

Licensing Committee
30 April 2014

IRVINE, 30 April 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 and Donald Reid.

In Attendance

C. Bateman, Development Officer (Social Services and Health); W. O'Brien, Solicitor (Licensing), K. Sharkey, Trainee Solicitor, and A. Toal, Administrative Assistant (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 and Robert Steel.

1. Declarations of Interest

In terms of Standing Order 16 and Section 5 of the Code of Conduct for Councillors, Councillor McMillan, due to her association with the complainer, declared an interest in Agenda Item 5 (Taxi Driver's Licence TDL/0901 - William Simson) and left the meeting for that item of business.

2. Minutes

The accuracy of the Minutes of (i) the ordinary meeting of the Committee held on 5 March 2014; and (ii) the special meeting held on 31 March 2014 was confirmed.

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

Submitted 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.

Part A: Hearings

3.1 Civil Marriage Approval CMORO/057 - David Boyle

David Boyle has applied for a Civil Marriage Approval.

The applicant, having been duly cited to attend, was present. The Council Registrar was also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The Council Registrar then addressed the Committee in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

The applicant and the Registrar then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee granted the Period Approval requested and attached the Standard Conditions contained in the Schedule to the Marriage (Approval of Places) (Scotland) Regulations 2002 (as amended), in terms of Regulation 8.

3.2 Public Entertainment Licence PEL/207 - Kelburn Production Ltd

Kelburn Production Ltd has applied for a Public Entertainment Licence for an event on 10 May 2014.

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

The applicant then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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.

3.3 Late Hours Catering Licence LHCL/108 - Malthurst Petroleum Ltd

Malthurst Petroleum Ltd. have applied for a Late Hours Catering Licence.

The Committee was advised that this Hearing would be considered at its next meeting.

Noted.

3.4 Metal Dealer's Licence (Itinerant) MDL/048 - Joseph Quinn

Joseph Quinn has applied for a Metal Dealer's Licence.

The applicant, having been duly cited to attend, was present. Representatives from Strathclyde Police 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 Strathclyde Police then addressed the Committee on the terms of a letter setting out the observations of the Chief Constable of Police Scotland on the applicant.

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 agreed to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for the period of one year. In terms of Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 8(2), the duration of the Licence is one year from the last day of the month immediately preceding the month of the meeting (being a period shorter than three years), as the Committee decided that that limitation was appropriate.

3.5 Skin Piercing and Tattoo Licence SPTL/020 - Stacey Galbraith

Stacey Galbraith has applied for a Skin Piercing and Tattoo Licence.

The applicant, having been duly cited to attend, was present and accompanied by a nominated employee. Representatives from Strathclyde Police 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 Strathclyde Police then addressed the Committee on the terms of a letter setting out the observations of the Chief Constable of Police Scotland on the applicant.

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

3.6 Second Hand Motor Vehicle Dealer's Licence SHDL/176 - Duskview Sales Ltd

Duskview Sales Ltd. have applied for a Second Hand Motor Vehicle Dealer's Licence.

The applicant, having been duly cited to attend, was present and accompanied by a legal representative. Representatives from Strathclyde Police 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 Strathclyde Police then addressed the Committee on the terms of a letter setting out the observations of the Chief Constable of Police Scotland on the applicant.

The Chief Constable's representative advised the Committee that there were also 'spent convictions' which should not be considered by the Committee, due to Section 1(1) of the Rehabilitation of Offenders Act 1974, although he submitted that the condition in Section 7(3) was satisfied (that justice could not be done in the case except by admitting evidence relating to spent convictions). The Applicant agreed that the Committee could look at the spent conviction. The Committee was satisfied that the condition was satisfied, and accordingly agreed to consider the terms of a further letter from the Chief Constable in relation to a 'spent' conviction. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

The Committee agreed to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for the period of one year. In terms of Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 8(2), the duration of the Licence is one year from the last day of the month immediately preceding the month of the meeting (being a period shorter than three years), as the Committee decided that that limitation was appropriate.

3.7 Taxi Driver's Licence TDL/00821 - James McDowall

The Committee, at its meeting on 5 March 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 and accompanied by his legal representative. 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 the observations of the Chief Constable of Police Scotland on the applicant. Thereafter the applicant and his representative addressed the Committee on the issues raised and responded to questions.

The applicant, his legal representative 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.

3.8 Taxi Driver's Licence TDL/01513 - Steven Robb

The Committee, at its meeting on 5 March 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 from Police Scotland then addressed the Committee on the terms of a letter setting out the observations of the Chief Constable of Police Scotland on the applicant. 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.

3.9 Taxi Driver's Licence TDL/01649 - Paul Williams

The Committee, at its meeting on 5 March 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 had been duly cited but was not present when the case called at 12.27pm. The Committee was advised that this Hearing would be considered at its next meeting.

Noted.

3.10 Taxi Driver's Licence TDL/01893 - James Carroll

The Committee, at its meeting on 5 March 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 from Police Scotland then addressed the Committee on the terms of a letter setting out the observations of the Chief Constable of Police Scotland on the applicant. 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.

3.11 Taxi Driver's Licence TDL/01895 - David Konthuruthy

The Committee, at its meeting on 5 March 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 and accompanied by his spouse.

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

The applicant 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.

3.12 Public Charitable Collection PCC - Breast Way Round

Breast Way Round have applied for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act, 1982.

The Committee were advised that the application had been withdrawn.

Part B: Applications for Licences and Renewal of Licences

3.13 MDL/050 (New) MLD Zambonini Ltd

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.

3.14 PCC (New) Guide Dogs for the Blind

The Committee considered an application for Permission for a Public Charitable Collection made under Section 119 of the Civic Government (Scotland) Act 1982.

The Committee noted that the Application was outside the Council's policy, and, instead of determining whether to grant or refuse it, directed the Clerk to contact the Applicant and invite the Applicant to amend the Application so as to conform with the policy (i.e. to apply for a Saturday only). If the Application was so amended, the Committee directed that it should be granted under delegated powers. If the Application was not so amended, it should be referred to a further meeting of the Committee.

3.15 PCC (New) Help for Heroes

The Committee considered an application for Permission for a Public Charitable Collection made under Section 119 of the Civic Government (Scotland) Act 1982.

The Committee agreed to continue consideration to a later meeting, and to invite the Applicant to make representations, prior to the Committee determining the Application.

3.16 PCC (New) Kilwinning Friends of Ayrshire Hospice

The Committee considered an application for Permission for a Public Charitable Collection made under Section 119 of the Civic Government (Scotland) Act 1982.

The Committee agreed to grant the application attaching the Council's usual conditions under Section 119(5).

3.17 STL/E/168 (New) Neil David McIntyre

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.

3.18 TDL/01878 (New) David Brown

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.

3.19 TDL/01900 (New) George MacKintosh

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/01901 (New) 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.

Part C: Issues in Respect of Existing Licences

3.21 TL/189 Gerald McIver and Charlene McIver

The Committee unanimously agreed to take no further action.

3.22 TDL/01479 Bradley McGrath

The Committee unanimously agreed to take no further action.

3.23 TDL/01854 David Walsh

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

The Committee adjourned for lunch and reconvened at 2.00 p.m.

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 item 5 (Taxi Driver's Licence TDL/0901 - William Simson) on the grounds that otherwise "Exempt Information" of the type described in Paragraph 14 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") might be disclosed.

Part A: Hearings

5. Taxi Driver's Licence TDL/0901 - William Simson

The Committee, at its meeting on 22 January 2014, agreed, on the basis of the information presented, to proceed to an Ordinary Suspension Hearing in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licenceholder, having been duly cited to attend, was present and accompanied by his legal representative. The complainer was also in attendance.

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

The licenceholder, his legal representative and the complainer then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee unanimously agreed to take no further action.

6. 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 item 7 (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.

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

Submitted report by the Chief Executive on the circumstances relating to a landlord registration. Alastair Mills, formerly of 5 Broomfield, Largs and now of 10 Charles Street, Largs held a Registration covering 10 houses. The Committee considered whether, under Section 89, that Registration should be removed. In addition, the Landlord had applied under Section 84 to include a further house (3 Brisbane Road, Largs) in the Registration. As the Landlord was present when the Section 89 matters were considered, the Committee considered both the removal question and the application, information from Council Officers, persons with information which the Committee considered relevant, and the applicant landlord.

The Committee unanimously agreed:

- (a) under Section 84(2)(b) to refuse to enter the applicant landlord in the Register in relation to 3 Brisbane Road, Largs, in respect that he was not a fit and proper person having regard to his persistent and substantial breaches of housing law;
- (b) to remove him from the Register of Landlords in respect of all properties currently registered, for the same reason;
- (c) to serve a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the property at 3 Brisbane Road, Largs; and
- (d) to continue consideration to a later Meeting of the question of whether or not to make Section 94 Orders in relation to each of the 10 houses that had previously been registered, in order to receive reports from a Council Officer on those houses.

The meeting ended at 3.50 p.m.