

Licensing Committee
9 August 2023

IRVINE, 9 August 2023 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Eleanor Collier, Nairn McDonald, Cameron Inglis, Jean McClung, Matthew McLean and Ronnie Stalker.

In Attendance

W. O'Brien, Solicitor (Licensing), A. Toal, Administration Assistant, S. Dalgoutte, Senior Clerical Assistant (Licensing) and C. Stewart and S. Wilson, Committee Services Officers (Democratic Services) (Chief Executive's Service).

Also in Attendance

Sergeant D, Markin and E. Blackwood (Police Scotland); and Janeine Barrett, Senior Manager (Homelessness and Community Safety), Katie Bell, Team Manager, Gillian Tolmie, Policy Officer and Agnieszka Dopierala, Policy Officer (Housing Strategy & Development (Place)).

Chair

Councillor Collier in the Chair.

Apologies

John Bell, Christina Larsen, Donald L. Reid and Angela Stephen.

1. Declarations of Interest

In respect of the second Urgent Item on the agenda 'Second Hand Car Dealer's Licence SHDL/036: Colin MacDonald', Councillor McLean made a transparency statement advising that he had been involved in a casework enquiry concerning the applicant. Having applied the objective test, he assessed that it was an interest in terms of the Councillors' Code of Conduct which would prevent him from taking part in the decision. Accordingly, Councillor McLean advised that he would leave the meeting during consideration of this item of business.

2. Minutes

The Minutes of the Meeting held on 7 June 2023 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 Items 5 and 6 (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."

It was agreed that the Resolution would operate for the entire business of the meeting.

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: Licences and Permits where Hearings have been convened

4.1 Taxi Driver's Licence: TDL/02389 (New): Jack Hendry

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation.

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

Decision

The Committee 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.

4.2 House in Multiple Occupation Licence: HMO/026 (New): North Ayrshire Council

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

The applicant, represented by Janeine Barrett, Senior Manager (Homelessness and Community Safety) then addressed the Committee on the terms of the application.

Decision

The Committee unanimously agreed to extend the Temporary Exemption Order for a further period of three months.

4.3 Street Trader Operator's Licence: STL/O/534 (New): Daisy McConnachie

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

Two objections had been received in respect of the application, and the two objectors, having been duly cited to attend, were not present.

The applicant read out a written statement in support of her application, a copy of which was circulated to Members of the Committee.

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.

Appendix B - Applications for the grant or renewal of Licences and Permits

4.4 Metal Dealer's Licence: MDL/065 (Renewal): George Payling

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

There was a Police representation in connection with this application.

Decision

The Committee agreed to defer consideration of this application to a future meeting to allow the applicant to attend.

4.5 Second Hand Dealer's Licence: SHDL/205 (Renewal): George Payling

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

There was a Police representation in connection with this application.

Decision

The Committee agreed to defer consideration of this application to a future meeting to allow the applicant to attend.

4.6 Taxi Licence: TL/452 (New): Alasdair Drummond and Russell Drummond

The applicants, having been duly cited to attend, were not present.

Decision

The Committee agreed (a) to treat the proposed vehicle in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); and (b) to continue consideration of the Taxi Licence application to allow for the possible use of Delegated Powers to determine the application.

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

Submitted report by the Head of Democratic Services on Landlord Registration matters.

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

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

Officers from Housing Services were present and provided further background information in relation to the application. They were also heard in response to questions from Members.

Decision

Councillor McDonald, seconded by Councillor McClung, moved that the Landlord Registration should be removed forthwith on the basis that the Registered Person was no longer a fit and proper person to act as a Landlord.

Councillor Collier, seconded by Councillor Inglis, moved an amendment that the case should be continued to the next meeting of the Committee (Wednesday 6 September 2023 at 10.00 a.m.):

- (a) for all necessary works to be carried out to the house which was the main house being discussed so that it met both the "Tolerable Standard" and the "Repairing Standard",
- (b) for the Housing Section to re-inspect the house and to report to the Committee, and
- (c) for the Housing Section to report to the Committee on the condition of the other houses in North Ayrshire which were:
 - (1) covered by the Registration (or the Registration held by the Director of the Limited Company), and
 - (2) occupied by tenants or other occupiers.

On a division and a roll call vote, there voted for the amendment Councillors Collier, Inglis and Stalker (3) and for the motion, Councillors McDonald, McClung and McLean (3), and on the casting vote of the Chair, the amendment was declared carried.

Accordingly, the Committee agreed to continue the case to the next meeting of the Committee.

6. Urgent Items

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

6.1 Taxi Licence TL/174: Alan McTurk

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

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

Decision

The Committee agreed that the proposed vehicle should be treated in the circumstances of the case as justifying an exception to the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) (which normally prevents a vehicle from first being licensed as a Taxi or Private Hire Car if it is already over 8 years old, counted from the date of First Registration), and accordingly granted the Vehicle Substitution application under Section 10(5) of the Civic Government (Scotland) Act 1982.

The Committee considered that the facts:

- (a) that the vehicle was over 9 years old and had a mileage of 80,000; and
- (b) would immediately be the subject of a 6-monthly inspection cycle, were relevant factors in allowing an exception.

Councillor McLean, having declared an interest in the following item, left the meeting at this point in the proceedings.

6.2 Second Hand Car Dealer's Licence SHDL/036: Colin MacDonald

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

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

Decision

The Committee unanimously agreed (a) to grant the temporary application subject to the Council's standard conditions in terms of Paragraph 7 of Schedule 1 of the Civic Government (Scotland) Act 1982 and (b) that the grant of the full application would be dealt with under Delegated Powers subject to there being no relevant objections or adverse representations other than that considered by the Committee on 9 August 2023.

The meeting ended at 12 noon.