

Licensing Committee
6 August 2014

Irvine, 6 August 2014 - At a Special meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

Ronnie McNicol, Tom Marshall, Robert Barr, John Bruce, Ian Clarkson, Catherine McMillan, Donald Reid and Robert Steel.

In Attendance

W. O'Brien, Solicitor (Licensing), K. Sharkey, Trainee Solicitor, J. Wallace, Investigation Officer, A. Toal, Administrative Assistant, J. Armstrong, Senior Clerical Assistant (Legal Section) and A. Little, Committee Services Officer (Chief Executive's Service).

Also In Attendance

Inspector Skimming and Sergeant McIntosh (Police Scotland).

Chair

Councillor McNicol in the Chair.

1. Declarations of Interest

In terms of Standing Order 16 and Section 5 of the Code of Conduct for Councillors, Councillor Reid, due to his association with the organisation, declared an interest in Agenda Item 3.6 (Public Charitable Collection PCC Kilwinning Events) and left the meeting for that item of business.

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 on the grounds that otherwise "Exempt Information" of the type described in Paragraphs 14 and 15 of Part 1 of Schedule 7A to the Act might be disclosed.

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

Submitted report by the Chief Executive on (a) Hearings to be determined; and (b) applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982

Part A: Hearings

3.1 Taxi Driver's Licence TDL/00462 : Matthew Imrie

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

The applicant and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

After discussion, Councillor Bruce, seconded by Councillor Barr moved that the application should be refused.

As an amendment, Councillor Marshall, seconded by Councillor Steel, moved that the application be granted.

On a division, there voted for the amendment 4 and for the motion 4 and on the casting vote of the Chair the motion was declared carried.

Accordingly, the Committee agreed to refuse the application in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds set out in Paragraph 5(3)(a)(ii) of the Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

3.2 Taxi Driver's Licence TDL/01787 : David Brown

The licenceholder, having been duly cited to attend, was not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licenceholder. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the licenceholder.

Representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee unanimously agreed to (a) to suspend the licence in terms of Paragraph 11(2)(a) and (c) of Schedule 1 to the Civic Government (Scotland) Act 1982; (b) to direct that that Suspension should be for the whole unexpired duration of the Licence, in terms of Paragraph 11(11); and (c) that, having determined that the circumstances of the case justified immediate suspension, to Order that that Suspension should take effect immediately, in terms of Paragraph 11(10)."

3.3 Taxi Driver's Licence TDL/01915 : Joseph Donnelly

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

The applicant and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

After discussion, Councillor Marshall, seconded by Councillor McMillan moved that the application should be granted on receipt of satisfactory information from the Driving and Vehicle Licensing Agency (DVLA).

As an amendment, Councillor Barr moved that the application be refused. There being no seconder, the motion fell.

Accordingly, the Committee agreed to delegate authority to the Clerk to grant the licence for the period of 1 year on receipt of information from the DVLA indicating to the Clerk's satisfaction that the ground of refusal in Paragraph 5(3(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982 did not appear to exist. The Committee directed that if the Clerk is not so satisfied then the Application will be referred to a future meeting of the Committee.

3.4 Public Charitable Collection PCC : Anne Jaconelli (Ivy Fundraising)

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

The 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.

Decision

After discussion, Councillor Marshall, seconded by Councillor Reid moved that the application should be granted.

As an amendment, Councillor McMillan, seconded by Councillor Clarkson, moved that the application be refused.

On a division, there voted for the amendment 2 and for the motion 6, and the motion was declared carried.

Accordingly, the Committee agreed to grant the application for permission in terms of Section 119 of the Civic Government (Scotland) Act 1982 subject to conditions attached under Section 119(5); (a) the Committee's standard conditions; and (b) subject to the further condition: 'that at all times that the Collection is carried out that the Applicant should display a visible written notice which can be seen by individual members of public prior to donations of money being invited, informing them of the minimum percentage of the money collected which will be received by the ultimate beneficiary of the collection.

3.5 Public Charitable Collection PCC : Philip W Chinery (Royal British Legion (Scotland))

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

The 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.

Decision

The unanimously Committee agreed to grant the application subject to conditions in terms of Section 119 of the Civic Government (Scotland) Act 1982.

Part B Applications for Licences and Renewal of Licences

3.6 Public Charitable Collection PCC : Kilwinning Community Events

The Committee unanimously agreed to grant the application subject to conditions in terms of Section 119 of the Civic Government (Scotland) Act 1982.

3.7 STL/E/260 (New) : David Hastings

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.

3.8 TDL/01710 (New) : Steven Doran

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.

3.9 TDL/01790 (Renewal) : David Allen Denholm

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.

3.10 TDL/01919 (New) :Nigel Treverton

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.

3.11 TDL/01916 (New) : Martin Muir

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

4. Licensing of Houses in Multiple Occupation (HMOs) under Housing (Scotland) Act 2006, Part 5

Submitted report by the Chief Executive that provided information on a house which is part of a building containing two dwellings in Lamlash, Isle of Arran. That house is being occupied as a main residence by several unrelated persons, and is not covered by either a House in Multiple Occupation (HMO) Licence or a Landlord Registration.

The Committee unanimously agreed to make an Order under Section 144 (commonly known as a 'Rent Suspension Order') in respect of the house.

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

Submitted report by the Chief Executive that provided information on a complaint in respect of a Registered Landlord and his property in Stevenston.

The Registered Landlord, the complainers, and Mr Wallace, Investigation Officer (Anti Social Behaviour Investigation Team) were in attendance.

The Solicitor (Licensing) set out the background to the complaint as previously intimated in writing to the Registered Landlord. The Registered Landlord, the complainers and the Investigation Officer addressed the Committee on the issues raised and responded to questions.

The Registered Landlord, the complainers and the Investigation Officer then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

After discussion, Councillor Marshall, seconded by Councillor McMillan moved to remove the Landlord from the Register held under the 2004 Act, and to issue a Notice under (section 94 (commonly called "a "Rent Penalty Notice") in respect of the house.

As an amendment, Councillor Steel, seconded by Councillor McNicol, moved to continue consideration of the case to the next meeting.

On a division, there voted for the amendment 5 and for the motion 3 and the amendment was declared carried.

Accordingly, the Committee agreed, Councillor Marshall dissenting, to continue consideration of the case to the next meeting.

The meeting ended at 5.10 p.m.