

Licensing Committee
8 May 2019

IRVINE, 8 May 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

W. O'Brien, Solicitor (Licensing) and C. Pollock, Licensing Administrative Officer (Legal Services) and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Inspector David Cameron and Sergeant David Dougan (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Angela Stephen.

1. Chair Remarks

The Chair advised that a request from Police Scotland for the immediate suspension of a Taxi Driver's Licence would be considered at Agenda Item 6.1 as a matter of urgency. He further advised that application SPTL/053 would be considered at Agenda Item 6.10 as a matter of urgency to allow the application to be progressed without delay.

2. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

3. Minutes

The Minutes of the special meeting held on 10 April 2019 at 10.00 a.m. and the ordinary meeting held on 10 April 2019 at 2.00 p.m. were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Licensing of Sexual Entertainment Venues – Civic Government (Scotland) Act 1982

Submitted report by the Head of Democratic Services on an amendment to the Civic Government (Scotland) Act 1982 to enable Licensing Authorities to adopt a new

licensing system to require that sexual entertainment venues (SEVs) should obtain a licence granted by the Council.

The Committee agreed (a) that North Ayrshire should adopt a scheme of licensing Sexual Entertainment Venues; (b) that public consultation should be put in place; and (c) that an update report on the outcome of the public consultation be provided to a future meeting.

5. 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 5.2 – 6.1 (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."

6. 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

6.1 Taxi Driver Licence: TDL/1754 - Derek Johnstone Boyd

The Committee considered a request by Police Scotland for the Emergency Suspension of the Licence under Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982. The Committee was satisfied that the carrying on of the licenced activity is likely to cause a serious threat to public safety, and accordingly suspended the Licence forthwith.

Further, the Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 11(7) of Schedule 1 to the Civic Government (Scotland) Act 1982.

6.2 Taxi Driver's Licence: TDL/02160 (New) - Brenda Barratt

The applicant, having been duly cited, 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 a letter setting out a representation in respect of the application.

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

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

Decision

Councillor McClung, 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 1 year. There being no amendment, the motion was declared carried.

Police Scotland representatives left the meeting at this point.

6.3 Taxi Driver's Licence: TDL/00410 - John Blair

The licence holder, having been duly cited, was present and accompanied by the Taxi Operator.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder, relating to the Condition 3 of the Taxi Driver Licence (No Smoking).

The licence holder then addressed the Committee on the issues raised and responded to questions.

The licence holder and the Taxi Operator then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor Reid, seconded by Councillor Barr, moved that the Committee suspend the licence for 7 days (6 June 2019 to 12 June 2019 inclusive) under Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982 for a period of seven days, to commence at 00.01 hours on Thursday 6 June 2019 and end at 23.59 hours on

Wednesday 12 June 2019 (both dates inclusive). There being no amendment, the motion was declared carried.

Councillor Gallagher left the meeting at this point.

6.4 Taxi Driver's Licence: TDL/02114 – Andrew Dysart

The licence holder, having been duly cited, was present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder, relating to the Council's Dress Code Condition.

The licence holder then addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously that the grounds for suspension were established but decided to take no further action.

Councillor Gallagher rejoined the meeting at this point.

6.5 Taxi Licence: TL/424 (New) and TL/425 (New) – Russell Drummond

The applicant, having been duly cited, was present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant, in respect of the Council

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

The Chair then adjourned the meeting to allow the Committee Members and the applicant to view one of the vehicles proposed by the applicant, Ford Tourneo Custom FX8 registration MK17 VYS (side-loading Wheelchair Accessible Vehicle, not fitted with a lifting mechanism.) The meeting reconvened thereafter with the same Members and officers in present and in attendance.

Decision

The Committee unanimously agreed (a) to treat the type of vehicle viewed as exceptions to both:

- (i) the Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) with effect from 16 May 2018, in respect of the requirement in Paragraph 12(b) that a vehicle proposed for the grant of a Licence for a Taxi or Private Hire Car "must be fitted with a lifting mechanism which can raise an occupied wheelchair from ground level without requiring it to be pushed by the driver or anyone else;"

- (ii) the Taxi Numbers Limitation Policy made under Section 10(3) of the Civic Government (Scotland) Act 1982,

and (b) directed that the Solicitor (Licensing) could grant both applications under delegated powers if and when satisfied that the proposed vehicles satisfied the other requirements of Section 10(2), and that the vehicles proposed for both applications were substantially the same as that viewed by the Committee.

Appendix B: Applications for Licences/Renewal of Licences

6.6 PHCL/369 (New): Kelly Scott

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.

6.7 TDL/00061 (Renewal): Peter McGuinness

The Committee unanimously agreed that the application be continued to a future meeting.

6.8 TDL/02177 (New): Francis Clarke

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

6.9 TL/248 (Renewal): Partnership of Edward Hail, James McCallum, Kevin Warden and Pamela Angelini

The Committee unanimously agreed that the Solicitor (Licensing) write to the licence holders and advise that the licence will expire in 6 weeks' time and that a new application would require to be submitted by the three remaining partners.

6.10 SPTL/053: Gemma Irvine

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 meeting ended at 12.10 p.m.