

Licensing Committee
6 February 2019

IRVINE, 6 February 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Robert Barr, John Easdale, Jean McClung and Donald L. Reid.

Also Present

Timothy Billings (Item 4.6)

In Attendance

W. O'Brien, Solicitor (Licensing), C. Pollock, Licensing Administration Officer and A. Toal, Administrative Assistant (Legal Services); S. Bodys, Enforcement Officer (Economy and Communities) (Items 1-4.3); E. Anderson, Team Manager (Private Sector Housing) and B. Ferry, Policy Officer - Private Sector (Place) (Item 5); and E. Gray, Committee Services Officer (Chief Executive's Service).

Also in Attendance

PC Alan Kerr and Sergeant David Dougan (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson, Scott Gallacher, and Davina McTiernan.

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 ordinary meeting held on 9 and the special meeting held on 30 January 2019 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. 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) 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. 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

4.1 Second Hand Dealer's Licence: SHDL/132 (Renewal)- MLD Zambonini Ltd

The Solicitor (Licensing) advised the Committee that this case would be resolved by officers under delegated powers and that no action was required.

Noted.

4.2 Second Hand Dealer's Licence: SHDL/202 (New) - Dean Nimmo

The applicant, having been duly cited, 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 a letter setting out an objection in respect of the application.

The applicant then addressed the Committee on the 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 Reid, seconded by Councillor McClung, 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 three years. There being no amendment, the motion was declared carried.

4.3 Second Hand Dealer's Licence SHDL/203 (New) - Lyndsey McSkimming

The applicant, having been duly cited, 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 a letter setting out an objection in respect of the application.

The applicant then addressed the Committee on the 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 Reid, seconded by Councillor McNicol, moved that the application be refused in terms of the following grounds stated in Schedule 1 to the Civic Government (Scotland) Act 1982:

- (a) that the Applicant is not a fit and proper person to be the holder of the Licence (Paragraph 5(3)(a)(ii)); and
- (b) that the activity to which the Licence relates would be managed by or carried on for the benefit of a person, other than the Applicant, who would be refused the Grant or Renewal of such a Licence if he made the Application himself (Paragraph 5(3)).

There being no amendment, the motion was declared carried.

4.4 Taxi Driver's Licence TDL/01168 (New) - Paul McPherson

The applicant, having been duly cited, 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 a letter setting out an objection in respect of the application.

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

Decision

Councillor Easdale, seconded by Councillor Barr, 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. There being no amendment, the motion was declared carried.

4.5 Window Cleaner's Licence WCL/015 (New) - George Kearney

The applicant, having been duly cited, was present and was accompanied by his solicitor. 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's solicitor then addressed the Committee on the issues raised and the applicant 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 Easdale, moved that the Committee 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. There being no amendment, the motion was declared carried.

The representatives from Police Scotland left the meeting at this point.

4.6 Private Hire Car Licence PHCL/368 (New) - Dean Coulson

The applicant, having been duly cited, was present and was accompanied by his local Elected Member, Councillor Billings.

The Civic Government (Scotland) Act 1982, Section 10(2) prohibits the Licensing Authority from granting or renewing a Licence for the operation of a Taxi or Private Hire Car unless it is satisfied that the proposed vehicle is suitable in type, size and design for use as a Taxi or Private Hire Car, as the case may be. Accordingly, the Council has a Policy, the "Vehicle Approval Specification", which sets out the Council's requirements. These requirements include the use of a "wheelchair-accessible vehicle" (WAV). The Applicant invited the Council to treat his proposed vehicle, Vauxhall Astra Registration Number FJ64 WYY, as an exception to that part of the Policy.

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

The applicant then addressed the Committee on the issues raised and responded to questions. He had provided the Committee with photographs of the vehicle and also letters of support and comment from third parties. Councillor Billings, as the applicant's local Elected Member, also addressed the Committee in support of the application.

Decision

Councillor Reid, seconded by Councillor Easdale, moved that the Committee treat the particular vehicle Vauxhall Astra Registration Number FJ64 WYY as an exception to the "wheelchair-accessible vehicle" (WAV) requirement of the Council's "Vehicle Approval Specification", and that accordingly that vehicle should be accepted as complying in that respect with Civic Government (Scotland) Act 1982, Section 10(2). There being no amendment, the motion was declared carried.

Councillors Easdale and Billings left the meeting at this point.

4.7 Taxi Driver's Licence TDL/01565 - Douglas Howat (Renewal)

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

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

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 for a period of one year, subject to the following condition:-

(a) that within 14 days after the Licence-Holder's 70th birthday, and within 14 days of each later birthday, the Licence-Holder must give the Licensing Office evidence that he/she continues to have a driving entitlement under the Road Traffic Acts (for example, by producing to the Licensing Office the current photocard part of the 'ordinary' Driving Licence issued by DVLA).

There being no amendment, the motion was declared carried.

Appendix B: Applications for Licences/Renewal of Licences

4.8 CARAVAN CAR/033 (variation) - Robin Bell

The Committee unanimously agreed that the conditions of the Site Licence applied under Section 5 of the Caravan Sites and Control of Development Act 1960 should be varied as requested, so as to permit occupation of holiday or touring caravans (but not residential caravans) for 12 months of the year.

4.9 STREET TRADER OPERATOR LICENCE STL/O//490 (New) - Tracey Martin

The Solicitor (Licensing) advised the Committee that this case would be resolved by officers under delegated powers and that no action was required.

4.10 TAXI DRIVER'S LICENCE TDL/01615 (Renewal) - Kevin Kyle

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'S LICENCE TDL/01935 (New) - Andrew Watt

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. 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 under the 2004 Act.

5.1 CW

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

The Solicitor (Licensing) addressed the Committee on the background to the hearing and the terms of a letter submitted by the applicant. The applicant addressed the Committee on the issues raised and responded to questions.

The Committee heard from officers of the Private Sector Housing section.

Decision

The Committee unanimously agreed to (a) grant the application for Landlord Registration; and (b) remove the Rent Penalty Notice in force at one of the applicant's properties.

The meeting ended at 12.15 p.m.