

Licensing Committee
6 March 2019

IRVINE, 6 March 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Robert Barr, Scott Gallacher, Jean McClung, Davina McTiernan, Donald L. Reid and Angela Stephen (Items 1 – 5.8).

In Attendance

W. O'Brien, Solicitor (Licensing), D. Robertson, Civic Licensing Standards Officer, A. Toal, Administrative Assistant (Legal Services) and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Inspector David Cameron and Sergeant David Dougan (Police Scotland) (Items 1 – 5.9), Hector McLeod and Alex Clayton (Pennyburn Tenants and Residents Association) (Item 5.8 only) and caravan site residents (Item 6 only).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson and John Easdale.

1. Chair Remarks

In terms of Standing Order 9.4, the Chair agreed to vary the order of business to allow earlier consideration of the Caravan Site Licensing report.

The Chair further agreed, in terms of Standing Order 9.5, to consider applications for Public Entertainment Licences from Cardona (Kilwinning Sports Club) and Taylors Funfair Ltd (Irvine Moor), at Item 5.8 and 5.9 respectively, as a matter of urgency to allow the matters to be actioned without delay.

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 meeting held on 6 February 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 Item 3 (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 Taxi Driver's Licence TDL/01615 (Renewal) - Kevin Kyle

The Committee at its meeting on 6 February 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 licence holder, having been duly cited, was present and accompanied by his employer. 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 licence holder. The representatives from Police Scotland then addressed the Committee on a letter setting out a representation in respect of the application.

The licence holder and his employer then addressed the Committee on the issues raised and responded to questions.

The licence holder, his employer and representatives from Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor McClung, seconded by Councillor Reid, 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.

5.2 Taxi Driver's Licence TDL/01935 (New) - Andrew Watt

The Committee at its meeting on 6 February 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, 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 a letter setting out an objection in respect of the application.

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

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

Decision

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

5.3 Window Cleaner's Licence WCL/042 (New) - James Affleck

The applicant, having been duly cited, 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 a letter setting out a representation in respect of the application.

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

Decision

Councillor Gallacher, seconded by Councillor Reid, 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.

5.4 Window Cleaner's Licence WCL/043 (New) - David Frew

The applicant, having been duly cited, 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 a letter setting out a representation in respect of the application.

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

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

Decision

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

5.5 Window Cleaner's Licence WCL/062 (New) - Andrew S McKenna

The applicant, having been duly cited, 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 a letter setting out an objection in respect of the application.

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

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

Decision

Councillor Reid, seconded by Councillor Gallacher, 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.

5.6 Public Entertainment Licence PEL/581 (Temp) - William Newsome

The applicant, having been duly cited to attend, was present and accompanied by a friend.

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 a letter setting out a representation in respect of the application.

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

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

Decision

Councillor Reid, seconded by Councillor McTiernan, moved that the Committee delegate authority to the Solicitor (Licensing) to grant the application for:-

| | |
|-------------------------|-----------------------|
| Wednesday 13 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Thursday 14 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Friday 15 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Saturday 16 March 2019 | 1.00 p.m. - 9.00 p.m. |
| Sunday 17 March 2019 | 1.00 p.m. - 6.00 p.m. |

subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982, on receipt of a satisfactory report from Environmental Health. There being no amendment, the motion was declared carried.

5.7 Public Entertainment Licences PEL/579 & PEL/580 - ANI Leisure Funfairs

The applicant, having been duly cited to attend, was present and accompanied by a relative.

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 a letter setting out a representation in respect of the application.

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

Decision

The Committee unanimously agreed to grant the application for 30 March until 22 April 2019 (Monday - Sunday, noon until 9.00 p.m.), subject to (i) the Council's standard conditions in terms of Paragraph 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 198,; (ii) payment by the applicant within 7 days of an additional £90 inspection fee to Protective Services, and (iii) the provision of stewarding.

At 11.50 a.m., in terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened at 12 noon with the same Members and Officers present and in attendance.

5.8 Public Entertainment Licence PEL/583 - Cameron Codona

The applicant, having been duly cited to attend, was present and accompanied by his wife.

Representatives from Police Scotland and Pennyburn Tenants and Residents Association were also in attendance.

The Committee had written representations from:-

- (a) Pennyburn Tenants and Residents Association (PTARA)
- (b) Kilwinning Community Council
- (c) Hector Macleod, PTARA
- (d) a constituent to Councillor Donald Reid
- (e) Pennyburn Regeneration Youth Development Enterprise (PRYDE)
- (f) Police Scotland

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 a letter setting out an objection in respect of the application. Representatives from Pennyburn Tenants and Residents Association also expressed their objections to the application.

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

The applicant, his wife, representatives from Police Scotland and Pennyburn Tenants and Residents Association then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor Reid, seconded by Councillor Gallacher moved that the Committee (a) grant the application for:-

| | |
|------------------------|------------------------|
| Thursday 21 March 2019 | 3.00 p.m. - 6.00 p.m. |
| Friday 22 March 2019 | 3.00 p.m. - 6.00 p.m. |
| Saturday 23 March 2019 | 12.00 noon - 6.00 p.m. |
| Sunday 24 March 2019 | 12.00 noon - 6.00 p.m. |

subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that any future applications for Public Entertainment Licences for that location should be referred to the Committee. There being no amendment, the motion was declared carried.

Councillor Stephen left the meeting at this point.

5.9 PEL/584 – Taylor's Funfair

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 a letter setting out a representation in respect of the application.

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

The applicant and representatives from 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 for:-

| | |
|-------------------------|-----------------------|
| Thursday 21 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Friday 22 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Saturday 23 March 2019 | 1.00 p.m. - 9.00 p.m. |
| Sunday 24 March 2019 | 1.00 p.m. - 9.00 p.m. |
| Monday 25 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Tuesday 26 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Wednesday 27 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Thursday 28 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Friday 29 March 2019 | 6.00 p.m. - 9.00 p.m. |
| Saturday 30 March 2019 | 1.00 p.m. - 9.00 p.m. |

subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

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

6. Caravan Site Licensing

Submitted report by the Head of Democratic Services on Caravan Site licensing matters.

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

Residents from the caravan site were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Mrs S, a resident of the caravan site and spokesperson for a number of residents expressed concerns relating to the application. Mr H, also a resident of the caravan site and spokesperson for a number of residents expressed support for the application.

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

The applicant's Solicitor gave the Committee undertakings:

- (a) that there would be gritting of the roads and footpaths on the Site;
- (b) that if 50% of the residents wanted a "Qualifying Residents' Association" under the Mobile Homes Act 1983, Schedule 1, Paragraph 31 (as that Schedule is amended by The Mobile Homes Act 1983 (Amendment of Schedule 1) (Scotland) Order 2013 No. 219) there would be one;
- (c) that the Owner's obligations under Paragraph 25 to consult Occupiers, to consult a "Qualifying Residents' Association", and to provide the Occupiers with information would apply; and
- (d) that the site would now apply the energy resale rules.

Decision

Councillor Reid, seconded by Councillor Barr moved that the Committee grant the application for grant of a "Part 1A Site Licence" under the Caravan Sites and Control of Development Act 1960, as amended by the Housing (Scotland) Act 2014, subject to the conditions made by the Council on 2 January 2019 (which, in relation to this site, were to be qualified by a dispensation in respect of the requirement for a public telephone within the grounds of the site). There being no amendment, the motion was declared carried.

Appendix B: Applications for Licences/Renewal of Licences

5.9 TDL/02073 (Renewal) - David Patton

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 one year.

5.10 TDL/02156 (New) - James Cantillon

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 one year.

5.11 TDL/02159 (New) - Andrew Vost

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 one year.

5.12 WCL/038 (New) - Gareth McBride

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.

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

The Committee was advised that there were no Landlord Registration cases to be considered at this time.

The meeting ended at 1.45 p.m.