

**Licensing Committee**  
**16 May 2018**

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ronnie McNicol, Robert Barr, John Easdale, Scott Gallacher, Jean McClung, Davina McTiernan, Donald L. Reid and Angela Stephen.

**In Attendance**

A. Craig, Senior Manager, Legal Services, W. O'Brien, Solicitor, (Licensing), S. Montgomery, Solicitor (Litigation), D. Robertson, Civic Licensing Standards Officer, A. Toal, Administrative Assistant, M. Anderson, Committee Services Team Leader, and E. Gray and H. Clancy, Committee Services Officers (Chief Executive's Service).

**Also in Attendance**

Sergeant D. Dougan and E. Blackwood (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**Apologies**

Todd Ferguson.

**1. Chair's Remarks**

The Chair made reference to a decision by the Committee at its meeting on 7 March 2018, advising that, in respect of Item 4.7 (Late Hours Catering Licence: LHCL/127 (New) – Pizza Cake (Stevenston) Limited), the period covered by the licence should have read Monday – Sunday and not Monday – Friday.

Noted.

**2. Order of Business**

The Chair, in terms of Standing Order 9.4, agreed to vary the order of business to allow Agenda Item 4 (Taxi and Private Hire Car Vehicle Specification and Inspection Standards) to be considered in public, prior to making a resolution to exclude the public for the remaining items of business.

**3. 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.

#### **4. Minutes**

The Minutes of the meeting of the Special Meeting of the Committee held on 7 March 2018 and the Ordinary Meeting on 18 April 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

#### **5. Taxi and Private Car Vehicle Specification and Inspection Standards**

Submitted report by the Chief Executive on the Taxi and Private Hire Car Specification and Inspection Standards under the Civic Government (Scotland) Act 1982, Section 10(2) and 10(5).

Suggested changes to the documents were detailed at Section 3 of the report. The proposed "Taxi and Private Hire Car Vehicle Approval Specification" was set out at Appendix 1 to the report. The current "Guidance – Taxi and Private Hire Vehicle Inspections - Inspection and failure criteria" was provided at Appendix 2 and proposed revised guidance circulated separately as a 'to follow' paper.

Members discussed the background to the draft documents, receiving clarification of the need, in terms of Section 10(2) of the Civic Government (Scotland) Act 1982, to ensure taxis and private hire cars are safe for that use.

Members then considered in detail the issues set out in Section 3.3 of the report and agreed as follows:-

- Road Fund – agreed that there was no need for the Council to verify this;
- Pass with Minor Advisory – agreed that this alone should cause a 'fail' of the Section 10(2) inspection and, further, that it be remitted to the Solicitor (Licensing) and Corporate Transport Manager to amend further the detailed wording of the Inspection Standards in light of changes to the MOT Standards;
- Tow-balls – agreed there should be a cover in place when the tow-ball was not in use;
- Tyre Tread Depth – agreed, for reasons of safety, to adopt the following Inspection Standard "tread depth must be more than 2.00 mm across 75% of the centre width of the tyre and, for the remaining 25% of the width, the tread must be visible (unless it is a tyre defined as a raised tread shoulder)"
- Window Tinting – noted that this was not part of the MOT test and agreed to the Inspection Standard: Window-tinting (all windows, including the rear and side windows) – Reason for Failure: any degree of tinting is a reason for failure, except where pre-installed by the vehicle's manufacturer"
- Engine Capacity – noted three options, namely (i) the Committee could continue with the present Specification ("1.4 model"), (ii) the Committee could amend the Specification to refer to a figure measured in "Brake Horse Power" and (iii) the Committee could amend the Specification to "The minimum engine size must be suitable in the opinion of the Licensing Authority for the role as Taxi and Private Hire Car and must meet the original manufacturer's specification", and agreed to adopt option (iii), noting that the term "suitable" was sufficiently specific given that the Council's Specification already referred to luggage capacity, the size of the rear seat, the seating capacity and the number of doors

- Mileage Range for Electric Cars – discussed, and rejected, the option of setting a minimum mileage range for electric cars

The Committee agreed (a) to approve (i) the "Taxi and Private Hire Car Vehicle Approval Specification" set out at Appendix 1 to the report and (ii) the "Guidance – Taxi and Private Hire Vehicle Inspections - Inspection and failure criteria" which was circulated as a 'to follow' paper, subject to the amendments set out above; (b) that it be remitted to the Solicitor (Licensing) and Corporate Transport Manager, to make such amendments to the wording of the documents as may be required to reflect changes to the MOT system; and (c) to note that the approved documents would be published on the Council's website.

## **6. 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 Item 3 (Civic Government (Scotland) Act 1982: Licensing Matters) and Agenda Item 5 (Landlord Registration under the Antisocial Behaviour, etc (Scotland) Act 2004, Part 8), 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 Act 1973.

The 'Exempt Information' concerned is that described in Section 7A, Paragraph 6 (Information relating to the financial or business affairs of any particular person (other than the authority)), Paragraph 14 (Any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime) and Paragraph 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).

## **7. Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters**

Submitted report by the Chief Executive 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.

### **PART A: Hearings**

#### **7.1 Taxi Driver's Licence - TDL/00978 – Gordon Hewitt**

The licence holder, 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 and referred to a letter submitted by Police Scotland setting out a request for an ordinary Suspension in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

## **Decision**

Having regard to the information presented, Councillor D. L. Reid, seconded by Councillor Gallacher, moved not to take any action in respect of an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the Motion was declared carried.

### **7.2 Taxi Driver's Licence - TDL/02083 (New) – Brian Stephens**

The Committee, at its meeting on 18 April 2018, 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 his father. Representatives of Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the hearing, as previously intimated in writing to the licence holder and referred to a letter submitted by Police Scotland setting out an objection in respect of the application.

The applicant then addressed the Committee on the issues raised and responded to questions.

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

## **Decision**

Councillor D. L. Reid, seconded by Councillor Barr moved that the application be refused in terms of Paragraph 5(3)(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the ground that the applicant was not a fit and proper person to be the holder of the licence. There being no amendment, the motion was declared carried.

### **7.3 Taxi Driver's Licence - TDL/01029 (Renewal) – Michael Rawley**

The Committee, at its meeting on 18 April 2018, 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 licence holder, having been duly cited to attend was present and accompanied by his wife.

The Solicitor (Licensing) set out the background to the hearing and to the fact that the applicant's DVLA entitlement would cease of 3 September 2018. The licence holder then addressed the Committee on the issues raised and responded to questions.

## **Decision**

The Committee unanimously agreed that the application be granted (i) in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year and (ii) on condition that the applicant inform the Council of the outcome of the DVLA licence renewal application.

### **PART B: Applications for Grant/Renewal of Licences**

#### **7.4 Taxi Driver's Licence: TDL/00164 (Renewal) – Craig McPherson**

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.

#### **7.5 Taxi Driver's Licence: TDL/00945 (Renewal) – James Haswell**

The Committee unanimously agreed (a) that the application be granted (i) in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year and (ii) on condition that the applicant inform the Council of the outcome of the DVLA licence renewal application.

#### **7.6 Taxi Driver's Licence: TDL/01327 (Renewal) – Craig McCready**

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.

#### **7.7 Taxi Licence: TL/01774 (Renewal) – Robert Whyte**

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.

#### **7.8 Taxi Driver's Licence: TDL/02097 (New) – Grant Davidson**

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.

#### **7.9 Taxi Driver's Licence: TDL/02090 (New) – Malcolm McPherson**

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.

### **7.10 Taxi Driver's Licence: TDL/02098 (New) – Alasdair Barr**

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.

### **7.11 Taxi Driver's Licence: TDL/02104 (New) – Graeme McKee**

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 three years.

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

Submitted report by the Chief Executive on the circumstances relating to an application for Landlord Registration under the 2004 Act.

### **8.1 G.L.**

At its meeting held on 7 March 2018, the Committee unanimously agreed to continue consideration of this matter to allow the applicant a further opportunity to attend a hearing.

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

The Solicitor (Licensing) addressed the Committee on the background to the hearing and the terms of a letter submitted by the applicant. The applicant addressed the Committee on the issues raised and responded to questions.

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

### **Decision**

Councillor D.L. Reid, seconded by Councillor McTiernan, moved to grant the application for Landlord Registration. There being no amendment, the motion was declared carried.

The meeting ended at 11.45 p.m.