

Licensing Committee
15 March 2017

IRVINE , 15 March 2017 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m

Present

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

In Attendance

W. O'Brien, Solicitor (Licensing), K. Sharkey, Solicitor (Contracts and Licensing), D. Robertson, Enforcement Officer and C. Pollock, Licensing Administration Officer; S. McKenzie, Senior Manager (Protective Services) and A. Miller, Environmental Health Officer (Economy and Communities); E. Anderson, Team Manager (Private Sector Housing) (Place), and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

Also In Attendance

Sergeant G. Griffiths and D. Hastings, Licensing Administrator (Police Scotland)

Chair

Councillor McNicol in the Chair (Agenda Items 5 and 1-3 (Hearings 1-4, inclusive)).
Councillor Marshall in the Chair for the remainder of the meeting.

Apologies for Absence

John Easdale.

1. Chair's Remarks

The Chair, in terms of Standing Order 9.3, to vary the order of business to allow consideration of an Urgent Matter immediately following Agenda Item 2 (Minutes) and after a resolution to exclude the press and public from the meeting. The Chair agreed that a further Urgent Matter be considered at the end of the meeting.

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 accuracy of the Minutes of the meeting of the Committee held on 22 February 2017 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 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").

5. Urgent Item

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

5.1 Civic Government (Scotland) Act 1982: Public Entertainment Licence: PEL/468 (Temporary) - William Newsome

The applicant, having been duly cited to attend, was present. The applicant has applied for a temporary Public Entertainment Licence for the period between 16 and 19 March 2017.

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

Decision

Councillor Marshall, seconded by Councillor Barr, moved that the application for a temporary Public Entertainment Licence be granted, subject to the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

6. 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

6.1 Taxi Driver's Licence: TDL/00119 (New) - Nicol John Harris

The applicant, having been duly cited to attend, was present and accompanied by a prospective employer. 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. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out a representation 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

Councillor Barr, seconded by Councillor McLean, moved that the application be granted in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year. There being no amendment, the motion was declared carried.

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

The Committee, at its meeting held on 22 February 2017, 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.

The applicant, 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 applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out a representation 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 determine whether justice could not be done except by having regard to the applicant's "Spent Convictions" in terms of the Rehabilitation of Offenders Act 1974, Section 7(3). The applicant and representatives of Police Scotland returned to hear the Committee's decision on this matter.

Councillor Barr, seconded by Councillor Marshall, moved that justice could not be done except by having regard to the applicant's "Spent Convictions".

As an amendment, Councillor McMillan, seconded by Councillor McLean, moved that the applicant's "Spent Convictions" were should not be considered.

On a division, there voted for the amendment 4 and for the motion 4 and, on the casting vote of the Chair, the motion was declared carried.

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

Decision

Councillor Barr, seconded by Councillor Marshall, moved that the application be refused on the basis that the applicant is not a fit and proper person to be the holder of an Itinerant Metal Dealer's Licence.

As an amendment, Councillor Reid, seconded by Councillor McMillan, moved that the application the application be granted.

On a division, there voted for the amendment 5 and for the motion 3, and the amendment was declared carried.

Accordingly, the Committee 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.

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

6.3 Taxi Driver's Licence & Taxi Licence: TL/0194 & TDL/01355 - James Hollas and Michael Ferguson

The Committee, at its meeting held on 22 February 2017, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Having been duly cited to attend, one of the licence holders was present.

The Solicitor (Licensing) and the Council's Enforcement Officer set out the background to the Hearing as previously intimated in writing to the licence holders. Thereafter, the licence holder 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

Councillor Barr, seconded by Councillor Bruce, moved that the licence holders receive a letter regarding their future conduct and that no action be taken in respect of an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

6.4 Street Trader Operator's Licence: STL/O/414 - Neil David McIntyre

The Committee, at its meeting on 14 December 2016, 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).

At its meeting held on 22 February 2017, 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 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 licence holder, having been duly cited to attend, was present and represented.

The Solicitor (Licensing) and the Council's Enforcement Officer set out the background to the Hearing as previously intimated in writing to the licence holder. The Enforcement Officer also made reference to the content of an electronic

communication from Police Scotland. Thereafter, the licence holder and his representative addressed the Committee on the issues raised and responded to questions.

The licence holder and his representatives then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor Barr, seconded by Steel, moved that the circumstances of the case justified suspension of the licence in terms of Paragraph 11(2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 and that the period of Suspension should be the unexpired portion of the duration of the Licence.

As an amendment, Councillor Reid, seconded by Councillor Marshall, moved that the circumstances of the case justified suspension of the licence in terms of Paragraph 11(2) of Schedule 1 of the Civic Government (Scotland) Act 1982 and that the period of Suspension should be two calendar months, in terms of Paragraph 11(11), effective from 28 days from the date of the meeting.

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

Accordingly, 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 two calendar months, in terms of Paragraph 11(11), effective from 28 days from the date of the meeting.

Councillor McNicol left the meeting and Councillor Marshall assumed the Chair at this point.

6.5 Public Entertainment Licence: PEL/464 (New) - Michael Stirling

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

The Solicitor (Licensing) and the Council's Senior Manager (Protective Services) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed to grant the application subject to (i) the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 and (ii) a further condition requiring that no equipment should be used unless it had been inspected by Council officers not more than seven days before the proposed date of use, and that up-to-date safety

certification should be in place and exhibited to the Council prior to each use of the equipment on site.

6.6 Public Entertainment Licence: PEL/274 (Renewal) - Irvine Bay Events Limited

Representatives of Irvine Bay Events Limited, having been duly cited to attend, were present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, the representatives of Irvine Bay Events Limited addressed the Committee on the issues raised and responded to questions.

Decision

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

6.7 Booking Office Licence: BOL/019 (New) - Elaine Connor

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, the applicant referred to a letter submitted in support of her application and responded to questions.

Decision

Councillor Barr, seconded by Councillor McLean, moved that the application be granted subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

6.8 Public Charitable Collection - Breast Way Round, MacMillan Cancer Support Committee

The applicant, having been duly cited to attend, was not present or represented. The applicant has applied for a Charitable Collection on Sunday 23 April 2017, which is outwith the Council's policy.

Members asked questions and received clarification from the Solicitor (Licensing) in respect of the application.

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; (b) to grant the application in terms of Section 119 of the Civic Government (Scotland) Act 1982,

subject to the Council's standard conditions.

6.9 Breeding Establishment for Dogs Licence: BR/008 (New) - Vicky Barnhill

The applicant, having been duly cited to attend, was present and accompanied by a representative.

The Solicitor (Licensing) and the Council's Environmental Health Officer set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, the applicant addressed the Committee on the issues raised, including on the terms of a letter of objection to the application, and responded to questions.

Decision

The Committee unanimously agreed to grant the application subject to the Council's standard conditions.

Part B: Applications for Licences and Renewal of Licences

6.10 Taxi Licence: TL/174 (Partnership Amendment) - Andrew Spence, Craig Spence & Alan McTurk

The Committee unanimously agreed to grant the application in terms of Paragraph 9 of Schedule 1 of the Civic Government (Scotland) Act 1982.

6.11 Taxi Driver's Licence: TDL/01380 (Renewal) - James Gilmour Hollas

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.

6.12 Taxi Driver's Licence: TDL/00247 (New) - John Kerr

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.

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

Submitted report by the Chief Executive on Landlord Registration matters.

7.1 J.F.

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

The Solicitor (Licensing) and the Team Manager (Private Sector Housing) 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, whose representative responded to the matters raised and answered questions.

Decision

The Committee unanimously agreed that (a) to take no action in respect of the matter, subject to the Registered Landlord effecting the necessary repairs to the property within a period of 28 days; and (b) this failing, the matter be the subject of further consideration at a future meeting.

8. Urgent Item

The Chair advised of information received in respect of a Registered Landlord which required to be the subject of hearing.

The Committee agreed, in the circumstances, that the matter be considered at a Special Meeting of the Committee to be held on 20 March 2017 immediately following the conclusion of the meeting of the Licensing Board.

The Meeting ended at 12.40 p.m.