

Licensing Committee  
16 August 2017

**IRVINE, 16 August 2017** - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ronnie McNicol, Robert Barr, John Easdale, Todd Ferguson, Scott Gallacher, Davina McTiernan and Donald L. Reid.

**In Attendance**

G. Pollock, Trading Standards Officer (Economy and Communities); W. O'Brien, Solicitor (Licensing), K. Sharkey, Solicitor (Contracts and Licensing), C. Pollock, Licensing Administration Officer, D. Robertson, Enforcement Officer and D. McCaw, Committee Services Officer.

**Also In Attendance**

Inspector B. Skimming and Sergeant A. Jackson (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

Jean McClung and Angela Stephen.

**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 meeting of the Committee held on 7 June 2017 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 Hearings to be determined and applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982.

**Part A: Hearings**

**3.1 Taxi Licence & Taxi Driver's Licence: TL/014 & TDL/0064 - Samuel Dean and Michael Ferguson**

The Committee, at its meeting on 7 June 2017, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 11(7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

In respect of Taxi Driver's Licence TDL/0064 held by Samuel Dean, the licence holder, having been duly cited to attend, was present together with his Solicitor. The complainer, was also present.

The Solicitor (Licensing) set out the background to the complaint and the potential grounds for suspension of the licence.

The complainer addressed the Committee on the terms of the complaint. Thereafter, the licence holder and his Solicitor addressed the Committee on the issues raised and responded to questions. A written submission by the licence holder's Solicitor was also circulated to Members. The Enforcement Officer then addressed the Committee detailing background information with regard to the complaint.

The Committee withdrew from the meeting to deliberate.

### **Decision**

Councillor Barr, seconded by Councillor Reid, moved that, in respect of Taxi Driver's Licence TDL/0064 held by Samuel Dean:-

- (a) the grounds of suspension (Civic Government (Scotland) Act 1982, Schedule 1, Paragraphs 11(2)(a) and (d)) should be held established;
- (b) that no Suspension should be imposed; and
- (c) that the circumstances should be noted on the licence holder's file.

There being no amendment, the Motion was declared carried.

Accordingly, the Committee agreed that (a) the grounds of suspension (Civic Government (Scotland) Act 1982, Schedule 1, Paragraphs 11(2)(a) and (d)) should be held established; (b) that no Suspension should be imposed; and (c) that the circumstances should be noted on the licence holder's file.

In respect of Taxi Licence TL/014 held by Samuel Dean and Michael Ferguson, the Committee took no further action.

### **3.2 Exclusion of the Public**

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting, the press and the public for the following items of business, on the grounds that they involved the likely disclosure of exempt information as defined in Section 50J of and Schedule 7A to the Local Government Act 1983. The 'Exempt Information' concerned is that described in Section 7A, Paragraph 6 ("Information relating to the financial business affairs of any particular person (other than the authority)") and Paragraph 14 ("Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime").

### **3.3 Second Hand Motor Vehicle Dealer: SHDL/192 (New) - Dennis Lawrence Greenberg**

The Committee, at its meeting on 7 June 2017, 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, together with his business partner. Representatives of Police Scotland were also in attendance.

The representatives of Police Scotland addressed the Committee on a letter setting out a representation in respect of the application. The Trading Standards Officer then addressed the Committee detailing background information in connection with their objection. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions. A written submission by the applicant was also circulated to Members.

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

#### **Decision**

Councillor Easdale, seconded by Councillor Gallacher, moved to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of 6 months, with Trading Standards re-inspecting the premises within that 6 months.

There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed (a) to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982; (b) in terms of the Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 8(2)(b) that the Licence should be granted for six months; and (c) that the Solicitor (Licensing) (i) should not exercise Delegated Powers to grant any renewal application; and (ii) that any renewal application should be referred to the Committee to determine.

### **3.4 Taxi Driver's Licence: TDL/2021 (New) - Colin Joseph Campbell Thomson**

The Committee, at its meeting on 7 June 2017, 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 of Police Scotland were also in attendance.

Inspector Skimming, the representative of the Chief Constable, addressed the Committee on a letter relating to the applicant's "Spent or Protected Convictions".

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

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

### **Decision**

Councillor Reid, seconded by Councillor Easdale, moved that the application be refused in terms of Paragraph 5(3)(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the ground that the applicant was not a fit and proper persons to be holder of the licence.

There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to refuse the licence in terms of Paragraph 5(3)(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the ground that the applicant was not a fit and proper persons to be holder of the licence.

The Committee rescinded the Resolution made earlier at item 3.2 to exclude Press and Public.

### **3.5 Public Charitable Collections: Largs**

The Committee considered the following applications for permission for Public Charitable Collections under Section 119 of the Civic Government (Scotland) Act 1982 in a single hearing:-

#### **(i) Public Charitable Collection - Asthma UK (Scotland)**

The applicant, having been duly cited to attend, was present. The applicant has applied for a Charitable Collection on 2 September 2017 - 9 September 2017, which is outwith the Council's policy.

#### **(ii) Public Charitable Collection - Soldiers off the Street, Scotland**

The applicant, having been duly cited to attend, was not present. The applicant has applied for a Charitable Collection on 9 September 2017, which is outwith the Council's policy.

**(iii) Public Charitable Collection - Royal British Legion Scotland, Largs Branch**

The applicant, having been duly cited to attend, was present. The applicant has applied for a Charitable Collection on 2-3 September 2017, which is outwith the Council's policy.

**(iv) Public Charitable Collection - Royal British Legion Scotland, Largs Branch**

The applicant, having been duly cited to attend, was present. The applicant has applied for a Charitable Collection on 9-10 September 2017, which is outwith the Council's policy.

Members asked questions and received clarification from the Solicitor (Licensing) and the parties in attendance in respect of the applications.

Thereafter, those present withdrew to allow the Committee to deliberate, returning to hear the Committee's decision in respect of all applications.

**Decision**

The Committee unanimously agreed (a) that there were sufficient grounds to treat the cases as exceptions to the Council's policy on street collections; (b) to grant the applications in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to (i) the Council's standard conditions; and (ii) additional conditions applied to particular Permissions under Section 119(5), namely (i) Asthma UK Scotland being limited to Saturday 2 September and Saturday 9 September within the Main Street area of Largs only; (ii) Soldiers Off The Street Scotland being limited to Gallowgate Square, Largs specifically; and (iii) Royal British Legion Scotland being limited to operate within a gazebo at the Viking Festival.

The Committee repeated the Resolution made earlier at item 3.2 to exclude Press and Public.

**Part B: Applications for Grant/Renewal of Licences**

**3.6 Taxi Driver's Licence: TDL/2030 - James 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.

### **3.7 Taxi Driver's Licence: TDL/2026 - Scott William Walker**

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.

### **3.8 Second Hand Dealer's Licence: SHDL/194 - Gianpiero Narducci**

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. Licensing of Street Traders**

Submitted report by the Chief Executive on changes in Licence conditions and application practice.

The main revision to the Licence conditions is that rules pertaining to stopping time and proximity to premises selling similar goods or services and schools/educational establishments will (a) not apply while the licence holder is trading at a public entertainment event or market held within North Ayrshire, if the event or market either holds a separate licence under the Civic Government (Scotland) Act 1982 or is exempt from holding a licence; and (b) apply if the licence holder is trading at any other time or place. In addition, the Council's Licensing Service proposes to alter practice to allow for street trading without a Street Trader's Licence, where (a) the vehicle, kiosk or moveable stall is operated within land covered by a Public Entertainment Licence; and (b) the operator of the vehicle, kiosk or moveable stall is the holder of that Licence or travels from place to place with that holder. The report included information on the legal context for the changes and the benefits to applicants.

Noted.

## **5. Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)**

Submitted report by the Chief Executive on the procedure for reviewing and fixing taxi scales in terms of the Civic Government (Scotland) Act 1982, Sections 17 to 18A.

Taxi fares and other charges are limited to the Scales fixed by the Licensing Authority (1982 Act, Section 17). These are the maximum amounts which may be charged. It is open to operators to discount these rates if they wish. The Licensing Authority must fix those scales within 18 months of the current Scales coming into effect. The current Scales came into force on 1 August 2016, so the new scales should take effect no later than 1 February 2018.

Before fixing scales, the Licensing Authority must review the Scales in accordance with Section 17(4A). The appendix to the report set out a possible timetable for the review process.

The Committee agreed (a) to approve the proposed timetable for the review and fixing of taxi scales, as set out in the appendix to the report; and (b) that the trade consultation with taxi operators take place on a date to be agreed between Committee Members and the Solicitor (Licensing).

## **6. Licensing of Taxis and Private Hire Cars - Drivers' obligations to passengers using wheelchairs - Equality Act 2010**

Submitted report by the Chief Executive which advised of changes in legislation and propose action in response to the changes.

The Equality Act 2010 imposes duties on the drivers of certain taxis and private hire cars, and this system was commenced on 6 April 2017. The report, which recommended that a draft list of designated taxis be made, but not a list of designated private hire cars, set out the process for considering and approving such a list.

The report noted that, in the future, the Committee might review the Vehicle Specification, and might then require that any Private Hire Car Licence to be granted should relate to a 'wheelchair accessible' vehicle.

The report also set out the difference between 'wheelchair licence' taxis (of which there are 29 in North Ayrshire) and 'wheelchair modified' (of which there are 5), both of which confirm to "Accessibility Requirements" as defined by Section 167(5) of the aforementioned Act. It proposed that the 'Taxi List' should be in two parts, corresponding to the distinction between the two vehicle types.

The Committee agreed:-

(a) that there should be a list of designated taxis, but not a list of designated private hire cars;

(b) that it be remitted to the Solicitor (Licensing) to prepare the draft list;

(c) to instruct the Solicitor (Licensing) to (i) intimate to the holders of the relevant operator's Licences that the Committee proposed to designate the licensed vehicle, (ii) advise them of the legal consequences of this and (iii) invite representations;

(d) continue consideration of the proposed list to await representations;

(e) after considering any representations, to determine what that list should contain;  
and

(f) thereafter, to instruct the Solicitor (Licensing) to publish that list on the Licensing Committee website, with a summary of the relevant law.

The Meeting ended at 12.35 p.m.