

EAST AYRSHIRE COUNCIL

LOCAL GOVERNMENT LICENSING PANEL

MINUTES OF MEETING HELD ON THURSDAY 22 OCTOBER 2009 AT 1005 HOURS IN MEETING ROOM 1, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK

PRESENT: Councillors Hugh Ross, Rose-Ann Cuninghame, John MacKay, Robert Keohone, John Campbell, Gordon Cree, Neil McGhee and Barney Menzies.

ATTENDING: David Mitchell, Head of Legal, Procurement and Regulatory Services; Gillian Kuhn, Licensing Board Administrator; and Sharon McHarg, Administrative Officer.

APOLOGIES: Councillors Jim Buchanan, Jim Roberts and Elaine Dinwoodie.

CHAIR: Councillor Hugh Ross, Chair.

EXCLUSION OF PRESS AND PUBLIC

1. The Panel resolved that under Section 50A(4) of the Local Government (Scotland) Act 1973, as amended, the Press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 3 of Schedule 7A of the Act.

**APPLICATION FOR GRANT OF WINDOW CLEANER'S LICENCE -
PATRICK McILVANNEY - CONTINUED HEARING (Item 10, Page 729, 07/12)**

2. There was submitted a report dated 14 October 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Window Cleaner's Licence.

It was confirmed that Patrick McIlvanney, the applicant, his sister and his partner and representatives from Strathclyde Police, were all in attendance.

The Head of Legal, Procurement and Regulatory Services (i) confirmed that, with the consent of the parties, a full hearing was not required as this was a continued hearing; and (ii) summarised the current position with regard to Patrick McIlvanney's application and confirmed that Strathclyde Police maintained their objection.

The Panel then agreed to accept a letter dated 21 October 2009 from Strathclyde Police (then circulated) which updated on the pending cases against Patrick McIlvanney.

Mr McIlvanney's sister summed up on behalf of Patrick McIlvanney in support of his application and spoke to all matters raised.

Chief Inspector Dillon confirmed that Strathclyde Police had no further comment to make in support of the objection from Strathclyde Police, beyond the contents of the correspondence and report which were before the Panel.

The applicant, his representatives and the representatives from Strathclyde Police then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

2.1 Decision

The Panel, having taken due regard of all the circumstances including the pending case due to go to trial on 17 December 2009, agreed that the application for the grant of a Window Cleaner's Licence be granted for a period of 12 months, subject to the standard conditions.

The applicant was further advised that the Panel would take a very dim view of any similar offences or complaints which may be brought to their attention in future and in such circumstances would be unlikely to be minded to approve any renewal of the licence.

GRANT OF LATE HOURS CATERING LICENCE - MS ASMA BASHIR AND CONSIDERATION OF SUSPENSION OF LATE HOURS CATERING LICENCE - MR MOHAMMED BASHIR - CONTINUED HEARING (Item 12, Page 830, 07/12)

3. It was agreed to consider Agenda Items 3 and 4 jointly.

3.1 Grant of Late Hours Catering Licence - Ms Asma Bashir

There was submitted a report dated 14 October 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Late Hours Catering Licence.

3.2 Consideration of Suspension of Late Hours Catering Licence - Mr Mohammed Bashir - Continued Hearing (Item 12, Page 830, 07/12)

There was submitted a report dated 14 October 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, the suspension of Late Hours Catering Licence EA/LHC 32 in terms of Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982.

3.3 Consideration of Items

It was confirmed that Ms Asma Bashir, Mr Mohammed Bashir, Mr Gow, Solicitor for Ms Asma Bashir and Mr Mohammed Bashir and representatives from Strathclyde Police were all in attendance.

The Head of Legal, Procurement and Regulatory Services summarised the position and in particular, advised that (i) the application from Asma Bashir followed receipt of the complaint from Strathclyde Police relative to her father's operation of, and alleged non-compliance with the terms of, the existing Late Hours Catering Licence EA/LHC32 held by him, in respect of the premises in John Finnie Street, Kilmarnock; (ii) when considering the application, the Panel must have due regard to whether the applicant may be considered to be carrying out the business on behalf of someone else who themselves may be considered as unfit to hold the licence; and (iii) that whilst in the absence of a Police representation or objection, a full Hearing would not be required, the Panel would still need to satisfy itself in terms of (ii) above in light of the complaint referred to at (i) above.

The Panel heard (i) Mr Gow, Solicitor and Ms Asma Bashir, the applicant in relation to the application for the grant of a Late Hours Catering Licence who spoke to all matters raised; and (ii) Mr Gow, Solicitor, on behalf of Mr Mohammed Bashir in

relation to the Consideration of Suspension of Late Hours Catering Licence who confirmed that Mr Mohammed Bashir would be surrendering his Late Hours Catering Licence with immediate effect.

Ms Asma Bashir, Mr Mohammed Bashir, Mr Gow, Solicitor and representatives from Strathclyde Police then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

3.4 Decision of Application of Grant of Late Hours Catering Licence - Ms Asma Bashir

It was agreed that the application for grant of a Late Hours Catering Licence be granted, subject to the standard conditions and an additional further condition namely:-

- that during all periods of operation of the business under the terms of this licence (a) either the licence holder, Asma Bashir, or her brother Imran Bashir, required to be present on the premises; and (b) the former licence holder, Mohammed Bashir, must not be involved in the conduct of the business within the premises.

3.5 Decision for Consideration of Suspension of Late Hours Catering Licence - Mr Mohammed Bashir

It was noted that Mr Mohammed Bashir had surrendered his licence and accordingly the Panel were not required to consider the Suspension of Late Hours Catering Licence for Mr Mohammed Bashir.

APPLICATION FOR THE GRANT OF A TAXI DRIVER'S LICENCE - JEFFREY McCLOSKEY

4.1 Declaration of Interest

Councillor John Campbell declared a significant non-financial interest in accordance with Paragraphs 5.17 and 5.18 of the Code of Conduct and left the meeting.

4.2 Consideration of Item

There was submitted a report dated 14 October 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Taxi Driver's Licence.

It was confirmed that Jeffrey McCloskey, the applicant, Jim Ferguson, accompanying the applicant and representatives from Strathclyde Police, were all in attendance.

The Head of Legal, Procurement and Regulatory Services outlined the agreed Hearing Procedure.

4.3 Hearing

The Panel heard Chief Inspector Dillon, representing Strathclyde Police, in explanation of the Police observation and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant, his companion and the Police representatives then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

4.4 Decision

It was agreed that the application for the grant of a Taxi Driver's Licence be granted for a period of 12 months, subject to the standard conditions.

The applicant was further advised that the Panel would take a very dim view of any similar offences or complaints which may be brought to their attention in future and in such circumstances would be unlikely to be minded to approve any renewal of the licence.

APPLICATION FOR GRANT OF A PUBLIC ENTERTAINMENT LICENCE - WOODROAD REGENERATION FORUM LIMITED

5.1 Declaration of Interest

Councillors Hugh Ross, John MacKay, Neil McGhee and Barney Menzies declared a non-financial interest which they did not consider significant in terms of Paragraphs 5.17 and 5.18 of the Code of Conduct and indicated their intention to remain and participate in consideration of the item.

5.2 Consideration of Item

There was submitted a report dated October 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for grant of a Public Entertainment Licence.

It was confirmed that Roseanne Savage of the Woodroad Regeneration Forum Limited was in attendance.

The Head of Legal, Procurement and Regulatory Services confirmed that a Hearing was not required and summarised the position.

5.3 Decision

It was agreed that the application for grant of a Public Entertainment Licence be granted subject to the standard conditions and additional conditions, namely:-

- (i) that a generic risk assessment be provided to Building Standards within two months of the date of issue;
- (ii) all events to be held under and by virtue of the terms of this licence would require to be managed and undertaken in full compliance with The Event Safety Guide, HSG 195, issued by the Health and Safety Executive; and
- (iii) to assist the licence holder in complying with recommendation (ii) above, they were also required to liaise appropriately with the Building Standards Service of East Ayrshire Council in respect of each proposed event and, in particular, to give the Building Standards Service sufficient notice of each proposed event to afford the Building Standards Service adequate opportunity to comment on the proposed arrangements for the management of each event in accordance with The Events Safety Guide.

**APPLICATION FOR GRANT OF A STREET TRADER'S LICENCE -
JANIE HIGGINS**

6. There was submitted a report dated 14 October 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Street Trader's Licence.

It was confirmed that Janie Higgins, the applicant, was not in attendance.

6.1 Decision

It was agreed that the application for the grant of a Street Trader's Licence be granted subject to a suspensive condition that it would not be issued until such time as the applicant's van had been inspected and certified by Environmental Health as meeting the required food hygiene standards.

The meeting terminated at 1120 hours.