

Licensing Committee
23 October 2019

IRVINE, 23 October 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Todd Ferguson, Robert Barr, John Easdale, Scott Gallacher, Ronnie McNicol, Davina McTiernan (Agenda Item 5.1 to end of meeting), Donald L. Reid and Angela Stephen.

Also in Attendance

Ian Clarkson (Agenda Item 5.6 only).

In Attendance

P. Brennan (Senior Environmental Health Officer) (item 5.6 only), E. Anderson (Private Sector Team Manager), B. Ferry and K. Nolan (Policy Officers) (Place) (Agenda Item 6.1 only); A. Craig, Senior Manager (Agenda Items 5.6 and 5.8 only), D. Robertson, Civic Licensing Standards Officer, W. O'Brien, Solicitor (Licensing) and A. Toal, Administrative Assistant (Licensing) (Legal Services), D. Dunlop, Senior Clerical Assistant and D. McCaw, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Inspector David Cameron, Inspector Raymond Kerr and Sergeant David Dougan (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Jean McClung.

1. Chair Remarks

In terms of Standing Order 9.5, the Chair agreed that the Committee consider 4 urgent matters in order to allow these to be progressed without delay.

The Chair further agreed, in terms of Standing Order 9.4, to vary the order of business to allow consideration of case 9 Taxi Driver's Licence: TDL/02176 (New): Christopher Payne immediately after case 4 BOL/010: TOA Taxis (North Ayrshire) Ltd. followed by the Urgent Item: Public Entertainment Licence: Fairground at Irvine Moor to allow Police Scotland to leave the meeting at that point.

2. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Todd Ferguson declared a personal interest in Agenda Item 5.8: Private Hire Car Licence: PHCL/371 (New): Craig and Stephen Dobbin, and took no part in the discussion thereon.

3. Minutes

The Minutes of the Meeting held on 18 September 2019 were confirmed and 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 Items 5-6 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters) 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 (Scotland) Act 1973.

The 'Exempt Information' concerned is information of the type described in one or more of Paragraphs 3, 6, 14 and 15 of Part 1 of Schedule 7A to the Act:

3. "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."
6. "Information relating to the financial or business affairs of any particular person (other than the authority)."
14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."
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

Submitted report by the Head of Democratic Services 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.

Appendix A: Hearings

5.1 Metal Dealer's Licence: MDL/057 (Renewal): Jason McKinney

Councillor McTiernan joined the meeting at this point.

The Committee at its meeting held on 18 September 2019, 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 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 applicant. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their objection in respect of the application and responded to questions.

Decision

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

5.2 Taxi Driver's Licence: TDL/02174 (New): John Brien

The applicant, 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 applicant.

Decision

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

5.3 Taxi Driver's Licence: TDL/02193 (New): James Graham

The Committee at its meeting held on 18 September 2019, 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 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 from Police Scotland then addressed the Committee on the terms of a letter setting out their representations in respect of 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 Gallagher, seconded by Councillor McTiernan, moved that the Committee grant the application subject to the Council's standard conditions in terms of Paragraph 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.

Anne Toal left the meeting for Agenda Items 5.4 and 5.9 and took no part in the discussion thereon. Police Scotland also left the meeting at this point.

5.4 Booking Office Licence: BOL/010: TOA Taxis (North Ayrshire) Ltd.

The Committee at its meeting held on 18 September 2019, agreed on the basis of the information presented, to proceed to a hearing.

The licence-holder had been duly cited to attend. Two Directors of TOA Taxis (North Ayrshire) Ltd. were in attendance, namely Amanda Conley and James McKerrell.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence-holder. The Enforcement Officer addressed the Committee on issues raised and provided an update. Thereafter the TOA representatives addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Ferguson, seconded by Councillor Reid, moved that the Committee take no further action at this time. There being no amendment the motion was declared carried.

Councillor Gallacher left the meeting at this point.

5.5 Taxi Driver's Licence: TDL/02176 (New): Christopher Payne

The Committee at its meeting held on 18 September 2019, 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.

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.

Decision

Councillor Reid, seconded by Councillor Stephen, moved that the Committee grant the application subject to the Council's standard conditions in terms of Paragraph 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.

Anne Toal joined the meeting at this point.

The Chair adjourned for a 5 minute comfort break and reconvened with the same Members and Officers in attendance including Councillor Gallacher and Police Scotland.

5.6 Urgent Item: Public Entertainment Licence: Fairground at Irvine Moor

The applicant, having been duly cited to attend, was present and accompanied by his father.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant.

The Senior Environmental Health Officer provided information to the Committee. Police Scotland then addressed the Committee in respect of the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

Provost Clarkson addressed the Committee in relation to his concerns regarding the event.

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

The Chair then adjourned the meeting in order that legal clarification could be provided to Members. The Meeting reconvened with the same Members and Officers in attendance.

Decision

Councillor Ferguson, seconded by Councillor McTiernan, moved that consideration of the application be continued to a Special Meeting to be held on Monday 28 October 2019 at 1.00 p.m. in the Council Chambers where the applicants should provide a full operational plan and Police Scotland provide a risk assessment in order that the concerns of the Committee in relation to public safety, public order and the suitability of premises might be addressed. There being no amendment the motion was declared carried.

Police Scotland and Aileen Craig left the meeting at this point.

5.7 Public Entertainment Licence PEL/625 (Temp): Juliana Gray

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. Police Scotland had indicated they had received the event management plan and had no objection to the event.

Decision

Councillor McTiernan, seconded by Councillor Easdale, moved that the Committee grant the application subject to the Council's standard conditions in terms of Paragraph 7 of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment the motion was declared carried.

Councillor Ferguson withdrew from the meeting for consideration of the following item of business and took no part in the discussion thereon.

Aileen Craig rejoined the meeting at this point.

5.8 Private Hire Car Licence: PHCL/371 (New): Craig and Stephen Dobbin

The Committee at its meeting held on 18 September 2019, 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.

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

Decision

The Committee agreed to delegate authority to the Solicitor (Licensing) to grant the application, subject to the vehicle being tested, and also in terms of the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment the motion was declared carried.

Councillor Ferguson rejoined the meeting at this point and Aileen Craig left the meeting.

5.9 Taxi Driver's Licence: TDL/00695: Andrew Johnston

The Committee at its meeting held on 18 September 2019, agreed on the basis of the information presented, to proceed to a hearing in terms of Paragraph 11(7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence-holder, 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 licence-holder. The Enforcement Officer then addressed the Committee in respect of the application. Thereafter the licence-holder addressed the Committee on the issues raised, admitted the statement made by the Enforcement Officer, and responded to questions.

The Enforcement Officer and the licence-holder 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 Committee issue a final written warning and make clear to the applicant that the Committee will consider revoking or suspending the licence should there be any further breach of any conditions of the licence. There being no amendment, the motion was declared carried.

5.10 Taxi Driver's Licence: TDL/02194 (New): Iain McIntyre

The Committee at its meeting held on 18 September 2019, 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.

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.

Decision

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

Councillors Barr, Reid and Gallacher left the meeting at this point.

Appendix B: Applications for Licences/Renewal of Licences

5.11 SHDL/119 (Renewal): EM Commercials Ltd.

Councillors Reid and Gallacher rejoined the meeting at this point.

The Committee agreed to grant the application, subject to the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for the period of three years, and instructed the Solicitor (Licensing) to write to the licence-holder in specified terms.

5.12 TL/099 (Renewal): Sarah Connolly

The Committee noted that this item had been withdrawn.

5.13 TDL/00061 (Renewal): Peter McGuinness

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

5.14 TDL/02080 (New): Khalid Mahmood

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

5.15 TDL/02195 (New): Jarred Raybould

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

5.16 TDL/02197 (New): Gareth Wilkinson

The Committee 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.

5.17 TDL/02204 (New): Hayleigh Evans

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

5.18 Urgent Item: Morrisons Supermarket, Stevenston: Request for Exemption

The Solicitor (Licensing) set out the background to a request from Morrisons Supermarket, Stevenston for a temporary exemption for the petrol station from the requirement to have a Late Hours Catering Licence for the hours detailed below:-

23.00 on Saturday 21 December 2019 until 00.30 on Sunday 22 December 2019
23.00 on Sunday 22 December 2019 until 00.30 on Monday 23 December 2019
23.00 on Monday 23 December 2019 until 00.30 on Tuesday 24 December 2019

Police Scotland had intimated that they had no objection to the exemption.

The Committee unanimously agreed to grant the temporary exemption under Section 42(5) of the Civic Government (Scotland) Act 1982 in connection with the specified times.

5.19 Urgent Item: Taximeters and Personal Digital Assistants

The Solicitor (Licensing) set out the background to an enquiry received from a Taxi Driver in connection with the use of meter software on a Personal Digital Assistant as a substitute for the traditional taximeter.

The Committee agreed to keep the matter under review and take no action at the present time.

5.20 Urgent Item: Public Charitable Collection: Kilwinning Community Events

The Committee agreed to grant the application in terms of Section 119(5) of the Civic Government (Scotland) Act, 1982, subject to the Council's standard conditions.

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

6.1 M.R.

The Solicitor Licensing addressed the Committee setting out the background to the case.

The applicant, having been cited to attend, was present and accompanied by a Letting Agent.

The Policy Officer (Private Sector Housing) addressed the Committee on the terms of a report in connection with the condition of tenanted properties owned by the applicant. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

Councillor Reid, seconded by Councillor Easdale, proposed that the matter be continued to the meeting of the Licensing Committee on 8 January 2020 for further investigation and clarification by the Council Officers. There being no amendment, the motion was declared carried.

The meeting ended at 1.55 p.m.