

Licensing Committee
2 November 2016

Irvine, 2 November 2016 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Robert Barr, John Bruce, John Easdale, Grace McLean, Catherine McMillan, Donald Reid and Robert Steel.

In Attendance

W. O'Brien, Solicitor (Licensing) and A. Toal, Administrative Assistant; P. Kelly, Team Manager (Anti-Social Behaviour and Community Safety), E. Anderson, Team Manager (Private Sector Housing) and J. Wallace, Policy Officer (Private Sector Team); and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

Also In Attendance

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

Chair

Councillor Bruce in the Chair (Agenda Item 3, Hearings 1-3 and Urgent Hearing) and Councillor McNicol in the Chair (remaining Agenda Items).

Apologies for Absence

Tom Marshall and Alan Munro.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor McNicol, due to his involvement with the groups in question, declared an indirect, non-pecuniary interest in Hearings 1 (North Ayrshire Citizens Advice Service) and 3 (Saltcoats Community Action Group) under Agenda Item 3 (Civic Government (Scotland) Act: Licensing Matters) and left the meeting for those items of business.

Councillor Easdale, as a Council representative on the Board of Ayrshire Citizen's Advice Service, declared an indirect, non-pecuniary interest in Hearing 1 under Agenda Item 3 (Civic Government (Scotland) Act: Licensing Matters) and took no part in the decision thereon.

Councillor Reid, due to his previous involvement with the group, declared an indirect, non-pecuniary interest in Hearing 1 and left the meeting for that item of business. Councillor Reid, as the applicant, also declared an interest in the Urgent Item (Kilwinning Community Events) which was considered under Agenda Item 3 (Civic Government (Scotland) Act: Licensing Matters), and took no part in the decision thereon.

2. Appointment of the Chair

In light of the Chair's declaration of interest in respect of Hearings 1 and 3 under Agenda Item 3 (Civic Government (Scotland) Act: Licensing Matters), nominations were invited to assume the Chair during consideration of Hearings 1-3 and an Urgent Item.

Councillor Barr, seconded by Councillor McLean, moved that Councillor Bruce be appointed as Chair. There being no amendment, the motion was declared carried.

3. Minutes

The accuracy of the Minutes of the meeting of the Committee held on 28 September 2016 was confirmed, and the Minutes were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Exclusion of 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 (Scotland) Act 1973.

The 'Exempt Information' concerned is that described in Section 7A, Paragraph 6 ("Information relating to the financial business affairs of any particular person (other than the authority)") and Paragraph 14 ("Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime").

5. Chair's Remarks

The Chair agreed that a further hearing in terms Agenda Item 3 (Civic Government (Scotland) Act: Licensing Matters) be considered as a matter of urgency to allow the matter to be actioned without delay.

The Chair, in terms of Standing Order 9.3, also agreed to vary the order of business to allow consideration of Hearings 1 and 2 to be combined and the Urgent Item considered immediately following Hearing 2.

Councillors McNicol and Reid left the meeting at this point and Councillor Bruce assumed the Chair.

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

Part A: Hearings

6.1 Public Charitable Collections: North Ayrshire Citizens Advice Service and Promotion Kilwinning

The applicants, having been duly cited to attend, were present. Both applicants have applied for a Charitable Collection on Saturday 19 November 2016, which is outwith the Council policy. Promoting Kilwinning advised on an amendment to end time on their application to change from 6.00 p.m. to 7.00 p.m.

Members asked questions and received clarification from the applicants in respect of the applications.

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

Decision

The Committee unanimously agreed (a) that there were sufficient grounds to treat both cases as an exception to the Council's policy on street collections; and (b) to grant the applications in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to the Council's standard conditions.

6.2 Urgent Item: Kilwinning Community Events

The applicant, having been duly cited to attend, was present. The applicant has applied for a Charitable Collection between 5.30 p.m. and 8.00 p.m. on 4 November 2016, which is outwith the Council policy.

Members asked questions and received clarification from the application in respect of the application.

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

Decision

The Committee unanimously agreed (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 in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to the Council's standard conditions.

Councillor Reid rejoined the meeting at this point.

6.3 Public Charitable Collection: Saltcoats Community Action Group

The applicant, having been duly cited to attend, was present. The applicant has applied for a Charitable Collection on 20 November 2016, which is outwith the Council policy.

Members asked questions and received clarification from the applicant in respect of the application.

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

Decision

The Committee unanimously agreed (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 in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to the Council's standard conditions.

Councillor Bruce then vacated the Chair. Councillor McNicol, rejoining the meeting at this point, resumed the Chair.

6.4 Street Trader Operator's Licence: STL/O/261 (Renewal Pending) - David Duncan McIntyre

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 Suspension Hearing as previously intimated in writing to the licence-holder.

Members asked questions and received clarification from the licence-holder, representatives of Police Scotland and the Solicitor (Licensing).

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

Decision

Councillor Reid, seconded by Councillor Easdale, moved that the application for renewal be granted and that no further action be taken in terms of suspension on the licence. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to (a) grant the application in terms of Paragraph 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) not to suspend the licence.

6.5 Taxi Driver's Licence TDL/01274 - Cameron Phillips

The licence-holder, having been duly cited to attend, was present, represented by a solicitor and accompanied by a family member. Representatives of Police Scotland were also in attendance. Representatives of Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Suspension Hearing as previously intimated in writing to the licence-holder. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out alleged grounds for suspension. The licence-holder's solicitor addressed the Committee with regard to CCTV footage of an incident, which was shown to Members of the Committee.

Members asked questions and received clarification from the licence-holder, his solicitor, representatives of Police (Scotland) and the Solicitor (Licensing).

The licence-holder, his solicitor and family member, and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor Bruce, seconded by Councillor McLean, moved that the Committee continue consideration of this matter pending the outcome of legal proceedings.

As an amendment, Councillor Reid, seconded by Councillor McMillan, moved that the licence be suspended under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

On a division, there voted for the amendment 2 and for the motion 6, and the motion was declared carried.

Accordingly, the Committee agreed to continue consideration of the matter to a future meeting, pending the outcome of legal proceedings.

6.6 Taxi Operator's Licence TL/400 (New) - Thomas Coombe

The Solicitor (Licensing) advised that this application had been withdrawn by the applicant.

Noted.

Part B: Applications for Licences/Renewal of Licences

6.7 TDL/02006 (New) - Anthony Healy

The Committee 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 Committee adjourned for a short comfort break at 11.40 a.m., reconvening at 11.50 a.m.

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

7.1 R. Mc

The registered person, having been cited to attend, was present.

The Team Manager (Private Sector Housing) and the registered person addressed the Committee on the issues raised.

Members asked questions and received clarification from the registered person and from officers.

Decision

Councillor Reid, seconded by Councillor Bruce, moved that no further action be taken with regard to this matter. There being no amendment, the motion was declared carried.

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

7.2 M.N.

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

The Team Manager (Anti-Social Behaviour and Community Safety) addressed the Committee on the issued raised.

The Committee unanimously agreed to consider the application in the applicant's absence.

Members asked questions and received clarification from officers.

Decision

Councillor Reid, seconded by Councillor Easdale, moved that the Committee continue consideration of the Application for Registration under Section 83 but serve a Rent Penalty Notice under Section 94 in respect of the house which was the main subject of discussion.

As an amendment, Councillor McLean, seconded by Councillor McMillan, moved that the Committee agree to refuse to enter the applicant in the register and issue a Rent Penalty Notice in respect of all of the houses occupied by a tenant.

On a division, there voted for the amendment 2 and for the motion 5, and the motion was declared carried.

Accordingly, the Committee agreed (a) to continue consideration of the Application for Registration under Section 83, and (b) to serve a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the house which was the main subject of discussion (there were no Notices served in respect of the other houses included in the Application).

7.3 L.C.

The registered person, having been cited to attend, was not present, but was represented by his agents.

The Team Manager (Private Sector Housing) and the registered person's agents addressed the Committee on the issues raised.

Decision

The Committee unanimously agreed to take no further action with regard to this matter.

The meeting ended at 12.40 p.m.