

Licensing Committee  
22 May 2013

**Irvine, 22 May 2013** - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.30 p.m.

**Present**

Ronnie McNicol, Tom Marshall, Robert Barr, John Bruce, Ian Clarkson, Alex McLean, Alan Munro, Donald Reid and Robert Steel.

**In Attendance**

C. Andrew, Senior Manager Legal Services, W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant, D. Wallace, Enforcement Officer and A. Little, Committee Services Officer (Chief Executive's Service)

**Also In Attendance**

Inspector Skimming and PC McLean (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

Councillor Maguire.

**1. Declarations of Interest**

In terms of Standing Order 16, Councillor McLean, as an acquaintance of the applicant John Simpson, declared an interest in Agenda Item 4 (Application Ref:TDL/01070) and took no part in the discussion thereon.

**2. Minutes**

The accuracy of the Minutes of the Meeting of the Licensing Committee held on 20 March 2013 was agreed and the Minutes were signed in accordance with paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. Exclusion of the Public**

The Committee resolved in terms of Section 50(A)4 of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for Part A - Hearings on the grounds indicated in terms of Paragraph 15 of Part 1 of Schedule 7A of the Act.

**4. Civic Government (Scotland) Act 1982: Licensing Matters**

Submitted report by the Chief Executive on (a) Hearings to be determined; and (b) applications for the grant or renewal of licences and permits all in terms of the Civic Government (Scotland) Act 1982.

## **Part A - Hearings**

### **4.1 PHCL/322 (New 1 Year) - Samuel Balmer**

Mr Balmer has applied for a Private Hire Car Operator's Licence for 1 year. The Chief Superintendent of Police Scotland has intimated an objection to the application.

The applicant, having been duly cited to attend, was in attendance. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of a letter dated 4 April 2013 setting out the observations of the Chief Superintendent of Police Scotland in relation to the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

The applicant and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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

### **4.2 TDL/00779 (New 1 year) - John Lusk**

Mr Lusk has applied for Taxi Driver Licence for 1 year and has provided information in relation to a medical condition.

The applicant, having been duly cited to attend, was in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

The applicant withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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

#### **4.3 TDL/00951 (New 1 year) - Scott Morley**

The Committee, at its meeting on 20 March 2013, considered an application by Scott Morley for a Taxi Driver Licence and 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.

The applicant, having been duly cited to attend, was in attendance. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of letters dated 8 and 13 February 2013 setting out the observations of the Chief Superintendent of Police Scotland in relation to the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

The applicant and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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

#### **4.4 TDL/01706 (New 1 year) - Neil Black**

The Committee, at its meeting on 20 March 2013, considered an application by Neil Black for a Taxi Driver Licence and 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.

The applicant, having been duly cited to attend, was not in attendance. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of letters dated 8 February and 4 March 2013 setting out the observations of the Chief Superintendent of Police Scotland in relation to the application.

The representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

The Committee unanimously agreed to refuse the application in terms of Paragraph 5 (1) (c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds set out in Paragraph 5(3)(a)(ii) of the Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

#### **4.5 TDL/01829 (New 1 year) - Kevin Steven**

Mr Steven has applied for a Taxi Driver Licence for 1 year. The Chief Superintendent of Police Scotland has intimated an objection to the application.

The applicant, having been duly cited to attend, was in attendance. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of letters dated 4 March and 5 April 2013 setting out the observations of the Chief Superintendent of Police Scotland in relation to the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

The applicant and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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

#### **4.6 TDL/01840 (New 1 year) - Derek Griffiths**

Mr Griffiths has applied for a Taxi Driver Licence for 1 year and has provided information in relation to prescribed medication. A representation has been received from the Chief Superintendent of Police Scotland. Clinical information has been provided by the NHS University Hospital, Kilmarnock and the applicant's General Practitioner.

The applicant, having been duly cited to attend, was in attendance and represented. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of letters dated 17 April 2013 setting out the observations of the Chief Superintendent of Police Scotland in relation to the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

The applicant, his representative and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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

## **Part B - Applications for Licences and the Renewal of Licences**

### **4.7 LHCL/108 (New) Malthurst Petroleum Limited**

Malthurst Petroleum Limited have applied for a Late Hours Catering Licence for Mayfield Service Station, Saltcoats for the hours 11.00 p.m. to 5.00 a.m. No objections or representations have been received.

The Committee was advised that:

- (i) that Section 42 of the Civic Government (Scotland) Act 1982 (Licensing of Late Hours Catering) had been amended so that the original requirement to have a Licence for the use of premises in the period 11.00 p.m. and 5.00 a.m. for the sale to or consumption by the public of “meals or refreshment” had been extended to Premises where “food” was sold or consumed (using the definition of “food” in the Food Safety Act 1990); and
- (ii) that due to that amendment, some premises which had previously not required a Licence now did so.

The Committee considered whether and to what extent its current policy, of limiting Licences under Section 42 to the period 11.00 p.m. to 1.00 a.m., remained appropriate, and agreed (a) in relation to (i) premises which sold petrol, diesel or other vehicle fuel, there should be no time limit (and accordingly such Premises can seek a Licence under Section 42 for the period 11.00 p.m. to 5.00 a.m.); and (ii) other Premises the period should be 11.00 p.m. to 1.00 a.m.; and (b) to grant the Late Hours Catering Licence by Malthurst Properties Ltd for Mayfield Service Station, High Road, Saltcoats for Monday - Sunday, for the period 11.00 p.m. to 5.00 a.m. on all days, subject to the usual conditions.

### **4.8 Public Charitable Collection - Kilwinning Friends of the Ayrshire Hospice**

Kilwinning Friends of the Ayrshire Hospice have applied for a Public Charitable Collection Licence to undertake house to house collections in Kilwinning from 26 - 30 August 2013 and that the terminal hour be amended to 7.30 p.m.

The Committee unanimously agreed to grant permission under Section 119(5) of the Civic Government (Scotland) Act 1982 on the date(s) and at the place(s) and times requested, subject to the Council's usual conditions.

### **4.9 STL/E/248 (New) Nico Serapiglia**

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

#### **4.10 TDL/01070 (New 1 year) John Simpson**

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

#### **4.11 TDL/01613 (Renewal 3 years) Peter Strachan**

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.

#### **4.12 TDL/01624 (Renewal 1 year) James Rafferty**

After discussion, Councillor Reid, seconded by Councillor Clarkson moved that the application proceed to a hearing.

As an amendment, Councillor Barr, seconded by Councillor Marshall, moved that the application be granted and the Solicitor (Licensing) write to the licenceholder advising of the requirement to disclose convictions.

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

The Committee agreed (a) to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that the Solicitor (Licensing) write to the licenceholder in relation to the licence conditions and the requirement to disclose convictions during the terms of the licence.

#### **4.13 TDL/01834 (New 1 year) Graeme Reid**

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.

#### **4.14 TDL/01836 (New 1 year) Gavin Cousar**

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.

#### **4.15 TDL/01837 (New 1 year) Mohammed Asli**

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.

#### **4.16 TL/085 (Renewal 3 years) Albert Lamberton**

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.

### **5. Civic Government (Scotland) Act 1982 - Advertising on Taxis and Private Hire Cars**

Submitted report by the Chief Executive on a possible breach of the Council's policy on advertising on taxis and private hire cars.

On 12 August 2002, the Licensing Sub Committee agreed a system whereby operators of taxis (but not private hire cars) proposing to place adverts on their cars would require the prior approval of the Council, by applying for approval and describing their proposals. The policy included a number of conditions, including advertising on taxis was limited to the door panels of the vehicle.

On 23 March 2010, the Committee agreed that prior approval was no longer required, and that responsibility for observing the conditions for approval rested with individual operators. The restriction were otherwise unchanged, and in particular continued to limit the positioning of adverts to door panel.

Two taxi operators have placed adverts covering large parts of their vehicles, including the windows at both side and rear. The adverts use a one-way material whereby people inside the vehicle can see out, but people outside cannot see in. The Committee was provided with photographs of the two taxi vehicles.

The Committee agreed that (a) the Enforcement Officer (i) make the necessary arrangements for the Chair, Vice-Chair, Councillors Clarkson and Steel to view the vehicles; and (ii) report the findings to the next meeting of the Committee;

### **6. Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8**

Submitted report by the Chief Executive on the circumstances relating to a Registered Landlord.

On 13 August 2012, Mr P. Wade, 1/1, 45 Main Road, Glengarnock, Beith was registered as a Landlord in relation to two rental properties. The properties in Dalry and Glengarnock are occupied by tenants and Housing Benefit is paid on both properties to Mr Wade's father.

On 8 April 2013, Mr Wade was convicted at the High Court in Glasgow of various offences relating to kidnap, assault and murder. He was sentenced to life imprisonment with a recommended minimum sentence of 30 years. Police Scotland confirmed that Mr Wade had convictions from 1971 and 2009 in relation to the possession of drugs. Mr Wade's application for registration declared he had no unspent convictions.

The Committee unanimously agreed that (a) Mr Wade is no longer a fit and proper person to be registered as a Landlord and that the registration be removed; and (b) a Rent Penalty Notice should be made on both properties.

The meeting ended at 4.25 p.m.