

Licensing Committee
20 March 2012

IRVINE, 20 March 2012 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

William Gibson, Elisabeth Marshall, Robert Barr, Ian Clarkson, Alan Hill, Ruby Kirkwood, John Moffat, Alan Munro, Ryan Oldfather and Joan Sturgeon.

In Attendance

W. O'Brien, Senior Solicitor (Licensing), J. Delury, Chief Building Standards Officer, R. Butler, Building Standards Surveyor, K. McMunn, Senior Environmental Health and Trading Standards Manager and A. Toal, Administrative Assistant (Corporate Services); P. Kelly, Anti Social Behaviour Investigation Team Manager (Finance and Infrastructure); and A. Little, Committee Services Officer (Chief Executive's Service).

Also In Attendance

Inspector A. Clark and Sergeant U. Menzies (Strathclyde Police).

Chair

Councillor Gibson.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 16.

2. Minutes

The Minutes of the Meeting held on 7 February 2012 were signed in accordance with paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

Submitted report by the Solicitor to the Council on (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982.

The Committee agreed to dispose of these matters as indicated in the attached Appendix LC1.

4. Public Entertainment Licences

Submitted report by the Solicitor to the Council on a change in the legislation in relation to Public Entertainment Licences.

Under Section 41 of the Civic Government (Scotland) Act 1982, a "Public Entertainment Licence" (PEL) is required for the use of premises as a "place of public entertainment". A PEL is required for any place (with statutory exceptions) where:

- (a) "on payment of money or money's worth", members of the public can use facilities for entertainment or recreation, if
- (b) those facilities are contained in the Council Resolution.

The payment condition is removed by the Criminal Justice and Licensing (Scotland) Act 2010, with effect from 1 April 2012. At present, an event which falls within the Resolution can avoid the need to be licensed if it is either free of charge or if it is 'donation-based', i.e. with the public being invited to make a donation. However, from 1 April 2012 all events within the current North Ayrshire Council Resolution, whether free, donation-based or fee-charging, will need a PEL.

After the Local Government Election on 3 May 2012, the Committee responsible for licensing matters will be asked to consider whether or not the Resolution should be reviewed, and to determine the content and timing of any review. If the Committee decides to initiate a Review, a statutory procedure requires to be initiated, so any amendment would not take effect immediately. It was suggested that meantime, the existing arrangements, to operate until any successor Committee either determines otherwise or adopts an amended Resolution.

The interim arrangements are that:-

'A place does not require a Public Entertainment Licence if (a) it is either owned or operated by the Council (or both), or (b) all four of the following conditions are satisfied: (i) admission to the place is free of charge, (ii) there is no charge for the use of any facilities for entertainment, (iii) no donations towards the cost of the facilities or the costs of the place (such as rent, heating and lighting) are invited, and (iv) the function is held by a charitable, religious, youth, recreational, community, political or similar organisation.'

The Committee agreed to adopt interim arrangements, to operate until the new Committee either determines otherwise or adopts an amended Resolution, as detailed in the report.

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

Submitted report by the Solicitor to the Council on the circumstances relating to an Application for Landlord Registration.

At its meeting on 7 February 2012, the Committee on 7 February 2012 continued consideration of the application for Landlord Registration made by Boulevard Properties Estate Agenda Ltd to allow the applicant to attend.

The applicant while acting as the agent for a landlord of a house in Ardrossan who was then abroad, between 1 September and 30 November 2010 entered the house and stole from it items of furniture. He was prosecuted in Irvine Justice of the Peace Court, convicted, and on 21 December 2011 was fined £120.

The applicant was present and addressed the Committee on the issues raised and responded to questions.

The Committee agreed to grant the application for Landlord Registration.

6. Urgent Items

The Chair agreed that the following items be considered as a matter of urgency to allow the matters to be actioned without delay.

6.1 Taxi Vehicles: Electronic cigarettes

The Committee was advised that taxi operators had requested clarification on whether electronic cigarettes could be used in taxi vehicles.

The Committee agreed that it would not be appropriate to permit the use of electronic cigarettes in taxi vehicles licensed by North Ayrshire Council.

6.2 Charity Collections

The Committee was advised of door-to-door charity collections being undertaken where individuals are asked to donate by direct debit.

The Committee agreed that (a) future collections of this nature would require permission from North Ayrshire Council's Licensing Section; and (b) these collections should not be permitted after 6.00 p.m.

7. Exclusion of the Public and Press

The Committee resolved, in terms of Section 50(A)4 of the Local Government (Scotland) Act 1973, to exclude from the Meeting, the press and the public for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 13 and 14 of Part 1 of Schedule 7A of the Act.

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

Submitted report by the Solicitor to the Council on the circumstances relating to an Application for Landlord Registration.

The Committee agreed to (a) grant the application made under Section 84 by a landlord relating to 76 Mariner's View, Ardrossan; (b) to revoke the Notice under Section 94 made in respect of the property; and (c) grant the application in so far as it relates to five other houses included in the application.

The meeting ended at 4.20 p.m.

PART A

Hearings

1. PEL/133 (New) Albert Sedgwick

Mr Sedgwick has applied for a temporary Public Entertainment Licence for a funfair at the site of the former St. Peters School, Ardrossan. Objections have been received from North Ayrshire Council Building Standards and Environmental Health Sections.

The applicant having been duly cited to attend was in attendance. Representatives from North Ayrshire Council Building Standards and Environmental Health Sections were also in attendance.

The Senior Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The applicant then addressed the Committee on the issues raised and responded to questions. The representatives from the Council Services present then addressed the Committee on the condition of the derelict site and potential noise nuisance as a result of the close proximity of the proposed funfair to domestic dwellings. 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.

After discussion, Councillor Gibson, seconded by Councillor Kirkwood moved that the application be refused.

As an amendment, Councillor Moffat, seconded by Councillor Oldfather, moved that the application be granted.

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

Decision

Accordingly, the Committee agreed to refuse the application for a temporary Public Entertainment Licence for a funfair at the site of the former St. Peters School, Ardrossan under Section 5 (3)(c)(i) that the location, character or condition of the premises are not suitable.

2. STL/E/168 (New) Neil Duncan McIntyre

The Committee, at its meeting on 7 December 2011, 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.

At its meeting on 7 February 2012, the Committee agreed to continue consideration of this item to the next meeting, to allow for further information.

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

The Senior Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The applicant then addressed the Committee on the issues raised and responded to questions. The representatives from Strathclyde Police then addressed the Committee on the terms of letters dated 31 October 2011, 8 November 2011 and 3 February 2012 setting out the observations of the Chief Constable of Strathclyde Police 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.

The Committee unanimously agreed to refuse the application in terms of Paragraph 5 (1) (c) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3. STL/O/342 (New) Garry Hamilton

At its meeting on 7 February 2012, 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.

The applicant having been duly cited to attend was not present. Representatives from Strathclyde Police were in attendance.

The Senior Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Strathclyde Police then addressed the Committee on the terms of letters dated 28 October 2011 and 28 November 2011 setting out the observations of the Chief Constable of Strathclyde Police on the application.

Representatives from Strathclyde Police withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

The Committee unanimously agreed to refuse the application in terms of Paragraph 5 (1) (c) of Schedule 1 of the Civic Government (Scotland) Act 1982.

PART B

Applications for Licences/Renewal of Licences

1. TDL/01188 (New) Kenneth A MacDonald

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.

2. TDL/01762 (New) Angus Campbell

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.

3. SPTL/016 (New) James Rae

After discussion, Councillor Munro, seconded by Councillor R. Barr moved that the application be granted.

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

On a division, there voted for the amendment 2 and for the motion 8, and the motion was declared carried.

Accordingly, the Committee agreed to grant the application in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4. STL/O/204 (Renewal) Andrew Needham

The Committee unanimously agreed (a) to grant the application in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that the Senior Solicitor (Licensing) write to the licenceholder in relation to the Street Trader Licence conditions and the requirement to advise Licensing of any changes of vehicle.

PART C

Issues in respect of Existing Licences

1. TDL/00638 John William Bruce

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.