

Licensing Committee  
2 September 2015

**IRVINE, 2 September 2015** - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

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

**In Attendance**

C. Reilly, Team Manager (Food /Health and Safety) (Economy and Communities); and W. O'Brien, Solicitor (Licensing) and K. Sharkey, Solicitor (Contracts and Licensing) and A. Toal, Administrative Assistant and M. Anderson, Committee Services Team Leader (Chief Executive's Service)

**Also In Attendance**

Inspector J. McMillan 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 Councillors Code of Conduct.

**2. Minutes**

The accuracy of the Minutes of the meeting of the Committee held on 12 August 2015 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**2.1 Matter Arising**

The Solicitor (Licensing) referred to Item 4 (Civic Government (Scotland) Act 1982: Taxi Fare Scales Review) of the Minute, advising that a taxi operator had now submitted an appeal to the Traffic Commissioner in respect of the revised taxi fares and charges agreed by the Committee, and that this was likely to be the subject of a hearing in due course.

Members asked questions, and received clarification, on the following:-

- the appeal process and timescales;
- the mechanisms already used by the Committee to gather the views of the taxi trade prior to decisions on revised fares; and
- the need for a suspension of Standing Orders should the Committee wish to revisit its decision within a period of six months.

Noted.

### **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 Public Charitable Collection: Alzheimer Scotland**

The Solicitor (Licensing) advised that this application had been withdrawn by the applicant.

Noted.

##### **3.2 Public Entertainment Licence: Kelburn Productions**

The Committee considered an application for a temporary Public Entertainment Licence under Section 41 of the Civic Government (Scotland) Act 1982 for an event at 6.00 p.m. on 19 September until 4.00 a.m. on 20 September 2015.

The applicant, having been duly cited to attend, was present and represented. The applicant did not appear and was not represented. Representatives from Police Scotland and from the Council's Environmental Health Service were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the application. The representative from the Council's Environmental Health Service also addressed the Committee on a complaint received in respect of a previous event. The applicant also addressed the Committee, providing details of the proposed event, and responded to questions.

## **Decision**

The Committee unanimously agreed to grant the application for the event at 6.00 p.m. on 19 September until 4.00 a.m. on 20 September 2015, subject to (i) the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 and (ii) a further condition that the licence holder meet the expenditure incurred by the employment of two Police Officers during the event.

### **3.3 Taxi Driver's Licence TDL/01986 (New): George MacFarlane**

The Committee, at its meeting on 12 August 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 not present or 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 and referred to a letter from Kilbirnie Medical Practice in respect of the application. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out an observation in relation to the application.

## **Decision**

Councillor McNicol, seconded by Councillor McLean, moved that the application be granted in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982, subject to the licence being restricted to the use of vehicle with an automatic gearbox.

As an amendment, Councillor Barr moved that the application be refused. There being no seconder, the amendment fell. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to grant the application, subject to (a) the standard conditions, in terms of Paragraph 5(1)(a) of Schedule 1 to the Civic Government (Scotland) Act 1982 (as amended by the Criminal Justice and Licensing (Scotland) Act 2010); and (b) an additional condition under Paragraph 5(1A): "This Licence shall only be valid for the driving of a vehicle with automatic transmission".

### **3.4 Taxi Driver's Licence TDL/01987 (New): Niall O'Flaherty**

The Committee, at its meeting on 12 August 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. 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 of 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.

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

#### **Decision**

Councillor Barr, seconded by Councillor McNicol, moved that the application be refused.

As an amendment, Councillor Easdale, seconded by Councillor McMillan, 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 6 and for the motion 3, and the amendment was declared carried.

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

### **3.5 Taxi Driver's Licence TDL/01988 (New): Gordon Law**

The Committee, at its meeting on 12 August 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 not present or 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 of Police Scotland then addressed the Committee on the terms of a letter setting out an observation in relation to the application.

### **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.

### **3.6 Taxi Driver's Licence TDL/01991: John Muir**

The Committee, at its meeting on 12 August 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.

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.

### **Decision**

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

### **3.7 Taxi Operator's Licence TL/213: William Myers**

The Committee, at its meeting on 12 August 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 not present or 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 of Police Scotland then addressed the Committee, advising of the withdrawal of a letter setting out an observation in relation to the application, following clarification that there were now no legal proceedings outstanding in respect of the applicant.

## **Decision**

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

### **3.8 Taxi Operator's Licence TL/250: William Myers**

The Committee, at its meeting on 12 August 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 not present or represented. 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 of Police Scotland then addressed the Committee, advising of the withdrawal of a letter setting out an observation in relation to the application, following clarification that there were now no legal proceedings outstanding in respect of the applicant.

## **Decision**

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

### **3.9 Taxi Licences TL/067, 041, 074, 116, 151, 050 and 043: Kevin Blades**

The applicant, having been duly cited to attend, was not present or 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 of Police Scotland then addressed the Committee, advising of the withdrawal of a letter requesting an 'Ordinary Suspension' under Paragraph 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982, following clarification that there were no legal proceedings outstanding in respect of the applicant.

## **Decision**

The Committee unanimously agreed not to take any action in respect of the request by Police Scotland for an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.10 Private Hire Car Licences PHCL/332 and 333: William Taylor**

The applicant, having been duly cited to attend, was present.

The Solicitor (Licensing) provided information on a request in respect of the applicant's licensed private hire cars to grant an exemption to the policy regarding the display of the North Ayrshire Council door crest on the vehicles. Thereafter, the applicant addressed the Committee on the issues raised in his written submission and responded to questions.

#### **Decision**

The Committee unanimously agreed to grant the request for an exemption from Council policy regarding the display of the North Ayrshire Council door crests on the two Private Hire Cars which were the subject of the Hearing.

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

#### **3.11 MDL/03 (Itinerant) (New) Robert Kerr**

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/

#### **3.12 PCC Hansel Foundation**

The Committee unanimously agreed, having regard to the information presented, (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 on 4 December and 7-11 December 2015 in the Rivergate Shopping Centre, subject to the Council's usual conditions.

#### **3.13 TDL/01837 (Renewal) Mohamed 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 (Scotland) Act 1982.

#### **3.14 TDL/01995 (New) John Young**

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. Exclusion of the Public**

The Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for the agenda item 7 (Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8) on the grounds that otherwise "Exempt Information" of the type described in Paragraphs 14 and 15 of Part 1 of Schedule 7A to the Act ("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") might be disclosed.

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

Submitted report by the Chief Executive on landlord registration matters.

#### **Decision**

The Committee unanimously agreed to proceed to a hearing in terms of Part 8 of the Antisocial Behaviour Etc. (Scotland) Act 2004.

The meeting ended at 11.35 a.m.