

Licensing Committee
12 August 2008

IRVINE, 12 August 2008 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.30 p.m.

Present

William Gibson, Robert Barr, Ian Clarkson, Ruby Kirkwood, John Moffat, Ryan Oldfather and Joan Sturgeon

In Attendance

N. Alexander, Chief Legal Officer (Licensing and District Court), A Livingstone, Solicitor (Licensing and District Court), D.Wallace, Enforcement Officer, J Delury, Chief Building Standards Officer, and A. Toal, Administrative Assistant (Legal and Protective); and P Shiach, Corporate Support Officer (Chief Executive's)

Also In Attendance

Chief Inspector Lawrence, Strathclyde Police

Chair

Councillor Gibson in the Chair.

1. Declaration of Interest

Councillor Munro declared a non-pecuniary interest in item 3c items 1-7 relating to premises operated by North Ayrshire Leisure Limited, and took no part in the determination of these applications.

2. Review of Taxi and Private Hire Car Vehicle Specifications Etc.

Submitted report by the Assistant Chief Executive (Legal and Protective) on the proposed implementation of amendments to the conditions to be attached to Taxi and Private Hire Car Licences and Taxi Driver and Private Hire Car Drivers Licences.

In April 2006, the then Licensing Sub-Committee of Corporate Services Committee of North Ayrshire Council agreed to consider the specification for Taxi and Private Hire Car vehicles licensed to operate in North Ayrshire. Following a period of public consultation, a Member/Officer working group on Civic Government Licensing was established to consider responses and to formulate amended conditions where appropriate.

In addition, a review of taxi numbers and zoning in North Ayrshire was carried out by the Fraser of Allander Institute on behalf of the Council.

The existing conditions relating to taxi and private hire car vehicles and taxi and private hire car drivers have been in force since being determined by the former Cunninghame District Council, and subsequently require to be reviewed and updated in view of the passage of time and advances in technology.

The report proposed that in order to allow time for each licence holder to be advised in writing of the changes to take effect and to notify the period allowed for the changes, the following amendments to the applicable licences should take effect from Monday 3 November 2008: -

- That (a) the existing taxi numbers limitations and zoning arrangements be continued and (b) that these arrangements be subject to regular review;
- that (a) existing vehicles over 5 years of age licensed as taxis or private hire cars within North Ayrshire should be subject to testing at 6 monthly intervals, and (b) that no vehicle over 5 years of age be licensed to operate as a taxi or private hire car within North Ayrshire when first licensed, and that there be no requirement that vehicles licensed as taxis be purpose built;
- That all new or replacement vehicles which are wheelchair accessible and licensed as taxis should be side loading;
- That (a) all new or replacement vehicles licensed as taxis within North Ayrshire should be required to carry a standardised roof sign, such sign to be supplied by the Council and fitted by the Council's Vehicle Inspection Team and (b) that all existing vehicles licensed as taxis be required to carry the standardised roof sign within 2 years commencing 3 November 2008;
- That the current approved dress code be continued but with the additional proviso that only t-shirts with collars be permitted (rather than round neck t-shirts)
- That (a) applicants from elsewhere in the EU and other overseas countries should submit a certificate of good conduct authenticated by the relevant Embassy or the country's Ministry of Justice along with an official translation acceptable to Strathclyde Police; (b) anyone applying for a Taxi or Private Hire Car Driver's Licence who does not hold a UK licence, to pass the Driving Standards Agency's Hackney Carriage/Private Hire Test Assessment prior to obtaining a Taxi or Private Hire Car Driver's licence. the cost of passing this test should be the applicant's responsibility; and (c) in respect of taxi drivers, that all applicants for whom English is not a first language, prove their competence in English by either: (1) For those under intermediate 1 (old standard grades) by passing SQA SEOL Units at Access Level 3 or above which consists of 40 hours of teaching and assessed speaking, listening, reading and writing; (2) for those with English over intermediate Level 1 to sit an external exam called Life in the UK (equivalent to the citizenship test). The cost of obtaining these qualifications would be for the applicant to meet;

- That (a) the age limit at which applicants are required to undertake a medical is raised from 60 to 65; (b) applicants are required to make their own arrangements with their own GPs to undertake such medicals and thereafter to present written evidence to the Council of fitness to drive; and (c) the Council will contribute a maximum of £80 towards the cost paid by the applicant to their GP for the medical certificate.

The report indicated that there were no financial or resource implications for the Council, with the cost of producing and installing the taxi signage being met by the trade. Consultations had previously been undertaken with the taxi and private hire trade and members of the public. In addition, a Member/Officer working group had been established and met on several occasions to discuss the issues raised.

The Committee agreed to approve Monday 3 November 2008 as the date of implementation of the amended conditions in relation to Taxi and Private Hire Car Licences and Private and Hire Car Driver Licences.

3. Court of Session Action

The Chief Legal Officer (Licensing and District Court) advised the Committee of the receipt of a letter on behalf of several Taxi Drivers indicating their intention to raise an action in the Court of Session in relation to the level of application fee levied by the Council in respect of Taxi Operators and Drivers Licences.

Noted

4. 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; (b) issues arising in respect of existing licences; and (c) Hearings which required to be determined by the Committee.

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

The Meeting ended at 4.45 p.m.

PART A

Late Hours Catering Licence

1. LHCL/084 (Variation) Nasir Gulem

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.

Private Hire Car Drivers Licence

1. PHCDL/019 (Renewal) John Montgomery

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.

Street Traders Licence

1. STL/0/261 (New) David Duncan McIntyre

The Committee unanimously agreed (a) 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; and (b) in terms of Paragraph 8 (2) (b) of the said Schedule to fix the period of the licence to 1 year.

Taxi Drivers Licence

1. TDL/01163 (Renewal) Gordon Kearney Fisher

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.

2. TDL/01429 (New) Alexander William Gamble McMeekin

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.

3. TDL/01436 (New) Donald Ellingham

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. TDL/01445 (New) Derek James Porter

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.

5. TDL/01442 (New) Ian Ronald Chambers

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.

6. TDL/01447 (New) James Samuel Graham

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.

7. TDL/01449 (New) Thomas H Campbell

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.

8. TDL/01451 (New) Brian Taylor

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.

9. TDL/01454 (New) Ronald Smallridge

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.

10. TDL/01456 (New) Denis Rourke

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.

11. TDL/01457 (New) Gordon Howe

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.

PART B

Issues in respect of Existing Licences

Taxi Drivers Licences

1. TDL/00064 Samuel Dean

The Committee agreed, on the basis of the information presented, to proceed to a suspension hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

2. TDL/00440 Ronald Strain Ballantyne

The Committee agreed, on the basis of the information presented, to proceed to a suspension hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

PART C

Hearings

1. ISEL/004 & PEL/047 North Ayrshire Leisure: Garnock Swimming Pool

The Committee at its meeting held on 10 June 2008 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.

The applicants, having been duly cited to attend, were present at the Hearing and were represented. The Council's Chief Building Standards Officer was also in attendance.

The Senior Solicitor (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. He advised that both Strathclyde Police and Strathclyde Fire and Rescue had withdrawn their previous comments. The Chief Building Standards Officer confirmed that he had no comment to make on the application.

Decision

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

2. ISEL/005 & PEL/048 North Ayrshire Leisure: Vikingar

The Committee at its meeting held on 10 June 2008 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.

The applicants, having been duly cited to attend, were present at the Hearing and were represented. The Council's Chief Building Standards Officer was also in attendance.

The Senior Solicitor (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. He advised that both Strathclyde Police and Strathclyde Fire and Rescue had withdrawn their previous comments. The Chief Building Standards Officer confirmed that he had no comment to make on the application.

Decision

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

3. ISEL/007 & PEL/050 North Ayrshire Leisure: Auchenharvie Leisure Centre

The Committee at its meeting held on 10 June 2008 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.

The applicants, having been duly cited to attend, were present at the Hearing and were represented. The Council's Chief Building Standards Officer was also in attendance.

The Senior Solicitor (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. He advised that both Strathclyde Police and Strathclyde Fire and Rescue had withdrawn their previous comments. The Chief Building Standards Officer confirmed that he had no comment to make on the application.

Decision

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

4. ISEL/008 & PEL/052 North Ayrshire Leisure: Ladeside Pavilion

The Committee at its meeting held on 10 June 2008 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.

The applicants, having been duly cited to attend, were present at the Hearing and were represented. The Council's Chief Building Standards Officer was also in attendance.

The Senior Solicitor (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. He advised that both Strathclyde Police and Strathclyde Fire and Rescue had withdrawn their previous comments. The Chief Building Standards Officer confirmed that he had no comment to make on the application.

Decision

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

5. ISEL/009 & PEL/009 North Ayrshire Leisure: Magnum Leisure Centre

The Committee at its meeting held on 10 June 2008 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.

The applicants, having been duly cited to attend, were present at the Hearing and were represented. The Council's Chief Building Standards Officer was also in attendance.

The Senior Solicitor (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. He advised that both Strathclyde Police and Strathclyde Fire and Rescue had withdrawn their previous comments. The Chief Building Standards Officer confirmed that he had no comment to make on the application.

Decision

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

6. PEL/053 North Ayrshire Leisure: Recreation Park

The Committee at its meeting held on 10 June 2008 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.

The applicants, having been duly cited to attend, were present at the Hearing and were represented. The Council's Chief Building Standards Officer was also in attendance.

The Senior Solicitor (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. He advised that both Strathclyde Police and Strathclyde Fire and Rescue had withdrawn their previous comments. The Chief Building Standards Officer confirmed that he had no comment to make on the application.

Decision

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

7. PEL/067 (variation) North Ayrshire Leisure: Volunteer Rooms

North Ayrshire Council Education Services as holder of a Public Entertainment Licence in respect of the Volunteer Rooms, Irvine, has applied for a temporary variation of that licence with regard to the terminal hour, seeking an extension until 2:00am of Thursday 21 Friday 22 August, and Saturday 23 August 2008.

The applicant, having been duly cited to attend, was present by Mr R McCallum, Educational Services at the Hearing.

The Chief Legal Officer (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant.

The applicant then addressed the Committee on the reasons for the application and responded to questions from Members. The applicant then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision

Decision

The Committee agreed to the undernoted variation to the terminal hour in terms of the Public Entertainment Licence for the Volunteer Rooms, Irvine :-

Thursday 21 August 2008 until 2:00am

Friday 22 August 2008 until 2:00am

Saturday 23 August 2008 until 2:00am

8. TDL/01188 Kenneth Alexander MacDonald

The Committee at its meeting held on 10 June 2008, unanimously agreed, on the basis of the information before it, to hold a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant having been duly cited was present at the hearing. Representatives from Strathclyde Police were also in attendance.

The Solicitor (Licensing and District Court) set out the background to the hearing as previously intimated in writing to the applicant.

The representatives of Strathclyde Police addressed the Committee of the terms of a letter dated 17 March 2008 which set out the Chief Constable's observations on the application.

The applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

The Committee unanimously agreed take no action to suspend the licence in terms of Paragraph 11 (1) of Schedule 1 of the Civic Government (Scotland) Act 1982. The applicant was further advised that should he submit an application for renewal of his licence, which expires in October 2008, any such renewal would be restricted to 1 year.

9. TDL/01417 (New) Robert Allan Laurie

The Committee at its meeting held on 20 May 2008, unanimously agreed, on the basis of the information before it, to hold a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant having been duly cited was present at the hearing accompanied by his solicitor, Mr Maxwell. Representatives from Strathclyde Police were also in attendance.

The Solicitor (Licensing and District Court) set out the background to the hearing as previously intimated in writing to the applicant.

The representatives of Strathclyde Police addressed the Committee of the terms of letters dated 14 and 29 April 2008 which set out the Chief Constable's observations on the application.

Mr Maxwell addressed the Committee on behalf of his client on the issues raised and responded to questions.

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

Councillor Clarkson, seconded by Councillor Sturgeon moved that the application should be refused on the grounds that the applicant is not a fit and proper person to be the holder of a licence.

As an amendment, Councillor Munro, seconded by Councillor Moffat, moved that the application should be granted but for a restricted period of 1 year.

On a division there voted 6 for the amendment and 3 for the motion , and the amendment was declared carried.

Decision

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

**10. TDL/01287 Freda Burns
 Gordon Fisher
 James A Williamson**

The Committee at its meeting held on 20 May 2008, unanimously agreed, on the basis of the information before it, to hold a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence holders were present at the hearing accompanied by their solicitor, Mr White. Representatives from Strathclyde Police were also in attendance.

The Solicitor (Licensing and District Court) set out the background to the hearing as previously intimated in writing to the applicant.

The Solicitor for the licence holders referred in particular to Mr Fisher, intimated that notice to his client had not been properly served and therefore the hearing was not competent at this time.

The licence holders, their representative and the representatives of Strathclyde Police then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

That consideration of the suspension hearings in relation to Freda Burns, Gordon Fisher and James A Williamson be continued to allow notice to be properly served on the licence holders.