

Licensing Committee
1 October 2014

IRVINE, 1 October 2014 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.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) and A. Toal and M. Champion, Administrative Assistants; C. Bateman, Development Officer (Housing) and J. Wallace, Investigation Officer (Anti Social Behaviour Investigation Team) (Physical Environment); and M. Anderson, Acting Committee and Member Services Manager (Chief Executive's Service)

Also In Attendance

Inspector Conway and Sergeant McIntosh (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies for Absence

Alan Munro.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 16 and Section 5 of the Councillors Code of Conduct.

2. Minutes

The accuracy of the Minutes of the Ordinary Meeting of the Committee held on 25 June 2014 and the Special Meetings held on 10 July 2014, 6 August 2014, and 3 September 2014 was confirmed and the Minutes 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

Submit report by the Chief Executive 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. Information in relation to two further cases was also circulated at the meeting.

Part A: Hearings

3.1 Street Trader Employee's Licence STL/E/260 - David Hastings

The Committee, at its meeting on 6 August 2014, 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 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

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.

3.2 Taxi Driver's Licence TDL/00705 (1 year) - William Alexander

The Committee, at its meeting on 25 June 2014, 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 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.

The 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 grant the application in terms of Paragraph 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.3 Taxi Driver's Licence TDL/01710 - Steven Doran

The Committee, at its meeting on 6 August 2014, 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 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.

The 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 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 said Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

3.4 Taxi Driver's Licence TDL/01790 (1 year) - David Denholm

The Committee, at its meeting on 6 August 2014, 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 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

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.

3.5 Taxi Driver's Licence TDL/01919 - Nigel Treverton

The Committee, at its meeting on 6 August 2014, 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 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.

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

Decision

After discussion, Councillor Barr, seconded by Councillor Marshall, moved to refuse the application.

As an amendment, Councillor Reid, seconded by Councillor McMillan, moved to continue consideration of the application to the next meeting of the Committee.

On a division, there voted for the amendment 3 and for the motion 5, and 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 said Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

3.6 Street Trader Operator's Licence - Sharon Serapiglia STL/O/369

The Committee, at its meeting on 25 June 2014, 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, but had submitted a letter setting out both the reason for her absence and her response to the matters raised. 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.

After discussion, Councillor Reid, seconded by Councillor McMillan, moved to continue consideration of the matter to the next meeting of the Committee.

As an amendment, Councillor Steel, seconded by Councillor Barr, moved that the Committee proceed to determination.

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

Accordingly, the Committee agreed to proceed to determination.

The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out a request from the Chief Superintendent of Police Scotland for an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

Decision

The Committee agreed (a) since the Committee had the opinion that the conditions stated in Clauses (a) and (c) of Paragraph 11(2) existed, that the licence should be suspended; (b) that the duration of the Suspension should be the whole unexpired duration of the Licence, under Paragraph 11(11); and (c) having determined that the circumstances of the case justified immediate suspension, to order that the Licence should be suspended immediately, under Paragraph 11(10).

3.7 Taxi Driver's Licence TDL/01915 (1 year) - Joseph Donnelly

The Committee, at its meeting on 25 June 2014, agreed, on the basis of the information presented, 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 was not so satisfied then the Application would be referred to a future meeting of the Committee.

The Solicitor (Licensing) set out the background to the matter. A letter was circulated at the meeting which set out the opinion of the applicant's medical practitioner on the applicant's fitness to drive a taxi and indicated the medical practitioner's satisfaction, within the parameters set by the DVLA, that the applicant is able to drive a taxi.

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.

3.8 Taxi Driver's Licence TDL/589 - Gordon Crews

The Committee was advised of a request from the Chief Superintendent of Police Scotland for an emergency suspension of the Licence under Paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Representatives from Police Scotland were in attendance and addressed the Committee on the terms of a letter setting out their observations.

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

Decision

The Committee unanimously agreed (a) being of the opinion that the carrying on of the activity to which the Licence relates is causing or is likely to cause a serious threat to public order or public safety, to suspend the Licence with immediate effect under Paragraph 12; and (b) to continue consideration to a hearing to be assigned

on the questions of whether or not Suspension under Paragraph 11 was justified and, if so, what the duration of that Suspension should be, and whether that Suspension should be immediate.

3.9 Taxi Driver's Licence TDL/1893 - James Carroll

The Committee was advised of a request from the Chief Superintendent of Strathclyde Police for an immediate suspension of the licence under Paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Representatives from Police Scotland were in attendance and addressed the Committee on the terms of a letter setting out their observations.

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

Decision

The Committee unanimously agreed (a) being of the opinion that the carrying on of the activity to which the Licence relates is causing or is likely to cause a serious threat to public order or public safety, to suspend the Licence with immediate effect under Paragraph 12; and (b) to continue consideration to a hearing to be assigned on the questions of whether or not Suspension under Paragraph 11 was justified and, if so, what the duration of that Suspension should be, and whether that Suspension should be immediate.

3.10 Late Hours Catering Licence - AG Restaurants Ltd LHCL/115

The Committee, at its meeting on 25 June 2014, 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 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 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's representatives addressed the Committee on the issues raised and responded to questions.

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

Decision

After discussion, Councillor Barr, seconded by Councillor Marshall, moved to grant the application, but only to cover the period 11.00 p.m. to 1.00 a.m. (rather than the Applicant's request to 5.00 a.m.), in accordance with the Council's policy in terms of

late hours catering.

As an amendment, Councillor Bruce, seconded by Councillor Clarkson, moved that the application should be granted without that qualification.

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

Part B: Applications for Licences and Renewal of Licences

3.11 LHCL/116 (New) Mascot Scotland Ltd

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.

3.12 PEL/112 (New Permanent) James Newton

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.

3.13 TDL/01253 (New) Scott Robb Seymour

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.

3.14 TDL/01463 (Renewal) Robert Hamilton

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.

3.15 TDL/01923 (New) Steven Young

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.

3.16 TDL/01925 (New) David Taylor

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.

3.17 TDL/01926 (New) Peter Smith

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.

3.18 TDL/01927 (1 year) (New) Sandra McLellan

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.

3.19 TDL/01928 (1 year) (New) Neil McLellan

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.

3.20 TDL/01931 (1 year) (New) Mark Taylor Lovie

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.

3.21 TDL/01932 (New) Andrew Morrison

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.

Part C: Issues in Respect of an Existing Licence

3.20 TDL/01901 John William Bruce

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.

4. Exclusion of the 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 for the agenda items 5.1 and 5.2 (Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8) 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 ("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") might be disclosed.

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

The Committee resumed consideration of two cases which had first called at previous Meetings.

5.1 Registered Landlord: Hugh Begbie

The Committee, at its meeting on 6 August 2014, agreed to continue consideration of a complaint in respect of the Registered Landlord who holds a Registration covering 7 houses. The Committee considered whether, under Section 89, that Registration should be removed.

The Registered Landlord, the Development Officer (Housing) and the Investigation Officer (Anti Social Behaviour Investigation Team) were in attendance.

The Development Officer (Housing) set out the background to the complaint and the outcome of an Inspection Report on the property at 35 Sinclair Street, Stevenston. The Registered Landlord and the Development Officer (Housing) addressed the Committee on the issues raised and responded to questions.

The Registered Landlord, the Development Officer (Housing) and the Investigation Officer (Anti Social Behaviour Investigation Team) then withdrew to allow the Committee to deliberate, returning, together with the complainers, to hear the Committee's decision.

Decision

The Committee unanimously agreed (a) to remove the applicant from the Register of Landlords in respect of all 7 properties currently registered forthwith; (b) to issue a Notice Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the house at 35 Sinclair Street, Stevenston, that Notice to take effect 7 days after the date of the Meeting; and (c) to request the Development Officer (Housing) to conduct an inspection of the other six properties.

Councillor Steel left the meeting at this point.

5.2 Registered Landlord: Alistair Mills

The Committee, at its meeting on 25 June 2014, agreed to remove the Landlord's Registration and to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of 3 Brisbane Street, Largs.

The Committee then agreed to continue consideration to a later meeting the question of whether or not to issue Rent Penalty Notices in relation to 4 other houses owned by the Landlord, which he confirmed were all occupied (Largs: 10 Boyd Street, 2/R, 12 Boyd Street, 1/L, 49 Nelson Street, G/L, 42 Nelson Street, G/L) in order to receive a report from Housing Services on the condition of those four houses.

The Development Officer (Housing) addressed the Committee on the issues raised and responded to questions.

The Development Officer (Housing) then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee unanimously agreed (a) to continue consideration of the question of whether or not to issue Rent Penalty Notices in relation to those other houses; and (b) to receive a report at the next Ordinary Meeting of the Committee on the properties now owned by the Registered Landlord's former spouse.

The meeting ended at 1.00 p.m.