

Licensing Committee
29 November 2017

IRVINE, 29 November 2017 - At a Meeting of the Licensing Committee on North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Robert Barr, Todd Ferguson, Jean McClung, Davina McTiernan, Donald L. Reid and Angela Stephen.

In Attendance

E. Anderson, Team Manager (Private Sector Housing), B. Ferry, Policy Officer (Private Sector) and R. Todd, Empty Homes Co-ordinator (Place); and 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

Sergeant Dougan and D. Hastings, Licensing Administrator (Police Scotland).

Chair

Councillor McNicol in the Chair.

1. Order of Business

The Chair agreed that the Committee consider two applications, namely a Street Trader's Licence and a Public Charitable Collection Licence, as a matter of urgency in order to allow these matters to be progressed without delay.

In terms of Standing Order 9.4, the Chair further agreed to vary the order of business to allow consideration of the urgent items as part of Agenda Item 3 (Civic Government (Scotland) Act 1982: Licensing Matters) Part A (Hearings).

2. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor McTiernan, as a member of the SNP Group, declared an indirect, pecuniary interest in an application by Largs SNP for a Public Charitable Collection which did not necessitate her leaving the meeting during consideration of this item.

Councillor McTiernan also declared an indirect, non-pecuniary interest in a landlord registration case to be considered in terms of Agenda Item 4 (Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8, the circumstances being that one of the landlords in question, A.M., was personally known to her, and left the meeting for that item of business.

3. Minutes

The accuracy of the Minutes of the meeting of the Committee held on 1 November 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. 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 1973. 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)"), Paragraph 14 ("Any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime") and Paragraph 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)."

Councillor McClung joined the meeting at this point.

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

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

PART A: Hearings

5.1 Taxi Driver's Licence: TDL/2053 (New) - Stewart M Alexander

The applicant, having been duly cited to attend, was not present, but had provided a written submission in respect of his application. Representatives of Police Scotland were in attendance.

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

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. There being no amendment, the motion was declared carried.

5.2 Street Trader's Licence: STL/0/475 (New) - George Moreland

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

The representatives of Police Scotland addressed the Committee on a letter setting out representation in respect of the application and a further letter containing further details of the conviction. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Barr, 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. There being no amendment, the motion was declared carried.

The representatives of Police Scotland left the meeting at this point.

5.3 Taxi Driver Licence: TDL/02057 (New) - Ernest Mukumba

The applicant, having been duly cited to attend, was present.

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

Decision

Councillor Barr, seconded by Councillor Stephen, moved 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 one year. There being no amendment, the motion was declared carried.

5.4 Public Entertainment Licence: PEL/003 (Permanent) - Shiskine Village Hall Committee

The Solicitor (Licensing) advised that the necessary certificate of compliance had been submitted by the applicant and, as a result, there was now no requirement for a hearing to be held.

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 for a period of three years.

5.5 Taxi Licence and Taxi Driver's Licence: TL/194 and TDL/01355 - Michael Ferguson

The Committee, at its meeting held on 1 November 2017, 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

The licence holder, having been duly cited to attend, was not present. However, reference was made to an email from the licence holder's business partner, setting out the reason for his inability to attend the hearing.

Decision

The Committee unanimously agreed to continue consideration of this matter to the next meeting to allow the licence holder to attend.

PART B: Applications for Grant/Renewal of Licences

5.6 Late Hours Catering Licence: LHCL/116 (Renewal) - Mascot Scotland Limited

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.

5.7 Taxi Driver's Licence: TDL/00792 (Renewal) - George Williams

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.

5.8 Taxi Driver's Licence: TDL/02062 (New) - Craig Moffat

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.

5.9 Taxi Driver's Licence: TDL/2068 (New) - Douglas McGuire

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.

5.10 Public Charitable Collection - Alzheimer's Scotland

The applicant has applied for a Charitable Collection on Thursday 7 December 2017 between 4.00 p.m. and 9.00 p.m., which is outwith the Council policy.

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.

5.11 Public Charitable Collection - Largs SNP

The applicant has applied for a Charitable Collection on Thursday 7 December 2017 between 5.30 p.m. and 8.30 p.m., which is outwith the Council policy.

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 delegate authority to the Solicitor (Licensing) to grant the application in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to (a) the Council's standard conditions and (b) no Police objection being received in respect of the application.

In terms of Standing Order 5.7, the Chair then adjourned the hearing for a short recess to allow relevant officers to join the meeting. The meeting reconvened with the same Members present, with the exception of Councillor McTiernan, who had declared an interest in the first landlord registration case.

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

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

6.1 A.M

The Committee, at its meeting held on 1 November 2017, was advised of 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 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 and (ii) inspection of the property in question and, if possible, inspection of other tenanted properties owned by the Registered Landlord.

The Registered Landlord, having been cited to attend, was not present, but was represented by his solicitor.

The Registered Landlord's solicitor addressed the Committee on the issues raised and responded to questions. The Team Manager (Private Sector Housing), Policy Officer (Private Sector) and Empty Homes Co-ordinator then addressed the Committee on the terms of a report on the condition of a number of tenanted properties owned by the Registered Landlord.

Thereafter, the Registered Landlord's solicitor and Housing Officers responded to questions.

Councillor McClung, seconded by Councillor Barr, moved that the Committee proceed to determine the matter in the absence of the Registered Landlord. There being no amendment, the motion was declared carried.

The Registered Landlord's representative and the Housing Officers in attendance then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor McClung, seconded by Councillor Barr, moved, in terms of Section 89 of Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 to remove the Registered Person from the Register of Landlords. There being no amendment, the motion was declared carried.

Thereafter, Councillor McNicol, seconded by Councillor Ferguson, moved to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the properties included in the Registration which the Committee was satisfied were currently occupied. There being no amendment, the motion was declared carried.

Councillor McTiernan rejoined the meeting at this point.

6.2 P.H.W.

The Relevant Person, having been cited to attend, was not present, but was represented by his parents. The Relevant Person had also provided a number of written submissions, including references from previous employers.

The Relevant Person's representatives addressed the Committee on the issues raised and responded to questions.

The Relevant Person's representatives then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor McNicol, seconded by Councillor Ferguson, moved, in terms of Section 84(2)(b) Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004, to refuse to enter the Relevant Person on the Register of Landlords on the ground that he was not a fit and proper person to act as a Landlord. There being no amendment, the motion was declared carried.

6.3 D.D.

The Committee, at its meeting held on 1 November 2017, was advised of 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 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.

The Solicitor (Licensing) advised that an inspection by officers had confirmed that the required repairs had now been undertaken in respect of the Registered Landlord's property.

Decision

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

The Meeting ended at 12.35 p.m.