

Licensing Committee
19 January 2010

IRVINE, 19 January 2010 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 pm.

Present

William Gibson, Elisabeth Marshall, Robert Barr, Ian Clarkson, John Moffat, Alan Munro, Ryan Oldfather and Joan Sturgeon.

In Attendance

N Alexander, Chief Legal Officer and A. Toal, Administrative Assistant (Licensing and District Court) and G. Pollock, Trading Standards Officer (Legal and Protective); and A. Little, Committee Services Officer (Chief Executive's Service).

Chair

Councillor Gibson in the Chair.

Apologies for Absence

Ruby Kirkwood and Robert Rae.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 16.

2. Civic Government (Scotland) Act 1982: Taxi Stances: Harbour Street, Ardrossan

Submitted report by the Assistant Chief Executive (Legal and Protective) on the proposed relocation of the taxi stance in Harbour Street, Ardrossan.

In terms of Section 19 (1) the Civic Government (Scotland) Act 1982 "a Licensing Authority may, after consultation with persons or organisations appearing to them to be, or representative of, the operators of taxis operating their area, appoint stances for taxis for the whole or any part of a day in any road within their area or on any land owned by the Authority, or, with the consent of the owner, on any land owned by him".

At present there is a taxi stance in Harbour Street, Ardrossan situated on the west side of the street facing northwards. Proposed changes to the road layout, including the widening of Harbour Street, required a Traffic Regulation Order, as set out in the Local Roads Authorities Traffic Order (Procedure) (Scotland) Regulations 1999. The Ardrossan & Arran, Saltcoats & Stevenston Area Committee approved the Traffic Regulation Order to alter this location so that the taxi stance is located on the east side of the street facing southwards. The head of the taxi stance will be adjacent to the entrance to the Asda store in Ardrossan as illustrated in Appendix B to the report.

The location of the proposed new taxi stance is on land adopted and maintained by North Ayrshire Council as Roads Authority, and no permissions are needed from any land owners or other parties. Taxi operators licensed to operate in Ardrossan have been consulted on the proposed changes and no representations have been received.

The Committee agreed (a) to approve the relocation of the taxi stance in Harbour Street, Ardrossan to the location indicated on the plan in Appendix B; (b) that the Chief Legal Officer (i) write to the Chief Constable to give notice of the proposed relocation of the taxi stance and (ii) give public notice of the proposed relocation of the taxi stance by advertisement in a newspaper circulating in the Ardrossan area; and (c) in the event that there are no objections or representations made by the Chief Constable or members of the public in response to the public advertisement the relocation will be implemented.

3. Civic Government (Scotland) Act 1982: Second Hand Dealer's Licences

Submitted report by the Assistant Chief Executive (Legal and Protective) on a request that mobile phones and second hand computer games and consoles be included under the category of second hand goods, the sale of which requires a licence under the Civic Government (Scotland) Act 1982.

A Second Hand Dealer's Licence is required by a person who carries on a business as a second hand dealer, provided that the Licensing Authority has passed a resolution to implement this "optional" category in terms of Section 9 of the 1982 Act, and the resolution specifies the particular class or classes of the activity it requires to be licensed. The purpose of the 1982 Act is to assist in the prevention of crime and allows officers to enter and inspect premises and requires official records kept as a condition of licensed activities.

In 1983, Cunninghame District Council, resolved that second hand dealers would require to be licensed under the 1982 Act if they wished to trade in specific goods, details of which were provided in the report. Second hand mobile phones and computer games and consoles are not included at present.

On 8 June 2009, Strathclyde Police requested that the Council reconsider its policy in respect of second hand dealers to include those dealing in second hand mobile phones. Mobile phones are a commodity targeted by thieves with many thousands being stolen every year. Inclusion of second hand mobile phones within the categories of second hand goods which require to be licensed would assist in the prevention of crime in the rest of stolen goods.

On 7 August 2009, North Ayrshire Council's Trading Standards Section requested that the Council reconsider its policy in respect of second hand dealers to include those dealing in second hand computer games and consoles. Historically the retailing of second hand computer games and consoles was an ancillary part of many high street retailers business. Many retailers now incorporate the sale of these goods in to their core business but are not required to maintain stock books or records of sales and purchases of these items. This creates an unfair trading environment for those retailers who require a Second Hand Dealer's Licence for the sale of other goods. Trading Standards have further requested that second hand DVDs also be included in list of second hand good which require a licence.

Licensed second hand dealers have been consulted on the proposed inclusion of mobile telephones and computer games and consoles to the list of categories of goods to be licensed. No representations were received.

Information was provided on the statutory procedure that requires to be undertaken to amend the resolution.

The Committee agreed that the Chief Legal Officer implement the statutory procedure required to amend the resolution to incorporate mobile phones, computer games, computer consoles and DVDs to the list of second hand goods which require a licence under Section 9 of the Civic Government (Scotland) Act 1982.

4. Civic Government (Scotland) Act 1982: Taxi Driver's Licence No 1070 - Sheriff Court Appeal by John Simpson -V- North Ayrshire Council

Submitted report by the Assistant Chief Executive (Legal and Protective) on the outcome of the concluded litigation by Mr Simpson.

On 5 May 2009, the Committee refused an application by Mr Simpson for the grant of a Taxi Driver's Licence on the basis that he was not a fit and proper person. Mr Simpson subsequently lodged an appeal at Kilmarnock Sheriff Court against the Committee's decision and on 6 November 2009 the Sheriff dismissed the appeal and ordered him to pay the Council's expenses. In terms of Paragraph 6 of Schedule 1 of the Civic Government (Scotland) Act 1982 Mr Simpson will not be entitled to reapply for a Taxi Driver's Licence until on or after 6 May 2010.

Noted.

5. Civic Government (Scotland) Act 1982: Licensing Matters

Submitted report by the Assistant Chief Executive (Legal and Protective) on (a) applications for the grant or renewal of licences and permits; and (b) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982.

The Committee agreed to dispose of these matters as indicated in the attached Appendix LC1.

The meeting ended at 3.00 p.m.

PART A

Applications for Licences/Renewal of Licences/Permits

Taxi Driver Licence

1. TDL/01604 (New) Graham Hamilton

The Committee unanimously agreed on the basis of the information presented, to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982 in respect of the application.

2. TDL/1607 (New) David Joseph Hollas

The Committee unanimously agreed to grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

Taxi Licence

1. TL/251 (Renewal) Graham Christie Dewhurst

The Committee unanimously agreed to grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

Street Traders Licence

1. STL/E/203 (New) Andrew Milne

The Committee unanimously agreed on the basis of the information presented, to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982 in respect of the application.

2. STL/O/300 (New) John Thomas Cowan

The Committee agreed that (a) the Chief Legal Officer advise the applicant in writing that the application requires to be accompanied by an Environmental Health Report on the vehicle; and (b) the application be continued to a future meeting pending receipt of the Environmental Health Report.

APPENDIX B

Issues in respect of Existing Licences

Second Hand Dealer Licence

1. SHDL/129 & SHDL/131 William Hillan

The Chief Legal Officer reported on a notification of a conviction submitted by Strathclyde Police.

The Committee unanimously agreed to take no action in terms of a suspension hearing.

Private Hire Car Operator's Licence

1. PHCL/118 Deborah Russell

The Chief Legal Officer reported on a notification of a conviction submitted by Strathclyde Police.

Councillor Munro, seconded by Councillor Moffat, moved that the Chief Legal Officer write to the licence holder in relation to the non-disclosure of a conviction.

As an amendment, Councillor Clarkson, seconded by Councillor Sturgeon, moved that the Committee proceed to a suspension hearing.

On a division, there voted for the amendment 4 and for the motion 4 and, on the casting vote of the Chair, the motion was declared carried.

Accordingly, the Committee agreed that the Chief Legal Officer write to the licence holder in relation of the non-disclosure of a conviction.