

Licensing Committee

6 June 2018

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Todd Ferguson, Robert Barr, John Easdale, Scott Gallacher, Jean McClung, Davina McTiernan and Donald L. Reid.

In Attendance

E. Anderson, Private Sector Team Manager, B. Ferry and G. Tolmie Policy Officers (Private Sector) (Place); E. McLaren, Team Manager (Litigation), W. O'Brien, Solicitor, (Licensing), A. Toal, Administrative Assistant (Legal Services) and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Inspector McMillan, Sergeant Dougan and V. Thomson (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Angela Stephen.

1. Order of Business

The Chair, in terms of Standing Order 9.4, agreed to vary the order of business to allow Appendix B – Application 1: HMO/020 (New) - Housing (Scotland) Act 2006 - Graham Conrathe to be considered as the last application by the Committee. The Team Manager (Litigation) advised the Committee during this item. The Solicitor (Licensing) advised the Committee throughout the meeting, left the meeting before the last item of business and did not return.

2. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor McTiernan declared an indirect, non-pecuniary interest in Agenda Item 4, Case 2, the circumstances being that one of the landlords in question A.M. was personally known to her, and left the meeting for that item of business.

3. Minutes

The Minutes of the meeting of the Meeting of the Committee held on 16 May 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Exclusion of the Public

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting, the press and the public, for Agenda Item 3 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters) and Agenda Item 5 (Landlord Registration under the Antisocial Behaviour, etc (Scotland) Act 2004, Part 8), on the grounds that they involved the likely disclosure of exempt information as defined in Section 50J of, and Schedule 7A to, the Local Government Act 1973.

The 'Exempt Information' concerned is that described in Section 7A, Paragraph 6 (Information relating to the financial or business affairs of any particular person (other than the authority)), Paragraph 14 (Any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime) and Paragraph 15 (The identity of a Protected Informant - where Protected Informant is defined in Part III as a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance).

5. Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters

The Committee unanimously resolved, in terms of Standing Order 21, to suspend Standing Order 23, to allow consideration of Hearing 1, Pizza Cake Ltd.

Submitted report by the Chief Executive on hearings to be determined and applications for the grant or renewal of licences, consents and permits, on hearings, and on other matters, under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

PART A: Hearings

5.1 Late Hours Catering Licence: LHCL/127 - Pizza Cake Ltd

The Committee agreed that the decision of the meeting on 7 March 2018 was that a Late Hours Catering Licence be granted for the period from 11.00 p.m. until 1.00 a.m., Monday-Sunday, subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982.

5.2 Street Trader Licence: STL/O/478 (new) Kala Dmitri Prokopov

The Committee was advised that the application had been withdrawn.

Noted.

5.3 Taxi Driver's Licence: TDL/00164 (Renewal) - Craig McPherson

The Committee at its meeting held on 16 May 2018, 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 licence holder, having been duly cited to attend, was present at the hearing.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The representative from Police Scotland then addressed the Committee on the terms of a letter dated 19 April 2010 setting out the observations of the Deputy Chief Constable Designate of Police Scotland 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.

Decision

The Committee unanimously agreed that the application be granted in terms of Schedule 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year.

5.4 Taxi Driver's Licence: TDL/01235 - Kevin Blades

The Solicitor (Licensing) advised the Committee of a request from Police Scotland, for an ordinary suspension in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence holder, having been duly cited to attend, was present at the hearing and was represented. 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 licence holder. The representative from Police Scotland then addressed the Committee on the terms of a letter dated 18 May 2018 setting out the observations of the Deputy Chief Constable Designate of Police Scotland. Thereafter the applicant and his representative 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.

Decision

Councillor McClung, seconded by Councillor McTiernan moved to suspend the licence for the unexpired portion of the duration of the licence in terms of Paragraph 11 (11) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried, Councillor Easdale dissenting.

The Committee agreed to consider Hearings 5 and 6 relating to Kevin Blades simultaneously, but made separate decisions.

5.5 Taxi Licence: TL/043 (Renewal) and TL/074 (Renewal) Kevin Blades

The licence holder, having been duly cited to attend, was present at the hearing and was represented. 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 licence holder. The representative from Police Scotland then addressed the Committee on the terms of a letter dated 18 May 2018 setting out the observations of the Deputy Chief Constable Designate of Police Scotland. Thereafter the applicant and his representative 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.

Decision

The Committee unanimously agreed to grant applications TL/043 (renewal) and TL/074 (renewal) in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of three years.

5.6 Taxi Driver's Licence; TDL/02090 (New) Malcolm McPherson

The Committee at its meeting held on 16 May 2018, 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 licence holder, having been duly cited to attend, was not present at the hearing. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The representative from Police Scotland then addressed the Committee on the terms of a letter dated 25 April 2018 setting out the observations of the Deputy Chief Constable Designate of Police Scotland on the application.

Decision

Councillor Barr, seconded by Councillor Easdale, moved that the application be refused in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the applicant was not a fit and proper person to be holder of the licence. There being no amendment, the motion was declared carried.

5.7 Taxi Driver's Licence: TDL/02098 (New) Alasdair S Barr

The Committee noted that the Taxi Driver's Licence number should be TDL/02098 and not TDL/02089 as referred to on the Agenda

The Committee at its meeting held on 16 May 2018, 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 licence holder, having been duly cited to attend, was present at the hearing. 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 licence holder. The representative from Police Scotland then addressed the Committee on the terms of a letter dated 30 April 2018 setting out the observations of the Deputy Chief Constable Designate of Police Scotland 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.

Decision

Councillor Reid, seconded by Councillor Easdale, moved that the application be granted in terms of Schedule 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year. There being no amendment, the motion was declared carried.

Police Scotland representatives left the meeting at this point.

5.8 Taxi Driver's Licence: TDL/01327 (renewal) Craig McCready

The Committee at its meeting held on 16 May 2018, 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 licence holder, having been duly cited to attend, was present at the hearing.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

Decision

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

5.9 Taxi Licence: TL/006 (New) Connie Dalzell, Chantel Dalzell, Patrick Young

The applicant, Connie Dalzell, having been duly cited to attend, was present at the hearing and was accompanied by her husband. Ms Dalzell produced a letter from the other two applicants confirming her authority to speak for them.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The Committee was advised that the application for the renewal of the Taxi Operator's Licence had not been received within the specified timescale and therefore required to be considered as a new application.

The applicant addressed the Committee on the issues raised and responded to questions, relating to the vehicle not being wheelchair accessible.

Decision

Councillor Reid, seconded by Councillor Gallacher, moved that the application be granted, as an exception to the policy in respect of vehicles being wheelchair accessible, in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of three years. There being no amendment, the motion was declared carried.

5.10 Public Entertainment Licence: PEL/546 (Temporary) - Juliana Gray

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The applicant addressed the Committee on the issues raised and responded to questions.

Decision

Councillor McClung, seconded by Councillor McTiernan, moved that the application be granted. There being no amendment, the motion was declared carried, Councillor Barr dissenting.

Councillor Easdale left the meeting at this point.

Part B: Applications for Licences/Renewal of Licences

5.11 Taxi Driver's Licence: TDL/00256 (Renewal) - Daniel Tudhope

The Committee unanimously agreed to grant the application in terms of Schedule 5 (1)(a) of Schedule 1 to the Civic Government (Scotland) Act 1982 for a period of three years; subject to the Council's Standard Conditions and subject also to the Special Condition: "Within 14 days after the Licence-Holder's 70th birthday, and within 14 days of each later birthday, then he/she must give the Licensing Office evidence that he/she continues to have a driving entitlement under an 'ordinary' Driving Licence granted by DVLA."

5.12 Taxi Driver's Licence: TDL/01539 (Renewal) - Gordon McKenzie

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

5.13 Taxi Licence: TL/421 (New) - Edward McCallie and Pauline Alexander

The Committee considered whether or not the application should be refused under Section 10(3) of the Civic Government (Scotland) Act 1982 (Taxi Numbers Limitation Policy) and unanimously agreed (a) to treat the application as an exception to that policy; and (b) to delegate authority to the Solicitor (Licensing) to grant the application provided that the applicant submits a vehicle meeting the requirements of Section 10(2) of the Civic Government (Scotland) Act 1982 as to suitability, safety and insurance.

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

Submitted report by the Chief Executive on Landlord Registration matters.

6.1 J.C.

The Registered Landlord, having been cited to attend, was present.

The Solicitor (Licensing) advised on information received in respect of the Registered Landlord, which raised the question of whether or not the Registered Person remained a 'fit and proper' person to be entered on the Register.

The Team Manager (Private Sector Housing) and Policy Officers (Private Sector) then addressed the Committee on the terms of a report on the condition of a tenanted property owned by the Registered Landlord. Thereafter the Registered Landlord 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.

Decision

The Committee agreed (a) to continue consideration of this matter to the next meeting; and (b) in the event the Private Sector Housing Team being satisfied that all repairs were completed and properly certified, the Registered Landlord would not require to attend the meeting in August 2018.

6.2 A. M.

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

The applicant had previously been registered but his registration was removed in 2018 due to failures in the legal duties applying to Landlords, and at the time the Committee had issued Notices under Section 94 (commonly known as 'Rent Penalty Notices') on several of the Landlord's houses. He was now applying again for registration and was seeking the removal of those notices.

The Solicitor (Licensing) advised on information received in respect of the applicant, which raised the question of whether or not the applicant was a 'fit and proper' person to be entered on the Register.

The Team Manager (Private Sector Housing) and Policy Officers (Private Sector) then addressed the Committee on the terms of a report on the condition of a number of tenanted properties owned by the applicant. 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.

Decision

Councillor Reid seconded by Councillor McClung, moved to continue consideration of this matter to a future meeting to allow the applicant a further opportunity to provide to the Private Sector Housing Team evidence, in respect of all houses contained in the application, confirming that appropriate insurance indemnity was in place and that all works necessary to allow the various premises to satisfy the Tolerable Standard, Repairing Standard and other legal standards. There being no amendment, the motion was declared carried.

6.3 S.B.

The Registered Landlord, having been cited to attend, was present.

The Solicitor (Licensing) advised on information received in respect of the Registered Landlord, which raised the question of whether or not the Registered Person remained a 'fit and proper' person to be entered on the Register.

The Team Manager (Private Sector Housing) and Policy Officers (Private Sector) then addressed the Committee on the terms of a report on the condition of a number of tenanted properties owned by the Registered Landlord. Thereafter the Registered Landlord addressed the Committee on the issues raised and responded to questions.

The Committee noted that one property was not currently occupied.

Both parties then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor Reid seconded by Councillor McTiernan, moved (a) in terms of Section 89 of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 to remove the Registered Person from the Register of Landlords; (b) to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the properties included in the Registration which the Committee was satisfied were currently occupied; and (c) that the Private Sector Housing Team provide a report to the next meeting on the other tenanted properties owned by Registered Landlord. There being no amendment, the motion was declared carried.

The Solicitor (Licensing) left the meeting for the following item of business.

6.4 HMO/020 (New): Housing (Scotland) Act 2006 - Graham Conrathe

The Team Manager (Litigation) set out the background to the application. The Committee was satisfied that the letter from a neighbour was a “valid written representation”. There were no other “valid written representations”. The Committee considered whether (a) an oral hearing should be held; or (b) the case should be determined on the basis of the application, the written representation and any written response from the applicant. The Committee decided to proceed to determine the application and not continue consideration to a later hearing.

The Committee unanimously agreed to grant the application under Section 129(2)(a) of the Housing (Scotland) Act 2006, for period of three years.

The meeting ended at 2.00 p.m.