

Licensing Committee
3 August 2010

IRVINE, 3 August 2010 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

Elisabethe Marshall, Robert Barr, Ian Clarkson, Ruby Kirkwood, John Moffat, Ryan Oldfather and Joan Sturgeon.

In Attendance

W. O'Brien, Senior Solicitor, P. Aitken, Solicitor, A. Toal, Administrative Assistant, Legal and Licensing, S. Gallacher, Environmental Health Officer and D. Wallace, Enforcement Officer (Corporate Services); and A. Little, Committee Services Officer (Chief Executive's Service).

Also In Attendance

Sgt Menzies and L. Reid, Strathclyde Police.

Chair

Councillor Marshall in the Chair.

Apologies for Absence

William Gibson and Alan Munro.

1. Declarations of Interest

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

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

Submitted report by the Solicitor to the Council on (a) issues arising in respect of existing licences and permits; and (b) 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.

The meeting ended at 4.10 p.m.

PART A

Applications for Licences/Renewals of Licences

Urgent Item

The Chair agreed that the following item of business be considered as a matter of urgency to allow the application to be dealt with prior to the Marymass Festival.

Street Trader Licence

1. STL/O/298 (Variation) Big Min'z Hotdogs (Lesley Anne and Cetin Ozdimir)

The Committee unanimously agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 10 (3) of Schedule 1 of the Civic Government (Scotland) Act 1982.

PART B

Issues in Respect of Existing Licences

Taxi Driver's Licence

1. TDL/01637 Gavin McClung

The Senior Solicitor (Licensing and Legal) advised the Committee of written representations received from the Chief Constable of Strathclyde Police regarding allegations against the licence holder.

The Committee unanimously agreed, on the basis of the information before it, to suspend taxi driver licence TDL/01637 with immediate effect in terms of Paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982, and to proceed to a suspension hearing in terms of Paragraph 11 (7) of the said Schedule.

PART C

Hearings

1. STL/O/281 Ian and Patricia Dyson

The Committee at its meeting held on 15 June 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 holders, having been duly cited to attend, were not present. A representative from Environmental Health was in attendance.

The Senior Solicitor (Legal and Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The representative from Environmental Health then addressed the Committee on the terms of a memorandum dated 19 April 2010 setting out the observations of the Environmental Health Section. The street trader vehicle had been unavailable for inspection as required by the Food Hygiene (Scotland) Regulations 2006, the licence holder had failed to respond to correspondence and the vehicle was not present at the site detailed on the street trader licence.

Decision

The Committee unanimously agreed to suspend the licence for the unexpired portion of the duration of the licence in terms of Paragraph 11 (a) and (d) of Schedule 1 of the Civic Government (Scotland) Act 1982.

2. TDL/01642(New) Thomas Bagan

The Committee at its meeting held on 15 June 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. Representatives from Strathclyde Police were also in attendance.

The Senior Solicitor (Legal and Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. A representative from Strathclyde Police then addressed the Committee on the terms of a letter dated 2 June 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/01499 (New) Garry Hamilton

The Committee at its meeting held on 25 May 2010, unanimously agreed, on the basis of the information before it, to hold a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

On 15 June 2010, the applicant, having been duly cited to attend, was not in attendance. The applicant's Solicitor had requested continuation of the application to allow time to consider the effect of Section 13(6) and the previous disqualification from driving. The Committee unanimously agreed to continue consideration of the application.

The applicant, having been duly cited to attend, was present and was represented by Mr G Robertson, Solicitor. Representatives from Strathclyde Police were also in attendance.

The Senior Solicitor (Legal and Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. A representative from Strathclyde Police then addressed the Committee on the terms of a letter dated 16 March 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. The applicant's Solicitor made submissions concerning the circumstances of the previous convictions referred to by the Police, the applicant's personal circumstances, the effect of Section 13(6) of the 1982 Act and the applicant's previous disqualification from driving.

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.

4. TDL/01070 (New) John Simpson

The Committee at its meeting held on 15 June 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. Representatives from Strathclyde Police were also in attendance.

The Senior Solicitor (Legal and Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. A representative from Strathclyde Police then addressed the Committee on the terms of a letter dated 13 May 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 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 said Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Drivers Licence.

5. TDL/0629 David Fyfe

The Committee at its meeting held on 25 May 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 licenceholder, having been duly cited to attend, was present and was represented by Mr Munton, Solicitor. The Council's Enforcement Officer and representatives from Strathclyde Police were in attendance. The complainer was not in attendance.

The Senior Solicitor (Legal and Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The Enforcement Officer then addressed the Committee on the terms of an email of complaint dated 12 March 2010. A representative from Strathclyde Police confirmed a report was with the Procurator Fiscal in relation to the alleged incident. Thereafter the licenceholder addressed the Committee on the issues raised by the complainer and responded to questions. The Solicitor for the licenceholder made submissions.

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

Decision

The Committee unanimously agreed (a) to take no action to suspend the licence in terms of Paragraph 11 (1) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that the Corporate Director (Education and Skills) be requested to provide information to Members on the procedures and transportation arrangements in place within schools for returning sick children home.