

Licensing Sub Committee of Corporate Services Committee  
7 December 2006

**IRVINE, 7 December 2006** - At a Special Meeting of the Licensing Sub Committee of Corporate Services Committee of North Ayrshire Council at 2.00 p.m.

**Present**

David Munn, John Moffat, and Alan Munro.

**In Attendance**

A. Fraser, Manager Legal Services, N. Alexander, Chief Legal Officer (Licensing and District Court), A. Toal, Clerical Officer and G. Cullen, Administrative Assistant (Licensing and District Court), K. McMunn, Chief Environmental Health Officer and C. Reilly, Senior Environmental Health Officer (Legal and Protective); C. Nelson, Head of Catering and Cleaning and S. Brandon, Catering Manager (Property Services); and M. McKeown, Corporate Support Officer (Chief Executive's).

**Also In Attendance**

Chief Inspector O'Neill and Sergeant Kelly, Strathclyde Police.

**Chair**

Councillor Munn in the Chair.

**Apologies for Absence**

Gordon Clarkson, Elizabeth McLardy, Robert Rae and Ian Richardson.

**1. Civic Government (Scotland) Act 1982: Taxis and Private Hire Cars Vehicle Specifications, Signage and Advertising, Taxi Licence Number Limitations and Zoning**

Submitted report by the Assistant Chief Executive (Legal and Protective) on Taxis and Private Hire Cars Vehicle Specifications, Signage and Advertising, Taxi Licence Number Limitations and Zoning.

The Sub Committee agreed to continue consideration of this item of business to a future Special Meeting.

**2. Exclusion of Public**

The Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for the following item of business on the grounds indicated in terms of Paragraphs 6, 13 and 14 of Schedule 7A of the Act.

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

Submitted report by the Assistant Chief Executive (Legal and Protective) on Hearings which required to be determined by the Sub Committee.

The Sub Committee agreed to dispose of these matters as indicated in the attached Appendix LS1.

The meeting ended at 6.00 p.m.

## **PART A**

### **Hearings**

#### **1. TDL/1300 Allan McLean Atkinson**

The Sub Committee at its meeting held on 6 November 2006, unanimously agreed, on the basis of the information before it, to hold 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 in attendance. Representatives of Strathclyde Police were present.

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

Thereafter the Police representatives addressed the Sub Committee on the terms of a letter dated 17 October 2006 which set out the objections of the Chief Constable of Strathclyde Police to the application. A further letter dated 7 December 2006 from the Chief Constable was tabled.

#### **Decision**

The Sub Committee unanimously agreed, on the basis of the information before it, to refuse the application in terms of Paragraph 5 (1) (c) of Schedule 1 of the Civic Government (Scotland) Act 1982, on the grounds indicated in Paragraph 3 (i) (b) of the said Schedule that the applicant is not a fit and proper person to be the holder of a taxi drivers licence.

#### **2. TDL/061 Peter McGuinness**

The Sub Committee at its meeting held on 6 November 2006, unanimously agreed, on the basis of the information before it, to hold 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 at the Hearing. Representatives of Strathclyde Police were present.

The Chief Legal Officer (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the licence holder. Thereafter, the licence holder addressed the Sub Committee on the issues raised, and responded to questions, before withdrawing, to allow the Sub Committee to deliberate. The licence holder returned to hear the Sub Committee's decision.

### **Decision**

The Sub Committee unanimously agreed, on the basis of the information before it, to take no action to suspend the licence in terms of Paragraph 11 (1) of Schedule 1 of the Civic Government (Scotland) Act 1982, but warned the licence holder as to his future conduct.

### **3. STL/O/211 Sheila Brandon**

The licence holder had been cited to attend a suspension hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982, in respect of a breach of the conditions attached to the licence.

The licence holder, having been duly cited to attend, was present at the meeting, and was represented.

The Chief Legal Officer (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the licence holder. Thereafter, the licence holder addressed the Sub Committee on the issues raised, and responded to questions.

### **Decision**

The Sub Committee unanimously agreed (a) on the basis of the information before it, 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) to vary the licence to remove the condition prohibiting trading within 50 metres of any school or educational establishment.

### **4. STL/O/075 Sharon Serapiglia**

The Sub Committee at its meeting held on 6 November 2006, unanimously agreed, on the basis of the information before it, (a) to suspend licence STL/O/075 with immediate effect in terms of Paragraph 12 (1) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the carrying on of the activity to which licence relates was likely to cause a serious threat to public safety; and (b) in term of Paragraph 11 (7) of the said Schedule to proceed to a suspension hearing.

The licence holder, having been duly cited to attend, was present at the hearing and was represented. Representatives from the Council's Environmental Health Section and 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 licence holder. The hearing related to (i) a formal representation dated 4 October 2006 from the Council's Chief Environmental Health Officer on the failure of the licence holder to submit a vehicle for health and safety inspection as required by the Council; and (ii) a letter of complaint dated 1 November 2006 which raised allegations about the conduct of the licence holder.

The Sub Committee agreed to consider evidence in respect of each of these matters separately before deciding on any action it may take. The applicant and her representative agreed to this course of action.

The representatives from the Council's Environmental Health Section were then heard on the terms of the Chief Environmental Health Officer's representation which related to the licence holder's repeated failure to submit a vehicle for inspection as required by the Council. The licence holder and her representative were given the opportunity to ask questions, and to respond to the issues raised. Members of the Sub Committee were also given the opportunity to ask questions. The licence holder and her representative then made submissions on the evidence to the Sub Committee.

The complainer was then brought in to the hearing to speak to the terms of his letter dated 1 November 2006 to the Licensing Section. The licence holder and her representative were given the opportunity to ask questions of the complainer, and to respond to the issues raised in the letter. Members of the Sub Committee were also given the opportunity to ask questions. Thereafter the complainer withdrew from the hearing.

The Chief Legal Officer (Licensing and District Court) then addressed the Sub Committee on the licence holder's failure to return her licence as she was required to do so following her suspension. The licence holder and her representative addressed the Sub Committee on this matter, and made submissions on the evidence to the Sub Committee.

Thereafter, the licence holder and her representative, together with the representatives from the Council's Environmental Health Section and Strathclyde Police, withdrew to allow the Sub Committee to deliberate. The licence holder and her representative returned to hear the Sub Committee's decision.

The Chair advised the licence holder and her representative that the Sub Committee had agreed to take no action in respect of the issues raised in the complainer's letter. He advised however that the Sub Committee was considering the suspension of the licence on the grounds that (a) the terms of the Chief Environmental Health Officer's representation had been substantiated and that the applicant's failure to submit a vehicle for inspection was likely to cause a serious threat to public safety; (b) the Sub Committee was not satisfied that the vehicle inspected by Environmental Health Officers in May 2005 was the Iveco vehicle now being used by the licence holder; (c) the licence holder had failed to submit an application to change the vehicle associated with the licence; and (d) the licence holder had failed to return her licence immediately as requested and required following her suspension. The licence holder and her representative were then given the opportunity to address the Sub Committee on the length of any suspension, and made submissions to the Sub Committee, before withdrawing to allow the Sub Committee to deliberate further. They returned to hear the Sub Committee's decision.

### **Decision**

The Sub Committee unanimously agreed (a) to suspend the licence with immediate effect under Paragraph 11(10) of Schedule 1 of the Civic Government (Scotland) Act 1982, on the ground that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public safety, said suspension to continue in effect until approval by the Council on an application to replace the Mercedes vehicle presently licensed by the vehicle to be used, and a satisfactory Food Safety inspection by Environmental Health in relation to the latter vehicle; and (b) to suspend the licence under paragraph 11(1) of Schedule 1 of the Civic Government (Scotland) Act 1982 for 3 months effective from 7 November 2006 on the ground that the licence holder is no longer a fit and proper person to hold the licence.