

**The Highland Licensing Board**

**Meeting – 25 February 2025**

Agenda Item	<b>11.1</b>
Report No	<b>HLB/18/25</b>

**Application for personal licence – Gary John Stewart**

**Report by the Clerk to the Licensing Board**

Summary

This report invites the Board to hold a hearing to consider and determine an application for a personal licence under Section 72 of the Licensing (Scotland) Act 2005 (the Act).

**1. Background**

- 1.1 A personal licence is required to allow any individual to supervise or authorise the sale of alcohol.
- 1.2 On 30 December 2024, an application for a personal licence was received from Gary J Stewart.
- 1.3 Under section 73 of the Act, Police Scotland have timeously given notice confirming that the applicant has a conviction for a relevant offence. A copy of the notice received from Police Scotland dated 15 January 2025 is attached (**Appendix 1**).
- 1.4 Police Scotland have included in their notice a recommendation under section 73(4) that the personal licence application be refused.  
  
They have included additional information under section 73(5) which they consider may be relevant to consideration by the Board of the application.
- 1.5 Under section 73A of the Act, the Licensing Standards Officer (“LSO”) has also been given notice of the application and has offered no further information which he considers relevant to the consideration by the Board of the application.
- 1.6 The applicant is entitled to be heard and has been invited to attend the hearing along with Police Scotland.

**2. Legal position**

- 2.1 Section 74(6) of the Act requires that at the hearing the Board must refuse the application if, after having had regard to the Police Scotland notice, any information provided by Police Scotland under section 73(5) and any information provided by the LSO under section 73A(2), the Board is satisfied that a ground of refusal applies. If not so satisfied, the Board must grant the application.

2.2 The grounds of refusal are-

- (a) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,
- (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.

2.3 For the purposes of the Act, the licensing objectives are-

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children and young persons from harm.

### **Recommendation**

The Board is invited to determine the application as follows:-

- (a) If, having had regard to the Police Scotland notice, any information provided under section 73(5) or 73A(2) and any submissions made by the applicant and/or the Police Scotland representative at the hearing, the Board is satisfied that a ground of refusal applies, the Board must refuse the application.
- (b) If the Board is not so satisfied, the Board must grant the application.

Ref.: HC/CSR/9397

Author: G Sutherland

Date: 20 January 2025

Appendices: Appendix 1 - Letter from Police Scotland dated 15 January 2025

15/01/2025

Your Ref:

Our Ref: 888965

Highland Council  
Licensing Office  
Council Headquarters  
Glenurquhart Road  
Inverness  
IV3 5NX



Divisional Co-ordination Unit  
Highland and Islands Division  
Police HQ  
Old Perth Road  
INVERNESS  
IV2 3SY

FOR THE ATTENTION OF Claire McArthur

Dear Madam,

**LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR THE GRANT OF A PERSONAL LICENCE. GARY JOHN STEWART, 03/07/1979  
14 DAVID SUTHERLAND COURT, INVERGORDON, IV18 0AN.**

I refer to the above application.

In terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005 (the 2005 Act) I give notice that, based upon the information provided and as far as the Chief Constable is aware, the applicant has been convicted of the following relevant offence. The applicant failed to declare this conviction on the application form.

Date	Court	Crime/Offence	Disposal
09/03/2022	Livingston: Sheriff Court  PLB0157290020	Section 5(2) Misuse of Drugs Act 1971 – Possession of Cocaine	Fine £220, victim surcharge of £20.

I am unable to confirm the existence of any foreign offence in respect of the applicant.

In terms of Section 73(5) of the 2005 Act the Chief Constable provides the following information in relation to the applicant which is relevant to the Board's consideration of the application: -

## OFFICIAL

PLB0157290020

On the 2<sup>nd</sup> of June 2020 officers from Police Scotland attended at an address in Livingston to execute a Misuse of Drugs Act 1971 warrant.

Entry was forced to the address through a locked front door. The applicant was found within the bedroom of the address.

The applicant was detained under Section 23 of the Misuse of Drugs Act 1971 and the warrant read to him. A systematic search of the premises was conducted with 1.9 grams of white powder being found within the bedroom.

The white powder was presumptively tested and found to be positive for Cocaine, a class A drug, the weight noted to be 1.9 grams.

The applicant was thereafter arrested and conveyed to Livingston Police Station.

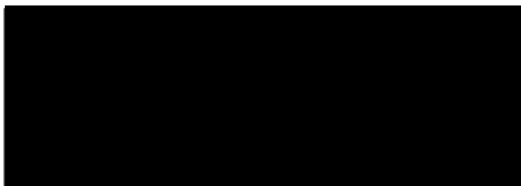
The applicant was interviewed and claimed ownership of the white powder stating that it was cocaine.

The applicant was charged and released to attend court at a later date.

On the 9<sup>th</sup> of March 2022 the applicant was convicted at Livingston Sheriff Court for being in possession of a Class A drug, namely cocaine and fined £220 with a £20 victim surcharge.

Considering the above, the Chief Constable considers that it is necessary for the purposes of the preventing crime and disorder licensing objective, that the application be refused. The Chief Constable accordingly makes a recommendation to that effect in terms of section 73(4) of the 2005 Act.

Yours faithfully

A large black rectangular redaction box covering the signature area.

Chief Superintendent Rob Shepherd  
Divisional Commander

For enquiries, please contact the Licensing Department on 01463 720817.