

Licensing Committee
10 April 2019

IRVINE, 10 April 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

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

In Attendance

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

Also in Attendance

Sergeant Raymond Ferguson and Dawn Hastings (Police Scotland).

Chair

Councillor McNicol in the Chair.

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 Minutes of the meeting held on 6 March 2019 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

Submitted report by the Head of Democratic Services on the Taxi Fare Review process that is required to be done at maximum intervals of eighteen months. A meeting with interested parties was held on 29 March 2019 and the minute of that meeting was attached as Appendix A to the report. Appendix B outlined the current taxi scales and percentage increases. The Consumer Price Index was provided at Appendix C and a draft of the Taxi Fare Scales was attached at Appendix D to the report.

The Committee agreed to (a) approve the draft scale as set out in Appendix D to the report; (b) instruct the Chief Executive to give public notice of the draft scale; and (c) continue consideration of the review until a further meeting of the Committee at least one month after the public notice has been given.

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 5.2 – 6.1 (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 Caravan Site Licence: CAR/036 (New) - Mary Watson

The Committee was advised that Ms. Mary Watson had recently sold the caravan site to Ms. Catherine Lindsay-Brown and that the application for an 'old system' Licence had now transferred to Ms. Lindsay-Brown.

The applicant Ms. Lindsay-Brown was present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. He told the Committee that the solicitor for the seller (Ms. Watson) had sent the Council a letter drafted in conjunction with the Solicitor for the purchaser Ms. Lindsay-Brown and the Solicitor (Licensing).

This stated:

- (a) that the Application should be amended so as to restricted to the field having an area of 950 square metres or thereby, which was the southeastmost field of the four areas shown on a plan submitted by the seller's Solicitor; and

(b) that the Licence should be granted to Ms. Lindsay-Brown.

The seller's Solicitor invited the Committee to defer the conditions of the Licence for a period of 12 months to allow the purchaser to carry out improvement works.

Decision

The Committee unanimously agreed to (a) grant the application in terms of the Caravan Sites and Control of Development Act 1960; (b) to grant the Licence to Ms. Lindsay-Brown; and (c) to defer the conditions of the Licence for a period of 12 months from the date of the Committee to allow the purchaser to carry out improvement works.

5.2 Window Cleaner's Licence: WCL/067 (New) - Lee Allan

The applicant, having been duly cited, 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 his relative then addressed the Committee on the issues raised and responded to questions.

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

Decision

Councillor Easdale, 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 3 years. There being no amendment, the motion was declared carried.

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.

5.3 Window Cleaner's Licence: WCL/071 (New) - The Partnership of Dean Gallacher & Stephen Spooner

The applicants, having been duly cited, were 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 applicants.

Both applicants agreed that the proceedings concerning one of them could take place in the presence of the other.

The representatives from Police Scotland then addressed the Committee on a letter setting out a representation in respect of Dean Gallagher.

Dean Gallagher then addressed the Committee on the issues raised and responded to questions.

The applicants 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 each 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 3 years. There being no amendment, the motion was declared carried.

5.4 Window Cleaner's Licence: WCL/076 (New) - Conor Watson

The applicant, having been duly cited, 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 an objection in respect of the application.

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

The applicant, his relative 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 continue consideration to a future meeting, no later than 30 October 2019, to allow the applicant to provide further information to the Committee.

Appendix B: Applications for Licences/Renewal of Licences

5.5 TDL/01613 (Renewal) Peter Strachan

The Committee unanimously agreed 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 3 years.

5.6 TDL/02160 (New) Brenda Barratt

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 TL/424 (New) Russell Drummond

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 and that the applicant attend with the proposed vehicle.

5.8 TL/425 (New) Russell Drummond

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 and that the applicant attend with the proposed vehicle.

5.9 WCL/056 (New) Andrew Thomson

The Solicitor (Licensing) advised the Committee that the only response from Police Scotland was a holding letter.

The Committee agreed to instruct the Solicitor (Licensing) to (a) contact Police Scotland to enquire if they were going to make an objection (not simply a representation); and (b) failing receipt of an objection within 7 days of that enquiry, to exercise delegated powers so as to grant the Application.

Appendix C

Preliminary consideration of Revocation or Suspension complaints (Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11)

5.10 Taxi Driver Licence

The Civic Licensing Standards Officer outlined the terms of the report concerning an allegation that on 13 February 2019 the licence holder had breached the licence condition prohibiting smoking in the licences vehicle.

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.

5.11 Taxi Driver Licence

The Civic Licensing Standards Officer outlined the terms of the report concerning an allegation that on 8 December 2018 and 26 March 2019 the licence holder had breached the Council Dress Conditions.

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.

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

6.1 S.D.

Submitted report by the Private Sector Housing Team on their involvement with a property in Kilwinning that did not meet the legally required Tolerable and Repairing Standard.

The Committee noted that the Landlord was absent but had contacted the Licensing Office.

The Committee was provided with an update in respect of the property and eviction proceedings that had been initiated by the Landlord.

The Committee unanimously agreed to defer consideration of the case and instructed the Solicitor (Licensing) to write to the Landlord reporting that the Committee was making the continuation conditional on the following conditions:

- (a) after the current tenant leaves and prior to any new tenancy starting that the Landlord must contact the Council's Private Sector Housing Team to arrange an Officer to carry out a pre-tenancy inspection; if any works are identified at time of the Council's inspection then the Landlord must provide evidence that the work has been completed to the Council's satisfaction prior to anyone else moving in.
- (b) the Landlord must carry out a pre-tenancy inspection before allowing anyone else to live in the house;
- (c) the Landlord must fix any outstanding defects before allowing anyone else to live in the house;
- (d) the Landlord must give the new Tenant the documents prescribed by Law.

The meeting ended at 3.30 p.m.