

Licensing Committee
14 December 2010

IRVINE, 14 December 2010 - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 12.00 p.m.

Present

William Gibson, Ian Clarkson, Ruby Kirkwood, Elisabeth Marshall, John Moffat, Alan Munro and Ryan Oldfather.

In Attendance

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

Also In Attendance

Inspector Sweeney and Sgt. Jamieson, Strathclyde Police.

Chair

Councillor Gibson in the Chair.

1. Declarations of Interest

In terms of Standing Order 16, Councillor Clarkson, through his involvement with the Carters Society, declared an interest in the application by the Carters Society for a Collection Licence, and withdrew from the meeting for that item of business, returning thereafter.

2. Minutes

The Minutes of the previous meeting of the Committee held on 26 October 2010 were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. 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; and (b) 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.

4. Licensing of Second-Hand Dealers

Submitted report by the Solicitor to the Council on a proposal to vary the North Ayrshire Council Resolution relating to the Second-Hand Dealers Licences (SHDL), made under Sections 24 to 27 of the Civic Government (Scotland) Act 1982.

The requirement to have a licence under the 1982 Act depends on whether or not the particular activity is covered by a Resolution of the Local Authority. The scheme within the Act is that Licensing depends on "optional provisions", and these only apply in a particular area if, and to the extent that, the Council so resolves. The original Resolution made by Cunninghame District Council took effect on 1 November 1984, and required licences for:-

"carrying on business as a second hand dealer selling to the public goods or articles comprising or including motor vehicles, vehicle parts and accessories, cycles, antiques, electrical goods (including domestic appliances, television, video, radio, audio and amplifying and public address equipment), photographic equipment, sports equipment, musical instruments and equipment, jewellery, pictures and objets d'art, office furniture and equipment (including computers, word processors, typewriters and associated software and accessories) and items of plant and industrial machinery and equipment in any part of Cunninghame District shall require to be licensed in accordance with the provisions of the Act relating to them and shall be regulated by those provisions." (emphasis added)

Motorised scooters are categorised as electrical goods, and a licence is therefore required to sell these second-hand items.

It is considered that a licence is not required to sell these types of goods and accordingly it was proposed that the Resolution be varied as follows:-

"except that the sale of Assisted Living Aids which are only sold for the use of disabled people (including Second Hand Mobility Scooters, Powerchairs and Manual Wheelchairs) shall not require a Licence."

The Committee agreed to vary the Resolution as proposed.

The meeting ended at 1.00 p.m.

PART A

Application for Licences/Renewal of Licences

Public Charitable Collections Licences

1. PCC (New) Irvine Meadow XI F.C.

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

2. PCC (New) Irvine Carters Society

The Committee, having considered the circumstances presented, unanimously agreed to (a) make an exception to its Policy of only licensing one public collection that was not a house-to-house collection in any one town at any one time; and (b) grant the application in this instance, subject to the Council's standard conditions in terms of Paragraph 5 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Taxi Drivers Licences

1. TDL/01244 (New) Elizabeth Kilday Conway

The Committee unanimously agreed to continue consideration of this application to a future meeting.

2. TDL/01666 (New) Barry Thomas Nelson

The Committee unanimously agreed on the basis of the information before it, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3. TDL/01668 (New) Robert Hugh Galloway Gilmour

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) in terms of Paragraph 8 (2) (b) of the said Schedule, to restrict the period of the licence to 1 year.

4. TDL/01669 (New) John Robert Cowe

The Committee unanimously agreed to grant the application for a 1 year licence, subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

5. TDL/01670 (New) James Cunningham

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) in terms of Paragraph 8 (2) (b) of the said Schedule, to restrict the period of the licence to 1 year.

6. TDL/01672 (New) William McMail

The Committee unanimously agreed to grant the application for a 1 year licence, subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

7. TDL/01674 (New) Thomas Calderwood

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) in terms of Paragraph 8 (2) (b) of the said Schedule, to restrict the period of the licence to 1 year.

8. TDL/01681 (New) Peter McGuire

The Committee unanimously agreed to grant the application for a 1 year licence, subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

PART C

Hearings

1. TDL/01662 Richard Paterson

The Committee at its meeting held on 26 October 2010, 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 Strathclyde Police were also in attendance.

The Senior Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Strathclyde Police then addressed the Committee on the terms of a letter dated 30 September 2010 setting out the observations of the Chief Constable of Strathclyde Police on 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.

The Committee unanimously agreed (a) 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; and (b) in terms of Paragraph 8 (2) (b) of the said Schedule to fix the period of the licence at 1 year.

2. STL/0/133 Robert Lynch

An application has been received for the grant of a Street Trader Licence. The applicant has requested that the licence be granted without Condition 3, which states that the licenceholder is not permitted to engage in street trading within 50 metres of any establishment or premises (this includes any land, shops, kiosks, vehicles and moveable structures) in which are sold, or offered for sale, any goods, articles or services of the same of similar type or description as those to be sold or offered for sale by the licenceholder.

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

The Senior 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.

The Committee unanimously agreed (a) to grant the application subject to the Council's standard conditions, excepting Condition 3, in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that the licence now granted would expire on 31 December 2010, under 1982 Act, Schedule 1, Paragraph 8 (2) (b).

It was considered that in addition to a licence under the 1982 Act, the applicant might also require the consent of the Roads Authority under the Roads (Scotland) Act 1984 given that the proposed location of the licensed activity was on a footpath. The applicant was therefore encouraged to seek advice from Infrastructure and Design (Roads) on the permit requirements to site the vehicle in the location proposed.