

Cunninghame House,  
Irvine.

19 May 2016

## Licensing Committee

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 25 MAY 2016** at **10.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

*Please note that, whilst the items on this Agenda are public documents, consideration of some reports at the meeting may necessitate the passing of a resolution to exclude from the meeting the press and public in terms of Section 50A(4) of the Local Government (Scotland) Act 1973.*

**1. Declarations of Interest**

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

**2. Minutes**

The accuracy of the Minutes of the (i) ordinary meeting held on 20 April 2016 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

**3. Wheelchair-Accessible Vehicles - Taxi and Private Hire Car vehicle specification under Civic Government (Scotland) Act 1982, Section 10(2)**

Submit report by the Chief Executive on the Law and their existing Policy (copy enclosed).

- 4. Taxi Numbers Limitation Policy - Civic Government (Scotland) Act 1982, Section 10(3)**  
Submit report by the Chief Executive on the Taxi Numbers Limitation Policy (copy enclosed).
- 5. Civic Government (Scotland) Act 1982: Licensing Matters**  
Submit report by the Chief Executive (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 (copy enclosed).
- 6. Public Charitable Collection Permissions: Civic Government (Scotland) Act 1982, Section 119**  
Submit report by the Chief Executive on the Public Charitable Collection Permissions (copy enclosed).
- 7. Caravan Sites and Control of Development Act 1960**  
Submit report by the Chief Executive on the Variation of Conditions for Glenview Caravan Park (Licence C19) (copy enclosed).
- 8. Urgent items**  
Any other items which the Chair considers to be urgent.

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## Licensing Committee

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Sederunt: Ian Clarkson (Chair)  
Tom Marshall (Vice Chair)  
Robert Barr  
John Bruce  
John Easdale  
Grace McLean  
Catherine McMillan  
Ronnie McNicol  
Donald Reid  
Vacancy

Chair:

Attending:

Apologies:

Meeting Ended:



Licensing Committee  
20 April 2016

**Irvine, 20 April 2016** - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

**Present**

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

**In Attendance**

David Drennan, Team Manager Building Standards (Economy and Communities); W. O'Brien, Solicitor (Licensing), K. Sharkey, Solicitor (Contracts and Licensing), A. Toal, Administrative Assistant, and A. Little, Committee Services Officer (Chief Executive's Service).

**Also In Attendance**

Inspector J. Conway and Sergeant G. Griffiths (Police Scotland).

**Chair**

Councillor Clarkson in the Chair.

**1. Declarations of Interest**

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

**2. Minutes**

The accuracy of the Minutes of the (i) ordinary meeting of the Committee held on 16 March and the (ii) special meeting held on 12 April 2016 was confirmed, 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 (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**

**3.1 Public Entertainment Licence: Coastwatch Scotland Ltd PEL/289**

The applicant, having been duly cited to attend, was present and accompanied by representatives from the Zipline event company and the bar provider. Representatives from Police Scotland were also 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 setting out an observation in relation to the application. Thereafter the applicant, the Zipline event company and bar provider addressed the Committee on the issues raised and responded to questions.

David Drennan, Senior Manager Building Standards, addressed the Committee on the issues identified by the Service in relation to the application. Thereafter the applicant addressed the Committee on the issues raised and responded to further questions.

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

### **Decision**

The Committee unanimously agreed to (a) grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for one year; and (b) establish a Working Group, comprising three Elected Members, representatives from the Council's Licensing, Health and Safety and Building Standards Sections, Police Scotland, Scottish Fire and Rescue to monitor the progress and planning of the event and ensure compliance with all regulatory requirements and to report on a regular basis to the Licensing Committee.

### **3.2 Public Entertainment Licence: Kelburn Arts Ltd PEL/292**

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also 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 setting out an observation in relation to the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

### **Decision**

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

### **3.3 Taxi Driver's Licence : Peter Smith TDL/01926**

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant.

The Committee noted that:

- (1) the applicant had previously applied to the Council for a Taxi Driver's Licence and that on 19 November 2014 (Minute Item 3.7) they had agreed to refuse that application in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982, on the ground set out in Paragraph 5(3)(a)(ii) of the said Schedule (that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence).
- (2) that the applicant had, in relation to his present application, disclosed material having a bearing on that ground of refusal; and
- (3) that the 'spent conviction' rules stated in The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013, No. 50 were altered with effect from 10th September 2015 by The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2015 No. 329.

The Committee was satisfied (a) that those matters were relevant considerations; and (b) that justice could not be done in the case except by admitting or requiring evidence relating to the applicant's Spent Convictions.

The Committee accordingly decided, under the Rehabilitation of Offenders Act 1974, Section 7(3), to admit and require such evidence, and to take that evidence into account in determining the present application.

The Chief Constable's representatives confirmed that the Chief Constable had no comment to make on the application.

Having made that decision, the Committee Members asked applicant questions about the material he had disclosed. The applicant addressed the Committee on his personal circumstances.

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

## **Decision**

Councillor Marshall seconded by Councillor McNicol, 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 Reid, seconded by Councillor Easdale, 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 6, 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.

### **3.4 Public Charitable Collection: Janis Murchie**

The applicant, having been duly cited to attend, was not present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The applicant has applied for a Charitable Collection on 22, 23 and 24 April 2016 on Arran, which is outwith the Council's policy which only permits collections on a Saturday.

#### **Decision**

Councillor Barr seconded by Councillor Marshall, moved that there were not sufficient grounds to treat the case as an exception to the Council's policy on street collections and the application be granted for 23 April 2016 only.

As an amendment, Councillor Bruce, seconded by Councillor McNicol, moved that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections and 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 7 and for the motion 2, and the amendment was declared carried.

Accordingly, the Committee agreed to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 on the dates requested, subject to the Council's usual conditions.

### **3.5 Street Trader Operator's Licence: Robin Gray STL/O/429**

The applicant, having been duly cited to attend, was not present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant.



## **Decision**

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

### **Part B: Applications for Licences and Renewal of Licences**

#### **3.6 Taxi Driver's Licence: James Watson TDL/00156 (New)**

The Committee 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.

#### **3.7 Taxi Driver's Licence: Kerr Chapman TDL/01470 (New)**

The Committee 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.

#### **3.8 Taxi Driver's Licence: Garry Hamilton TDL/01499 (Renewal)**

The Committee 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.

#### **3.9 Glenview Caravan Site: CAR/019 (variation)**

The Committee continued consideration of the licence-holder's request to alter the conditions of the Site Licence to a Hearing to afford to the licence-holder an opportunity of making representations, under Caravan Sites and Control of Development Act 1960, Section 8.

### **Part C: Issues in Respect of Existing Licences**

#### **3.10 Thomas Bagan: TDL/01642**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 11 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 Suspension Hearing in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

The meeting ended at 12.55 p.m.



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## NORTH AYRSHIRE COUNCIL

### Agenda Item 3

25 May 2016

#### Licensing Committee

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**Title:** **Wheelchair-Accessible Vehicles - Taxi and Private Hire Car vehicle specification under Civic Government (Scotland) Act 1982, Section 10(2).**

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**Purpose:** To advise the Committee of the Law and their existing Policy.

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**Recommendation:** That the Committee:

- (a) review their vehicle specification, and
- if some rear-loading cars are to be accepted as Taxis:
- (b) to give guidance on what standards should be adopted in deciding that a particular car is, or is not, acceptable;
- (c) to request the Clerk to give effect to these standards in a List, to be reported to a later Meeting, with the List to be time to time reviewed by the Committee.

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#### 1. Executive Summary

1.1 The Council is the Licensing Authority under the Civic Government (Scotland) Act 1982 and licenses the operation of Taxis and Private Hire Cars.

1.2 Section 10(2) of the Act is:

*"A Licensing Authority shall not Grant or Renew a Taxi Licence or Private Hire Car Licence unless they are satisfied that the vehicle to which the Licence is to relate is suitable in type, size and design for use as a Taxi or Private Hire Car, as the case may be, and is safe for that use, and that there is in force in relation to the vehicle such a policy of insurance or such security as complies with Part VI of the Road Traffic Act 1972."*

1.3 On 3 February 2016 the Licensing Committee considered this matter, and agreed:

(a) to undertake a review of its Taxi and Private Hire Car Vehicle Specification, including consultation with the Disability Forum; and

(b) that, immediately following the meeting, Members take the opportunity to inspect the side-loading and rear-loading vehicle types referred to by a Taxi Operator.

1.4 Members of the Committee later viewed two such vehicles.

## **2. Background**

2.1 From Section 10(2), there are 3 requirements that a vehicle must meet before it can be used as a Taxi / PHC:

(a) it must be suitable

(b) it must be safe

(c) it must be insured

2.2 Similar requirements apply if the operator wishes to substitute a different vehicle for the one licensed: Section 10(5).

2.3 This Report concerns requirement (a) - suitability. Requirement (b) is monitored by the NAC garage - a vehicle must pass a mechanical inspection before the Licence is issued or renewed, and periodically during the Licence's life. Requirement (c) is monitored by the Licensing Office, as the Licence-Holder must produce insurance documentation.

2.4 NAC have a 'Vehicle Specification', which sets standards which a vehicle must meet, e.g. setting engine capacity. This has been changed from time-to-time, last on 22 August 2012.

2.5 One of the requirements of the current 'Vehicle Specification' is:

*"The proposed vehicle: ...*

*b) must be a "Wheelchair Accessible Vehicle" (WAV):*

*(i) If it is a "Taxi", it must be side-loading;*

*(ii) If it is a "Private Hire Car", it does not have to be side-loading - it can be rear-loading or side-loading."*

2.6 There are two aspects to consider with Section 10(2):

- (a) The word used is 'shall'. Unlike many other provisions in the 1982 Act, where a Council 'may' do such-and-such, if a Council consider that a vehicle fails any of the three requirements (a), (b) or (c), the Council has no discretion: the Application must be refused;
- (b) The phrase "they are satisfied" is to be emphasised. The decision is given to the particular Licensing Authority, no-one else. The Courts acknowledge this and recognise that there is a 'band of reasonable decisions'. A Court might reject an Appeal against one Council which had a Specification permitting a vehicle type or feature, while also rejecting another Appeal where the Council prohibited that vehicle or feature.

2.7 Scottish Ministers are entitled to make Regulations (applicable across Scotland) on the question of "suitability" (Section 20A) and would do so if they wanted the same Vehicle Specifications all over Scotland. However, no such Regulations have been made and Scottish Ministers leave the matter to individual Licensing Authorities.

### **3. Proposals**

3.1 A prospective Operator of a Taxi has proposed a rear-loading vehicle for use as a Taxi, and he requested a Hearing. This took place on 3 February 2016, and an example of the type of vehicle he proposed was brought to Council Offices in Irvine for Members to inspect. The same Operator had asked the Licensing Committee to permit this, at their meeting on 22 August 2012, and the Committee refused.

3.2 In the past the Committee have regarded safety as a major consideration justifying the exclusion of rear-loading WAV Taxis. Considerations have included:

- (a) the wheelchair has to be on the road surface itself when being loaded or unloaded:
  - (i) being at the level of other vehicles exposes the wheelchair user and any helper to danger; this is particularly an issue with Taxis, which sit at Stances and where other Taxis are likely to be present;
  - (ii) the wheelchair user may be unable to move on and off the kerb;

- (iii) the ramp has a steeper gradient so is more difficult to use (the passenger must be raised a greater vertical distance than if the ramp was on the pavement);
    - (iv) it may be impractical to lower the ramp since Taxis may park close to each other;
  - (b) in a rearward collision:
    - (i) the passenger is more likely to be injured, being seated in the 'crumple zone';
    - (ii) the passenger is more likely to be trapped, as the only available exit door may be damaged or blocked.
- 3.3 Comparison with ambulances, PHCs and Motability cars is not appropriate for Taxis. Whereas, with an ambulance, PHC or Motability car there is a single vehicle and the driver can choose where to park to leave room for passenger access, this cannot be assured with Taxi Stances, where there are typically several vehicles parked close together. A driver might find that the rear-ramp could not be used because there were other Taxis parked behind. The possibility of disagreements between drivers cannot be discounted. If a wheelchair passenger wanted to use a Taxi but its ramp could not be lowered, the passenger would be unable to use the Taxi, whereas a passenger who was not in a wheelchair would have no difficulty.
- 3.4 The Equality Act 2010 places a general duty on public bodies such as Local Authorities to advance the equality of opportunity of people with 'protected characteristics', such as disabled people. However, this is not the only consideration. The Council should also consider the suitability and safety of the vehicle having regard to the kind of persons likely to be in it (Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 5(3)(c)).
- 3.5 The Vehicle Specification is a Policy, so (as with any Policy), it is possible both:
- (a) that the Policy might be reviewed overall, and
  - (b) that the Committee may agree on a case-by-case basis to make an exception.

The Policy does not determine an Application, and any Application must be considered on its merits.

- 3.6 A Licensing Authority is entitled to have a Policy and to require adherence to it, provided that the possibility of making an exception is always possible. In a Policy case the Court of Session said:

*"The general aims of a policy are of course important, and it is not an end in itself. But in laying down its policy, the Council has chosen, as it is entitled to do, a particular way of achieving these general aims. Even if some course of conduct inconsistent with the policy can also be regarded as consistent with, or likely to achieve, these aims, the council remains entitled, in our opinion, to require conformity with the policy, in the absence of any positive or specific justification for departing from it. When a policy has been promulgated, the requirement not to apply it rigidly, and to consider each case on its merits, does not entitle those who are within the scope of the policy to have their cases considered in isolation and as if there were no policy." ( Ahmed v North Lanarkshire Council, 1999 SLT 1064 at 1067 )*

#### 4. Implications

<b>Financial:</b>	There are possible financial implications in relation to the refusal of any application.
<b>Human Resources:</b>	None.
<b>Legal:</b>	There are possible legal implications in relation to the refusal of any application.
<b>Equality:</b>	An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is only one consideration in making a Licensing decision.
<b>Environmental &amp; Sustainability:</b>	None.
<b>Key Priorities:</b>	None.
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

## **5. Consultation**

5.1 There is no requirement for consultation where the Licensing Authority adopts or reviews a Policy, but the Licensing Authority may choose to consult first. Accordingly after the Committee considered this matter on 3 February 2016 letters were sent, inviting views, to:

- (a) Irvine T.O.A.
- (b) Three Towns T.O.A.
- (c) North Ayrshire Access Panel

As at the date of preparing this report (13 May 2016) there have been no comments.



ELMA MURRAY  
Chief Executive

Reference : GEN01/GEN37/WOB

For further information please contact William O'Brien, Solicitor (Licensing) on tel. 01294-324305.

### **Background Papers**

None.



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## NORTH AYRSHIRE COUNCIL

### Agenda Item 4

25 May 2016

#### Licensing Committee

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**Title:** Taxi Numbers Limitation Policy - Civic Government (Scotland) Act 1982, Section 10(3).

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**Purpose:** To inform the Committee of the current situation.

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**Recommendation:** The Committee are invited to:

(1) decide whether or not there might be a limit on the number of Taxi Licences;

(2) if so, to authorise the Clerk to consult with a view to providing information to a later Committee meeting;

(3) if the Committee decide that there might be such a limit, to request the Clerk to report to a future meeting of the Committee so that the Committee may then consider

(a) whether or not there should be such a Policy and, if so,

(b) what that Policy should be.

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### 1. Executive Summary

1.1 The Council are the Licensing Authority under the Civic Government (Scotland) Act 1982. Section 10(3) of the Act is:

*"Without prejudice to Paragraph 5 of Schedule 1 to this Act, the Grant of a Taxi Licence may be refused by a Licensing Authority for the purpose of limiting the number of Taxis in respect of which Licences are Granted by them if, but only if, they are satisfied that there is no significant demand for the services of Taxis in their area which is unmet."*

Paragraph 5 is the main provision dealing with the grant or refusal of any sort of 1982 Act Licence, whether it applies to a Street Trader, Market Operator, Public Entertainment or to the driving or operation of a hire-car, e.g. a consideration that is always relevant is whether or not the Applicant is a 'fit and proper' person.

- 1.2 Section 10(3) means that there is an extra consideration in relation to an Application for the Grant of a Taxi Licence (i.e. a Licence to operate a Taxi). A Licensing Authority are entitled (but not obliged) to refuse to grant a Licence for a new Taxi on the basis that there is no significant unmet demand. Therefore some Councils have a Policy. About 50% of Councils in Scotland have a Policy, and about 50% do not. The abbreviation "NLP" is often used for "Numbers Limitation Policy".
- 1.3 Any NLP cannot apply to:
- the renewal of a Taxi Licence
  - Taxi Driver's Licences
  - Private Hire Car Licences or their Drivers ("PHC Licences")
- 1.4 Section 10(3) does not apply to PHC Licences, but there is a provision of the Air Weapons and Licensing (Scotland) Act 2015 (as yet uncommenced) which will allow (but not oblige) a Licensing Authority to refuse the grant of a PHC Licence on the ground of 'overprovision'.

## 2. Background

- 2.1 Cunninghame District Council, and their successor NAC, have had a NLP since 1985. The current Policy was adopted in 2007, following a survey of demand for Taxi services carried out by the Fraser of Allander Institute of Strathclyde University. This survey was conducted by sending a questionnaire to a random sample of residents taken from the Electoral Register (1,550 residents). At that time the NLP set the total number of Taxi Licences in the whole area as 241, divided into 6 Zones:

	Zone	Policy
1	Irvine New Town	105
2	Three Towns (Ardrossan, Saltcoats & Stevenston)	85
3	Garnock Valley	20
4	North Coast (West Kilbride, Largs, Skelmorlie & Fairlie)	20
5	Millport	2
6	Arran	9
	Total	241

- 2.2 NAC operates a Waiting List, whereby the details of people who express an interest in operating Taxis are noted. This means that when a vacancy opens in a Zone (e.g. where someone who holds a Taxi Licence surrenders it or does not renew it), the person at the top of the Waiting List is informed. He can then apply for a Taxi Licence. If he does not apply, the second person is told, and so on.
- 2.3 On 12 August 2015 the Committee decided to take Zoning out of the Fare structure, but they were still clear that Zoning should be kept for at least one purpose, to guarantee that Taxis from all over NA do not congregate at the most lucrative place:
- driving down the income of local operators,
  - reducing Taxi provision elsewhere,
  - overcrowding Stances and increasing congestion
- 2.4 The Committee were well aware that some of the concern in the Trade arose from the mistaken belief that, by removing Zoning from the Fare structure, NAC were creating a free-for-all. That is why:
- (a) the Convenor explained during the public meeting that NAC were not doing that, and
  - (b) the statutory Notice sent to the Operators describing the Fare Scale decision included:  
  
*"Tariff 2 will no longer apply to journeys across Zone boundaries. It will remain the case that operators licensed for one Zone will not be able to stand at Stances or ply for hire in other Zones."*
- 2.5 It has been decided by the Court of Session that when the Licensing Authority are dealing with an Application for a new Taxi Licence and consider Section 10(3), the assessment of 'significant unmet demand' has to be made in relation to the situation at the time of the particular Licence Application.
- Where a NLP has been determined after a survey, all that is required is that the matter should be kept under review by an official who has the information to judge whether the demand has increased since the matter was last considered:
- (a) If he informs the committee that there has been no change in the level of demand, they can be satisfied that at that time there is no significant unmet demand if the relevant number of licences has already been issued.

(b) If he informs the committee that demand has increased, then they will require to reconsider the matter.

(Coyle v City of Glasgow Council, 1998 SLT 453)

### **3. Proposals**

- 3.1 The Committee should consider one, and possibly two, questions. The relevance of the second question depends on the reply to the first.

Question (a): "should there be any limit on the number of Taxi Licences?"

Action if "yes":

- ask Question (b): "how should the Assessment be carried out?" (Paragraph 3.6).

Action if "no":

- Question (b) does not arise.

- All prospective Applicants who are currently on the Waiting List would be contacted and invited to apply for Taxi Licences.

- The value which existing Licences currently have might be substantially reduced. There would be no need for a newcomer to the Trade to enter into a 'partnership' with an existing Operator, although this might in fact still happen sometimes, as the newcomer might not have the financial resources to provide his own vehicle.

Question (a): "in principle, should there be any limit on the number of Taxi Licences?"

- 3.2 The Committee may wish to defer consideration of this preliminary question in order that a Press Release (and/or a 'Twitter' announcement) might be issued inviting the public to make representations on this question.

- 3.3 For the Committee's assistance the following summarises some of the considerations. If the Committee seek representations on Question (a) and/or decide to proceed with a consultation process, they might be told of other considerations by consultees.

### 3.4 Considerations in favour of a limitation

#### (a) Protecting Operators/Drivers Income:

Limiting competition means that the Operators who hold Licences have some security. If there were unlimited numbers of Taxis, operators might find that the market was so thinly-sliced that the financial return from operating any one vehicle would not cover the costs; and it would require drivers to work longer hours to earn an income.

#### (b) Maintaining level of service

Taxi Licences currently have a condition limiting them to a particular Zone. There is no proposal to alter this. A concern of an Operator might be that Taxis from outside his own Zone might move into his Zone and compete with him for business. The condition prevents Taxis from all over North Ayrshire congregating in the most lucrative Zones, leaving their 'home' Zones poorly covered, so to some extent a NLP which sets Zone quotas helps maintain a level of Taxi service to the public over the whole Council area. However, is not guaranteed to achieve this. In some areas, it may not be regarded as economically viable to operate a Taxi, and so a PHC may be operated instead, e.g. in the Garnock Valley the actual number of Licences is far lower than the limit.

#### (c) Taxi Stance Congestion

If there was no limit on Taxis then the Stances appointed by the Licensing Authority might become congested. Some Taxis might find that they could not in fact 'rank' because the Stances were full. One of the considerations which the Council might take into account when making a decision about Stance allocation (Section 19) is an assessment of whether the sizes and number of Stances in the Zone are adequate for the number of Taxis licensed for the particular Zone.

### 3.5 Considerations against a limitation

#### (a) Licences are given a value artificially

Restricting the supply of Licences means that a Licence has a value. The Council is not directly involved with the unofficial sale of Licences, but anecdotal evidence indicates that plates change hands for thousands of pounds.

The Law does not give Licences a value. The 1982 Act has no Licence Transfer procedure. Since many other pieces of Licensing legislation have Transfer Procedures, the Committee would be entitled to assume that the omission in the case of Taxis is deliberate.

Even so, the Council have accommodated the Trade, by overlooking this and permitting partnership arrangements which may be genuine business arrangements, but may also be 'Transfers'. The Police are informed since the creation of a Partnership is treated as a change of 'Joint Holders'.

#### (b) A limit does not guarantee provision

If it is not economical to operate a Taxi in a particular Zone, then the fact that the Council have identified 'unmet demand' anywhere in their area, or in the provision of services to a particular section of the community (e.g. wheel-chair users), does not guarantee that that demand will in fact be met. If an owner does not expect a reasonable return from operating in a particular Zone, he will simply not apply for a Licence there. The fact that he could apply for a Licence there would be irrelevant.

#### (c) A limit is an obstacle to a newcomer entering the Trade

If the number of Licences in force is already at the limit, a newcomer will have to buy an interest in an existing Licence, as well as having to pay for the licensed vehicle.

Question (b): "how should the consultation be carried out?"

3.6 The Committee have two options:

(a) The 2007 Survey cost about £10,000. More recent inquiries of the Institute and other Councils which have instructed surveys have indicated the cost of a new survey might be between £13,000 and £16,000. This cost would fall on the Licensing Authority unless Licence fees were to be increased to recover the cost from Licensed Operators.

(b) The alternative to instructing an external body to carry out a survey would be to authorise the Clerk to consult the public with a view to providing information to a later Committee meeting. This might be done by placing a questionnaire on the Council website, with a Twitter message inviting representations from the public.

Either way, the Committee would at a later meeting consider the results of the consultation. The Committee would then have to consider the question:

"as a matter of fact, is there 'significant unmet demand' ?"

If the answer was "no", the same actions as would follow Question (a) being answered "no" would follow (see Paragraph 3.1). The Committee would be saying, in effect, "While we accepted that in principle there might be a limit, we are satisfied, on the basis of the information we now have, that there is in fact no significant unmet demand. Therefore there will be no limit."

If the answer was "yes", the Committee would have to decide what that Policy should be.

#### 4. Implications

<b>Financial:</b>	There are possible financial implications in relation to the refusal of any Application. If the Council choose not to have a NLP then a possible consequence is the loss of value of existing Licences.
<b>Human Resources:</b>	None.
<b>Legal:</b>	If a Licence Application is to be refused on the basis of a NLP, it is important that it should be secure from challenge.
<b>Equality:</b>	An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is not a consideration in making a Licensing decision. The Council's duties under that Act may be relevant to the consideration of whether or not there should be a NLP and, if so, what that should be.
<b>Environmental &amp; Sustainability:</b>	None.
<b>Key Priorities:</b>	An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve one of the "High Level Outcomes" of the "NAC Community Planning Partnership Single Outcome Agreement 2013-17": "A Safe and Secure North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.



## **5. Consultation**

- 5.1 There is no requirement for consultation where the Licensing Authority adopts or reviews a Policy, but the Licensing Authority may choose to consult first.

A handwritten signature in black ink that reads "Elma Murray". The signature is written in a cursive, flowing style.

ELMA MURRAY  
Chief Executive

Reference : GEN37/WOB

For further information please contact William O'Brien, Solicitor (Licensing)  
on tel. 01294-324305

### **Background Papers**

None.



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 5**

**25 May 2016**

#### **Licensing Committee**

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**Title:** **Civic Government (Scotland) Act 1982: Licensing Matters**

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**Purpose:** To advise the Committee of (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.

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**Recommendation:** That the Committee considers and determines the matters before it.

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#### **1. Executive Summary**

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council, as Licensing Authority, requires to determine issues in respect of the grant, renewal or suspension of licences.
- 1.2. A meeting of a local authority is open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under:
  - (a) the rule about 'confidential information' (as defined) or
  - (b) by Resolution.

(Local Government (Scotland) Act 1973, Section 50A, and especially Subsection 50A(4)).
- 1.3. Under the Resolution procedure, the Committee is entitled to resolve to exclude from the Meeting the press and the public for any one or more items of business on the grounds that otherwise "Exempt Information" of any type described in Part 1 of Schedule 7A to the Act might be disclosed.

- 1.4. The types of "Exempt Information" which may arise during Committee business include those described in Paragraphs 14 and 15 of that Schedule:

14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."

15. "The identity of a Protected Informant" (where "Protected Informant" is defined in Part III to mean a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance.)

- 1.5. Such a Resolution, once made, continues until the end of the Meeting unless the Committee earlier Resolves to revoke it.

## **2. Background**

### **Appendix A:**

Licences where Hearings have been convened;

### **Appendix B:**

Applications for the grant or renewal of licences and permits

## **3. Proposals**

- 3.1 It is proposed that the Committee considers and determines each of the listed cases in accordance with the required procedures.

#### 4. Implications

<b>Financial:</b>	There are possible financial implications in relation to the refusal of any application.
<b>Human Resources:</b>	None
<b>Legal:</b>	There are possible legal implications in relation to the refusal of any application.
<b>Equality:</b>	An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is not a consideration in making a Licensing decision.
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve one of the "High Level Outcomes" of the "NAC Community Planning Partnership Single Outcome Agreement 2013-17": "A Safe and Secure North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

#### 5. Consultation

- 5.1 Consultations have been undertaken with Police Scotland, Strathclyde Fire and Rescue, and the appropriate Council Services.



ELMA MURRAY  
Chief Executive

Reference : PAT

For further information please contact William O'Brien, Solicitor (Licensing)  
on 01294 324305

#### Background Papers

None



<b>Hearings</b>		
<b>Hearing 1</b>	<b>Taxi Operator and Taxi Driver Licence</b>	<b>TL/A10 and TDL/01816</b>
Applicant and Address	Brian <b>Deary</b> 8 Corrie Terrace Corrie Isle of Arran KA27 8JJ	
<b>Hearing 2</b>	<b>Taxi Driver Licence</b>	<b>TDL/00156</b>
Applicant and Address	James Gorman <b>Watson</b> 30 Maree Place Irvine KA12 9PH	
<b>Hearing 3</b>	<b>Taxi Driver Licence</b>	<b>TDL/01499</b>
Applicant and Address	Garry <b>Hamilton</b> Dunbreck Cottage Ochiltree KA18 2NN	
<b>Hearing 4</b>	<b>Taxi Driver Licence</b>	<b>TDL/01470</b>
Applicant and Address	Kerr <b>Chapman</b> 7 Hawkhill Place Stevenston KA20 4HN	
<b>Hearing 5</b>	<b>Public Charitable Collection</b>	
Applicant and Address	<b>Ivy Fundraising Ltd</b> Anne Jaconelli Trident House 175 Renfrew Road Paisley PA3 4EF	

<b>Hearing 6</b>	<b>Temporary Public Entertainment Licence</b>	<b>PEL/297</b>
Applicant and Address	Wesley Smith 19 Colvend Street Glasgow G40 4DU	
<b>Suspension Hearing 7</b>	<b>Taxi Driver Licence</b>	<b>TDL/01642</b>
Licenceholder and Address	Thomas <b>Bagan</b> 68 Pedan Avenue Dalry KA24 4BD	



Applications for Licences/Renewal of Licences	
Type of Licence/Reference Number	Details of Applicant
<b>TDL/00951 (New)</b>	Scott B <b>Morley</b> 70 Larch Terrace Beith KA15 1EN
<b>TDL/01823 (Renewal)</b>	Robert <b>Thomson</b> 19A Caldon Road Irvine KA12 0RG
<b>TDL/01831 (Renewal)</b>	Lelanie <b>Biddulph</b> 14 Glassock Road Kilmarnock KA3 2DH



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## NORTH AYRSHIRE COUNCIL

### Agenda Item 6

25 May 2016

#### Licensing Committee

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**Title:** **Public Charitable Collection Permissions: Civic Government (Scotland) Act 1982, Section 119.**

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**Purpose:** To inform the Committee of the current situation

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**Recommendation:** The Committee are invited to consider whether or not the Conditions applied to Collection Permissions should be replaced by those attached to this Report.

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#### 1. Executive Summary

1.1. Section 119 of the Civic Government (Scotland) Act 1982 applies to the regulation of Charitable Collections. It treats differently:

- (a) 'Exempt Promoters': some major organisations operating over the whole or a substantial part of Scotland (e.g. 'British Red Cross Society', 'Cancer Research UK' and 'Christian Aid') are on the 'Exempt Promoters' List maintained by the Office of the Scottish Charity Register. These receive special treatment under the Act: they do not require Council permission, and they do not lodge financial returns afterwards. They still require to give the Council 3 months' notice of their Collections, and the Council is entitled to refuse to permit other Collections which clash with Collections by major organisations;
- (b) Other Promoters. A Council Permission is required for a Public Charitable Collection (PCC), and it is a criminal offence to hold a Collection without a Permission, punishable by a fine of up to £1,000.

1.2. In (b), the Council can attach conditions. Section 119(5) is:

*"In Granting Permission under this section a Local Authority may, subject to the provisions of any regulations made under subsection (13) below, impose such conditions as they think fit, having regard to the local circumstances in which the collection is to be held, including conditions—*

- (a) *specifying the date, time or frequency of the collection;*
- (b) *specifying the area within which it is to take place;*

- (c) *regulating its conduct;*
- (d) *specifying the form of collection boxes, other containers and any other articles used for the purposes of the collection; and*
- (e) *as to any other matter relating to the local circumstances of the collection."*

Subsection (13) refers to national Regulations which regulate the conduct of PCCs.

## **2. Background**

2.1. The Council are entitled to refuse Permission on a number of grounds, including:

- (a) Section 119(6)(a): *"that the date, time, frequency or area of the collection would cause undue public inconvenience"*
- (b) Section 119(6)(c): *"that it appears to them that the amount likely to be applied for charitable purposes in consequence of the collection is inadequate having regard to the likely amount of the proceeds of the collection"*

### Ground of Refusal (a): arrangements for the Collection.

2.2. NAC have a Policy:

- (a) house-to-house collections are only permitted Monday - Friday;
- (b) street collections are only permitted on Saturday;

and only one of each is allowed on a particular day in a particular town. Neither is permitted on Sunday. Applications for Collections outside that Policy call at the Committee.

### Ground of Refusal (c): 'inadequate proceeds for beneficiary'

2.3. The Council Permission is distinct from the 'Licence' which a land-owner may give to allow a Collection on private ground. Any 'rent' which the land-owner charges is a matter of private agreement with the Promoter. The fact that the Promoter has to pay 'rent' does not remove his need to obtain a Council permission. The Council have no control over the amount of the 'rent', but this is a relevant consideration for the Council if it is deducted from the money donated by the public.

- 2.4. Statute does not impose a specific limit on the amounts of deductions or the reasons for them. There is nothing illegal about:
- the Promoter paying for the site of the Collection,
  - the Promoter paying the staff employed to collect money, or
  - charging the recipient 'good cause' a commission.
- 2.5. The legislation on fundraising will be replaced by the Charities and Trustee Investment (Scotland) Act 2005, Section 86, but the new system is not yet in force. When it is, there will be a requirement for the fundraiser to inform the donors if he is to receive remuneration, although there will not be a requirement to tell donors how much it will be (Charities and Benevolent Fundraising (Scotland) Regulations 2009 No. 121, Regulation 3).

### **3. Proposals**

- 3.1 The draft Conditions proposed largely reflect existing practice, the conditions which the Council have applied for many years, and those Regulations. The major change is related to the potential reasons for refusal, discussed above.

Under Section 119(5)(c) conditions may be made "*regulating its conduct*".

#### 4. Implications

<b>Financial:</b>	There are possible financial implications in relation to the refusal of any Application.
<b>Human Resources:</b>	None.
<b>Legal:</b>	There are possible financial implications in relation to the refusal of any Application. Where the Council makes any decision to refuse to permit a Collection or to impose a condition, the Applicant may appeal to the Sheriff. An Applicant who wishes the Committee to depart from Policy or Conditions may (unless these limitations are obligatory by legislation) request a Hearing.
<b>Equality:</b>	An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is not a consideration in making a Licensing decision.
<b>Environmental &amp; Sustainability:</b>	None.
<b>Key Priorities:</b>	An effective licensing system helps achieve one of the "High Level Outcomes" of the "NAC Community Planning Partnership Single Outcome Agreement 2013-17": "A Safe and Secure North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

#### 5. Consultation

- 5.1 There is no requirement for consultation where the Licensing Authority adopts or reviews their Conditions. Particular applications are copied to the Police.



ELMA MURRAY  
Chief Executive

Reference : WOB/GEN38

For further information please contact William O'Brien, Solicitor (Licensing)  
on 01294-324305

#### Background Papers

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## North Ayrshire Council

### Public Charitable Collections - Standard Conditions

#### Civic Government (Scotland) Act 1982, Section 119(5)

The Permission granted is subject to the following conditions (unless the Licensing Committee has agreed to vary them in a particular case). The Conditions in Part A apply to all types of Collections. In addition, other Conditions apply to particular types of Collection:

Part B. House-to-House Collections

Part C. Street Collections

#### **Part A: All Collections**

##### **A.1. General**

The Collection shall be carried out in accordance with the requirements of the Public Charitable Collections (Scotland) Regulations 1984 (S.I. 1984-565) as amended.

##### **A.2. Display of Notice**

At all times that the Collection is carried out, either:

- (a) the Organiser must display a Notice at each place where money is to be Collected; or
- (b) the Collectors must each display a Notice

##### **A.3. Form of Notice**

The Notice must:

- (a) be in writing, in text of height no less than 24 points;
- (b) be visible by each individual member of the public prior to him being invited to donate money;
- (c) state the information in Condition A.4.

##### **A.4. Content of Notice**

The Notice must state:

- (a) whether or not there is any payment made for the use of the place where the Collection is to take place;
- (b) whether or not the individual Collectors are paid or receive commission or expenses;
- (c) the minimum percentage of the total money Collected which is to go to the cause for which the money is Collected.

For example:

"The Organiser of this Collection pays the land-owner for the site. The individual Collectors are paid. No less than 50% of the total money donated will go to the cause for which the money is Collected." '

#### A.5. Conduct of the Collection

- (a) The Collection may only be between 9.00 a.m. and 6.00 p.m.;
- (b) No Collector shall cause annoyance to any person asked to donate.
- (c) Only the Number of Collectors stated are permitted.
- (d) The Collection will be taken in the Collection boxes, containers, envelopes or articles specified in the Application for the Collection Permission.
- (e) The Organiser and all Collectors must comply with any instructions relating to the Collection that may be given by or on behalf of the Local Authority or by any Police Officer.

#### A.6. Certificates of Authorisation and badges

- (a) Every Collector must both:
  - (1) carry a Certificate of Authorisation issued by the Organiser;
  - (2) wear a badge giving his name and the name of either the Organiser of the Ultimate Beneficiary.
- (b) A Collector must produce both these things when requested to do so by or on behalf of the Local Authority or by any Police Officer.

#### A.7. Alternative dates



If a Collection is not in fact held on the permitted date, this Permission authorises a Collection on any different date which was specified in the original Application, but only if both:

- (a) the Organiser advises the Licensing Authority that the Collection has not taken place, or will not take place, on the permitted date, and that the Organiser wishes a Collection on one of those different specified dates; and
- (b) that other date does not conflict with any Collection in the same town and of the same type ("House-to-House" Collections or "Street" Collections) which is already assigned to another Organiser (whether an 'Exempt Promoter' or an Organiser who has been granted a Permission).

#### A.8. Alcohol

If alcohol is supplied (for example, as a raffle prize):

- (a) no alcohol is to be supplied to a person under the age of 18. If it appears to the person supplying the alcohol that the person entitled to receive it may be less than 25 years of age, then he must not supply the alcohol until both:
  - (i) he has examined documentary evidence of that person's age which would be sufficient in order for that person to buy alcohol in Licensed Premises; and
  - (ii) he is satisfied that that person is at least 18.
- (b) any alcohol shall be supplied in a sealed container;
- (c) the container shall not be opened, or the contents consumed, in a public place.

#### A.9. After the Collection

The Organiser must:

- (a) prepare a statement of account using the form prescribed by the 1984 Regulations
- (b) send it to the Local Authority within one month of the date (or the final date) of the Collection.

## **Part B: House-to-House Collections**

B.1. House-to-House Collections are only permitted:

- (a) Monday to Friday;
- (b) in areas which are not 'No Cold Calling Zones'; and
- (c) in the town stated in the Permission.

B.2. The Collectors must be at least 16 years of age.

B.3. Collectors must leave any door if asked to leave by an occupier.

## **Part C: Street Collections**

C.1. Street Collections are only permitted:

- (a) on Saturdays;
- (b) in the town stated in the Permission.

C.2. The Collectors must be at least 14 years of age.

## **Notes**

1. Because many different activities can be used for 'fundraising', it is possible that the Organiser will need Licences or authorisations in addition to the Public Charitable Collection Permission issued by the Council's Licensing Committee.

The "Public Charitable Collection" Permission is not a substitute for:

- (a) a "Small Society Lotteries Registration" issued by the Licensing Board; or
- (b) a "Roads Consent" issued by the Council acting as Roads Authority; or
- (c) the permission of a land-owner to Collect on private land (e.g. in the Rivergate Mall in Irvine).

Organisers who propose to operate a stall or sell lottery tickets should check with the Licensing Board (which operates from the same office at Cunninghame House as the Licensing Committee) and the Roads

Department to see if they need anything else from NAC apart from this Permission.

### **Lottery**

2. Where the operation is a 'lottery' (such as a 'bottle stall' or raffle) then - in addition to having a PCC Permission - the Organiser might need a "Small Society Lotteries" Registration under the Gambling Act 2005. There is an alternative form of Lottery ("Incidental Non-Commercial Lottery") where there is no need for Registration, but you should check in advance with the Licensing Office to see if your intentions can be accommodated under that system.

If you need a Registration:

- (a) it lasts one year, and is renewable a year at a time.
- (b) it is held by the organizing body, so there is no need to re-register before every individual event, but it is a legal requirement that the organizing body must give the Board a written statement within 3 months of every draw, stating details of proceeds, prizes and costs.

### **Road or footpath**

3. If your operation involves a stall or other structure on a public road or footpath, you might need Council consent under the Roads (Scotland) Act 1984, Sections 59 and 97 ("road" means any public right of passage, and includes footpath or footway, the road's verge, and any bridge or tunnel).



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 7**

**25 May 2016**

#### **Licensing Committee**

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**Title:** **Caravan Sites and Control of Development Act 1960**

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**Purpose:** To advise the Committee of a request for the Variation of Conditions for Glenview Caravan Park (Licence C19)

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**Recommendation:** That the Committee hear the Licence Holder and determine the Application.

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#### **1. Executive Summary**

- 1.1 The Council as Local Authority regulates Caravan Sites under the Caravan Sites and Control of Development Act 1960 (as amended). At present a Site Licence is perpetual, there is no 'fit and proper' test, and the Licence is free of charge. The system will be substantially changed by the Housing (Scotland) Act 2014, which has not yet been commenced by Order. The 2014 Act introduces a new type of Licence, which will last three years and be renewable. The 2014 Act applies a 'fit and proper' test to the Applicant, and the Licence will have a fee.
- 1.2 Under the 1960 Act, the Local Authority is entitled to attach conditions to Site Licences (Section 5). The Council has power to alter conditions attached to Site Licences (Section 8). Breach of conditions is a criminal offence (Section 9).
- 1.3 In making and varying Conditions, the Council is obliged to have regard to any standards set by the Minister (Section 5(6) and 8(4)). Such standards are contained in Scottish Development Department Circular 17-1990, which describes "Model Standards". The Circular states separate Model Standards for:
  - (a) Residential Sites
  - (b) Holiday Sites
  - (c) Touring Caravan Sites

1.4 This distinction is reflected in the Licences granted:

(a) Residential Sites: "sites in regular, year-round use and occupied by caravans permanently placed on the site throughout the year."

(b) Holiday Sites: "(a) sites open only for the summer months and perhaps also for part of the spring and autumn seasons; and (b) those sites open during the winter for holiday purposes; on which (in either case) caravans are, for the most part, permanently placed throughout the season."

(c) Touring Caravan Sites: "caravans which are not permanently placed on the site throughout the year or the holiday season."

## **2. Background**

2.1 Donnie Sheerin of Glenview Caravan Park holds a Site Licence for Glenview Caravan Park, Ardrossan (NAC ref. C19) and he has requested a Variation of that Site Licence so as to allow occupancy for 12 months of the year.

2.2 Unlike other licensing systems, with a proposal to vary a Site Licence there is no publication or requirement for third-party consultation.

2.3 Section 8(1) of the 1960 Act is:

"The conditions attached to a Site Licence may be altered at any time (whether by the variation or cancellation of existing conditions, or by the addition of new conditions, or by a combination of any such methods) by the local authority, but before exercising their powers under this subsection the local authority shall afford to the holder of the licence an opportunity of making representations."

## **3. Proposals**

3.1 The Committee should consider any representations made by the Licence Holder and determine the Application.

- 3.2 The Committee is obliged to have regard to the Model Standards set by the S.D.D.. The effect of the variation would be to extend the occupation of the land. Whichever Local Authority originally granted the Licence thought that some limitation was appropriate.
- 3.3 If the Licence Variation is granted, the Licence Holder can only use the site so far as consistent with the conditions of Planning Permission, so the Licence Holder may require to apply also for Variation to the Planning Authority.

#### **4. Implications**

<b>Financial:</b>	None
<b>Human Resources:</b>	None
<b>Legal:</b>	When the Council makes a decision about a proposal to alter the conditions, the Licence Holder may appeal to the Sheriff within 28 days.
<b>Equality:</b>	None
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	None
<b>Community Benefits:</b>	None

#### **5. Consultation**

- 5.1 No consultations are appropriate.



ELMA MURRAY  
Chief Executive

Reference : GEN45/WOB/PAT

For further information please contact William O'Brien, Solicitor (Licensing)  
on 01294 324305

#### **Background Papers**

None