

Licensing Committee
25 June 2014

IRVINE, 25 June 2014 - At a Meeting of the Licensing Committee of North Ayrshire Council at 09.00 a.m.

Present

Tom Marshall, Robert Barr, John Bruce (from Item 2 onwards), Ian Clarkson, Catherine McMillan, Donald Reid and Robert Steel (from Item 11 onwards).

In Attendance

D. Drennan, Team Manager Building Standards, J. McKay, Building Standards Officer (Development and Environment); W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant, J. Armstrong, Senior Clerical Assistant and A. Little, Committee Services Officer (Chief Executive's Service).

Also In Attendance

Inspector Oates and PC McLean (Police Scotland).

Chair

Councillor Marshall in the Chair.

Apologies for Absence

Ronnie McNicol

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 16 and Section 5 of the Councillors Code of Conduct.

2. Minutes

The Minutes of (i) the ordinary meeting of the Committee held on 30 April 2014 and (ii) the special meeting held on 6 June 2014 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

Submitted report by the Chief Executive on (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982

Part A: Hearings

3.1 Public Charitable Collection PCC - Trevor Gray

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 of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. 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

After discussion, Councillor Reid, seconded by Councillor Clarkson moved that the application should be granted.

As an amendment, Councillor Barr, seconded by Councillor McMillan, moved to continue the application to the next meeting.

On a division, there voted for the amendment 2 and for the motion 2 and on the casting vote of the Chair the motion was declared carried.

Accordingly, the Committee agreed to grant the application.

3.2 Taxi Driver's Licence TDL/00717 (1 year) - Robert McLeish

The applicant, having been duly cited to attend as not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application.

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

Decision

The Committee agreed to refuse the application in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds set out in Paragraph 5(3)(a)(ii) of the Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

Councillor Bruce joined the meeting at this point.

3.3 Taxi Driver's Licence TDL/01649 (1 year) - Paul Williams

The Committee, at its meeting on 5 March 2014, 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 of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. 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

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.

3.4 Taxi Driver's Licence TDL/01854 - David Walsh

The Committee, at its meeting on 30 April 2014, unanimously agreed, on the basis of the information presented, to proceed to a Suspension Hearing in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licenceholder, 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 licenceholder. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the licenceholder addressed the Committee on the issues raised and responded to questions.

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

Decision

The Committee unanimously agreed, on the basis of the information before it, to (a) take no action to suspend the licence in terms of Paragraph 11 (2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 at this time; and (b) grant the renewal application terms of Paragraph 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.5 Taxi Driver's Licence TDL/01874 - Paul James Gorman

The Committee, at its meeting on 6 June 2014, unanimously agreed (a) to suspend licence TDL/1874 in terms of Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982; and (b) on the basis of the information presented, to proceed to a hearing, within 6 weeks, in terms of Paragraph 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982 in respect of licence TDL/1874.

The licenceholder, having been duly cited to attend, was not in attendance. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application.

Representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee unanimously agreed to suspend the licence in terms of Paragraph 11 (2) (a) and (c) with immediate effect in terms of Paragraph 11 (10) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.6 Taxi Driver's Licence TDL/01878 (1 year) - David Brown

The Committee, at its meeting on 30 April 2014, 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.

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 of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. 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

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.

3.7 Taxi Driver's Licence TDL/01901 (1 year) - John William Bruce

The Committee, at its meeting on 30 April 2014, 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.

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 of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. 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

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.

3.8 Taxi Driver's Licence TDL/01907 (1 year) - Gordon Anderson

The applicant, having been duly cited to attend, was not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application.

The representatives of 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 in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.9 Taxi Driver's Licence TDL/01911 - Brent Norris

The applicant, having been duly cited to attend, was not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application.

The representatives of 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 in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.10 Public Entertainment Licence PEL/208 - Michael George Lynam

The Committee, at its Special Meeting on 6 June 2014, agreed to continue consideration of the application to the next meeting, to allow the applicant to provide all necessary information to Officers in relation to the proposed event.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. The representative from Buildings Standards addressed the Committee in relation to building Standards issues. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

The Committee unanimously agreed (a) 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, and (b) that all appropriate information has been provided to Building Standards.

Councillor Steel joined the meeting at this point.

3.11 Street Trader Employee's Licence STL/E/168 - Neil David McIntyre

The Committee, at its meeting on 30 April 2014, 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.

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 of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. 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

After discussion, Councillor Clarkson, seconded by Councillor McMillan moved that the application should be granted for 1 year.

As an amendment, Councillor Barr, seconded by Councillor Steel, moved to refuse the application.

On a division, there voted for the amendment 2 and for the motion 5, 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 1 year.

3.12 Public Charitable Collection PCC - David Payne

The Committee, at its meeting on 30 April 2014, considered an application for Permission for a Public Charitable Collection made under Section 119 of the Civic Government (Scotland) Act 1982.

The Committee noted that the application was outside the Council's policy, and, instead of determining whether to grant or refuse it, directed the Solicitor (Licensing) to contact the applicant and invite the applicant to amend the application so as to conform with the policy (i.e. to apply for a Saturday only). If the application was so amended, the Committee directed that it should be granted under delegated powers. If the application was not so amended, it should be referred to a further meeting of the Committee.

The applicant, having been duly cited to attend, was not present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant, and advised that the applicant had not amended the application and that the dates set out in the application had now passed.

Decision

The Committee noted the position and that the application was no longer required.

3.13 Public Entertainment Licence PEL/214 - David Boyle

Kelburn Productions Ltd has applied for a Public Entertainment Licence for an event on 4 - 7 July 2013.

The applicant, D. Boyle and his representative Z. Shaw were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, the applicant and his representative addressed the Committee on the issues raised and responded to questions.

The applicant and his representative then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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.

Part B: Applications for Licences and Renewal of Licences

3.14 LHCL/115 (New) AG Restaurants Ltd

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.

3.15 TDL/00462 (3 year) (New) Matthew Imrie

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.

3.16 TDL/00513 (1 year) (New) John McCubbin

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.

3.17 TDL/00705 (1 year) (New) William Alexander

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.

3.18 TDL/01915 (1 year) (New) Joseph Donnelly

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.

3.19 TDL/01920 (1 year) (New) Anthony McMillan

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.

Part C: Issues in Respect of an Existing Licence

3.20 STL/O/369 Sharon Serapiglia

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.

4. Exclusion of the Public

The Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for the agenda item 7 (Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8) on the grounds that otherwise "Exempt Information" of the type described in Paragraphs 14 and 15 of Part 1 of Schedule 7A to the Act ("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") might be disclosed.

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

Submitted report by the Chief Executive on the circumstances relating to an Application for Landlord Registration.

The Committee, at its meeting on 30 April 2014, considered the circumstances relating to an application for Landlord Registration and agreed:-

- (a) under Section 84(2)(b) to refuse to enter the applicant landlord in the Register in relation to 3 Brisbane Road, Largs, in respect that he was not a fit and proper person having regard to his persistent and substantial breaches of housing law;
- (b) to remove him from the Register of Landlords in respect of all properties currently registered, for the same reason;
- (c) to serve a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the property at 3 Brisbane Road, Largs; and
- (d) to continue consideration to a later Meeting of the question of whether or not to make Section 94 Orders in relation to each of the 10 houses that had previously been registered, in order to receive reports from a Council Officer on those houses.

The applicant was in attendance and provided information on:-

- repairs and improvements undertaken to the property at 3 Brisbane Road, Largs to the satisfaction of the tenant; and
- details of the occupied and unoccupied properties owned by the applicant and properties owned by others.

The applicant was advised that the Rental Agreement used for the property at 49 Nelson Street, Largs required to be amended to remove the requirement for the tenant to be responsible for all repairs and to include the period of the tenancy, including the start date.

The Committee agreed to continue consideration to a later meeting of the question whether or not to make Section 94 Orders in relation to the 4 properties owned by the applicant that are currently occupied, (Largs: 10 Boyd St., 2/R, 12 Boyd St., 1/L, 49 Nelson St, G/L, 42 Nelson St., G/L) in order to receive a report from Housing Services on the condition of 3 Brisbane Road, Largs and the 4 properties detailed above.

The meeting ended at 12.10 p.m.