

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, of 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, of 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, of 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.