

Licensing Committee
26 July 2013

IRVINE, 26 July 2013 - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Tom Marshall, Robert Barr, Ian Clarkson, Donald Reid and Robert Steel.

In Attendance

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

Also In Attendance

Inspector Kelly and PC McLean (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies for Absence

John Bruce, Ruth Maguire, 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. Civic Government (Scotland) Act 1982: Licensing Matters

Submitted report by the Chief Executive on Hearings to be determined all in terms of the Civic Government (Scotland) Act 1982.

Part A: Hearings

2.1 STL/O/325 Ian Ewing

The Committee, at its meeting on 18 June 2013, considered a request from the Chief Superintendent of Police Scotland for an emergency suspension under Paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982. The Committee unanimously agreed (a) to suspend licence STL/O/325 in terms of Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982; and (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 in respect of licence STL/O/325.

The licenceholder, having been duly cited to attend, was in attendance. Representatives from Police Scotland were also 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 a letter dated 4 April 2013 setting out the observations of the Chief Superintendent 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.

After discussion, Councillor Barr, seconded by Councillor McNicol moved that the licence be suspended with immediate effect and for the remaining duration of the licence.

As an amendment, Councillor Marshall, seconded by Councillor Reid, moved that the licence be suspended with immediate effect for a period of 6 months.

On a division, there voted for the amendment 3 and for the motion 3. On the casting vote of the Chair, the motion was declared carried.

Accordingly, the Committee agreed that (a) the licence be suspended in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds stated in Paragraph 11(2)(a) that the licenceholder is no longer a fit and proper person to be the holder of a licence and Paragraph 11(2)(c) that the licensed activity has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety; (b) in terms of Paragraph 11(11) of the said Schedule, that the period of suspension be the unexpired portion of the duration of the licence; and (c) the suspension should take effect immediately in terms of Paragraph 11(10) of the said Schedule.

2.2 STL/O/261 David Duncan McIntyre

The Committee, at its meeting on 18 June 2013 received certain information and considered that it was appropriate to proceed to a Suspension hearing under Paragraphs 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The Committee unanimously agreed in terms of Standing Order 19 to suspend Standing Order 21 and to rescind the decision to proceed to a hearing and to take no further action at this time.

2.3 TDL/01767 Leonard Thomas Guiney

The Committee, at its meeting on 18 June 2013, considered a request from the Chief Superintendent of Police Scotland for an emergency suspension under Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982 pertaining to licence TDL/01767. The Committee unanimously agreed (a) to suspend the licence in terms of Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982; and (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.

The licenceholder, having been duly cited to attend, was in attendance and was accompanied. 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 a letter dated 12 June 2013 setting out the observations of the Chief Superintendent 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.

The Committee unanimously agreed that (a) the licence be suspended in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds stated in Paragraph 11(2)(a) that the licenceholder is no longer a fit and proper person to be the holder of a licence and Paragraph 11(2)(c) that the licensed activity has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety; (b) in terms of Paragraph 11(11) of the said Schedule, that the period of suspension be the unexpired portion of the duration of the licence; and (c) the suspension should take effect immediately in terms of Paragraph 11(10) of the said Schedule.

2.4 TDL/01432 Ian David Crews

The Committee, at its meeting on 18 June 2013, considered information in respect of Mr Crews' health. The Committee unanimously agreed (a) to suspend the licence in terms of Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982; and (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.

The licenceholder, 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 licenceholder. Thereafter the licenceholder addressed the Committee on the issues raised and responded to questions.

The Committee unanimously agreed, on the basis of the information before it, to make no order under Paragraph 11, and accordingly the suspension imposed under Paragraph 12 ceased in terms of Paragraph 11 (5)(b).

2.5 STL/O/306 John Cowan

The Committee, at its meeting on 3 July 2013, considered a request from the Chief Superintendent of Police Scotland for an emergency suspension under Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982 pertaining to licence STL/O306. The Committee unanimously agreed (a) to suspend licence STL/O306 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.

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 a letter dated 1 July 2013 setting out the observations of the Chief Superintendent 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.

The Committee unanimously agreed that (a) the licence be suspended in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982, in terms of Paragraph 11(2)(a), that the licence holder is no longer a fit and proper person to be the holder of a licence and Paragraph 11 (2)(c), that the licensed activity has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety; (b) that the period of suspension be one hour, the Committee being aware that it would consider an application for Renewal of the Licence immediately after considering the question of suspension; and (c) that the suspension should take effect immediately in terms of Paragraph 11(10) of the said Schedule.

2.6 STL/O/306 (Renewal) John Cowan

Immediately following the announcement of the suspension decision, the Chair advised the licenceholder that the question of his renewal application would be considered and enquired if he had any comment in addition to those which he had made earlier in relation to the suspension questions. The licenceholder confirmed that he had nothing else to say. The licenceholder and representatives of Police Scotland then withdrew to allow the Committee to deliberate returning to hear the Committee's decision.

The Committee unanimously agreed that the application be refused in terms of Paragraph 5 (1) (c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds indicated in Paragraph 5(3)(a)(ii) of the said schedule that the applicant is not a fit and proper person to be the holder of the licence.

2.7 TL/019 (renewal) Fiona Wagstaff

The licenceholder was neither present nor represented. The Committee was satisfied that the licenceholder had been duly cited and proceeded to determine the case in her absence.

The Committee was advised that the licence has been inoperative since 1 March 2013 since no vehicle which satisfied Section 10(2) of the Act (as to safety) had been licensed since then, and that the substitute vehicle proposed by the licenceholder failed its mechanical inspection on 24 July 2013.

The Committee unanimously agreed to refuse the application in terms of Paragraph 5 (3)(a) and 5 (3)(d).

2.8 TL/194 (renewal) Fiona Wagstaff

The licenceholder was neither present nor represented. The Committee was satisfied that the licenceholder had been duly cited and proceeded to determine the case in her absence.

The Committee was advised that the licence has been inoperative since 1 March 2013 since no vehicle which satisfied Section 10(2) of the Act (as to safety) had been licensed since then, and that the substitute vehicle proposed by the licenceholder was first registered on 16 June 2005 and passed its mechanical test on 20 June 2013. It was therefore outside the policy which required hire cars should be no older than 8 years old, from the date of first registration, when first licensed.

The Committee unanimously agreed to refuse the application in terms of Paragraph 5 (3)(a) and 5 (3)(d).

2.9 TL/194 (substitute vehicle) Fiona Wagstaff

The licenceholder was neither present nor represented. The Committee was satisfied that the licenceholder had been duly cited and proceeded to determine the case in her absence.

The Committee was advised that the licence has been inoperative since 1 March 2013 since no vehicle which satisfied Section 10(2) of the Act (as to safety) had been licensed since then, and that the substitute vehicle proposed by the licenceholder was first registered on 16 June 2005 and passed its mechanical test on 20 June 2013. It was therefore outside the policy which required hire cars should be no older than 8 years old, from the date of first registration, when first licensed.

The Committee unanimously agreed to refuse the application in terms of Paragraph 10, on the basis that there was no vehicle proposed which would be consistent with Section 10(2), as applied by Section 10(5).

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

Submitted report by the Chief Executive on circumstances relating to a registered Landlord.

The applicant was neither present nor represented. The Committee was satisfied that the applicant had been duly cited and proceeded to determine the case in his absence.

The Committee was advised that the application for Landlord Registration had been withdrawn.

The Committee unanimously agreed to continue consideration of the question of whether or not to issue a Rent Penalty Notice under Section 94 of the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

4. Urgent Items

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

4.1 PPC Kirk Dog Training Club

The Committee was advised of an application from Kirk Dog Training Club for a Public Charitable Collection in Eglinton Country Park, Irvine on Sunday 11 August 2013.

The Committee agreed, Councillor Bar dissenting, to grant the application.

The meeting ended at 12.35 p.m.