

Licensing Committee
18 September 2019

IRVINE, 18 September 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Todd Ferguson, Scott Gallacher, Davina McTiernan (Agenda Items 5.6 onwards); Donald L. Reid, Jean McClung and Angela Stephen.

Also Present

Ian Clarkson (Agenda Item 5.6 onwards).

In Attendance

David Watts, Senior Architect (Physical Environment) (Agenda Item 7 only) and Mark Henry, Team Leader (Roads) (Place) (Agenda Item 7 only); D. Robertson, Enforcement Officer, W. O'Brien, Solicitor (Licensing) and A. Toal, Administrative Assistant (Licensing) (Legal Services) and D. McCaw, Committee Services Officer (Chief Executive's Service)

Also in Attendance

Inspector Alison Wilson and Sergeant David Dougan (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Robert Barr and John Easdale.

1. Chair Remarks

The Chair advised that a Petition and representations in connection with the taxi stance in Irvine would be considered at Agenda Item 7 as a matter of urgency to allow the matter to be progressed without delay.

He further advised that the order of business would be varied to allow consideration of items 5.15 and 7 immediately following item 5.8 on the Agenda.

2. 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.

3. Minutes

The Minutes of the Meeting held on 21 August 2019 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Exclusion of the Public

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public, for Agenda Items 5-6 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters) on the grounds that they involved the likely disclosure of Exempt Information as defined in Section 50J of, and Schedule 7A to, the Local Government (Scotland) Act 1973.

The 'Exempt Information' concerned is information of the type described in one or more of Paragraphs 3, 6, 14 and 15 of Part 1 of Schedule 7A to the Act:

3. "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."
6. "Information relating to the financial or business affairs of any particular person (other than the authority)."
14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."
15. "The identity of a Protected Informant" - where "Protected Informant" is defined in Part III as a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance."

5. Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters

Submitted report by the Head of Democratic Services on hearings to be determined and applications for the grant or renewal of licences, consents and permits, on hearings and on other matters, under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

Appendix A: Hearings

5.1 Taxi Driver's Licence: TDL/00792 (Renewal): George Williams

The Committee at its meeting held on 21 August 2019, 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 and accompanied by Mr. Robert Colhoun. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their representation in respect of 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

Councillor Ferguson, seconded by Councillor Reid, moved that the Committee grant the application, subject to the Council's 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. There being no amendment, the motion was declared carried.

5.2 Taxi Driver's Licence: TDL/02179 (New): Phyllis Middleton

The Committee at its meeting held on 21 August 2019, 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.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. 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 Reid, seconded by Councillor McNicol, moved that the Committee 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. There being no amendment, the motion was declared carried.

5.3 Taxi Driver's Licence: TDL/02183 (New): David Keggan

The Committee at its meeting held on 21 August 2019, 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 Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their representation in respect of 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

Councillor Reid, seconded by Councillor McNicol, moved that the Committee 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.

As an amendment, Councillor Gallacher, seconded by Councillor McClung, moved that the Committee grant the application, subject to the Council's 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.

On a division, there voted for the motion 3 and for the amendment 3 and on casting vote of the Chair, the motion was declared carried.

Accordingly, the Committee 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.

5.4 Taxi Operator's Licence: TL/204: Craig Murray

The applicant, having been duly cited to attend, was present and accompanied by David Baird.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. 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

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

5.5 Taxi Driver's Licence: TDL/02188: Craig Murray

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

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

Decision

The Committee unanimously agreed to grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of 3 years.

The Chair then adjourned the meeting for a short comfort break. The meeting reconvened thereafter with the same Members present and Councillor McTiernan having joined the Committee for the remainder of the business.

Provost Clarkson joined the meeting at this point.

5.6 Window Cleaner's Licence: WCL/076 (New): Connor Watson

The Committee at its meeting held on 10 April 2019 agreed to continue consideration of this item to a future meeting, no later than 30 October 2019, to allow the applicant to provide further information to the Committee.

The applicant, having been duly cited to attend, was present and accompanied by his mother, Catherine Watson. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their representation in respect of the application. Thereafter the applicant and his mother 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 Reid, seconded by Councillor McNicol, moved that the Committee 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) and (d) of the said Schedule, that the applicant had not met the criteria to be the holder of a Window Cleaner's Licence. There being no amendment the motion was declared carried.

Police Scotland representatives left the meeting at this point.

5.7 Taxi Driver's Licence: TDL/00695: Andrew Johnston

The Committee at its meeting held on 21 August 2019, agreed on the basis of the information presented, to proceed to a 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 not present or represented.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The Enforcement Officer addressed the Committee and responded to questions.

Decision

The Committee agreed to continue consideration to the next meeting in order that the licence holder could be present.

5.8 Taxi Driver's Licence: TDL/01962: Stephen Reid

The Committee at its meeting held on 21 August 2019, agreed on the basis of the information presented, to proceed to a 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.

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

Decision

Councillor Ferguson, seconded by Councillor Reid moved that a final written warning be issued to the licence holder. There being no amendment, the motion was declared carried.

5.15 Urgent Item: TL/194: Michael Ferguson

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

The Solicitor (Licensing) set out the background to an application for a substitute vehicle onto a Wheelchair Accessible Licence which was outwith the vehicle specification as it did not have a winch fitted.

The Committee unanimously agreed to treat the proposed vehicle as an exception to the Committee's Vehicle Specification Policy under Section 10(2) of the Civic Government (Scotland) Act 1982.

7. Urgent Item: Taxi Stance Provision in Irvine

The Chair agreed that the following item be considered as a matter of urgency to allow the matter to be actioned without delay.

The Committee was advised that a Petition had been received regarding Taxi Stance provision in Irvine.

Mr. Kevin Blades, a Taxi Operator, and Mr. Steven Kelly, representing the Irvine Taxi Owners' Association, addressed the Committee in relation to the concerns raised by the taxi trade in Irvine. The representatives advised that they were looking to open dialogue with the Senior Architect and the Roads Department. The Committee noted the representations made.

The Chair explained to the operators that the road layout was primarily a matter for the Roads Department and that the involvement of the Licensing Committee was limited to Stances. The Provost advised the Trade that the hearing was simply to determine what Trade wanted, and was not to make a decision. The Chair agreed with the Provost's comments.

Mr. Kelly advised that the Trade's concern was the closure of the Bank Street rank, which he said lost the Trade money and inconvenienced the public as some people could not always see the temporary rank. He suggested:

1. that, instead of being in Bank Street, the Stance should start outside the "Carrick" public house, at the corner of High Street and Bank Street, and then run up High Street (with the first car being outside the "Carrick"); and
2. that, in the short term, the Stance could be in the East Road car park, where there were two blocks, one of 20 spaces and one of 10 spaces.

Members asked questions and received clarification in relation to:-

- the Trade proposing that there should be a short-term stance in the East Road car park with at least 20 bays, to be used 24 hours a day, with the public being redirected to the Aldi car park; and
- that the Trade would agree to use of the East Road Car Park after 6 p.m.

The Committee agreed that the comments made by the Trade representatives would be considered by the Senior Architect and the Roads Department.

The Trade representatives then left the meeting.

Appendix B: Applications for Licences/Renewal of Licences

5.9 MDL/057 (Renewal): Jason McKinney

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.

5.10 PHCL/371 (Renewal): Craig Dobbin/Stephen Dobbin

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.

5.11 TDL/02176 (New): Christopher Payne

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.

5.12 TDL/02193 (New): James Graham

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.

5.13 TDL/02194 (New): Iain McIntyre

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.

Appendix C: Preliminary consideration of Revocation or Suspension complaints (Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11)

5.14 BOL/019: TOA Taxis (North Ayrshire) Ltd / William Bruce

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing.

6. Landlord Registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8

The Committee was advised that there were no Landlord Registration cases to be considered at this time.

The meeting ended at 1.05 p.m.