

Cunninghame House,
Irvine.

9 March 2017

Licensing Committee

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 15 MARCH 2017** at **10.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

Please note that, whilst the items on this Agenda are public documents, consideration of some reports at the meeting may necessitate the passing of a resolution to exclude from the meeting the press and public in terms of Section 50A(4) of the Local Government (Scotland) Act 1973.

1. Declarations of Interest

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

2. Minutes (Page 5)

The accuracy of the Minutes of the meeting held on 22 February 2017 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

- 3. Civic Government (Scotland) Act 1982: Licensing Matters (Page 11)**
Submit report by the Chief Executive on hearings to be determined and applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).
- 4. Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8 (Page 19)**
Submit report by the Chief Executive on Landlord Registration matters (copy enclosed).
- 5. Urgent items**
Any other items which the Chair considers to be urgent.

Licensing Committee

Sederunt: Ronnie McNicol (Chair)
Tom Marshall (Vice Chair)
Robert Barr
John Bruce
John Easdale
Grace McLean
Catherine McMillan
Alan Munro
Donald Reid
Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

Licensing Committee
22 February 2017

IRVINE, 22 February 2017 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Tom Marshall, John Bruce, John Easdale, Grace McLean, Catherine McMillan, Donald Reid and Robert Steel.

Also Present

W. O'Brien, Solicitor (Licensing), D. Robertson, Enforcement Officer and C. Pollock, Licensing Administration Officer; R. Todd, Empty Homes Co-ordinator and B. Ferry, Policy Officer - Private Sector (Place), and E. Gray, Committee Services Support Officer, and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

In Attendance

Inspector B. Skimming and Sergeant G. Griffiths (Police Scotland).

Chair

Councillor Marshall, Vice-Chair, in the Chair.

Apologies for Absence

Robert Barr and Ronnie McNicol.

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 accuracy of the Minutes of the meeting of the Committee held on 11 January 2017 was confirmed, and the Minutes were 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 the following items of business, 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 Act 1983.

The 'Exempt Information' concerned is that described in Section 7A, Paragraph 14 ("Any action taken or to be taken in connection with the prevent, investigation or prosecution of crime") and Paragraph 15 ("The identity of a Protected Informant").

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

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

Part A: Hearings

4.1 Taxi Driver's Licence: TDL/01642 - Thomas Bagan

The Committee, at its meeting held on 11 January 2017, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence holder, having been duly cited to attend, was present. Representatives of Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder and made reference to the terms of a letter submitted by the licence holder. Thereafter the licence holder addressed the Committee on the issues raised and responded to questions.

The licence holder 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, having regard to the information presented, not to take any action in respect of an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.2 Taxi Driver's Licence: TDL/01780 - John Swindle

The Committee, at its meeting on 14 December 2016, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 11(7) of Schedule 1 of the Civic Government (Scotland) Act 1982. The matter was the subject of consideration at the meeting of the Committee held on 11 January 2017, where it was agreed to continue consideration of the Hearing to a future meeting to seek clarification on the applicant's current address.

The licence holder, having been duly cited to attend, was present and accompanied by his partner. Representatives of Police Scotland were also in attendance.

The representatives of Police Scotland addressed the Committee on the terms of a letter which advised of potential grounds for suspension of the licence. Thereafter, the licence holder then addressed the Committee on the issues raised and responded to questions. The licence holder also provided clarification on his current address.

The licence holder, his partner 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, having regard to the information presented, not to take any action in respect of an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.3 Taxi Driver's Licence: TDL/01956 (Renewal) - Robert Boyd

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant and made reference to the terms of a letter from the applicant's medical consultant. 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 in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of three years..

4.4 Taxi Licence: TL/176 (Substitute Vehicle) - Andrew Spence and Craig Spence

The licence holders, having been cited to attend, were present. Representatives of Police Scotland were also in attendance.

The Solicitor (Licensing) advised that the substitute vehicle proposed by the joint licence holders did not meet the Policy adopted by the Committee for purposes of Section 10(2) of the Civic Government (Scotland) Act 1982 (the "Vehicle Approval Specification"). Members asked questions and received clarification from the Solicitor (Licensing) and from the licence holders.

In terms of Standing Order 5.7, the Chair then adjourned the meeting to allow Members to inspect an example of the substitute vehicle and a vehicle conforming to the Vehicle Approval Specification. The meeting reconvened with the same Members, officers, Police representatives and licence holders present and in attendance.

Decision

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 Vehicle Approval Specification; (b) to grant the application in terms of Section 10(5) of the Civic Government (Scotland) Act 1982 for a substitute vehicle under Taxi Licence number 176; and (c) to note that a review of the Vehicle Approval Specification

would be the subject of future consideration by the Committee.

Part B: Applications for the Grant/Renewal of Licences

4.5 Metal Dealer's Licence: MDL/059 (New) - Craig Neil

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.6 Taxi Driver's Licence: TDL/01082 (Renewal) - Paul Scott

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.

Part C: Issues in Respect of an Existing Licence

4.7 Taxi Driver's Licence TDL/01355 and Taxi Licence TL/194 - Michael Ferguson

The Committee was advised of information received that the licence holder had failed to comply with Condition 12 of his licence. The Enforcement Officer addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.8 Street Trader's Licence: STL/O/414 - Neil McIntyre

The Committee, at its meeting on 23 November 2016, agreed, on the basis of the information presented, to proceed to a Suspension Hearing in terms of Paragraph 11(7) of Schedule 1 of the Civic Government (Scotland) Act 1982. At its meeting held on 14 December 2016, the Committee agreed to (a) find that the ground of Suspension stated in Paragraph 11(2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 (that the holder of the licence is not or is no longer a fit and proper person to hold the licence) was established, and that the Licence STL/O/414 should be suspended; (b) fix the period of Suspension as one calendar month, in terms of Paragraph 11(11); and (c) agree that, given the circumstances of the case, the Suspension should take immediate effect, in terms of Paragraph 11(10).

The Committee was advised of complaints received that the licence holder had operated his vehicle during the period of his Suspension and of a related report submitted to the Procurator Fiscal. The Enforcement Officer addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

Submitted report by the Chief Executive on Landlord Registration matters.

5.1 D.G.

The Registered Landlord, having been cited to attend, was not present or represented.

The Solicitor (Licensing) and the Empty Homes Co-ordinator set out the background to a complaint about a property owned by the Registered Landlord and an assessment of the property carried out by officers from Place, details of which had been intimated in writing to the Registered Person.

Members asked questions and received clarification from the Solicitor (Licensing), the Empty Homes Co-ordinator and the Policy Officer - Private Sector.

Decision

The Committee, having regard to the information presented, unanimously agreed (a) under Section 89 of the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8, to remove the Registered Person from the Register; (b) to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the property; and (c) to delegate to the Solicitor (Licensing) or any Solicitor engaged in Landlord Registration to issue a Rent Penalty Notice in respect of any other properties owned by the Registered Person and occupied under a "lease of occupancy arrangement".

5.2 M.D.

The applicant, having been cited to attend, was not present or represented. However, Members were provided with a copy of an email submission from the applicant.

Members asked questions and received clarification from the Solicitor (Licensing).

Decision

The Committee, having regard to the information presented, agreed (a) under Section 89 of the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8, not to remove the Registered Person from the Register; and (b) not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any properties referred to in the registration.

5.3 G.A.M.

The Registered Landlord, having been cited to attend, was present.

The Solicitor (Licensing) advised on information received in respect of the Registered Landlord which raised the question of whether or not he remained a 'fit and proper' person to be entered on the Register. Details of the matter raised had been intimated in writing to the Registered Person, who responded to the matters raised and answered questions.

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

Decision

Councillor McLean, seconded by Councillor McMillan, moved (a) under Section 89 of the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8, to remove the Registered Person from the Register; (b) to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the properties included in the Registration; and (c) to delegate to the Solicitor (Licensing) or any Solicitor engaged in Landlord Registration to issue Rent Penalty Notice in respect of any other properties owned by the Registered Person and occupied under a "lease of occupancy arrangement".

As an amendment, Councillor Easdale, seconded by Councillor Bruce, moved that no further action be taken.

On a division, there voted for the amendment 4 and for the motion 3, and the amendment was declared carried.

Accordingly, the Committee, having regard to the information presented, agreed to take no further action with regard to this matter.

The Meeting ended at 11.35 a.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

15 March 2017

Licensing Committee

Title: **Civic Government (Scotland) Act 1982: Licensing Matters**

Purpose: To advise the Committee of (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.

Recommendation: That the Committee considers and determines the matters before it.

1. Executive Summary

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council, as Licensing Authority, requires to determine issues in respect of the grant, renewal or suspension of licences.
- 1.2. A meeting of a local authority is open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under:
 - (a) the rule about 'confidential information' (as defined) or
 - (b) by Resolution.

(Local Government (Scotland) Act 1973, Section 50A, and especially Subsection 50A(4)).
- 1.3. Under the Resolution procedure, the Committee is entitled to resolve to exclude from the Meeting the press and the public for any one or more items of business on the grounds that otherwise "Exempt Information" of any type described in Part 1 of Schedule 7A to the Act might be disclosed.

- 1.4. The types of "Exempt Information" which may arise during Committee business include those described in Paragraphs 14 and 15 of that Schedule:
 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 to mean a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance.)
- 1.5. Such a Resolution, once made, continues until the end of the Meeting unless the Committee earlier Resolves to revoke it.

2. Background

Appendix A:

Licences where Hearings have been convened;

Appendix B:

Applications for the grant or renewal of licences and permits

3. Proposals


- 3.1 It is proposed that the Committee considers and determines each of the listed cases in accordance with the required procedures.

4. Implications

Financial:	There are possible financial implications in relation to the refusal of any application.
Human Resources:	None
Legal:	There are possible legal implications in relation to the refusal of any application.
Equality:	An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is not a consideration in making a Licensing decision.
Environmental & Sustainability:	None
Key Priorities:	An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve one of the "High Level Outcomes" of the "NAC Community Planning Partnership Single Outcome Agreement 2013-17": "A Safe and Secure North Ayrshire".
Community Benefits:	Not applicable, as the Report does not relate to tendering or procurement exercises.

5. Consultation

- 5.1 Consultations have been undertaken with Police Scotland, Strathclyde Fire and Rescue, and the appropriate Council Services.



ELMA MURRAY
Chief Executive

Reference : PAT

For further information please contact William O'Brien, Solicitor (Licensing)
on 01294 324305

Background Papers

None

APPENDIX A

Hearings

Hearing 1	Taxi Driver's Licence & Taxi Licence TDL/00119 (NEW)	
Applicant and Address	Nicol John Harris 14 Sersley Drive Kilbirnane KA25 6EZ	
Hearing 2	Itinerant Metal Dealer's Licence	MDL/059 (NEW)
Applicant and Address	Craig Neil 84 Craigie Way Ayr KA8 0HJ	
Hearing 3	Taxi Driver's Licence & Taxi Licence TL/0194 & TDL/01355	
Licenceholder and Address	James Hollas 8 Second Avenue Irvine KA12 8HL and Michael Ferguson 51 Hunter Drive Irvine KA12 9BP	
Hearing 4	Street Trader Operator's Licence	STL/O/414
Licenceholder and Address	Neil David McIntyre 18 Dalgarn Wynd Kilwinning KA13 0DD	
Hearing 5	Public Entertainment Licence	PEL/464 (NEW)
Applicant and Address	Michael Stirling 3 Springbank Crescent Glasgow G31 4PZ	Proposed Site Beach Park Stevenston

Hearing 6	Public Entertainment Licence	PEL/274 (RENEWAL)
Applicant and Address	Irvine Bay Events Ltd 89 Seaward Street Glasgow G41 1HS	Site Nobel Business Park Ardeer Stevenston
Hearing 7	Booking Office Licence	BOL/019 (NEW)
Applicant and Address	Elaine Connor 31 Gogo Street Largs KA30 8BU	Proposed Premises 31 Gogo Street Largs KA30 8BU
Hearing 8	Public Charitable Collection	
Applicant and Address	Breast Way Round, MacMillan Cancer Support Committee Laura Stockwell Flat 5/3, 339 Glasgow Harbour Terraces Glasgow G11 6BH	
Hearing 9	Breeding Establishment for Dogs Licence	BR/008 (NEW)
Applicant and Address	Vicky Barnhill Benthead Farm Kilwinning KA13 7RU	Proposed Premises Benthead Farm Kilwinning KA13 7RU

APPENDIX B

Applications for the grant/renewal of licences

TL/174 (Partnership Amendment)

Andrew **Spence**
12 Finnie Terrace
5 Springside
Irvine
KA11 3BB

Craig **Spence**
1 Bute Court
Dreghorn
Irvine
KA11 4JN

and

Alan **McTurk**
6 Lyle Gardens
Irvine
KA11 4DR

TDL/01380 (Renewal)

James Gilmour **Hollas**
8 Second Avenue
Irvine
KA12 8HL

TDL/00247 (New)

John **Kerr**
27 Whitlees Crescent
Ardrossan
KA22 7AR

NORTH AYRSHIRE COUNCIL

Agenda Item 4

15 March 2017

Licensing Committee

Title:	Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8
Purpose:	To inform the Committee of Landlord Registration matters.
Recommendation:	<p>That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which this Report and its Schedules is to be considered;</p> <p>For each Application or Review Proposal described in the Schedules: That the Committee should consider each case and:</p> <ul style="list-style-type: none">a. decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;b. if appropriate, decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house, or to delegate authority to the Clerk to issue such a Notice.

1. Executive Summary

- 1.1 The Licensing Committee have delegated authority from the Council to administer the Council's functions under the Landlord Registration Scheme regulated by the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

2. Background

- 2.1 The Clerk has received information set out in the Schedules. This information suggests that there may be a basis for the Committee concluding that the Landlord is not 'fit and proper', and that either the Application should be refused or the Registration already granted should be removed.

3. Proposals

- 3.1. The Committee should consider each case and decide whether or not to grant the Application, or remove the Registration.
- 3.2. If the Committee decide to refuse an Application, or to remove a Registration, and if they are satisfied that the house is presently occupied by a Tenant, they should then decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice' or 'RPN') in respect of any house referred to in the Application or Registration.
- 3.3. If they are not so satisfied, they may delegate authority to the Clerk to issue a RPN if and when the Clerk is so satisfied. Given that there would be nothing to stop the Landlord receiving Housing Benefit even if he was unregistered, the Committee may wish to delegate authority to the Clerk to issue a RPN if the Clerk later receives information that any house which is currently covered by the Registration is occupied by a Tenant.

4. Implications

Financial:	If a RPN is issued, the Housing Benefit Office will be informed, so that the Landlord will no longer receive Housing Benefit.
Human Resources:	None
Legal:	<p>Where the Council makes any decision to refuse or revoke Registration, to make a RPN, or to refuse to recall a RPN, the Landlord may appeal to the Sheriff or the First Tier Tribunal.</p> <p>If the Council issues a RPN, only the Tenant's liability to pay rent will cease. The other rights and obligations of the Lease will be unaffected: Section 94(3) & (8).</p> <p>For example:</p> <ul style="list-style-type: none"> a. the Tenant will continue to have whatever security of tenure he already had (he cannot be evicted for non-payment of rent where that non-payment is due to the RPN); b. the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree; c. the Landlord continues to have repairing obligations. <p>If a RPN is revoked by the Sheriff or Tribunal on appeal by the Landlord, the Tenant only has to pay 'arrears' of rent if, and to the extent, ordered. If a RPN is revoked by the Council then 'arrears' are not due (Section 95(3))</p>
Equality:	None
Environmental & Sustainability:	None
Key Priorities:	None
Community Benefits:	<p>Preventing unfit Landlords from operating may contribute to the wellbeing of the community.</p> <p>Preventing Housing Benefit being paid to unregistered Landlords safeguards public funds.</p>

5. Consultation

- 5.1 No consultations are appropriate. Depending on the circumstances, the Schedules contain information supplied by the Police, NAC Departments, or other agencies.

A handwritten signature in black ink, reading "Elma Murray". The signature is written in a cursive, flowing style.

ELMA MURRAY
Chief Executive

Reference : WO'B

For further information please contact William O'Brien, Solicitor (Licensing)
on 01294 325305

Background Papers

None