

Licensing Committee
10 March 2021

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m. involving participation by remote electronic means.

Present

Ronnie McNicol, Todd Ferguson, Robert Barr, Jean McClung, Davina McTiernan, Donald L. Reid, and Angela Stephen.

In Attendance

W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant (Licensing), P. Brennan, Specialist Environmental Health Officer (Place) and H. Clancy, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Inspector Alison Wilson and Sergeant Scott Barrie (Police Scotland).

Chair

Councillor McNicol in the Chair.

1. Chair Remarks

The Chair agreed, in terms of Standing Order 9.4, to vary the order of business to allow consideration of Agenda item 3.2 (Street Trader Operator's Licence: STL/O/516 Amendment & STL/O/518 (New): Ayrshire's Wee Fish Van) prior to Agenda item 3.1 (Skin Piercing and Tattoo Licence: SPTL/038: Alexander Nicholas Arbuckle), as the applicant was already in attendance in the virtual meeting lobby.

2. 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.

3. Minutes

The Minutes of the Meeting held on 10 February 2021 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. 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 Item 5 (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."

5. 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: Hearings

5.1 Street Trader Operator's Licence: STL/O/516 Amendment & STL/O/518 (New): Ayrshire's Wee Fish Van

The licence-holder and applicant, having been duly cited to attend, joined the meeting at this point.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter the licence-holder and applicant addressed the Committee on the issues raised and responded to questions.

The licence-holder and applicant then withdrew to allow the Committee to deliberate. Thereafter the licence-holder and applicant re-joined the meeting, with the same Members and Officers present and in attendance, to hear the Committee's decision.

Decision

Having heard from the Licence-Holder and Applicant, the Committee agreed unanimously to treat the circumstances as justifying an exception to their Policy and:

- (1) In relation to the existing Licence STL/O/516: granted the Amendment requested, to the extent of changing Standard Condition C.3 ("Movement") to refer to "60 minutes" instead of "20 minutes", under Paragraph 9(2) of Schedule 1 to the Civic Government (Scotland) Act 1982;
- (2) In relation to the proposed Licence STL/O/518: amended their Policy in that case, so that the same change shall apply to the same Standard Condition (but apart from these two Licences, that Standard Condition shall continue to refer to "20 minutes");

- (3) that in relation to both Licences the Committee would review within one year whether or not the change should continue, or the Standard Condition should again refer to "20 minutes" or be differently worded.

The licence-holder and applicant left the meeting at this point.

5.2 Skin Piercing and Tattoo Licence: SPTL/038: Alexander Nicholas Arbuckle

The Committee was advised of a request from Police Scotland for the revocation/suspension of the licence in terms of Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982.

The licence-holder, having been duly cited to attend, joined the meeting at this point. Representatives from Police Scotland and Environmental Health were also in attendance.

The representatives from Police Scotland and Environmental Health then addressed the Committee in respect of the revocation/suspension. Thereafter the licence-holder addressed the Committee on the issues raised and responded to questions.

The licence-holder and representatives from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter representatives from Police Scotland re-joined the meeting, with the same Members and Officers present and in attendance, with the exception of the licence-holder, to hear the Committee's decision.

Decision

Councillor Barr, seconded by Councillor Ferguson, moved that the Committee suspend the licence with immediate effect for its whole unexpired duration until 28 February 2023 under Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11, on the basis that the license-holder is not a fit and proper person to hold the Licence (the ground in Paragraph 11(2)(a)), and consider recalling the suspension under Paragraph 11(6) once criminal proceedings have been concluded. There being no amendment the motion was declared carried, Councillor Reid dissenting.

The meeting ended at 11.55 a.m.