



NORTH AYRSHIRE
COUNCIL

Cunninghame House,
Irvine.

16 August 2012

Licensing Committee

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in Committee Room 2, Cunninghame House, Irvine on **WEDNESDAY 22 AUGUST 2012** at **2.00 p.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

1. Declarations of Interest

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

2. Minutes

The Minutes of the previous meeting of the Licensing Committee held on 26 June 2012 will be signed in accordance with paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

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

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

4. Street Trader's Licences under Section 39 of the Civic Government (Scotland) Act 1982, Market Operator's Licences under Section 40, and Regulation of Public Charitable Collections under Section 119.

Submit report by the Solicitor to the Council on an amendment to its policies in relation to Street Trader's, Market Operator's and Public Charitable Collections Licences as a result of works in and around Bridgegate, Irvine.(copy enclosed).

5. Urgent Items

Any other items which the Chair considers to be urgent.

Licensing Committee

Sederunt: Ronnie McNicol (Chair)
Tom Marshall (Vice Chair)
Robert Barr
John Bruce
Ian Clarkson
Ruth Maguire
Alex McLean
Alan Munro
Donald Reid
Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

Licensing Committee
26 June 2012

IRVINE, 26 June 2012 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

Ronnie McNicol, Tom Marshall, Robert Barr, Ian Clarkson, Ruth Maguire, Alan Munro and Donald Reid.

In Attendance

W. O'Brien, Senior Solicitor (Licensing), A. Toal, Administrative Assistant, S. McKenzie, Assistant Building Standards Officer and R. Butler, Building Standards Surveyor (Seaward) (Corporate Services); and D. McCaw, Committee Services Officer (Chief Executive's Service).

Also In Attendance

Inspector A. Clark and Sergeant U. Menzies (Strathclyde Police).

Chair

Councillor McNicol in the Chair.

Apologies for Absence

John Bruce, Alex McLean and Robert Steel.

1. Declarations of Interest

1.1 Declarations of Interest: Advice to Elected Members

Submitted report by the Chief Executive highlighting the requirements of Standing Orders and Section 5 of the Code of Conduct for Councillors in relation to declarations of interest.

Standing Order 16 provides that if any Member of the Council has a financial or non-financial interest in any contract or any other matter as defined by Section 5 of the Councillors' Code Conduct, and is present at any meeting at which that matter is to be considered, he/she must, as soon as practicable after the meeting starts, disclose that he/she has an interest and importantly, state the nature of this interest. Section 5 of the Code, which was appended to the report, sets out the rules in relation to declarations of interest.

To facilitate such declarations, a heading "Declarations of Interest", routinely appears as the first item on agendas for all meetings of the Council and its Committees. Any Member making a declaration is expected to make a statement which is sufficiently informative as to enable those at the meeting, or anyone reading the Minute, to understand the nature of the interest.

The Committee agreed (a) to note the report; and (b) that Members ensure (i) they are familiar with the requirements of Standing Orders and Section 5 of the Code of Conduct for Councillors in relation to declaring interests and (ii) consider the need to declare financial or non-financial interests in any contract or any other matter as defined by Section 5 of the Councillors' Code of Conduct when attending meetings of the Council and its committees.

1.2 Declarations

In terms of Standing Order 16, (a) Councillor Barr, as an acquaintance of the applicant Elizabeth Conway, declared an interest in Agenda Item 2, Appendix B, TDL/01244 (New) and took no part in the discussion thereon; and (b) Councillor Munro, as a customer of the taxi firm operated by the applicants Robert and Susan Chalmers, declared in interest in Agenda Item 2, Appendix B, TL/119 (Renewal) and took no part in the discussion thereon.

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

Submitted report by the Solicitor to the Council on (a) Hearings to be determined; and (b) applications for the grant or renewal of licences and permits, 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.

3. Regulations of Public Processions

Submitted report by the Solicitor to the Council on a proposed process of public consultation in respect of a review of the Regulation of Public Processions, with a view to revising its Standard Conditions.

The Committee agreed to continue consideration of this item to the next meeting.

4. Public Entertainment Licences

Submitted report by the Solicitor to the Council on a change in the legislation in relation to Public Entertainment Licences and on the procedure for reviewing its Resolution.

Under Section 41 of the Civic Government (Scotland) Act 1982, a "Public Entertainment Licence" (PEL) is required for the use of premises as a "place of public entertainment". A PEL is required for any place (with statutory exceptions) where:

- (a) "on payment of money or money's worth", members of the public can use facilities for entertainment or recreation, if
- (b) those facilities are contained in the Council Resolution.

The payment condition quoted in (a) was removed by the Criminal Justice and Licensing (Scotland) Act 2010, with effect from 1 April 2012. Previously, an event which fell within the Resolution could avoid the need to be licensed if it was either free of charge or if it was 'donation-based', i.e. with the public being invited to make a donation. However, from 1 April 2012, all events within the current North Ayrshire Council Resolution, whether free, donation-based or fee-charging, need a PEL.

In March 2012, prior to the Local Government Elections on 3 May 2012, the Committee approved interim arrangements to operate until the post-election Committee carried out the review procedure. The interim arrangements are that:-

'A place does not require a Public Entertainment Licence if (a) it is either owned or operated by the Council (or both), or (b) all four of the following conditions are satisfied: (i) admission to the place is free of charge, (ii) there is no charge for the use of any facilities for entertainment, (iii) no donations towards the cost of the facilities or the costs of the place (such as rent, heating and lighting) are invited, and (iv) the function is held by a charitable, religious, youth, recreational, community, political or similar organisation.'

The report detailed a possible procedure for taking forward the review of the Resolution.

The Committee agreed (a) to the establishment of a Member/Officer working group, comprising Councillors McNicol, Clarkson, Marshall and Reid, to review the existing Resolution and propose a draft for the Committee's consideration; and (b) thereafter, to consider the draft and amend it as appropriate; (c) that the amended draft be used in the statutory review procedure; and (d) that after consideration of any representations from the public, the Committee adopt an amended Resolution.

The meeting ended at 3.45 p.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

22 August 2012

Licensing Committee

Subject: **Civic Government (Scotland) Act 1982: Licensing Matters**

Purpose: To advise the Committee of (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982.

Recommendation: That the Committee considers and determines the matters before it.

1. Introduction

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council, as Licensing Authority, requires to determine issues in respect of the grant, renewal or suspension of licences.

2. Current Position

- 2.1 The attached appendices detail the matters before the Committee for determination as follows:-

Appendix A:

Licences where Hearings have been convened; and

Appendix B:

Applications for the grant or renewal of licences and permits.

Appendix C:

Issues in respect of existing licences.

3. Proposals

- 3.1 It is proposed that the Committee considers and determines each of the listed cases in accordance with the required procedures.

4. Implications

Financial Implications

- 4.1 There are possible financial implications in relation to the refusal of any application.

Human Resource Implications

- 4.2 None

Legal Implications

- 4.3 There are possible legal implications in relation to the refusal of any application.

Equality Implications

- 4.4 None

Environmental Implications

- 4.5 None

Implications for Key Priorities

- 4.6 None

5. Consultations

- 5.1 Consultations have been undertaken with Strathclyde Police, Strathclyde Fire and Rescue, and the appropriate Council Services.

6. Conclusion

- 6.1 The Committee is requested to consider and dispose of the matters before it.

A handwritten signature in black ink, appearing to read 'Ian T. Mackay', with a stylized flourish at the end.

IAN T MACKAY
Solicitor to the Council

Reference : PAT

For further information please contact William O'Brien, Senior Solicitor on
01294 324305

Background Papers

None

APPENDIX A

Hearings

Hearing 1	Market Operator's Licence	MOL/039
Applicant and Address	Fayre Events Ltd Lowhouse Cottage Threepwood Road Beith Ayrshire	
Premises	Viking Festival Largs Promenade Largs	
Hearing 2	Public Entertainment Licence	PEL/154
Applicant and Address	Kelburn Productions Kelburn Castle Fairlie Ayrshire	
Premises	Kelburn Castle Kelburn Fairlie Ayrshire	
Hearing 3	Taxi Driver's Licence	TDL/01244
Applicant and Address	Elizabeth Kilday Conway 3 Alexandria Terrace Kilwinning KA13 7HQ	
Hearing 4	Taxi Driver's Licence	TDL/01513
Applicant and Address	Steven Robb 2 Sersley Drive Kilbirnie KA25 6EZ	
Hearing 5	Taxi Driver's Licence	TDL/01519
Applicant and Address	Darren Coughtrie 49 Hamilton Crescent Stevenston KA20 4JD	

Hearing 6	Taxi Driver's Licence	TDL/01780
Applicant and Address	John Swindle 110 Ardloch Crescent Stevenston KA20 3PG	
Hearing 7	Taxi Operator's Licence - Substitution of Vehicle	TL/041
Licenceholder and Address	Kevin Blades 15 Dale Crescent Irvine KA12 0RU	
Hearing 8	Representation regarding vehicle specification for Wheelchair Accessible Taxis	
Licenceholder and Address	George Torbet T/A Bond Cars 31 Gogo Street Largs KA30 8BU	
Hearing 9 (Continued)	Taxi Operator Licences	TL/19 and TL/194 Renewals TL/048 Grant
Licenceholder and Address	Fiona Wagstaff 19 Stair Drive Drongan KA6 7DL	

APPENDIX B

Applications for Licences/Renewal of Licences

Type of Licence/Reference Number	Details of Applicant	Details of Vehicle/Premises	Comments
MDL/041 (New)	Anthony Hamblin 128 Shortlees Crescent Kilmarnock KA1 4PU	Itinerant	Police observation received
PHCL/315 (New)	Angus Campbell Brownlea Cottage Alma Road Brodict Isle of Arran KA27 8BU	Ford Mondeo KH06 FTO	Police observation received
PCC (New)	Kilwinning Friends of the Ayrshire Hospice Patricia McNeill 9 Atholl Gardens Kilwinning KA13 7DQ		Request received to vary the terminal hour for house to house collection for this application
SHDL/162 (New)	Pendragon Motor Group Ltd Loxley House 2 Oakwood Court Little Oak Drive Annesley Nottingham NG15 0DR	Evans Halshaw Sorbie Road Ardrossan KA22 7AA	Police observation received
TDL/01425 (Renewal)	Leslie Watson 57 Morar Place Irvine KA12 9PT		Police observation received
TDL/01793 (New)	Alexander McRum Butler 2 Barrington Gardens Beith KA15 2BA		Police Observation received

TDL/01794 (New)

Robert Purcell **Hendry**
15 Earlswood View
Irvine
KA11 2FG

Police Objection
received

APPENDIX C

Issues in respect of Existing Licences

Case 1

Taxi Driver's Licence

TDL/00398

James Smith Dean
11 Holmes Avenue
Dreghorn
KA11 4BD

Duration of Licence

01/10/2011 - 30/09/2012

NORTH AYRSHIRE COUNCIL

Agenda Item 4

22 August 2012

Licensing Committee

Subject: **Street Trader's Licences under Section 39 of the Civic Government (Scotland) Act 1982, Market Operator's Licences under Section 40, and Regulation of Public Charitable Collections under Section 119.**

Purpose: To invite the Committee to amend its Policies due to the works at Bridgegate, Irvine.

Recommendation: That the Committee amends (a) its Policies to prohibit the issue of Street Trader Licences, Market Operator Licences and Public Charitable Collection Licences in the Bridgegate area for the duration of the works in and around the Bridgegate area, Irvine; and (b) the Clerk's delegated powers accordingly.

1. Introduction

Street Trader's Licence ('STL')

- 1.1. Street Traders are regulated by Section 39 of the Civic Government (Scotland) Act 1982. With exceptions, a "Street Trader's Licence" is required for "street trading" by a person. This means selling goods or carrying out for money or money's worth a service. Despite the title, trading in a public place needs a Licence. The trader himself needs a STL, and if there are employees, each of them also need STLs.
- 1.2. Where a kiosk or vehicle is to be used, the Committee is entitled to refuse a Licence where that kiosk or vehicle is not suitable or convenient having regard to—
 - (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - (ii) the nature and extent of the proposed activity;
 - (iii) the kind of persons likely to be in the premises, vehicle or vessel;
 - (iv) the possibility of undue public nuisance; or
 - (v) public order or public safety; (1982 Act, Schedule 1, Paragraph 5(3)(c)).

- 1.3. Where no kiosk or vehicle is to be used, as where a trader stands in a public place and sells goods he is carrying, the Council may refuse a Licence where it considers that “there is other good reason for refusing the Application” (para. 5(3)(d)).

Market Operator's Licences ('MOL')

- 1.4. Market Operators are regulated by Section 40 of the 1982 Act. The same grounds of refusal apply as they do for STLs (see Para. 1.2).

Public Charitable Collection ('PCC')

- 1.5. These are regulated by Section 119 of the 1982 Act. The legislation on fundraising will be replaced by the Charities and Trustee Investment (Scotland) Act 2005, Section 86, but the new system is not yet in force.
- 1.6. Generally, a Council permission is required for a Public Charitable Collection (PCC), and it is a criminal offence to hold a collection without a permission, punishable by a fine of up to £1,000. The exception is that some major national charities are ‘Exempt Promoters’ receive special treatment.
- 1.7. The great majority of PCC Permissions are granted under delegated powers, and therefore requests for Permission rarely call at the Committee.
- 1.8. The Council is entitled to refuse permission on a number of grounds, including:

Section 119(6)(a): “that the date, time, frequency or area of the collection would cause undue public inconvenience”

- 1.9. Accordingly the Council already has a Policy:
- (a) house to house collections are only permitted on Monday - Friday,
 - (b) street collections are only permitted on Saturday.

and only one of each is allowed on a particular day in a particular town. Neither is permitted on Sunday.

2. Current Position

- 2.1 In the period of 12 months from 1 August 2012 to 1 August 2013 substantial works will be carried out in Bridgegate, Irvine. While these works are in progress, the width of the pedestrian walkway between the Rivergate Shopping Centre and High Street will be substantially limited.
- 2.2 In order to maximise the free flow of pedestrian traffic in that period, it is proposed that the Council should amend its Policy: so as to prohibit STLs, MOLs and PCCs in that area for the duration of the works.
- 2.3 An applicant who seeks a STL, MOL or PCC in that area will be told of the policy. If he does not withdraw the application, the Clerk will decline to exercise delegated powers and the application will be referred to the Committee meeting. The Committee will then consider whether or not, in the particular circumstances of the applicant, an exception to the policy should be made.
- 2.4 The proposed amendments of policies will not affect PCCs conducted by Exempt Promoters, as they do not require permissions from Councils.

3. Proposals

- 3.1 That the Committee amends (a) its Policies to prohibit STLs, MOLs and PCCs in the Bridgegate area for the duration of the works in and around Bridgegate, Irvine; and (b) the Clerk's delegated powers accordingly.

4. Implications

Financial Implications

- 4.1 None for the Council.

Human Resource Implications

- 4.2 None for the Council.

Legal Implications

- 4.3 Where the Council makes any decision to refuse a STL, MOL or PCC, the applicant may appeal to the Sheriff.

Equality Implications

- 4.4 None.

Environmental Implications

- 4.5 None.

Implications for Key Priorities

- 4.6 None.

5. Consultations

- 5.1 No consultation is appropriate. Particular applications are copied to the Police.

6. Conclusion

- 6.1 The Committee is invited to consider the recommendation to amend its policies in relation to STLs, MOLs and PCCs and for the duration of the works in and around the Bridgegate area of Irvine to maximise the free flow of pedestrian traffic during these works.



IAN T MACKAY
Solicitor to the Council

Reference : Reference : WO'B/PAT/GEN29/38/56

For further information please contact William O'Brien , Senior Solicitor
(Licensing) on 01294-324305

Background Papers

None