

Licensing Committee  
14 June 2011

**IRVINE, 14 June 2011** - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

**Present**

William Gibson, Elisabeth Marshall, Robert Barr, Ian Clarkson, Ruby Kirkwood, John Moffat, Alan Munro and Joan Sturgeon.

**In Attendance**

P. Boyle, Legal Services Manager, W. O'Brien, Senior Solicitor (Licensing), D. Wallace, Enforcement Officer, A. Toal, Administrative Assistant and M. Galbraith, Senior Clerical Assistant (Corporate Services); and A. Little, Committee Services Officer (Chief Executive's Service).

**Chair**

Councillor Gibson in the Chair.

**Apologies for Absence**

Ryan Oldfather.

**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.

In a recent investigation report, the Standards Commissioner for Scotland recommended, to the Council that:-

- all Elected Members be made aware of the provisions of Section 5 of the Code of Conduct, including specifically paragraph 5.15, in relation to declarations of interest;
- that Elected Members receive training on how properly to make declarations of interest, including the need to state the nature of the interest; and
- Committee Chairs and officers with responsibility for the conduct of Council or committee meetings should ensure adherence to the proper mode and content of 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. The report provided information on the future arrangements for the Committee Chairs when dealing with the Declarations of Interest item on the agenda, the Commissioner's suggested wording for Members declaring an interest in an agenda item and induction training for Elected Members following next year's local government elections.

Noted.

## **1.2 Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 16.

## **2. Minutes**

The Minutes of the previous meeting of the Committee held on 22 March 2011 and the Special Meetings on 26 April and 10 May 2011 were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

Submitted reports by the Solicitor to the Council on:-

### **3.1 R & J Properties Scotland Ltd., Unit 6d, Rivergate Centre, Irvine**

At its meeting on 22 March 2011, the Committee considered an application for Landlord registration from R & J Properties Scotland Ltd. (R & J) for 6 Stronsay Way, Broomlands, Irvine (Application 165346/310/13230). The report provided information on anomalies in the original application that resulted in the application being withdrawn, and the submission of a second application that provided inaccurate information on the home address of the owner of 6 Stronsay Way, Broomlands, Irvine.

The Committee agreed (a) to refuse the application made by Allan Kenneth Tannahill, 6 Stronsay Way, Broomlands, Irvine, c/o Unit 6D, Rivergate Centre, Irvine (Ref. 253533/310/27441) under Section 84(2)(b); (b) to issue a Notice under Section 94 in respect of the house at 6 Stronsay Way, Broomlands, Irvine; and (c) that R & J Properties be invited to a future meeting to provide further information in relation to the submission of the applications for Landlord registration.

The Act specifies conditions which prospective and registered Landlords and Agents must meet. One of these conditions is that the Agent is a 'fit and proper person' (Section 84(4)(d)). Where the Council is satisfied that the conditions for registration are no longer met, the Council is obliged to remove the Registration.

The Agent, Mr Irvine of R & J Properties, was present and represented. The Agent's representative addressed the Committee on the issues raised in the report and responded to questions.

The Committee withdrew to deliberate, returning to advise of their decision.

The Committee agreed not to remove from the Register, R & J Properties Scotland Ltd., Unit 6d, Rivergate Centre, Irvine, KA12 8EH (reg. 165346/310/13230), under Section 89 of the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

### **3.2 Jason Cleary, Benalmadena Costa, Malaga and Mary Cleary (otherwise Mary Devlin), Brachelston Street, Greenock**

The Committee was advised that a request has been received that the application be continued to a future meeting of the Committee.

The Committee agreed to continue the application to its next meeting.

### **3.3 Graham Rankin, 11 Winton Circus, Saltcoats**

In the absence of the landlord, the Committee agreed to continue consideration of the report to its next meeting, to allow him to attend.

## **4. Regulation of Charitable Collections: Civic Government (Scotland) Act 1982, Section 119**

Submitted report by the Solicitor to the Council on a Financial Account lodged by a Collection Organiser following a Collection.

Section 119 of the Civic Government (Scotland) Act 1982 applies to the regulation of Charitable Collections. With exceptions, a Council permission is required for a Public Charitable Collection (PCC). It is a criminal offence to hold a collection without a permission, punishable by a fine of up to £1,000. The Council has a policy in relation to house-to-house and street collections and is entitled to refuse permission on a number of grounds. The organiser of a charitable collection must give the Council an account of the amounts collected, the expenses deducted, and the amount paid to the beneficiary, within one month of the collection.

The Committee recently granted a permission for a collection in Irvine for the 7 day period commencing on 25 April 2011. The Accounts provided by the organiser states that the amount collected for the beneficiary during this period totalled £1,850. The beneficiary (NSPCC) received £516 after collector's costs, promoter's fees/commission and site costs were deducted.

The report provided information on a procedure to limit the use of delegated powers to cases where the organiser undertakes in advance that not less than a set percentage of the money collected from the public should be passed to the beneficiary. Conditions were also provided in respect of the supply of alcohol that could be applied to future applications for permission.

The Committee agreed that the report be continued to the a future meeting in order that information be provided on (a) the number of other charitable collections undertaken that paid 30% or less to the beneficiaries; and (b) the appropriate percentage of the money collected that should be passed to the beneficiary.

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

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

The meeting ended at 4.15 p.m.

## **PART A**

### **Applications for Licences/Renewal of Licences**

#### **Houses in Multiple Occupation**

##### **1. HMO/011 Quarriers**

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

#### **Public Charitable Collection**

##### **1. PCC (New) C & M Partnership**

The Committee unanimously agreed to refuse the application in terms of Paragraph 5 (1) (c) of Schedule 1 of the Civic Government (Scotland) Act 1982.

#### **Public Entertainment Licence**

##### **2. PEL/120 (New) Isim Ltd**

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 Trader Licence**

##### **1. STL/E/220 (New) Gary Murray**

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

## **Street Trader Operators Licences**

### **1. STL/O/324 Hugh Armstrong**

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

### **2. STL/O/328 (Temp) Raymond Paxton**

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

## **Taxi Driver Licences**

### **1. TDL/001168 (New) Paul William 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.

### **2. TDL/01701 (New) George Michael Goodfellow**

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.

### **3. TDL/01702 (New) Barry John Seymour**

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

### **4. TDL/01706 (New) Neil Black**

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

**5. TDL/01707 (New) John Stephen Taylor**

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

**6. TDL/01714 (New) William Muir Steele 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.

**7. TDL/01716 (New) Samuel Robert Stewart Balmer**

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 B**

### **1. TDL/00117 and TL/162 Andrew Meikle**

The Senior Solicitor (Licensing) reported on a notification by the licenceholder of a charge for overloading his taxi.

The Committee agreed that the Senior Solicitor (Licensing) write to the licenceholder in relation to the charge and the consequences of any further similar incidents.

### **2. TL/179 Deborah Bell**

The Senior Solicitor (Licensing) advised that the licenceholder has failed to present her vehicle for inspection.

The Committee agreed, on the basis of the information presented, to proceed to a suspension hearing in terms of Paragraph 11 (7) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982.



## **PART C**

### **Hearings**

#### **1. PEL/070 (Renewal) Michael Stirling**

Mr Stirling has applied for the renewal of a Public Entertainment Licence to operate a fairground on Arran. A number of objections have been received.

The licenceholder was in attendance. An objector, Mr Benson, was also in attendance.

The Senior Solicitor (Licensing) set out the background to the application. The objector addressed the Committee setting out concerns in relation to noise disturbance. Thereafter the licenceholder addressed the Committee on the issues raised and responded to questions.

The Committee withdrew to deliberate, returning to advise of their 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; and (b) in terms of Paragraph 8 (2) (b) of the said Schedule to fix the period of the licence at 1 year, and that the Fair's residence in Arran is restricted to the period 11 - 31 July 2011.

#### **2. SHDL/146 (New) Mobile Doctor**

Mr Ipek and Ms Jamieson have applied for a Second Hand Dealer's Licence. An observation on the application has been provided by Strathclyde Police.

The applicants having been duly cited to attend were present at the Hearing. A representative from Strathclyde Police was in attendance.

The Senior Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representative from Strathclyde Police then addressed the Committee on the terms of letters dated 8 and 22 April 2011 setting out the observations of the Chief Constable of Strathclyde Police on the application and responded to questions. Thereafter the applicants addressed the Committee on the issues raised and responded to questions.

The Committee withdrew to deliberate, returning to advise of their decision.

## **Decision**

The Committee unanimously agreed (a) to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that the Senior Solicitor (Licensing) write to the applicants in relation to non-disclosure of convictions.

### **3. TDL/01561 Malcolm Douglas Dempster**

The Committee at its meeting held on 22 March 2011, agreed on the basis of the information presented, to proceed to a suspension Hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licenceholder, having been duly cited to attend, was present. An objector, Mr Douglas, and the Council's Enforcement Officer were also in attendance.

The Senior Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licenceholder. The Enforcement Officer provided further information in relation to an incident that took place in the licenceholder's taxi vehicle, where an elderly lady had been injured as a result of her wheelchair not being secured within the vehicle. Thereafter the licenceholder addressed the Committee on the issues raised and responded to questions. He further advised that he would no longer be driving taxis and intended to return his taxi badge to the authority.

The Committee withdrew to deliberate, returning to advise of their decision.

## **Decision**

The Committee unanimously agreed (a) to suspend the licence in terms of Paragraph 11 (9) of Schedule 1 of the Civic Government (Scotland) Act 1982, and, in terms of Paragraph 11 (11) of the said Schedule, to set the period of suspension at 3 months.