

Licensing Committee
28 November 2018

IRVINE, 28 November 2018 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, John Easdale, Scott Gallacher, Jean McClung, Davina McTiernan and Donald L. Reid.

In Attendance

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

Also in Attendance

Sergeant Dougan and D. Hastings (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson, Robert Barr and Angela Stephen.

1. Order of Business

In terms of Standing Order 9.4, the Chair agreed that the Committee vary the order of business to allow consideration of Case 2 (Mascot Scotland Ltd) as the first item of business.

2. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor McTiernan declared an indirect, non-pecuniary interest in Agenda Item 6, Landlord Registration, the circumstances being that the landlord was personally known to her, and left the meeting for that item of business.

3. Minutes

The Minutes of the meeting of the Committee held on 24 October 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/116 (variation) - Mascot Scotland Ltd

The Committee, at its meeting on 24 October 2018, agreed at the licence holder's request to continue the matter to allow the licence holder to attend.

The licence holder, having been duly cited to attend, was present and represented. The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The licence holder and his representative addressed the Committee on issues raised and responded to questions.

The Committee recalled that the licence had been granted on 10 January 201 for the period 11.00 a.m. to 5.00 a.m., but subject to a condition that no hot food would be sold, or facilities for heating food would be used (whether by staff or by customers), after 1.00 a.m.

The licence holder now asked the Committee to allow (i) hot fillings for sandwiches to be sold after 1.00 a.m.; and (ii) pizzas to be sold after 1.00 a.m.

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

Decision

Councillor Gallacher, seconded by Councillor McClung moved to grant the variation of the 3-year Late Hours Catering Licence and remove the condition that no hot food would be sold, or facilities for heating food would be used (whether by staff or by customers), after 1.00 a.m. There being no amendment, the motion was declared carried.

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."

At 10.45 a.m., in terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened at 10.55 a.m. with the same Members and officers present and in attendance.

4.2 Skin Piercing and Tattoo Licence: SPTL/033 (Renewal) Robert Alexander

The licence holder, having been duly cited to attend, was not present or represented.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated to the licence holder.

Decision

Councillor Reid, seconded by Councillor McClung, moved that the Licence-Holder's application for renewal of the Licence should be continued. There being no amendment, the motion was declared carried.

4.3 Taxi Driver's Licence: TDL/01848 (New) - Charles Stewart

The Committee, at its meeting on 24 October 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. 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 the terms of their objections.

The applicant addressed the Committee on 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 McClung, seconded by Councillor McTiernan, moved 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 one year. There being no amendment, the motion was declared carried.

4.4 Taxi Driver's Licence: TDL/02041 (Renewal) - Pamela Gaw

The Committee, at its meeting on 24 October 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.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The licence holder addressed the Committee on issues raised and responded to questions. She confirmed her driving licence had been updated with her current address and that she would provide this to the Licensing Section.

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 for a period of three years.

4.5 Taxi Driver's Licence: TDL/02124 (New) - Andrea Fairfield

The Committee, at its meeting on 24 October 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 not present or represented. 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 from Police Scotland then addressed the Committee on the terms of their objections.

Decision

Councillor Reid, seconded by Councillor McNicol, moved that the application be refused, in terms of Paragraph 5 (3) (a) (ii) of the Civic Government (Scotland) Act 1982 on the grounds that the applicant was not a fit and proper person to be the holder of the licence. There being no amendment, the motion was declared carried.

4.6 Taxi Driver's Licence: TDL/02140 (New) - Alan McTurk

The Committee, at its meeting on 24 October 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. 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 from Police Scotland then addressed the Committee on the terms of their objections.

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

Decision

Councillor Easdale, seconded by Councillor Gallacher, moved 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 one year. There being no amendment, the motion was declared.

At 11.30 a.m. the representatives from Police Scotland left the meeting. The Chair then adjourned the meeting for a short comfort break. The meeting reconvened at 11.45 a.m. with the same Members and officers present and in attendance.

Appendix B: Applications for Licences/Renewal of Licences

4.7 Window Cleaner Licence: WCL/005 (New) Partnership of James McCallum, Jamie McCallum and Ewan McCallum

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, in relation to all three partners.

4.8 Taxi Driver Licence: TDL/00978 (Renewal) - Gordon Hewitt

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 for a period of three years.

4.9 Taxi Driver Licence: TDL/01139 (New) - Robert Kerrigan

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 for a period of one year.

4.10 Taxi Driver Licence: TDL/02138 (New) - Nicola 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.

4.11 Taxi Driver Licence: TDL/02141 (New) - Brian McNamee

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 Taxi Driver Licence: TDL/02145 (New) - Steven Arrol

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.

Appendix C

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

4.13 M.W.

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.

Councillor McTiernan left the meeting for this item of business.

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

5.1 A.M.

The Registered Landlord, having been cited to attend, was present and represented by a Solicitor.

The Landlord had previously been registered but his registration was removed in November 2017 due to failures in the legal duties applying to Landlords, and at the time the Committee had issued Notices under Section 94 (commonly known as 'Rent Penalty Notices') on several of the Landlord's houses.

On 22 August 2018, the Committee considered an application from A.M. for a grant of Landlord Registration. This application related to 7 houses. The Landlord also sought the revocation of the Rent Penalty Notices over those houses.

The Committee then agreed (a) to grant the Application for Landlord Registration; (b) to revoke the Rent Penalty Notices for six of the seven houses; and (c) to continue consideration of the Application to revoke the seventh Rent Penalty Notice to allow the Anti-Social Behaviour Team to further investigate the allegations relating to the tenant of this property and report their findings to a future meeting of the Committee. There being no amendment, the motion was declared carried.

The Committee resumed consideration of the Application to revoke the remaining Rent Penalty Notice.

The Landlord's representative provided the Committee with information in relation to:-

- advice and guidance provided to the Landlord in relation to his property portfolio and in particular the tenanted property with the Rent Penalty Notice;
- anti-social behaviour allegations around that property;
- the process for ending the Assured Tenancy of the above property that would require a Notice to Quit, a Notice of Proceedings (AT6), and scrutiny by the First Tier Tribunal for Scotland (Housing and Property Chamber); and
- the associated timescales for the above proceedings.

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

Decision

Councillor McNicol, seconded by Councillor Easdale, moved that (a) the application to revoke the Rent Penalty Notice be continued to the next meeting to allow for the proceedings to end the Assured Tenancy to commence; and (b) that meantime that Rent Penalty Notice should remain in place.

There being no amendment, the motion was declared carried.

6. Urgent Item

The Chair agreed that the following item of business be considered as a matter of urgency to allow the matter to be actioned without delay.

6.1 SPTL (R) R. A.

The Committee considered a report from the Senior Manager (Protective Services) in relation to licensed Premises.

Councillor Reid, seconded by Councillor McClung, moved that (a) the licence should be suspended for a 6-week period, with immediate effect, under Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982, on the basis that the carrying on of the activity to which the Licence relates is likely to cause a serious threat to public safety; (b) the Committee should delegate authority to the Chair, in terms of Paragraph 12(6), to recall the above order, if satisfied that the carrying on of the activity to which the Licence relates is not likely to cause a serious threat to public safety; (c) the Committee should commence Suspension proceedings under Paragraph 11, and that a Hearing should be held on 9th January 2019. There being no amendment, the motion was declared carried.

The meeting ended at 12.40 p.m.