

Licensing Committee
26 October 2010

IRVINE, 26 October 2010 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

William Gibson, Robert Barr, Ian Clarkson, Ruby Kirkwood, John Moffat, Alan Munro, Ryan Oldfather and Joan Sturgeon

In Attendance

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

Also In Attendance

Community Inspector Skimming and Sergeant Menzies, Strathclyde Police.

Chair

Councillor Gibson in the Chair.

Apologies for Absence

Elisabeth Marshall.

1. Declarations of Interest

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

2. Minutes

The Minutes of the previous meeting of the Committee held on 5 October 2010 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 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 permits; 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.

The meeting ended at 3.50 p.m.

PART A

Applications for Licences/Renewal of Licences

Street Trader Licence

1. STL/O/133 (Renewal) Robert Lynch

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) that the Enforcement Officer make efforts to identify and photograph the vehicle to which the licence applies.

2. STL/O/315 (New) NAC Catering Services and Elaine Stevenson

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.

Taxi Driver Licences

1. TDL/01570 (Renewal) Charles Wallace King Muir

The Committee unanimously agreed to continue consideration of this application pending the outcome of the applicant's forthcoming Court appearance.

2. TDL/01662 (New) Richard Paterson

The Committee unanimously agreed on the basis of the information before it, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3. TDL/01663 (New) John Douglas McKeating

The Committee unanimously agreed (a) to grant the application subject to 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 restrict the period of the licence to 1 year.

4. TDL/01665 (New) Margaret McPhee Wardrop

The Committee unanimously agreed (a) to grant the application subject to 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 restrict the period of the licence to 1 year.

PART B

Issues in respect of Existing Licences

Taxi Driver Licences

1. TDL/00064 Samuel Dean

The Committee agreed, on the basis of the information presented, that no further action be taken.

2. TDL/00173 David McLelland

The Committee unanimously agreed, on the basis of the information before it, to (a) take no action with regard to suspension at this time; and (b) advise the applicant in writing of his duty to comply with the licence condition relating to the disclosure of previous convictions.

3. TDL/00743 James Shaw

The Committee 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. STL/O/193 Elaine McIntyre

The Committee, at its meeting held on 17 August 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.

At its meeting on 5 October 2010, the Committee, on the basis of the information presented, agreed to adjourn the Hearing to the next meeting of the Committee to allow the licence holder to attend.

The licence holder, having been duly cited to attend, was present and represented. A representative from Environmental Health was also in attendance.

The Senior Solicitor (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 setting out the observations of the Environmental Health Section on alleged breaches of licence conditions. Thereafter the licence holder's representative 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 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) advise the applicant in writing of her duty to comply with the licence conditions.

2. TDL/00384 Terry Mulhern

The Committee at its meeting on 14 September 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. Representatives from Strathclyde Police were in attendance.

The Senior Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The representatives from Strathclyde Police then addressed the Committee on the terms of a letter dated 27 August 2010 setting out the observations of the Chief Constable of Strathclyde Police. Thereafter the licence holder 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.

After discussion, Councillor Barr, seconded by Councillor Sturgeon, moved that the Committee suspend the licence with immediate effect, in terms of Paragraph 11 (10) of Schedule 1 of the Civic Government (Scotland) Act 1982.

As an amendment, Councillor Munro, seconded by Councillor Kirkwood, moved that the licence be suspended, in the normal manner, in terms of Paragraph 11 (9) of Schedule 1 of the Civic Government (Scotland) Act 1982.

On a roll call vote, there voted for the amendment Councillors Gibson, Kirkwood, Munro and Oldfather (four) and for the motion Councillors Barr, Clarkson, Moffat and Sturgeon (four) and, on the casting vote of the Chair, the amendment was declared carried.

Decision

Accordingly, the Committee agreed to suspend the licence in terms of Paragraph 11 (9) of Schedule 1 of the Civic Government (Scotland) Act 1982, and, in terms of Paragraph 11 (11) of the said Schedule, to set the period of suspension at 6 months.

3. TDL/01658 (New) John Welsh

The Committee at its meeting held on 5 October 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 (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Strathclyde Police then addressed the Committee on the terms of a letter dated 16 September 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) (ii) of the said Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Drivers Licence.