

Licensing Committee
21 August 2013

IRVINE, 21 August 2013 - At a meeting of the Licensing Committee of North Ayrshire Council at 2.15 p.m.

Present

Ronnie McNicol, Tom Marshall, Robert Barr, John Bruce, Ian Clarkson, Ruth Maguire, Donald Reid and Robert Steel.

In Attendance

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

Also In Attendance

Inspector Conway and PC McLean (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies for Absence

Alex McLean and Alan Munro.

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 meeting of the Committee held on 22 May 2013 and the Special meetings held on 18 June, 3 July and 26 July 2013 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

Arising from consideration of the Minutes, the Committee was advised that the applicant who had been refused a Public Charitable Collection Licence by the Committee on 3 July 2013 had undertaken a collection in Largs on 6 July 2013.

The Committee agreed that any future applications be remitted to the Committee for consideration.

3. Civic Government (Scotland) Act 1982: Licensing Matters

Submitted report by the Chief Executive on (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982.

4. Exclusion of the Public

The Committee resolved in terms of Section 50(A)4 of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for Part A - Hearings on the grounds indicated in terms of Paragraph 15 of Part 1 of Schedule 7A of the Act.

Part A: Hearings

4.1 PEL/067 (variation) North Ayrshire Council

North Ayrshire Council has applied for a temporary variation of a Public Entertainment Licence for the Volunteer Rooms, High Street, Irvine by an extra hour on Saturday 24 August 2013.

The applicant having been duly cited to attend was in attendance.

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.

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

Decision

The Committee unanimously agreed to grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.2 STL/E/248 (New) Nico Bradley Serapiglia

The Committee, at its meeting on 22 May 2013, 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 in attendance. 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 a letter dated 5 April 2013 setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

The applicant and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.3 TDL/01070 (New) John Douglas Simpson

The Committee, at its meeting on 22 May 2013, 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 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 letters dated 15 April and 6 June 2013 setting out the observations of Police Scotland in relation to the application.

The representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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

4.4 TDL/01834 (New) Graeme Reid

The Committee, at its meeting on 22 May 2013, 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 in attendance. 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 letters dated 27 March and 17 May 2013 setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

The applicant and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.5 TDL/01836 (New) Gavin Cousar

The Committee, at its meeting on 22 May 2013, 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 in attendance and was 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 letters dated 27 March and 24 April 2013 setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.6 TDL/01837 (New) Mohamed Asli

The Committee, at its meeting on 22 May 2013, 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 in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Standard conditions attached to Taxi and Private Hire Car Licences and Taxi Driver and Private Hire Car Drivers Licences include that all applicants for whom English is not a first language, prove their competence in English. The applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.7 TL/085 (Renewal) Albert Lamberton

The Committee, at its meeting on 22 May 2013, 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 licenceholder, having been duly cited to attend, was in attendance. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licenceholder. The representatives from Police Scotland then addressed the Committee on the terms of letters dated 27 March and 23 April 2013 setting out the observations of Police Scotland in relation to the licenceholder. Thereafter, the licenceholder addressed the Committee on the issues raised and responded to questions.

The licenceholder and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

Part B - Applications for Licences and the Renewal of Licences

4.8 LHCL/111 (New) Muhammad Aslam

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.

4.9 STL/O/380 (New) Candy Cane Lane Ltd

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.10 TDL/00424 (New) Stewart McCulloch

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.11 TDL/00850 (Renewal) Albert Lamberton

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.12 TDL/01418 (New) Mary Myra Craig

The Committee was advised that the application had been withdrawn.

4.13 TDL/01629 (Renewal) Brian Conway

The Committee unanimously agreed (a) to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that the Solicitor (Licensing) write to the licenceholder in relation to the licence conditions and the requirement to disclose convictions during the terms of the licence.

4.14 TDL/01698 (Renewal) Martin Cruickshank

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.

4.15 TDL/01842 (New) Marc Campbell-Currie

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.16 TDL/01845 (New) Stephen Campbell

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.

4.17 TDL/01848 (New) Charles Stewart

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

4.18 TDL/01852 (New) John Derek Samuel

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.19 TDL/01855 (New) David Smith

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.

4.20 TDL/01856 (New) Thomas Edgar

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.21 TDL/01860 (New) Dominic McCann

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.

4.22 TDL/01862 (New) Mohamed Othmani

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.

4.23 TDL/01864 (New) Lesley Evans

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.24 TDL/01865 (New) Saman Mohammed

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.

4.25 TL/196 (New) Peter Cassidy

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.

Part C - Issues in respect of Existing Licences

4.26 Late Hours Catering Licence - GB Oils Ltd - Castlebay Filling Station, Largs

The Committee was advised of a number of letters of complaints received in respect of disturbances in and around Castlebay Filling Station, Largs.

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.

4.27 TDL/00804 Patrick Griffin

The Committee was advised that the licenceholder had surrendered his Taxi Driver badge and licence as a result of suffering a transient ischaemic attack.

The Committee unanimously agreed (a) to suspend licence TDL/00804 in terms of Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982; (b) on the basis of the information presented, to proceed to a hearing, within 6 weeks, in terms of Paragraph 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

Submitted reports by the Chief Executive on matters relating to Landlord Registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8.

5.1 Applications for Landlord Registration

At its meeting on 23 August 2011, the Committee considered applications for Landlord Registration from J. Cleary and M. Cleary. The Committee agreed to continue consideration of the applications as there were pending proceedings under the Proceeds of Crime Act 2002. The proceedings under the Proceeds of Crime Act 2002 have now been concluded.

The report provided details of incorrect information provided by J. Cleary in respect of his convictions and current residence. Information supplied by Strathclyde Police, the public websites of the Scottish Crime and Drug Enforcement Agency (SCDEA) and newspapers in respect of J. Cleary revealed drug convictions from 1999, 2003 and 2010.

The application in respect of M. Cleary, was considered to be incompetent in terms of Section 83(1)(b) of the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8, on the basis that she does not own the property.

P. Ward, Solicitor was in attendance representing the Cleary's interests and provided information in respect of the property concerned.

The Committee agreed (a) to refuse the application made by Jason Cleary, Aloha Playa, Floor 9 912, Benalmadena Costa, Malaga (211439/310/05370) under Section 84(2)(b); (b) to issue a Notice under Section 94 in respect of the house at 9 Sharlee Wynd, West Kilbride; and (c) to delegate authority to the Solicitor (Licensing) to make such an order if one is not then in force but where there is reasons to believe that the grounds for making an order exist.

5.2 2a Deerpark Avenue, Stevenston

At its meeting on 26 July 2013, the Committee considered circumstances relating to an application for Landlord Registration from A. McLaughlan. The Committee was advised that the application for registration had been withdrawn. The Committee unanimously agreed to continue consideration of the question of whether or not to issue a Rent Penalty Notice (RPN) under Section 94 of the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

The property at 2a Deerpark Avenue, Stevenston is currently occupied although no rent is paid. The current occupier will leave on 13 September 2013 and the house will then be unoccupied. It is a pre-condition of a RPN that the property is currently subject to a lease of an occupancy arrangement by virtue of which an unconnected person may use the house as a dwelling.

The Committee agreed to issue a Notice under Section 94 in respect of the house at 2a Deerpark Avenue, Stevenston.

6. Civic Government (Scotland) Act 1982: Taxi Fare Review

Submitted report by the Chief Executive on the consultation procedure for the Taxi Fare Review for 2013.

The Council, as Licensing Authority, is required to periodically review the scale of taxi fares in force within North Ayrshire. As part of this review, and in advance of setting a new scale of fares, the Council must consult with representatives of the taxi trade, advertise its proposals, and consider representations. A proposed timescale for conducting the review was set out in the appendix to the report.

The Committee agreed to (a) approve the proposed timetable for the review process as appended to the report; and (b) make the appropriate arrangements to meet with the taxi operators to consider their proposals as part of the review process.

7. Civic Government (Scotland) Act 1982 : Taxi Numbers Limitation

Submitted report by the Chief Executive on the factual and legal background to a request made by people on the waiting list for Taxi Licences.

The Council has a Taxi Numbers Limitation Policy that determines the taxi numbers and zoning arrangements within North Ayrshire. The Council is entitled to make exceptions to the policy. A waiting list is kept of those individuals interested in operating a taxi and when a slot becomes available the person at the top of the list is advised.

A letter has been received from two people on the Irvine waiting list requesting that the Committee treat their circumstances as an exception to the Policy and authorise them to bypass the waiting list.

Mr Taylor, Lawthorn Taxis was in attendance and provided information in relation to the provision of wheelchair accessible vehicles in the Irvine area, which in his view was insufficient. Mr Taylor requested that he be permitted to bypass the waiting list and submit an application for a taxi licence in the normal manner in order to increase the level of service available in Irvine to wheelchair users and disabled people.

The Committee was advised that a review of the Taxi Numbers Limitation Policy will be undertaken.

The Committee agreed to continue consideration of this item to a future meeting.

8. Urgent Items

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

8.1 Civic Government (Scotland) Act 1982 - Advertising on Taxis and Private Hire Cars

At its meeting on 22 May 2013, the Committee considered a report on a possible breach of the Council's policy on advertising on taxis and private hire cars and was provided with information on vehicles with adverts covering side and rear windows.

The Committee agreed that (a) the Enforcement Officer (i) make the necessary arrangements for the Chair, Vice-Chair, Councillors Clarkson and Steel to view the vehicles; and (ii) report the findings to the next meeting of the Committee.

The Committee was advised that a site visit was undertaken and Councillors viewed the vehicles concerned. The general view was that advertising on rear windows was acceptable but that advertising on side windows did obscure visibility into vehicles.

A draft of advertising conditions prepared by the Solicitor (Licensing) was circulated to the Committee for Members consideration.

The Committee agreed that the Solicitor (Licensing) review the wording of the advertising conditions and submit the revised conditions to a future meeting of the Committee.

8.2 Public Charitable Collection - Cancer Research

Mrs Sharp has applied for a Public Charitable Collection licence to collect in Irvine on 24 August 2013. The application had been received outwith the statutory 28 day notice period.

The Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

8.3 Street Trader Employee's Licence - Gerald Jackson STL/3/211

The Committee was advised that the above application for the renewal of a Street Trader Employee Licence had been received after the licence had expired, but within 28 days of the expiry of the licence.

The Committee unanimously agreed (a) that the application be accepted as a renewal of the Street Trader Employee Licence; and (b) to grant the application subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The meeting ended at 5.25 p.m.