

Licensing Committee
23 March 2010

IRVINE, 23 March 2010 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

William Gibson, Elisabeth Marshall, Robert Barr, Ian Clarkson, Ruby Kirkwood, John Moffat and Alan Munro.

In Attendance

N. Alexander, Chief Legal Officer and A. Toal, Administrative Assistant (Licensing); G. Mitchell, Manager (Transport)(Finance and Infrastructure); and A. Little, Committee Services Officer (Chief Executive's).

Also In Attendance

R. Whaley, Senior Planner, HLL Humberts Leisure.

Chair

Councillor Gibson in the Chair.

Apologies for Absence

Alan Hill, Ryan Oldfather and Joan Sturgeon.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 16.

2. Meeting with Representatives of the Taxi Trade

Submitted report by the Chief Executive on the outcome of a meeting with representatives of the taxi trade to discuss a range of licensing issues.

At its meeting on 20 October 2009, the Committee agreed to continue consideration of the fees levels applicable to the taxi and private hire car trades to a special meeting of the Committee and to invite trade representatives to attend or make representations.

On 2 March 2010, the Committee met with representatives of the taxi trade and discussed:-

- Licence fees;
- The duration of licences;
- Signage and advertising on vehicles;

- Substitute vehicles;
- Taxi Fare Reviews;
- Vehicle inspections;
- Facilities at Byrehill Garage; and
- Age capping of vehicles.

The report provided a summary of the recommendations arising from the meeting.

The Committee agreed that (a) effective from 1 April 2010 (i) a 1-year taxi driver licence be made available at a fee of £75; (ii) responsibility for compliance with the signage and advertising policy to now rest with the individual licenceholder who will no longer require approval from the Licensing Authority, or incur any fees; (iii) minor faults and repairs identified during vehicle testing be highlighted to allow on-site repair and therefore not preclude vehicles from operating; (iv) the maximum vehicle age, at first registration as a taxi, be amended from 5 to 8 years; (v) fees applicable to the taxi and private hire car trades be increased by 5%, rounded up; (b) effective from 1 July 2010, a maximum vehicle operating age limit of 10 years be imposed; (c) substitute vehicle fees remain in place, even at the expiry of a licence; and (d) investigations take place into the use of bus lanes by taxis at Hawkhill cemetery and Pennyburn roundabout.

3. Caravan Sites and Control and Development Act 1060: Caravan Site Licence No 22: Sandylands Holiday Park, Saltcoats

Submitted report by the Solicitor to the Council on a request from Park Resorts that the conditions of their Caravan Site Licence for Sandylands Holiday Park, Saltcoats be amended to extend the occupancy period permitted.

Park Resorts of Hemel Hempstead, Hertfordshire, hold the Caravan Site Licence for Sandylands Holiday Park, Saltcoats. Condition 2 of the Caravan Site Licence restricts the occupancy period permitted. Park Resorts have requested the licence be amended to allow an unrestricted 12-month holiday season. They consider that the current permitted occupancy period a complicated arrangement and not in line with the trend for taking holidays and short breaks outside of the traditional holiday season of Easter to October.

Information provided by the Council's Development Management Section stated that the application is not considered to conflict with the planning permissions relative to the site.

An unrestricted 12-month season would permit year-round residence and allow caravans to become occupiers sole or main residence. In this instance the caravan owner would require to register for inclusion in the Council Tax Valuation Roll and be liable to pay Council Tax. Legislation applicable to private landlords requiring their inclusion on the register of private landlords does not apply to caravans. There is therefore no statutory means of control of the landlords of such caravans. Should the trading period of the site be increased to the whole year, then potentially the caravan site could become a residential housing area.

Ms. Whaley, HLL Humberts Leisure, representing Park Resorts, advised that it is the intention of Park Resorts that the site remains as a holiday park and that caravans are not used as an individual's main residence. Park Resorts maintain ownership of the land and rent sites to caravan owners. Rental agreements stipulate conditions of the lease and can include preclusion of year-round residence. In this regard, Park Resorts would be amenable to the Caravan Site Licence including appropriate conditions to ensure owners are unable to take up year-round residence at Sandylands Holiday Park, Saltcoats.

The Committee agreed to approve the amendment to Condition 2 of Caravan Site Licence No. 22 to allow an unrestricted 12 month holiday season, with appropriate conditions determined by the Chief Legal Officer, to preclude year-round residence.

4. Civic Government (Scotland) Act 1982: Licensing Matters

Submitted report by the Solicitor to the Council on (a) applications for the grant or renewal of licences and permits; (b) issues arising in respect of existing licences; and (c) Hearings to be determined, all in terms of the Civic Government (Scotland) Act 1982.

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

5. Civic Government (Scotland) Act 1982: Second Hand Dealer's Licences

Submitted report by the Solicitor to the Council on the outcome of the statutory procedures required to amend the Resolution detailing the category of second hand goods which require a licence.

At its meeting on 19 January 2010, the Committee agreed to amend the Resolution detailing the category of second hand goods which require a licence. Accordingly public notice was given of the intention to make a Resolution in terms of Section 9 of the Civic Government (Scotland) Act 1982, to add to its list of second hand goods, the sale of which requires a licence, the following categories of goods: - mobile phones, computer games, computer games consoles and digital versatile disks. This notice was advertised in the Ardrossan & Saltcoats Herald newspaper, the Irvine Times newspaper, Largs & Millport Weekly News newspaper, all on 9 February 2010 and in the Arran Banner newspaper on 11 February 2010. No representations were made in response to the public notice.

The Committee agreed (a) to approve the amendment to the Resolution to include mobile phones, computer games, computer games consoles and digital versatile disks; and (b) that the Chief Legal Officer (Licensing) make public notice of (i) the Committee's decision to make the Resolution; and (ii) that the change to the Resolution will take effect 9 months from the date of the advertisement.

6. Civic Government (Scotland) Act 1982: Taxi Stances: Harbour Street, Ardrossan

Submitted report by the Solicitor to the Council on an objection received against the relocation of the taxi rank in Harbour Street, Ardrossan.

At its meeting on 19 January 2010, the Committee considered a report by the Chief Legal Officer (Licensing) concerning the relocation of the taxi rank in Harbour Street, Ardrossan. The Committee agreed (a) to approve the relocation of the taxi rank in Harbour Street, Ardrossan to the location indicated on the plans; (b) that the Chief Legal Officer (i) write to the Chief Constable to give notice of the proposed relocation of the taxi stance and (ii) give public notice of the proposed relocation of the taxi stance by advertisement in a newspaper circulating in the Ardrossan area; and (c) in the event that there are no objections or representations made by the Chief Constable or members of the public in response to the public advertisement the relocation will be implemented.

On 10 February 2010 the proposed relocation of the taxi stance in Harbour Street, Ardrossan was notified by public notice in the Ardrossan & Saltcoats Herald newspaper. One letter of objection was received from Lodge St. John Royal Arch, as detailed in the report. No other representations were made in response to the public advert nor any response made by the Chief Constable.

The Committee, having considered the terms of the objection, agreed to confirm approval of the relocation of the taxi stance in Harbour Street, Ardrossan to the location indicated on the plans submitted to Committee on 19 January 2010.

The meeting ended at 4.20 p.m.

PART A

Applications for Licences/Renewals of Licences

1. TDL/01617 (New) Thomas Mark Stevely

The Committee unanimously agreed to (a) grant the application subject to the Council's standard conditions in terms of Paragraph 5 of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) advise the applicant in writing of his duty to comply with the licence condition relating to the disclosure of previous convictions.

2. TDL/01618 (New) John Harnett

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.

3. TDL/01619 (New) Arthur George McGhee

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

4. TDL/01624 (New) James English Rafferty

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

5. TDL/01625 (New) Scott George Havlin

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.

PART B

Issues in respect of Existing Licences

Market Operator's Licence

1. MOL/005 Kamal Magon

The Committee unanimously agreed to take no action in terms of a suspension hearing.

Second Hand Dealer's Licence

1. SHDL/026 Steven George McCormick

The Committee unanimously agreed to take no action in terms of a suspension hearing.

Street Trader Operator's Licence

1. STL/O/258 Peter McInnes

The Committee unanimously 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.

Taxi Driver's Licence

1. TDL/00675 William Hamilton

The Committee unanimously 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. TDL/00462(New) Matthew Imrie

The Committee at its meeting held on 9 February 2010, 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. A representative from Strathclyde Police was also in attendance.

The Chief Legal Officer (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representative from Strathclyde Police then addressed the Committee on the terms of a letter dated 8 January 2010 setting out the observations of the Chief Constable of Strathclyde Police on the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

Both parties then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

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.

2. TDL/01608 (New) George Mark Winters

The Committee at its meeting held on 9 February 2010, 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. A representative from Strathclyde Police was also in attendance.

The Chief Legal Officer (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representative from Strathclyde Police then addressed the Committee on the terms of a letter dated 18 January 2010 setting out the observations of the Chief Constable of Strathclyde Police on the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

Both parties then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

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.

3. TDL/0305 (Renewal) Margaret Caldwell

The Committee at its meeting held on 9 February 2010, 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.

The licence holder, having been duly cited to attend, was present at the hearing and was represented.

The Chief Legal Officer (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. He intimated the terms of letters dated 15 December 2009 and 13 January 2010 from the licence holder's GP in relation to medical conditions. The licence holder's representative, Mr Russell, addressed the Committee on behalf of his client on the issues raised and responded to questions.

The licence holder and her representative then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

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

4. TL/030 (Renewal) James Polwarth and Hugh Keenan

The Committee at its meeting held on 9 February 2010, 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.

Mr J. Polwarth, having been duly cited to attend, was not in attendance. Mr H. Keenan, having been duly cited to attend, was present.

The Chief Legal Officer (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holders. He intimated the terms of a letter dated 24 November 2009 from Mr Keenan requesting an extension to the vehicle testing time limit. Thereafter the licence holder addressed the Committee on the issues raised and responded to questions.

The licence holder then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

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 and a further condition that the licence holder shall provide a suitable vehicle which must pass the required test of fitness for use as a taxi vehicle and be operational and available for use as a taxi vehicle no later than 25 May 2010.