

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.