

Licensing Committee
1 November 2017

IRVINE, 1 November 2017 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

E. Anderson, Team Manager (Private Sector Housing), M. Henry, Team Leader (Traffic), B. Ferrie, Policy Officer (Private Sector) and R. Todd, Empty Homes Co-ordinator (Place); and A. Craig, Senior Manager (Legal Services), W. O'Brien, Solicitor (Licensing), K. Sharkey, Solicitor (Contracts and Licensing), C. Pollock, Licensing Administration Officer, D. Robertson, Enforcement Officer, A. Toal, Administrative Assistant, and M. Anderson, Committee Services Team Leader (Chief Executive's Office).

Also In Attendance

Inspector A. Wilson and D. Hastings, Licensing Administrator (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies for Absence

Davina McTiernan.

1. Order of Business

The Chair, in terms of Standing Order 9.4, agreed to vary the order of business to allow consideration of Agenda Item 5 (Public Processions under Civic Government (Scotland) Act 1982, Part V) immediately following Agenda Item 3 (Civic Government (Scotland) Act 1982: Taxi Fare Scales Review).

2. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, the Chair, as the spouse of member of Saltcoats Community Action Group, declared an indirect, non-pecuniary interest in the group's Public Charitable Collection application (considered in terms of Agenda Item 7 (Urgent Items)).

3. Minutes

The accuracy of the Minutes of the meeting of the Committee held on 13 September 2017 was confirmed, and the Minutes were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Civic Government (Scotland) Act 1982: Taxi Fare Scales Review

Submitted report by the Chief Executive on the statutory process for the review of taxi fare scales in North Ayrshire.

At its meeting held on 13 September 2017, the Committee agreed to give public notice of the draft scale of charges set out at Appendix 3 to the report. Appendices 1 and 2 contained, respectively, the current sale of taxi fare charges and the Minute of a meeting held on 1 September 2017 between Members of the Licensing Committee and taxi operators.

Councillor Barr, seconded by Councillor Ferguson, moved that the Committee agree (a) to note that no public or taxi trade consultation responses had been received in respect of the consultation; (b) to approve the new scale of charges set out at Appendix 3 to the report; and (c) that the new scales would come into effect on Monday 11 December 2017. There being no amendment, the motion was declared carried.

5. Public Processions under Civic Government (Scotland) Act 1982, Part V (Sections 62 to 66)

Submitted report by the Chief Executive on a procession notification received from East Kilbride Celtic Symphony Supporters Club for a proposed procession commencing at 8.00 a.m. on Saturday 11 November in West Kilbride and involving 30-40 people walking from West Kilbride to East Kilbride to raise money for Yorkhill Hospital. Section 2 of the report provided further information in respect of the proposed route and a consultation response from the Council's Roads Service.

The Solicitor (Licensing) set out the background to the notification. Thereafter, the Team Leader (Traffic) and Inspector Wilson (Police Scotland) spoke in terms of road safety concerns arising from the proposed route, which included a number of high speed roads.

Councillor Barr, seconded by Councillor Gallacher, moved that the Committee agree to prohibit the proposed procession on public safety grounds, in terms of Section 63(8)(a) of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

6. 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 the following items of business, 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 Act 1983. The 'Exempt Information' concerned is that described in Section 7A, Paragraph 6 ("Information relating to the financial business affairs of any particular person (other than the authority)") and Paragraph 14 ("Any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime").

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

Submitted report by the Chief Executive on Hearings to be determined and applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982.

PART A: Hearings

7.1 Taxi Driver's Licence: TDL/2049 (New) - Johnny Jack Lusk

The Committee, at its meeting on 13 September 2017, 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 wife. Representatives of Police Scotland were also in attendance.

The representatives of Police Scotland addressed the Committee on a letter setting out an objection in respect of the application. The Solicitor (Licensing) sought, and received, confirmation that the omission from the Police Scotland letter of one conviction disclosed by the applicant, was intentional and that the Committee should, therefore, disregard that conviction.

Thereafter, the applicant addressed the Committee on the issues raised and responded to questions. The applicant also character references provided by his current and a previous employer, together with paperwork relating to his educational qualifications.

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

Decision

Councillor McClung, seconded by Councillor Easdale, moved that the application be granted in terms of Schedule 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.

7.2 Taxi Driver's Licence: TDL/2042 (New) - Ian Cartledge

The Committee, at its meeting on 13 September 2017, 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 represented. Representatives of Police Scotland were also in attendance.

The representatives of Police Scotland addressed the Committee on a letter setting out a representation in respect of the application.

Thereafter, the applicant addressed the Committee on the issues raised and responded to questions, including in relation to a further conviction.

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

Decision

Councillor Barr, seconded by Councillor Donald L. Reid, moved that the application be refused in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the ground that the applicant was not a fit and proper person to be the holder of the licence.

As an amendment, Councillor Easdale, seconded by Councillor McClung, moved that the application be granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year.

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(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the ground that the applicant was not a fit and proper person to be the holder of the licence.

7.3 Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 6 - Request for Permission to Re-Apply for a Taxi Driver's Licence - Charlene McIver

At its meeting held on 7 June 2017, the Committee unanimously agreed to refuse the applicant's Taxi Driver's Licence application (i) in terms of Paragraph 5(3)(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the ground that the applicant was not a fit and proper person, having failed to respond to reasonable inquiries from the Licensing Authority intended to establish whether or not the application was capable of being granted, given that any applicant for a Taxi Driver's Licence or Private Hire Car Driver's Licence must produce evidence to the Licensing Authority that he/she is not "disqualified by reason of the person's immigration status from driving a taxi or private hire car" (Civic Government (Scotland) Act 1982, Section 13(3A) (as added by the Immigration Act 2016, Section 37, and the Immigration Act 2016 (Commencement No. 2 and Transitional Provisions) Regulations 2016, No. 1037)); (ii) in terms of Paragraph 5(3)(d) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the ground that there was another good reason for refusing the application, in that (a) the applicant had failed to respond to reasonable inquiries from the Licensing Authority intended to establish whether or not the she held a valid Driving Licence and (b) the application had been made on 31 January 2017, meaning that the six-month period which the Civic Government (Scotland) Act 1982, Section 3 allows for the determination of a licence application would have expired before the next scheduled meeting of the Committee.

The applicant, having been duly cited to attend, was present, addressing the Committee on the issues raised and responding to questions. Reference was also made to the terms of a letter from the applicant, setting out the circumstances surrounding the case.

The Solicitor (Licensing) advised of the background to the case. The Committee noted that the 12-month bar applied to this matter in terms of Schedule 1, Paragraph 6 of the Civic Government (Scotland) Act 1982, meaning that, following the Committee's earlier decision to refuse a Taxi Driver's Licence application, the applicant would not be entitled to re-apply until June 2018, unless the Committee was satisfied that there had been a "material change of circumstances".

Decision

The Committee unanimously agreed, being satisfied that a material change of circumstances existed, to permit the applicant to re-apply for a Taxi Driver's Licence

7.4 Public Charitable Collection - Royal British Legion Scotland (Largs Branch)

The applicant, having been duly cited to attend was present. The applicant has applied for a Charitable Collection on Thursday 7 December 2017 between 5.00 p.m. and 10.00 p.m., which is outwith the Council policy.

Members asked questions and received clarification from the applicant in respect of the application.

Decision

The Committee unanimously agreed (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to the Council's standard conditions.

7.5 Public Charitable Collection - Hansel

The applicant, having been duly cited to attend was not present, but was represented. The applicant has applied for a Charitable Collection on 11-15 December 2017, which is outwith the Council policy.

Members asked questions and received clarification from the applicant's representative in respect of the application.

Decision

The Committee unanimously agreed (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to the Council's standard conditions.

PART B: Applications for Grant/Renewal of Licences

7.6 Taxi Driver's Licence: TDL/00792 - George Williams

The Committee unanimously agreed, on the basis of further information provided by the Solicitor (Licensing) to continue consideration of this matter to the next meeting of the Committee.

PART C: Issues in Respect of Existing Licences

7.7 Taxi Licence & Taxi Driver's Licence: TL/194 & TDL/01355 - Michael Ferguson

The Solicitor (Licensing) and the Enforcement Officer set out the background to a complaint arising from an accident in which the licensed vehicle was involved.

Decision

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.

7.8 Taxi Licences & Taxi Driver's Licence: TL/106, TL/088 & TDL/00580 - William Grant

The Solicitor (Licensing) set out the background to this matter and made reference to a letter from Police Scotland in respect of the licence holder.

Decision

The Committee unanimously 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.

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

Submitted report by the Chief Executive on matters relating to Landlord Registration.

8.1 J.G.L.

At its meeting held on 13 September 2017, the Committee unanimously agreed to continue consideration of this matter to allow a review hearing to take place.

The Registered Landlord, having been cited to attend, was present.

The Solicitor (Licensing) advised on information received in respect of the Registered Landlord which raised the question of whether or not he remained a 'fit and proper' person to be entered on the Register. The Registered Landlord then responded to the matters raised and answered questions.

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

Decision

The Committee, having regard to the information presented, unanimously agreed to take no further action in respect of this matter.

8.2 D.D.

The Solicitor (Licensing) advised on information received in respect of the Registered Landlord which raised the question of whether or not he remained a 'fit and proper' person to be entered on the Register. The Team Manager (Private Sector Housing) addressed the Committee on the issues raised in terms of the outcome of an inspection of a property owned by the Registered Landlord following a referral regarding its condition and state of repair.

Decision

The Committee, having regard to the information presented, unanimously agreed to continue consideration of this matter to the next meeting, pending the outcome of a further inspection of the property.

8.3 A.M.

At its meeting held on 13 September 2017, the Committee unanimously agreed to continue consideration of this matter to allow a review hearing to take place.

The Registered Landlord, having been cited to attend, was not present, having intimated that he was unable to attend.

The Solicitor (Licensing) advised on information received in respect of the Registered Landlord which raised the question of whether or not he remained a 'fit and proper' person to be entered on the Register. The Empty Homes Co-ordinator addressed the Committee on the issues raised in terms of outstanding repairs required to a property owned by the Registered Landlord.

Decision

The Committee, having regard to the information presented, unanimously agreed to continue consideration of this matter to the next meeting, to allow (i) the Registered Landlord to attend a review hearing, (ii) inspection of the property in question and, if possible, inspection of other tenanted properties owned by the Registered Landlord.

9. Urgent Items

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

9.1 Public Charitable Collections

The Committee considered the following applications for permission for Public Charitable Collections under Section 119 of the Civic Government (Scotland) Act 1982:-

(i) Kilwinning Community Events

The applicant has applied for a Charitable Collection on Sunday 5 November 2017, which is outwith the Council policy.

(ii) Promoting Kilwinning

The applicant has applied for a Charitable Collection on Thursday 23 November 2017, which is outwith the Council policy.

(iii) Crosshouse Boys Club

The applicant has applied for a Charitable Collection on Sunday 26 November or Sunday 3 December or Sunday 10 December 2017, all of which are outwith the Council policy.

(iv) Saltcoats Community Action Group

The applicant has applied for a Charitable Collection on Sunday 26 November 2017, which is outwith the Council policy.

(v) West Kilbride Festival Committee

The applicant has applied for a Charitable Collection on Friday 1 December 2017, which is outwith the Council policy.

(vi) Scottish Maritime Museum

The applicant has applied for a Charitable Collection from Thursday 30 November until Sunday 3 December 2017, which is outwith the Council policy.

(vii) Stevenston Christmas Lights

The applicant has applied for a Charitable Collection from Friday 1 December 2017, which is outwith the Council policy.

Decision

The Committee unanimously agreed (a) that there were sufficient grounds to treat the above cases as exceptions to the Council's policy on street collections; (b) to grant the applications in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to (i) the satisfactory outcome of consultation with Police Scotland and (ii) the Council's standard conditions; and (c) to note that a report would be submitted to a future meeting of the Committee on the Council's policy with regard to public charitable collections.

The Meeting ended at 12.25 p.m.