

Licensing Committee
8 January 2020

IRVINE, 8 January 2020 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Todd Ferguson, Robert Barr, John Easdale, Jean McClung, Davina McTiernan, Donald L. Reid and Angela Stephen (Agenda Items 5.1 onwards).

In Attendance

B. Ferry and K. Nolan (Policy Officers) (Place) (Agenda Item 6 only); D. Robertson, Civic Licensing Standards Officer, W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant (Licensing) and D. Dunlop, Senior Clerical Assistant (Legal Services) and D. McCaw, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Sergeant David Dougan and Dawn Hastings (Police Scotland).

Chair

Councillor McNicol in the Chair.

1. Chair Remarks

The Chair agreed, in terms of Standing Order 9.4, to vary the order of business to allow consideration of the matter raised under Appendix C of Agenda Item 3 (Civic Government Scotland Act 1982 and other Licensing Statutes: Licensing Matters) immediately after case 3 Window Cleaner's Licence: WCL/004 (New): Eric Paterson, to allow Police Scotland to hear the information held by the Council.

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 Ordinary Meeting held on 23 October 2019 and the Special Meeting held on 28 October 2019 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. 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 Items 5-7 (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."

5. 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

5.1 Late Hours Catering Licence: LHCL/057 (New): Kala Singh

Councillor Stephen joined the meeting at this point.

The applicant, having been duly cited to attend, was present and accompanied by Mr Mohammed Sharir to assist with translation. 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 their objection in respect of 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.

Decision

Councillor Barr, seconded by Councillor Ferguson, moved that the Committee refuse the application in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the applicant is not a fit and proper person to be the holder of a licence. There being no amendment the motion was declared carried.

After the Chair advised the applicant of the decision, the applicant's translator asked how the applicant could appeal. The Solicitor (Licensing) advised him that any appeal would have to be lodged in the Sheriff Court within 28 days, could not be lodged with the Council and that the applicant should take independent advice before proceeding.

5.2 Taxi Driver's Licence: TDL/02197 (New): Gareth Wilkinson

The Committee at its meeting held on 23 October 2019, 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 their representation in respect of the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Reid, seconded by Councillor McClung, 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 one year. There being no amendment the motion was declared carried.

5.3 Window Cleaner's Licence: WCL/004 (New): Eric Paterson

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 their objection in respect of the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Easdale, 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 three years. There being no amendment, the motion was declared carried.

Appendix B: Applications for Licences/Renewal of Licences

5.4 STL/O/261 (Renewal): David Duncan McIntyre

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.

5.5 TDL/00321 (Renewal): Thomas 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.

Appendix C: Preliminary Consideration of possible Revocation or Suspension

5.6 Licenceholder

The Committee received a briefing from the Solicitor (Licensing).

The Committee agreed that this matter be continued to the meeting to be held in February 2020 to allow the Solicitor (Licensing) to make further inquiries.

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

6.1 M.R.

The Committee at its meeting held on 23 October 2019, agreed on the basis of the information presented, to continue consideration of this matter for further investigation and clarification by Officers.

The Solicitor (Licensing) addressed the Committee setting out the background to the case. The applicant, having been cited to attend, was present.

The Committee heard from officers of the Private Sector Housing section. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed to (a) grant the application for Landlord Registration; and (b) remove any Rent Penalty Notice in force at the applicant's properties.

7. Urgent Item: Establishment of Member Officer Working Group

The Committee considered the establishment of a Member Officer Working Group to continue consideration of the draft resolution in terms of the regulation of Public Entertainment Licences.

The Committee agreed (a) to the establishment of a Member Officer Working Group; (b) that the Group comprise Councillors Ronnie McNicol, Donald L. Reid, Davina McTiernan, John Easdale, Angela Stephen, Donald Reid, the Solicitor (Licensing) and the Senior Manager Protective Services; and (c) to note that the Solicitor (Licensing) will make arrangements for an initial meeting.

The meeting ended at 11.40 a.m.