and agreed that, should the applicant apply for a full licence, the application would be referred to a meeting of the Committee for consideration and the applicant would be invited to attend the meeting.

APPLICATION FOR GRANT OF TAXI/PRIVATE HIRE CAR BOOKING OFFICE LICENCE

Name and Address of Applicant

Date Applied

James King
11 Garshake Terrace
Dumbarton
G82 3LF

2 November 2009

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Taxi/Private Hire Car Booking Office 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 an objection in relation to the application;
- (b) that the objection to the application had been submitted in terms of Paragraph 5(3)(b) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the activity to which the application relates, would be carried on for the benefit of a person other than the applicant, who would be refused the grant of such a licence if they had made the application themselves;
- (c) that in view of the objection 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 letter from the Chief Superintendent, making an objection in relation to the application, had been received on 17 March 2010. In terms of the relevant legislation, an objection with respect to an application should have been submitted within 21 days of receipt of the application. As Mr James King's application had been received on 2 November 2009, any objection should have been submitted by 23 November 2009. There is, however, provision in the legislation for the Licensing Authority to entertain a late objection 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 objection had not been made in the required time;
- (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; and
- (f) that the terms of the letter from the Police would be made known to the Committee as appropriate.
- (g) that further letters had been received from the Chief Superintendent of the Police authority on 23 November 2009 and 10 March 2010 advising that Police enquiries concerning the application were continuing and that they were aware of the statutory timescales for determination of such applications;
- (h) that in view of the objection 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;
- (i) that the letter from the Chief Constable, making an objection in relation to the application, had been received on 17 March 2010. In terms of the relevant legislation, an objection with respect to an application should have been submitted within 21 days of receipt of the application. As Mr King's application had been received on 2 November 2009, any objection should have been submitted by 23 November 2009. There is, however, provision in the legislation for the Licensing Authority to entertain a late objection 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 objection had not been made in the required time;
- (j) that it would be a matter for the Committee to decide initially whether the late representation from the Police should be entertained; and
- (k) that the terms of the letter from the Police would be made known to the Committee as appropriate.

It was noted that the applicant, a representative of the Police authority, Chief Inspector Neill, Inspector Galbraith and Police Constable Cairns were in attendance.

The Committee heard Inspector Neill, who explained why the Police objection had been submitted outwith the statutory period.

It was noted that the applicant was accompanied by his solicitor, Mr Wolfe, who was given the opportunity to comment on Chief Inspector Neill's explanation for the late submission of the Police objection.

Following discussion and having heard the Principal Solicitor in answer to Members' questions, the Committee agreed that the Police objection would be taken into consideration. Copies of the letter from the Police were accordingly circulated to Members of the Committee.

ADJOURNMENT

Having heard the Principal Solicitor, the meeting adjourned for a short period of time to enable Members to consider the terms of the Police letter.

The meeting resumed at 12.50 p.m. with the same Members on the sederunt present.

Following advice from the Principal Solicitor, the Committee agreed to deal with the application in stages.

Thereafter, the Committee heard from Inspector Neill in relation to whether Mr James King's business was being carried on for the benefit of Mr Stephen King and in answer to questions from Members.

Mr Wolfe was then given the opportunity to address the Committee in response to that matter and both he and Mr James King answered questions from Members.

Having considered the information before them, the Committee formed the opinion that the activity in respect of which a licence was sought would be carried on for the benefit of Mr Stephen King.

Following further advice from the Principal Solicitor, the Committee noted that Mr Stephen King had spent convictions and that a letter dated 17 March 2010 from the Chief Superintendent providing details of those spent convictions could not be considered by the Committee unless there was no other way of justice being done.

The Principal Solicitor advised the Committee that Mr Stephen King's spent convictions were about 6 – 20 years old and that some of the offences were serious and some were relevant to the application.

The Committee then agreed that a letter dated 17 March 2010 from the Chief Superintendent providing details of the spent convictions should be circulated and taken into account.

The Committee then heard Chief Inspector Neill in relation to the contention by the Police authority that Mr Stephen King would not be a fit and proper person to be the holder of a Taxi/Private Hire Car Booking Office Licence.

Mr Wolfe was then given a further opportunity to address the Committee in support of Mr James King's application and both he and Mr James King answered further questions from Members.

After consideration the Committee agreed that the application be refused on the grounds that the activity in respect of which the licence is sought would be carried on for the benefit of Mr Stephen King who would be refused the grant of such a licence if he made the application himself. An application from Mr Stephen King would be refused as he would not be a fit and proper person to be the holder of such a licence.

The meeting closed at 1.20 p.m.