

EAST AYRSHIRE COUNCIL

LOCAL GOVERNMENT LICENSING PANEL

MINUTES OF MEETING HELD ON THURSDAY 27 AUGUST 2009 AT 1000 HOURS IN MEETING ROOM 1, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK

PRESENT: Councillors Hugh Ross, Rose-Ann Cuninghame, John MacKay, Robert Keohone, Gordon Cree, Jim Roberts, Barney Menzies and Elaine Dinwoodie.

ATTENDING: David Mitchell, Head of Legal, Procurement and Regulatory Services; Stuart McCall, Legal and Procurement Services Manager; Gillian Kuhn, Licensing Board Administrator; and Lynn Young, Administrative Officer.

APOLOGIES: Councillors John Campbell and Neil McGhee.

CHAIR: Councillor Hugh Ross, Chair.

CHAIR'S REMARKS

1. The Chair welcomed Lucy Irons-Young, a Law Student who was on work experience with Legal Services and it was thereafter agreed that she could remain for the duration of the meeting.

EXCLUSION OF PRESS AND PUBLIC

2. 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 MATERIAL CHANGE TO STREET TRADER'S LICENCES - MR PAUL BLAIR (EMPLOYER) AND MRS PAULINE BLAIR (EMPLOYEE)
(Item 6, Page 782, 07/12)**

3. There was submitted a report dated 17 August 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support along with diagrams of the street cart (circulated at the meeting) which invited the Panel to consider, by way of a Hearing, an application for a material change to Street Trader's Licences (EA/ST 508 and EA/ST 512E).

It was confirmed that Mr Paul Blair (employer) and Mrs Pauline Blair (employee) were both in attendance. The objectors were not present or represented.

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

3.1 Hearing

The Panel heard the applicants, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicants then left the meeting to enable the Panel to take and consider legal advice on the matter.

The applicants were then re-admitted.

3.2 Decision

It was agreed that the application for a material change to Street Trader's Licences (EA/ST 508 & EA/ST 512E) which requested an amendment to their licences to allow trading from their New York style hot dog cart outside the Palace Theatre, Kilmarnock, on an occasional basis, between the hours of 2100 hours and 2200 hours, be granted, subject to the standard conditions.

APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE - SCOTT BRANNIGAN

4. There was submitted a report dated 17 August 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 Scott Brannigan, the applicant, and representatives from Strathclyde Police were all in attendance.

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

4.1 Hearing

The Panel heard Sergeant Kelly, representing Strathclyde Police, in explanation of the Police observations and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

4.2 Adjournment of Hearing

It was agreed to adjourn the Hearing at 1043 hours to seek clarification on a matter raised during the Hearing.

ORDER OF BUSINESS

5. The Chair at his discretion and in terms of Standing Order 19, agreed to alter the order of business.

APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE - STEPHEN CHISHOLM

6. There was submitted a report dated 17 August 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 Stephen Chisholm, the applicant, and representatives from Strathclyde Police, were all in attendance.

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

6.1 Hearing

The Panel heard Sergeant Kelly, representing Strathclyde Police, in explanation of the Police observations and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The Head of Legal, Procurement and Regulatory Services advised that Strathclyde Police had confirmed that the incident referred to in the letter of 3 August 2009

should read that “a female was injured” and not a Police Officer as stated in the letter.

The applicant 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.

6.2 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 the future and in such circumstances would be unlikely to be minded to approve any renewal of the licence.

APPLICATION FOR THE GRANT OF A WINDOW CLEANER’S LICENCE - JAMES BORLAND

7. There was submitted a report dated 17 August 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 (3-year employee licence).

It was confirmed that James Borland and representatives from Strathclyde Police, were all in attendance.

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

7.1 Hearing

The Panel heard Sergeant Kelly, representing Strathclyde Police, in explanation of the Police observations and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant 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.

7.2 Decision

It was agreed that the application for the grant of a Window Cleaner’s Licence (3-year employee 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 licence.

**RECONVENTION OF HEARING FOR APPLICATION FOR A TAXI DRIVER'S
LICENCE - SCOTT BRANNIGAN**

8. The Hearing reconvened at 1125 hours with the same Members and Officers present and in attendance.

It was confirmed that Scott Brannigan and representatives from Strathclyde Police were all in attendance.

8.1 Continuation of Hearing

The Legal and Procurement Services Manager clarified the matter which had been raised during the Hearing.

The applicant 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.

8.2 Decision

It was agreed that the application for the grant of a Taxi Driver's Licence be granted temporarily until 17 December 2009, subject to the standard conditions.

The applicant was further advised that this decision was based in light of his pending Court case and that any extension to his licence would be considered at the Licensing Panel to be held on 17 December 2009, following his Court case.

Councillor Dinwoodie left the meeting during consideration of the above item, but prior to determination.

ADJOURNMENT

9. It was agreed to adjourn the meeting at 1155 hours.

RECONVENTION

10. The meeting reconvened at 1204 hours with the same Members and Officers present and in attendance with the exception of Councillor Cuninghame.

ORDER OF BUSINESS

11. The Chair at his discretion and in terms of Standing Order 19, agreed to alter the order of business and consider Agenda Item 8 as the next item of business.

**CONSIDERATION OF SUSPENSION OF LATE HOURS CATERING LICENCE -
MOHAMMED BASHIR, 114 JOHN FINNIE STREET, KILMARNOCK**

12. There was submitted a report dated 19 August 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 No EA/LHC32 in terms of Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982.

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

The Head of Legal, Procurement and Regulatory Services advised that in the absence of Mr Bashir, that the Panel should consider continuing the application to the next meeting to be held on 22 October 2009.

Councillor Cuninghame re-joined the meeting at this point.

12.1 Decision

It was agreed to continue consideration of this application to the next meeting of the Panel to take place on 22 October 2009.

APPLICATION FOR THE GRANT OF A WINDOW CLEANER'S LICENCE - DERICK BARCLAY

13. There was submitted a report dated 17 August 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 (3-year employee licence).

It was confirmed that Derick Barclay, the applicant, and representatives from Strathclyde Police were all in attendance.

13.1 Hearing

The Panel heard Sergeant Kelly, representing Strathclyde Police, in explanation of the Police observations, and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant and the representatives of 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.

13.2 Decision

It was agreed that the application for the grant of a Window Cleaner's Licence (3-year employee 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 the future and in such circumstances would be unlikely to be minded to approve any renewal of the licence.

APPLICATION FOR THE GRANT OF A RIDING ESTABLISHMENT LICENCE - WEST LOUDOUN FARM, GALSTON

14.1 Declaration of Interest

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

14.2 Consideration of Item

There was submitted a report dated 19 August 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 Riding Establishment Licence for West Loudoun Equestrian Centre, West Loudoun Farm, Galston.

It was confirmed that Robert Michael Smith was in attendance representing the applicant and David McDowall, Building Standards Manager, and Stuart Strachan, Building Standards Surveyor, both representatives from East Ayrshire Council as an objector, were all in attendance.

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

14.3 Hearing

The Panel heard the East Ayrshire Council Building Standards representatives in explanation of their objections and the representative of the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant's representative and the objectors then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

The Panel asked further questions of the applicant.

The applicant's representative and the objectors then left the meeting to enable the Panel to take and consider further legal advice on the matter.

The parties were then re-admitted.

14.4 Decision

It was agreed that the application for the grant of a Riding Establishment Licence, West Loudoun Farm, Galston, be approved, subject to the standard conditions, together with a plan of the premises clearly delineating the particular areas to be covered by the licence and thereafter deemed to be accessible to the public.

The meeting terminated at 1321 hours.