

Licensing Committee
2 September 2008

IRVINE, 2 September 2008 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

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

In Attendance

N. Alexander, Chief Legal Officer (Licensing and District Court) and A. Toal, Administrative Assistant (Legal and Protective); and P. Shiach, Corporate Support Officer (Chief Executive's).

Chair

In the absence of the Chair and Vice Chair, the Committee appointed Robert Barr to the Chair

Apologies for Absence

William Gibson, Elizabeth Marshall and Alan Munro.

1. Antisocial Behaviour etc. (Scotland) Act 2004

Submitted report by the Assistant Chief Executive (Legal and Protective) on an application for registration as a Private Landlord in terms of the Antisocial Behaviour etc. (Scotland) Act 2004.

An application for registration has been received from Gianpiero Narducci to register as a landlord of four properties. In terms of the Council's scheme for registering private landlords, as approved by the former Licensing Sub Committee on 7 August 2006, the Assistant Chief Executive (Legal and Protective) has authority to grant applications where criminal convictions declared by the applicant do not cause concern. Where convictions are disclosed which may cause concern, the application requires to be referred to the Licensing Committee for determination.

The applicant declared a conviction, relating to a previous driving offence which had resulted in a fine of £300.

Decision

That the application by Gianpiero Narducci for registration as a Private Landlord in terms of the Antisocial Behaviour etc. (Scotland) Act 2004 be granted.

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

Submitted report by the Assistant Chief Executive (Legal and Protective) on (a) applications for the grant or renewal of licences and permits; and (b) Hearings which require to be determined by the Committee.

The Committee agreed to dispose of these matters as indicated in the attached Appendix LC1.

PART A

Late Hours Catering Licence

1. LHCL/090 (New) BP Express Shopping Limited

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.

Street Traders Licence

1. STL/E/183 (New) Lee Andrew Bell

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.

Taxi Driver Licences

1. TDL/01460 (New) Graham Coghil

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.

2. TDL/01462 (New) Stuart Campbell Paton

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.

PART C

Hearings

1. LHCL/084 (New) Nasir Gulem

The Committee at its meeting held on 12 August 2008 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.

The applicant, having been duly cited to attend, was not present at the Hearing. Representatives from Strathclyde Police were also in attendance.

The Chief Legal Officer (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. He advised that the applicant had requested a variation of the hours previously approved in terms of the current licence by the addition of 1 hour to the existing terminal hour on Fridays and Saturdays, extending the hours on each of these evenings from 1.00am to 2.00am. Chief Inspector Lawrence outlined the Police objections as contained in the Chief Constable's letter of 15 July 2008, indicating that in terms of Section 5(3) of the Act, the grant of the application would be likely to cause undue public nuisance.

Decision

The Committee unanimously agreed to refuse the application on the ground that the application, if granted, was likely to lead to undue public nuisance in terms of Section 5(3) of Schedule 1 of the Civic Government (Scotland) Act 1982.

2. PHCDL/029 (Renewal) John Montgomery

The Committee at its meeting held on 12 August 2008 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.

The applicant having been duly cited was present at the hearing. Representatives from Strathclyde Police were also in attendance.

The Chief Legal Officer (Licensing and District Court) set out the background to the hearing as previously intimated in writing to the applicant.

The representatives of Strathclyde Police addressed the Committee of the terms of letters dated 5 and 10 June 2008 which set out the Chief Constable's observations on the application.

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

The applicant and the representatives of Strathclyde Police 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 conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982. The Committee further agreed that a letter be sent to Mr Montgomery warning him as to his future conduct.

3. TDL/01436 (New) Donald Ellingham

The Committee at its meeting held on 12 August 2008 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.

The applicant having been duly cited was present at the hearing. Representatives from Strathclyde Police were also in attendance.

The Chief Legal Officer (Licensing and District Court) set out the background to the hearing as previously intimated in writing to the applicant.

The representatives of Strathclyde Police addressed the Committee of the terms of letters dated 4 and 10 June 2008 which set out the Chief Constable's observations on the application.

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

The applicant and the representatives of Strathclyde Police 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 conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year

4. PHCL/250, PHCL/269 and PHCL/269 (new) Anne Power

The Committee at its meeting held on 29 April 2008 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.

The applicant, having been duly cited to attend, was present at the Hearing and was represented. The Council's Enforcement Officer was also in attendance.

The Chief Legal Officer (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant.

The Enforcement Officer addressed the Committee in terms of the written reports he had submitted.

The applicant's agent addressed the Committee and responded to the issues raised in the Enforcement Officers report.

The applicant, her agent and the Enforcement Officer then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Councillor Moffat, seconded by Councillor Kirkwood moved that the licence be suspended on the grounds that the applicant is no longer a fit and proper person to be the holder of a licence.

As an amendment, Provost Rae, seconded by Councillor Oldfather, moved that the Committee take no action with regard to suspension in terms of Paragraph 11 (1) of Schedule 1 of the Civic Government (Scotland) Act 1982.

On a division there voted 2 for the amendment and 5 for the motion , and the motion was declared carried.

Decision

Accordingly the Committee agreed (a) in terms of Paragraph 11(2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982, that the licence holder is no longer a fit and proper person to be the holder of private car hire vehicle licences; (b) to immediately suspend the licences in terms of Paragraph 11(10) of the said Schedule; and (c) in terms of Paragraph 11(11) of the said Schedule, that the period of suspension be the unexpired portion of the duration of the licences. The Committee further agreed to refuse the application for a private hire car licence on the grounds set out in Paragraph 5 (3) (a) (ii) of Schedule 1 of the Civic Government (Scotland) Act 1982, that the applicant is not a fit and proper person to be the holder of the licence.