

Licensing Committee
17 August 2016

Irvine, 17 August 2016 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ian Clarkson, Tom Marshall, Robert Barr, John Easdale, Grace McLean, Catherine McMillan, Ronnie McNicol and Donald Reid.

In Attendance

A. Wyllie, Trading Standards Officer and C. Boyd, Team Manager (Food/Health and Safety) (Economy and Communities); and W. O'Brien, Solicitor (Licensing); A. Toal, Administrative Assistant and M Anderson, Committee Services Team Leader (Chief Executive's Service).

Also In Attendance

Inspector J McMillan and Sergeant G. Griffiths (Police Scotland).

Chair

Councillor Clarkson in the Chair.

Apologies for Absence

John Bruce.

1. 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.

2. Minutes

The accuracy of the Minutes of the ordinary meeting of the Committee held on 15 June 2016 and the Special meeting on 21 July 2016 was confirmed, and the Minutes were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Exclusion of Public

The Committee resolved, in terms of Section 50(A)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 Paragraphs 6 and 14 of Part 1 of Schedule 7A of the Act.

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

Part A: Hearings

4.1 Metal Dealer's Licence : Lowmac Alloys : MDL/055 (New)

The applicants, having been duly cited to attend, were represented by their solicitor, who was accompanied by four directors of the applicants. Representatives from Police Scotland were also in attendance.

The representatives from Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the application, as previously intimated in writing to the applicant. Thereafter the applicant's solicitor addressed the Committee on the issues raised in the Police observation and, together with the directors, responded to questions.

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

Decision

Councillor Easdale, seconded by Councillor McLean, moved that the application be granted for a period of three years. There being no amendment, the motion 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 for a period of three years.

4.2 Metal Dealer's Licence : Jason McKinney : MDL/051 (Itinerant) (New)

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The representatives from Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the application, as previously intimated in writing to the applicant. Thereafter the applicant addressed the Committee on the issues raised in the Police observation 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

Councillor Reid, seconded by Councillor McMillan, moved that the application be granted for a period of three years. As an amendment, Councillor McNicol, seconded by Councillor Barr moved that the application be refused on the basis that the applicant is not a fit and proper person to be the holder of a metal dealer's licence.

On a division, there voted for the amendment 2 and for the motion 6, and the motion 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 for a period of three years.

4.3 Public Charitable Collection : Royal British Legion (Largs)

The applicant, having been duly cited to attend, was present. The applicant has applied for a Charitable Collection on 27-28 August 2016 and on 3-4 September 2016, which is outwith the Council's policy.

The Solicitor (Licensing) advised that a permission for the above-mentioned charitable collection had been granted by the Committee at its meeting on 15 June 2016, but had been surrendered by the then applicant, who had applied on behalf of the Royal British Legion (Largs), with the current application having been submitted by another applicant on behalf of the Royal British Legion (Largs).

Members asked questions and received clarification from the Solicitor (Licensing) and the applicant in respect of the application.

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

Decision

Councillor Marshall, seconded by Councillor McLean, moved that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections and that the application should be granted, subject to conditions. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; (b) to grant the application in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to (i) the Council's standard conditions; and (ii) subject to an additional condition applied under Section 119(5) to limit the collection to the immediately vicinity of the applicant's gazebo.

4.4 Taxi Driver's Licence : John Graham TDL/02001 (New)

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The representatives from Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the application, as previously intimated in writing to 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

Councillor McLean, seconded by Councillor McMillan, moved that the application be refused on the basis that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence. As an amendment, Councillor Easdale, seconded by Councillor Marshall, moved that the application be granted for a period of one year.

On a division, there voted for the amendment 4 and for the motion 4 and, on the casting vote of the Chair, the amendment was declared carried.

Accordingly, the Committee agreed to (a) grant the application subject to the 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; and (b) note that the applicant would be required to submit a current photograph in connection with the issue of his licence.

4.5 Street Trader Operator's Licence (Static): William Kerr STL/O/437

The applicant, having been duly cited to attend, was present. An objector was also in attendance in respect of her objection to the application and representatives of Police Scotland.

The objector withdrew to allow the representatives from Police Scotland to address the Committee on the terms of a letter setting out an observation in relation to the application, as previously intimated in writing to the applicant. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

The objector then re-joined the meeting to address the Committee on the terms of her objection and respond to questions. The Team Manager (Food/Health and Safety) also addressed the meeting on Environmental Health matters relating to the application and responded to questions.

Thereafter, the applicant addressed the Committee on the issues raised by the objectors and Team Manager (Food/Health Safety) and responded to questions.

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

Decision

Councillor McNicol, seconded by Councillor Barr, moved that the application be refused for two reasons, name (a) as the applicant did not hold the required Environmental Health certificate, the Committee was obliged by the Civic Government (Scotland) Act 1982, Section 39(4) to refuse the application and (b) the number and proximity to the application site of similar businesses selling hot food, meant that there was "other good reason for refusing the application" in terms of the 1982 Act, Schedule 1, Paragraph 5(3)(d). There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to refuse the application in terms of Section 39(4) of and Paragraph 5(1)(d) of Schedule 1 of the Civic Government (Scotland) Act 1982.

In terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened with the same Members and officers present and in attendance.

4.6 Taxi Driver's Licence: Ravinder Singh TDL/02003

The applicant, having been cited to attend, was not present or represented. The Solicitor (Licensing) referred to a letter submitted by the applicant to advise that he was unable to attend the hearing.

Decision

The Committee agreed to continue consideration of the application to the next meeting to allow the applicant to attend a hearing.

Part B: Applications for Licences/Renewal of Licences

4.7 Certas Energy UK Ltd: LHCL/109 (Renewal)

The Solicitor (Licensing) advised that the applicant has request fewer hours than currently licensed, namely until midnight and not 1.00 a.m. as at present.

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

4.8 Carolyn Ann Wright: TDL/00937 (New)

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.

4.9 Robert McBride : TDL/01851 (Renewal)

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 for a period of one year.

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

Submitted report by the Chief Executive on Landlord Registration and a matter relating to the Tenancy Deposit Scheme obligations of an agent in terms of the Housing (Scotland) Act 2006 and Tenancy Deposit Schemes (Scotland) Regulations 2011 (number 176).

The Registered Person, having been cited to attend, was not present or represented.

The Trading Standards Officer and Solicitor (Licensing) addressed the Committee on the issues raised and the background to the case and responded to questions.

Decision

Councillor McNicol, seconded by Councillor Marshall, moved that (a) the Registered Person be removed from the Register of Landlords under Section 89 on the grounds that they were not fit and proper persons; and (b) the Solicitor (Licensing) (i) write to the landlords represented by the Registered Person to advise of the outcome of this matter and (ii) liaise with the Council's Corporate Communications service on the preparation of an appropriate press release. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed that (a) the Registered Person be removed from the Register of Landlords under Section 89 on the grounds that they were not fit and proper persons; and (b) the Solicitor (Licensing) (i) write to the landlords represented by the Registered Person to advise of the outcome of this matter and (ii) liaise with the Council's Corporate Communications service on the preparation of an appropriate press release.

6. Wheelchair-Accessible Vehicles - Taxi and Private Hire Car vehicle specification under Civic Government (Scotland) Act 1982, Section 10(2)

Submitted report by the Chief Executive on the draft "Taxi and Private Hire Car Vehicle Approval Specification".

At its meeting on 25 May 2016, the Committee agreed (a) in principle, the Vehicle Specification should be amended to allow the use as taxis of rear-loading Wheelchair Accessible Vehicles; and (b) that the Solicitor (Licensing) submit a list of vehicles to a future meeting of the Committee for approval. The draft specification, including the list of vehicles, was attached at Appendix 1 to the report.

The Committee agreed to approve the Vehicle Specification set out at Appendix 1 to the report, with an implementation date of 1 October 2016.

The meeting ended at 1.20 p.m.