

Licensing Committee
28 October 2015

IRVINE, 28 October 2015 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ian Clarkson, Robert Barr, John Easdale, Tom Marshall, Grace McLean, Catherine McMillan, Ronnie McNicol.

In Attendance

W. O'Brien, Solicitor (Licensing) and K. Sharkey, Solicitor (Contracts and Licensing) and A. Toal, Administrative Assistant and A Little, Committee Services Officer (Chief Executive's Service).

Also In Attendance

Inspector J. McMillan and Sergeant G. Griffiths (Police Scotland).

Chair

Councillor Clarkson in the Chair.

Apologies for Absence

John Bruce and Donald Reid.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Councillors Code of Conduct.

2. Minutes

The accuracy of the Minutes of the meeting of the Committee held on 23 September 2015 was 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 Hearings to be determined and applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982.

Part A: Hearings

3.1 Taxi Driver's Licence TDL/01599 Donald Newell

The Committee, at its meeting on 23 September 2015, agreed, on the basis of the information presented, to proceed to a 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 of 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 addressed the Committee on the terms of a letter setting out an observation in relation to the licenceholder. Thereafter, the addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed to 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.

3.2 Taxi Driver's Licence TDL/01837 (Renewal) Mohammed Asli

The Committee, at its meeting on 23 September 2015, agreed, on the basis of the information presented, to continue consideration of the matter to the next meeting of the Committee.

The licenceholder, having been duly cited to attend, was present. Representatives of 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 addressed the Committee on the terms of a letter setting out an observation in relation to the licenceholder. Thereafter, the licenceholder addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed, on the basis of the information presented, to grant the application for a period of 1 year, subject to the standard conditions, in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.3 Street Trader Operator's Licence STL/O/413 Malgorzata Lipinska

The Committee was advised that the issues relating to the Street Trader Operator's Licence had now been resolved and there was no requirement for a Hearing.

Part B: Application for Licence

3.5 MOL/001 (renewal) Spook Erection Ltd

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.

3.6 TDL/00110 (new) James Cairnie

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 TDL/00115 (new) Matthew Steel

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 remaining business of the meeting on the grounds that otherwise "Exempt Information" of the type described in Paragraphs 12, 14 and 15 of Part 1 of Schedule 7A to the Act ("12. advice received, information obtained or action to be taken in connection with legal proceedings by or against 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") might be disclosed.

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

5.1 Joint Registered Landlords (Case 1)

Submitted report by the Chief Executive that provided information on a complaint in respect of Joint registered Landlords.

The Joint Registered Landlords and the complainers were in attendance.

The Solicitor (Licensing) set out the background to the complaint as previously intimated in writing to the Joint Registered Landlords. The Joint Registered Landlords and the complainers addressed the Committee on the issues raised and responded to questions.

The Joint Registered Landlords and the complainers then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

After discussion, Councillor Barr, seconded by Councillor McMillan moved to remove the Joint Registered Landlords from the Register held under the 2004 Act.

As an amendment, Councillor Easdale moved that there be no further action taken at this time. There being no seconder, the amendment fell. There being no amendment, the motion was declared carried.

The Committee unanimously agreed, Councillor Easdale dissenting, to remove the Joint Landlords from the Register of Landlords in respect of all properties currently registered forthwith under Section 89 as the Committee considered that the Joint Landlords were not fit and proper persons.

The Chair explained to the Joint Registered Landlords that the Committee's concerns centred on a single house and that they could immediately re-apply for registration in relation to the other houses in the registration.

The Committee adjourned for a short comfort break at 12.15 p.m., reconvening at 12.35 p.m.

5.2 Landlord - P. Limited (Case 2)

Submitted report by the Chief Executive that provided information on a complaint in respect of a Registered Landlord.

The Registered Landlord (a limited company) was represented by its Director and a Solicitor. The complainer was not in attendance.

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

Decision

The Committee unanimously agreed to take no further action with regard to this matter.

6. Urgent Items

6.1 Coastwatch Scotland PCC

The Committee considered a late application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

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

The Solicitor (Licensing) set out the background to the Hearing.

The Committee noted that the application for collection on 31 October 2015 (evening collection) was outwith Council policy that street collections should not be permitted after 6.00 p.m. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

Decision

The Committee unanimously agreed, having regard to the information presented, (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 under Section 119(5) of the Civic Government (Scotland) Act 1982 on the evening of 31 October 2015, subject to the Council's usual conditions.

6.2 Civic Government (Scotland) Act 1982: Taxi Fare Scales Review

The Solicitor (Licensing) updated the Committee. Following the Committee's decision on 12 August 2015 to fix Taxi Fare Scales, an Appeal had been lodged with the Traffic Commissioner.

The Committee noted that:

- (a) due to Section 18(4) the Scales fixed then were suspended until the date when the Appeal is abandoned or, as the case may be, when notice is given to the Appellant advising him of its disposal;
- (b) the existing Scales gave double fares for all of 25 December until 7.00 a.m. the next day, and similarly on 1-2 January;
- (c) the new Scales gave double fares for all 4 days (i.e. the double-fare period was increased from 62 hours to 96 hours);
- (d) if the suspension remained in force after the end of November 2015 it was likely that the new Scales would not apply for the Festive Period 2015-16, and fares would continue to be charged on the existing Scales, since (however the Appeal ended), there might not be enough time for necessary procedures to be done.

These necessary procedures are:

- (i) NAC must instruct newspaper publication of the new Scales and the new effective date (there is a statutory minimum notice period of 7 days); and before the effective date:
- (ii) each operator (there are over 200 Taxi Licences) has to uplift the new Fare card from NAC; and
- (iii) the operators would have to get their meters changed (by private contractor).

The Committee agreed to (a) note the information provided; and (b) authorise the Solicitor (Licensing) to exercise the Committee's duties under Section 18A of the Civic Government (Scotland) Act 1982 (added by the Criminal Justice and Learning (Scotland) Act 2010 and applied by Interpretation Act 1978, Section 12(1)) ("Publication and coming into effect of taxi fares"): (a) to determine the date on which the scales are to come into effect; and (b) to publish the Scales in accordance with subsections (3) to (5). Provided that: (i) the Scales may come into effect no earlier than seven days after the date on which they are published; and (ii) the power delegated in (a) is not be exercised if the Traffic Commissioner has determined a date.

The meeting ended at 1.20 p.m.