

Licensing Committee
19 November 2014

IRVINE, 19 November 2014 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

D. Drennan, Team Manager (Building Standards) (Economy and Communities); and C. Andrew, Senior Manager (Legal Services), A. Toal Administrative Assistant and M. Anderson, Acting Committee and Member Services Manager (Chief Executive's Service).

Also In Attendance

Inspector Skimming and PC McLean (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies for Absence

Robert Steel and Donald Reid.

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 accuracy of the Minutes of the ordinary meeting of the Committee held on 1 October and the special meeting held on 20 October 2014 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 (a) Hearings to be determined and (b) applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982. Information in relation to a further case was also circulated at the meeting.

Part A: Hearings

3.1 Public Entertainment Licence PEL/112 - James Newton

The Committee, at its meeting on 1 October 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. The Team Manager (Building Standards) was also in attendance.

The Senior Manager (Legal Services) set out the background to the Hearing as previously intimated in writing to the applicant. The Team Manager (Building Standards) then addressed the Committee on the terms of a letter setting out an observation of Building Standards in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions. The applicant agreed, in the event of a 3-year licence being granted, to submit a safety certificate to the Council's Building Standards service on an annual basis.

Decision

The Committee unanimously agreed, in light of the applicant undertaking to submit the appropriate safety certificate on an annual basis to the Council's Building Standards service, to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.2 Late Hours Catering Licence LHCL/115 - Mascot Scotland Limited

The Committee, at its meeting on 1 October 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 and was represented. Representatives from Police Scotland were also in attendance.

The Senior Manager (Legal Services) set out the background to the Hearing as previously intimated in writing to the applicant. Reference was also made to a petition submitted in support of the application and containing 1153 signatories. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out an objection in relation to the application. Thereafter, the applicant and his representative addressed the Committee on the issues raised and responded to questions.

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 and in terms of Paragraph 5 (1A) (b) attached the following additional condition, namely:- "The Licence was granted for the period 11.00am to 5.00am, 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 1.00am".

3.3 Taxi Driver's Licence TDL/01253 - Scott Seymour

The Committee, at its meeting on 1 October 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 Senior Manager (Legal Services) 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 an observation in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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/01463 (1 year) - Robert Hamilton

The Committee, at its meeting on 1 October 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 Senior Manager (Legal Services) 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 an observation in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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.

3.5 Taxi Driver's Licence TDL/01923 (1 year) - Steven Young

The Committee, at its meeting on 1 October 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 not present. Representatives from Police Scotland were in attendance.

The Senior Manager (Legal Services) 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 an objection in relation to the application.

Decision

The Committee unanimously 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 said Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

3.6 Taxi Driver's Licence TDL/01925 (1 year) - David Taylor

The Committee, at its meeting on 1 October 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 Senior Manager (Legal Services) 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 an observation in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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/01926 - Peter Smith

The Committee, at its meeting on 1 October 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 Senior Manager (Legal Services) 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 an objection in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously 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 said Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

3.8 Taxi Driver's Licence TDL/01932 (1 year) - Andrew Morrison

The Committee, at its meeting on 1 October 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 Senior Manager (Legal Services) 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 an observation in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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/01901 - John Bruce

The Committee, at its meeting on 1 October 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.

Prior to dealing with the substantive matter, the Committee was advised of the letters of 11 and 17 November from the Licence Holder's solicitors seeking a continuation. The Committee, having regard to the circumstances that the Licence Holder himself was present and that the correspondence from the solicitor contained detailed submissions on the substantive matter, decided to proceed that day and not adjourn the case.

The Senior Manager (Legal Services) set out the background to the Hearing as previously intimated in writing to the applicant. Reference was made to correspondence from the applicant's solicitor in response to the matters raised. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out a request for an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed not to take any action in respect of the request by Police Scotland for an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.10 Taxi Operator's Licence TL/063 (Variation) - John Bruce

The Committee was asked to note a variation to Taxi Operator's Licence TL/063 in respect of a partnership amendment to the existing licence in the name of James Williamson.

Noted.

3.11 Taxi Operator's Licence TL/034 (1 year) - Gordon Crews

The Committee, at its meeting on 1 October 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 not present. Representatives from Police Scotland were in attendance.

The Senior Manager (Legal Services) 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 a request for an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Decision

The Committee unanimously agreed that the licence should be suspended with immediate effect under paragraph 11 for the unexpired period of the licence.

3.12 Public Charitable Collection: Heel and Toe Children's Charity

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

The Committee noted that the application was outside the Council's policy that street collections should not be permitted on a Monday. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

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

The Committee unanimously agreed, having regard to Section 119(a) and (b) of the Civic Government (Scotland) Act 1982, the Council's policy on street collections and the special circumstances of the Application, unanimously agreed that the case should not be treated as an exception to the Policy and that the Application should be refused.

3.13 Public Charitable Collection: Irvine Meadow XI Football Club

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

The Committee noted that the application was outside the Council's policy that street collections should not be permitted on a Monday. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

The applicant, having been duly cited to attend, was not present, but submitted a letter, which indicated that the football team plays every Saturday, meaning that it does not have sufficient resources to fundraise on a Saturday.

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 date and at the place and time requested, subject to the Council's usual conditions.

3.14 Public Charitable Collection: New Irvine Community Choir

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

The Committee noted that the application was outside the Council's policy that only one collection is allowed on a particular day in a particular town. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

The applicant, having been duly cited to attend, was present. The applicant addressed the Committee on the issues raised and responded to questions.

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 date and at the place and time requested, subject to the Council's usual conditions.

3.15 Public Charitable Collection: Project Trust

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

The Committee noted that the application was outside the Council's policy that street collections should not be permitted on a Friday. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

The applicant, having been duly cited to attend, was present. The applicant addressed the Committee on the issues raised and responded to questions.

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 date and at the place and time requested, subject to the Council's usual conditions.

3.16 Public Charitable Collection: EFL Events Limited - Tree of Hope

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

The Committee noted that the application was outside the Council's policy that (i) house-to-house collections are only permitted Monday-Friday, (ii) street collections are only permitted on a Saturday, (iii) neither is permitted on a Sunday and (iv) only one of each is allowed on a particular day in a particular town. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

The applicant, having been duly cited to attend, was not present but had sent a letter which the Committee considered.

The Committee unanimously agreed, having regard to the information presented, (a) that there were insufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to refuse the application under Section 119 of the Civic Government (Scotland) Act 1982.

Part B: Applications for Licences and Renewal of Licences

3.17 TDL/01171 (New) Colin Ross

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.

3.18 TDL/01937 (1 year) (New) Dennis McLaughlin

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.

3.19 PHCL/288 Maureen Taggart

The Committee was advised of a request by the licence-holder for permission to have the door crests for this licence mounted on magnetic backs, at her own expense, to allow for their removal when using the vehicle for her personal use.

The Committee unanimously agreed to grant the request.

4. Exclusion of the Press and 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 Agenda Items 5.1 and 5.2 (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" and "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 which provided information on matters raised in respect of two Registered Landlords.

5.1 Application for Grant: Justin Reilly

The Committee considered a proposal under Antisocial Behaviour etc.(Scotland) Act 2004, Section 89, to remove a Registered Person from the Register of Landlords.

The Senior Manager (Legal Services) set out the background to the case.

The Registered Landlord was also in attendance. The applicant addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed (a) not to remove the Landlord from the Register under Section 89; and (b) that the Clerk should issue a letter of warning to the Landlord regarding the failure to disclose a material change of circumstances under Section 87.

5.2 Application for Landlord's Registration: Matthew Imrie

The Committee considered an Application under Anti Social Behaviour etc. (Scotland) Act 2004, Section 83 to be admitted to the Register of Landlords

The Senior Manager (Legal Services) set out the background to the case.

The Registered Landlord was also in attendance. The applicant addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed (a) to grant the Application (b) that the Clerk should issue a letter of warning to the Landlord regarding the failure to disclose a material change of circumstances under Section 87 and (c) under Section 95(2), to revoke the Notice previously made under Section 94 (the Rent Penalty Notice).

6. Urgent Item

6.1 Public Charitable Collection: Irvine Christmas Lights Committee

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

The Committee noted that the application was outside the Council's policy that

collections should not take place on a Sunday. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

The Committee agreed that, on this occasion, the Solicitor (Licensing) be granted delegated powers to grant the application, subject to the attachment of the Council's usual conditions under Section 119(5).

The Meeting ended at 1.00 p.m.