

Licensing Committee  
9 December 2015

**IRVINE, 9 December 2015** - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ian Clarkson, Robert Barr, John Easdale, Tom Marshall, Catherine McMillan, Ronnie McNicol and Donald Reid.

**In Attendance**

K. Yeomans, Executive Director, S. McKenzie, Senior Manager (Protective Services) and P. Brennan, Specialist Environmental Health Officer (Noise) (Economy and Communities); W. O'Brien, Solicitor (Licensing), K. Sharkey, Solicitor (Contracts and Licensing), D. Robertson, Enforcement Officer, A. Toal, Administrative Assistant and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

**Also In Attendance**

Chief Inspector B. Shaw, Inspector B. Skimming and Sergeant G. Griffiths (Police Scotland).

**Chair**

Councillor Clarkson in the Chair.

**Apologies for Absence**

John Bruce and Grace McLean.

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Councillors Code of Conduct.

**2. Minutes**

The accuracy of the Minutes of the meeting of the Committee held on 18 November 2015 was confirmed, subject to an amendment to include a record of apologies submitted by Councillor Easdale, and the Minutes were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

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

## **Part A: Hearings**

### **3.1 Taxi Driver's Licence: Nicol Harris: TDL/00119 (New)**

The Committee, at its meeting on 18 November 2015, 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 present and accompanied by a prospective employer. Representatives of Police Scotland were also in attendance.

The representatives of Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the applicant. The applicant was invited to address the Committee on the issues raised, but declined to do so. The representatives of Police Scotland and the applicant 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.

#### **Decision**

Councillor McNicol, seconded by Councillor Reid, moved that the application be refused on the basis that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

As an amendment, Councillor Easdale, seconded by Councillor Marshall, moved that the application be granted in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

On a division, there voted for the amendment 3 and for the motion 4, and the motion was declared carried.

Accordingly, the Committee 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.

### **3.2 Taxi Licence: Anton Docherty: TL/125**

The Committee, at its meeting on 18 November 2015, considered the licenceholder's request for the Committee's consent to make a material change under Paragraph 9(2) of Schedule 1 of the Civic Government (Scotland) Act 1982. The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing.

The proposal was to make a material change to Taxi Licence 125 to include the licence-holder's son in the licence, following a partnership agreement entered into between the licence-holder (Claire Docherty) and her son (Anton Docherty), so that they would be joint holders.

Both parties were present, responded to questions, and then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

Councillor Marshall, seconded by Councillor McMillan moved to grant the material change requested. There being no amendment, the motion was declared carried.

Accordingly, the Committee unanimously agreed to consent to the material change requested under Paragraph 9(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.3 Public Entertainment Licence: Irvine Bay Events Limited: PEL/274**

The Committee, at its meeting on 18 November 2015, agreed that an unaccompanied site visit be held prior to any future consideration by the Committee of an application by Irvine Bay Events Limited for a Public Entertainment Licence. The site visit in question took place on 3 December 2015. The application is for a one-year licence, three days per week (Friday to Sunday), 10.00-22.00, with a stated maximum of 2,500 persons to be admitted to the premises at any one time.

The applicant, having been duly cited to attend, was present and represented by Mr Crossan and Mr Watson. Representatives of Police Scotland were also in attendance, together with two representatives of British Polythene Industries PLC (BPI), Mr Harris and Mr Ali.

The applicant addressed the Committee in support of the application and on the issues raised by Police Scotland and objectors (including the objector who was not present). An aerial photograph of the site showing alternative access routes was circulated at the meeting.

Officers of the Council had previously drafted proposed conditions which would apply if the licence were granted, and the applicant's representatives confirmed that these were acceptable and that they would give Police Scotland and the Council's Environmental Health Officer 28 days' notice of any events.

The representatives of Police Scotland addressed the Committee on the terms of a letter setting out an objection in relation to the applicant. Thereafter, Mr Harris for the objector BPI addressed the Committee on the terms of their letter of objection prepared by the company's representatives, Jones Lang LaSalle Limited. The Committee also viewed a DVD submission from another objector with regard to the issue of noise nuisance.

The Council's Executive Director (Economy and Communities), Senior Manager (Protective Services) and Specialist Environmental Health Officer (Noise) also addressed the Committee on the issues raised. The applicant was afforded an opportunity to ask questions of the other parties in attendance.

Thereafter, the applicant, the representatives of BPI, representatives of Police Scotland, and the officers of the Council in attendance responded to questions, before being invited to sum up.

The applicant, representatives of one of the objectors, representatives of Police Scotland, and the officers of the Council who had addressed the Committee on the application, withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

Councillor Marshall, seconded by Councillor Easdale, moved that the application be granted for a period of one year, subject to (i) its operation being limited to a maximum of 28 days over the course of the year, operating three days per week (Friday to Sunday) between the hours of 10.00 and 22.00 only and (ii) the detailed conditions prepared by officers and previously intimated to the applicant.

Councillor McNicol, seconded by Councillor Barr, moved that the application be refused and the applicant invited to make separate application on an event by event basis.

On a division, there voted for the amendment 2 and for the motion 5, and the motion was declared carried.

Accordingly, the Committee agreed to grant the Public Entertainment Licence for a period of one year, subject to (i) its operation being limited to a maximum of 28 days over the course of the year, operating three days per week (Friday to Sunday) between the hours of 10.00 and 22.00 only and (ii) the detailed conditions, prepared by officers and previously intimated to the applicant, all in terms of the Civic Government (Scotland) Act 1982, Section 41(3) and Schedule 1, Paragraph 5(2).

## **4. Civic Government (Scotland) Act 1982: "No Smoking" Policy and Dress Code Policy**

Submitted report by the Chief Executive on matters relating to the Council's existing "No Smoking" and Dress Code policies imposed as conditions to the grant of Taxi and Private Hire Car Licences in terms of the Civic Government (Scotland) Act 1982.

Condition 3 for taxi drivers and private hire car drivers currently states that "No smoking is permitted in the licensed vehicle. This prohibition relates to both passengers and drivers and applies in the vehicle at all times irrespective of whether or not it is on hire". There is currently no specific reference in terms of the application of this prohibition to e-cigarettes or other vaporising devices.

Condition 4 for taxi drivers and private hire car drivers places obligations in terms of the Dress Code. The report proposed that greater clarity be provided in terms of the type of clothing which is prohibited.

The Committee unanimously agreed (a) that the use of e-cigarettes or other vaporising devices should be regarded as in breach of that condition; (b) that Condition 3 should be amended so that future grants or renewals of Taxi Driver and Private Hire Car Driver Licences should be subject to a condition "No smoking is permitted in the licensed vehicle. This prohibition relates to both passengers and drivers and applies in the vehicle at all times irrespective of whether or on it is on hire. "Smoking" includes the use of e-cigarettes and other vaporising devices"; (c) that officers should publicise the agreed change in approach; (d) in acknowledging that licences already granted would not have the amended condition, that the Enforcement Officer should warn drivers that the Committee would now regard the use of e-cigarettes or other vaporising devices (by passengers or drivers and whether or not the vehicle is on hire) as a breach of the pre-existing condition, and that drivers who have been warned and either use e-cigarettes themselves or allow their passengers to use them may be reported to the Committee; and (e) that a report be submitted to the next meeting of the Committee, recommending amendments to the Dress Code applicable to Taxi Drivers and Private Hire Car Drivers in terms of a detailed list of clothing which will not be permitted.

The meeting ended at 12.30 p.m.