

Licensing Committee
25 May 2016

Irvine, 25 May 2016 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

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

In Attendance

W. O'Brien, Solicitor (Licensing), K. Sharkey, Solicitor (Contracts and Licensing), D. Robertson, Enforcement Officer, A. Toal, Administrative Assistant, and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

Also In Attendance

Inspector J. Conway and Sergeant G. Griffiths (Police Scotland).

Chair

Councillor Clarkson in the Chair.

Apologies for Absence

John Easdale.

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 20 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. Wheelchair-Accessible Vehicles - Taxi and Private Hire Car Vehicle Specification under Civic Government (Scotland) Act 1982, Section 10(2)

Submitted report by the Chief Executive on wheelchair-accessible vehicles as they relate to the taxi and private hire car vehicle specification under the Civic Government (Scotland) Act 1982, Section 10(2).

At its meeting on 3 February 2016, the Licensing Committee considered the specification and agreed to undertake a review, including consultation with the Disability Forum. Immediately following the meeting, Members took the opportunity to inspect the side-loading and rear-loading vehicle types referred to by a taxi operator.

The Solicitor (Licensing) made reference to a consultation response from the Disability Forum in support of allowing both rear-loading and side-loading vehicles.

Members discussed the merits of rear-loading wheelchair-accessible vehicles in terms of safety and ease of access for users.

The Committee agreed (a) in principle, the Vehicle Specification should be amended to allow the use as taxis of rear-loading Wheelchair Accessible Vehicles; and (b) that the Solicitor (Licensing) submit a list of vehicles to a future meeting of the Committee for approval.

4. Taxi Numbers Limitation Policy - Civic Government (Scotland) Act 1982, Section 10(3)

Submitted report by the Chief Executive on the issue of a Taxi Numbers Limitation Policy in terms of the Civic Government (Scotland) Act 1982, Section 10(3).

The Solicitor (Licensing) advised the Committee that there were a number of issues, expressed as recommendations in the report, that they should consider, namely:-

- whether or not there should, in principle, be a limit on the number of taxi licences
- whether or not there should be a Taxi Numbers Limitation Policy and, if so
- what that policy should be

Members discussed the factors relevant to the introduction of a policy to limit taxi numbers, and how a public survey on the matter might be conducted.

The Committee agreed (a) to continue consideration of the report to a future meeting; and (b) that the Solicitor (Licensing) submit to that meeting, for approval, a draft list of questions for a public consultation on taxi number demand.

5. Exclusion of the Public and Press

The Committee resolved, in terms of Section 50(A)4 of the Local Government (Scotland) Act 1973, to exclude from the Meeting, the press and the public for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 6 and 14 of Part 1 of Schedule 7A of the Act.

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

Part A: Hearings

6.1 Taxi Licence (commonly known as 'Taxi Operator's Licence') and Taxi Driver Licence: Brian Deary TL/A10 and TDL/01816

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The representatives from Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the applications, as previously intimated in writing to the applicant. Thereafter the applicant addressed the Committee on the issues raised in the Police observation and in a letter of objection to the applications and responded to questions.

The objector to the applications was then invited to join the meeting to address his objection.

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

Decision

The Committee agreed to grant the Taxi Driver's Licence and Taxi Licence (commonly known as 'Taxi Operator's Licence'), subject to the standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year and three years, respectively. The Chair also reminded the applicant of his responsibilities in terms of his conduct and the importance of reporting incidents to the Police.

6.2 Taxi Driver Licence: James Gorman Watson TDL/00156

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The representatives from Police Scotland addressed the Committee on the terms of a letter setting out an objection in relation to the application, as previously intimated in writing to the applicant. 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 Marshall, seconded by Councillor Barr, 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. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to refuse the application on the basis that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

In terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened with the same Members, officers and Police representatives present and in attendance.

6.3 Taxi Driver Licence: Garry Hamilton TDL/01499

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The representatives from Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the application, as previously intimated in writing to the applicant. 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 Marshall, moved that the application be granted for a period of 1 year and the applicant issued a verbal warning in terms of his future conduct. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to (a) 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 for a period of one year; and (b) note the verbal warning issued by the Chair as to the applicant's future conduct.

6.4 Taxi Driver Licence: Kerr Chapman TDL/01470

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated to the applicant in writing. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

Councillor Marshall, seconded by Councillor McLean, moved that the application be granted for a period of 1 year. There being no amendment, the motion 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 for a period of one year.

6.5 Public Charitable Collection: Ivy Fundraising Ltd

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated to the applicant in writing. Thereafter the applicant addressed the Committee on the issues raised, advising that she had not, in fact, submitted the application in question and responded to questions.

The Committee noted the effective withdrawal of the application by Ivy Fundraising Limited.

6.6 Temporary Public Entertainment Licence: Wesley Smith PEL/297

The applicant, having been duly cited to attend, was present. Representatives of Ardrossan Winton Rovers, Whitlees Community Centre Committee and petitioners were also in attendance in respect of their objections to the application, together with representatives of Police Scotland.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated to the applicant in writing. The representatives of Police Scotland then addressed the Committee on the conditions which should be attached should the application be successful. Thereafter, representatives of objectors to the application addressed the meeting on the terms of their objections and responded to questions. The applicant then had an opportunity to address the Committee on the issues raised and responded to questions.

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

Decision

Councillor Barr, seconded by Councillor McLean, moved that the application be granted, subject to (i) the standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982, (ii) the additional conditions set out by Police Scotland and (iii) the event of Saturday 28 May 2016 not commencing until 5.00 p.m.

As an amendment, Councillor McNicol, seconded by Councillor Bruce, moved that the application be refused on the grounds that the proposed site is unsuitable for the event in question and there is insufficient parking provision in the immediate vicinity.

On a division, there voted for the amendment 3 and for the motion 5 and the motion was declared carried.

Accordingly, the Committee agreed to grant the application, subject to (i) the standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982, (ii) the additional conditions set out by Police Scotland and (iii) the event of Saturday 28 May 2016 not commencing until 5.00 p.m.

Councillor Marshall left the meeting at this point.

6.7 Taxi Driver Licence: Thomas Bagan TDL/01642

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

The Enforcement Officer set out the background to the Hearing as previously intimated in writing to the licence holder and made reference to the written submission of the complainer, who was not in attendance. Thereafter the applicant and his representative 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, on the basis of the information before it, to (a) note the circumstances of the incident and (b) take no action to suspend the licence in terms of Paragraph 11 (2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

Part B: Applications for Licences/Renewal of Licences

6.8 Taxi Driver Licence: Scott B Morley: TDL/00951 (New)

The Committee unanimously agreed 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 one year.

6.9 Taxi Driver Licence: Robert Thomson: TDL/01823 (Renewal)

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.

6.10 Taxi Driver Licence: Lelanie Biddulph: TDL/01831 (Renewal)

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.

7. Chair's Remarks

The Chair, in terms of Standing Order 9.3, agreed to vary the order of business to allow consideration of Agenda Items 7 (Caravan Sites and Control of Development Act 1960) prior to Agenda Item 6 (Public Charitable Collection Permissions: Civic Government (Scotland) Act 1982, Section 119).

8. Caravan Sites and Control of Development Act 1960

Submitted report by the Chief Executive on a request for the variation of conditions for Glenview Caravan Park (Licence C19).

The licenceholder was in attendance, addressing the Committee on the background to the request and responding to questions.

Councillor Barr, seconded by Councillor Bruce, moved to grant the request to vary the conditions in terms of Section 8(1) of the Caravan Sites and Control of Development Act 1960, to allow Glenview Caravan Park to operate 52 weeks per year for non-residential holiday lets only.

9. Public Charitable Collection Permissions: Civic Government (Scotland) Act 1982, Section 119

Submitted report by the Chief Executive which invited the Committee to consider whether or not the conditions applied to Collection Permissions should be replaced with those set out in Appendix 1 to the report.

Members discussed the following:-

- the importance of ensuring that licence holders display the notice prominently;
- whether Condition A5 should include a provision to specify that no collections will be permitted within "no cold calling" zones; and
- the time period set out at A5(a).

The Committee agreed to approve the revised conditions set out at Appendix 1 to the report in respect of Public Charitable Collection Permissions, subject to an amendment to Condition A5 to specify that no collections will be permitted within "no cold calling" zones.

The meeting ended at 1.10 p.m.