

Licensing Committee
24 October 2018

IRVINE, 24 October 2018 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

E. Anderson, Private Sector Team Manager and G. Tolmie Policy Officer (Private Sector) (Place) (Item 5 only); S. Bodys, Trading Standards Officer (Economy and Communities) (Item 4.3 only); W. O'Brien, Solicitor, (Licensing), C. Pollock, Licensing Administration Officer (Item 4.7 onwards), D. Robertson, Enforcements Officer (Item 4.5 only) and A. Toal, Administrative Assistant (Legal Services); and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Inspector Cameron, Sergeant Ridge and PC McArthur (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Robert Barr and Jean McClung.

1. Order of Business

In terms of Standing Order 9.5, the Chair agreed that the Committee (a) consider within Appendix A, an application in respect of a Public Entertainment Licence (The Braes, Saltcoats) as a matter of urgency in order to allow the matter to be progressed without delay; and (b) receive an update on an application considered at the meeting on 12 September 2018 (William Laughlan).

The Chair further agreed, in terms of Standing Order 9.4, to vary the order of business to allow consideration of Agenda Item 3 (Case 2, LHCL/115 (Variation) A G Restaurants Ltd) as the first item of business.

2. Declarations of Interest

There were no declaration of interest in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

3. Minutes

The Minutes of the meeting of the Committee held on 12 September 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

Submitted report by the Chief Executive 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

4.1 Late Hours Catering Licence: LHCL/115 (Variation) A G Restaurants Ltd

The Committee at its meeting held on 12 September 2018 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 to attend, was present and represented. 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 and referred to a letter submitted by Police Scotland setting out an objection in respect of the application. Thereafter the licence holder and his representative addressed the Committee on issues raised and responded to questions.

Decision

Councillor Gallagher, seconded by Councillor Easdale moved that the application be granted subject to (i) the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 and (ii) an additional condition that appropriate security staff be on the premises during the hours of 01:00 – 05:00 on each Friday and Saturday night for 3 months after the variation is effective.. There being no amendment, the motion was declared carried.

4.2 Public Entertainment Licence: PEL/568 (Temp) Ardrossan Community Association

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

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

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.

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

4.3 Second Hand Dealer's Licence: SHDL/199 (New) - William Neil

The Committee at its meeting held on 22 August 2018 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 (William Neil) having been duly cited, was not present or represented.

The proposed Day-to-Day Manager (John Imrie) 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, and separately to the proposed Day-to-Day Manager.

Police Scotland had sent the Licensing Authority letters setting out objections in respect of both the Application and the inclusion in the requested Licence of the proposed Day-to-Day Manager. These letters had respectively been copied to the Applicant and to the proposed Day-to-Day Manager, in each case the letters being addressed only to the person described to avoid disclosure of sensitive personal data.

Police Scotland addressed the Committee on their objection relating to the proposed Day-to-Day Manager, and he responded. Both responded to questions from the Committee.

The proposed Day-to-Day Manager then withdrew.

Police Scotland then addressed the Committee on their objection relating to the applicant.

The Police representatives then left the meeting temporarily while the Committee deliberated on the questions of:

1. whether or not the Applicant should be granted a Licence, and (if granted)
2. whether or not the proposed Day-to-Day Manager should be permitted to act as such.

Decision

Councillor Reid, seconded by Councillor Ferguson, moved that:

(a) the application be refused in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the applicant was not a fit and proper person to be holder of the licence; and

(b) the proposed Day-to-Day Manager should not be permitted to act as such on the grounds that he was not a fit and proper person to be holder of the licence, in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982.

There being no amendment, the motion was declared carried.

Representatives from Police Scotland left the meeting at this point.

4.4 Late Hours Catering Licence: LHCL/116 (Variation) - Mascot Scotland Ltd

The Committee at its meeting held on 12 September 2018 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 Committee was advised that the licence holder had requested the application be continued to a future meeting to allow him to attend.

Decision

The Committee unanimously agreed to continue consideration of the application to the next meeting.

4.5 Taxi Driver's Licence: TDL/00392 - John Convery

The Committee at its meeting held on 12 September 2018 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 present and represented.

The Council's Enforcement Officer was in attendance and a witness to the incident was also present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The Enforcement Officer outlined the incident that had been reported by a member of the public and showed CCTV footage of the incident at Saltcoats taxi rank.

The licence holder and his representative, the Enforcement Officer and witness addressed the Committee on issues raised and responded to questions. Thereafter the licence holder, his representative, the Enforcement Officer and the witness withdrew to allow the Committee to deliberate.

On their return the Chair advised the licence holder and his representative that the Committee was minded to suspend the licence and sought their views on the terms and length of suspension.

The licence holder and his representative withdrew to confer and on their return suggested that the suspension should for 14 days, that provided that the suspension was for no more than 14 days, the Licence-Holder would consent to the suspension being immediate and that there would be no appeal.

The licence holder, his representative, the Enforcement Officer and the witness withdrew to allow the Committee to deliberate.

Decision

Councillor Reid, seconded by Councillor McTiernan, moved the Committee:-

- (a) find the grounds of suspension stated in Civic Government (Scotland) Act 1982, Schedule 1, Paragraphs 11(2)(a) and 11 (2)(d) were established and that the licence should be suspended;
- (b) fix the period of suspension as 14 days, in terms of Paragraph 11(11); and
- (c) given the circumstances of the case, agree that the suspension should take immediate effect in terms of Paragraph 11(10).

There being no amendment, the motion was declared carried.

4.6 Taxi Driver's Licence: TDL/01885 (New) - Peter Brown

The Committee at its meeting held on 12 September 2018 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 and accompanied by a friend.

The Solicitor (Licensing) set out the background to the Hearing was previously intimated in writing to the applicant.

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

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 one year.

4.7 Public Entertainment Licence: PEL/571 - John Irvin

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The applicant addressed the Committee on issues raised, responded to questions and advised that he would be willing to amend the application to Sunday 4 November 2018 only.

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 for Sunday 4 November 2018 from 1.00 pm – 9.00 p.m.; and (b) that the applicant be advised to contact the Council's Estates Section to clarify leasing arrangements for the car park

Appendix B: Applications for Licences/Renewal of Licences

4.8 MDL/038 (Renewal) (Itinerant) - Robert Kerr

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.

4.9 STL/E/286 (New) - Neil D McIntyre

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.

4.10 TDL/01848 (New) - Charles Stewart

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.

4.11 TDL/02041 (Renewal) - Pamela Gaw

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.

4.12 TDL/02124 (New) - Andrea Fairfield

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.

4.13 TDL/002140 (New) - Alan McTurk

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.

At 1.20 p.m., in terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened at 1.25 p.m. with the same Members and officers present and in attendance.

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

5.1 Mr S.

The Committee at its meeting on 22 August 2018 agreed to continue consideration of the matter to allow the landlord a further opportunity to provide to the Private Sector Housing Team evidence confirming all necessary work had been completed to the satisfaction of all legal standards

The Registered Landlord, having been cited to attend, was present.

The Team Manager (Private Sector Housing) and Policy Officer (Private Sector) then addressed the Committee on the terms of a report on the condition of a tenanted property owned by the landlord. Thereafter the landlord addressed the Committee on the issues raised and responded to questions.

Both parties then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee unanimously agreed that the Landlord had provided evidence confirming all necessary work had been completed to the satisfaction of all legal standards and no further action was required.

5.2 Mr I.

The Team Manager (Private Sector Housing) provided a summary report in respect of the Landlord's four properties and the positive steps taken to address issues raised with regards to tolerable and repairing standards.

The Committee unanimously agreed to (a) note the update provided; and (b) remove the Rent Penalty Notice applied to one of the properties.

5.3 Mr M.

The Committee was advised that the application for Landlord Registration had been withdrawn.

Noted.

6. Urgent Item

6.1 TDL/01557 William Laughlan

The Committee was advised that the issue relating to the photo card driving licence had been resolved and the licence would be granted under delegated powers.

Noted.

The meeting ended at 1.40 p.m.