



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Licensing Committee

A meeting of the **Licensing Committee** of North Ayrshire Council will be held remotely on **Wednesday, 09 December 2020** at **10:00** to consider the undernoted business.

Arrangements in Terms of COVID-19 - Licensing (partially excluded)

In light of the current COVID-19 pandemic, this meeting will be held remotely in accordance with the provisions of the Local Government (Scotland) Act 2003. As the business under consideration at the meeting is likely to necessitate the passing of a resolution to exclude from the meeting the press and public in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, the meeting will not be live streamed/recorded for access by the public.

1 Declarations of Interest

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

2 Minutes

The accuracy of the Minutes of the Ordinary Meeting held on 18 November 2020 and the Special Meeting held on 25 November 2020 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

3 Civic Government Scotland Act 1982 and other Licensing Statutes: Licensing Matters

Submit report by the Head of Democratic Services on hearings to be determined and applications for grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

4 Urgent Items

Any other items which the Chair considers to be urgent.

Licensing Committee Sederunt

Ronnie McNicol (Chair)
Todd Ferguson (Vice Chair)
Robert Barr
John Easdale
Scott Gallacher
Jean McClung
Davina McTiernan
Donald L. Reid
Angela Stephen
Vacancy

Chair:

Apologies:

Attending:

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, John Easdale, Jean McClung, Davina McTiernan and Angela Stephen.

In Attendance

A. Craig, Senior Manager (Legal Services), W. O'Brien, Solicitor (Licensing), C. Pollock, Licensing Admin Officer, A. Toal, Administrative Assistant (Licensing); M. Lindsay, Senior Customer Officer (People & ICT); and D. McCaw, 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.

Apologies

Donald L. Reid.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Jean McClung declared an interest in Agenda Item 4.3 Taxi Driver's Licence: TDL/02245: Kyle McLaughlin in that the applicant was known to her. Councillor McClung took no part in the discussion thereon.

2. Minutes

The Minutes of the Ordinary Meeting held on 4 March 2020 were confirmed and 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 Agenda Items 5 and 6 (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."
- 4. 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

4.1 Metal Dealer's Licence: MDL/066 (New): James Downey

The 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 and advised of an error in the case papers which had been circulated. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their objection in respect of the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

Councillor Ferguson, seconded by Councillor Barr, moved that the application be continued to the next Licensing Committee meeting on 9 December 2020 to allow additional information to be obtained from Durham County Council. There being no amendment, the motion was declared carried.

The applicant left the meeting at this point.

4.2 Taxi Driver's Licence: TDL/01775 (New): Aso Jamal

The applicant, having been duly cited to attend, was not present or represented. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their objection in respect of the application.

Decision

Councillor Easdale, seconded by Councillor McClung, moved that the Committee refuse the application in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the applicant is not a fit and proper person to be the holder of a licence. There being no amendment, the motion was declared carried.

In terms of Standing Order 5.7, the Chair agreed that the meeting be adjourned for a 5-minute comfort break at 11.30 a.m. The meeting reconvened at 11.35 a.m. with the same Members and Officers present and in attendance.

4.3 Taxi Driver's Licence: TDL/02245: Kyle McLaughlin

Councillor McClung left the meeting at this point.

The applicant, having been duly cited to attend, joined the meeting at this point. 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 applicant. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their objection in respect of the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

Councillor Barr, seconded by Councillor McNicol, moved that the Committee refuse the application in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the applicant is not a fit and proper person to be the holder of a licence. There being no amendment, the motion was declared carried.

The applicant left the meeting and Councillor McClung re-joined at this point.

4.4 Window Cleaner's Licence: WCL/098 (New): Gerard McArthur

The applicant, having been duly cited to attend, was not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their objection in respect of the application.

Decision

Councillor Ferguson, seconded by Councillor Barr, moved that the Committee refuse the application in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the applicant is not a fit and proper person to be the holder of a licence. There being no amendment the motion was declared carried.

Police Scotland representatives left the meeting at this point.

Appendix B: Applications for Licences/Renewal of Licences

4.5 LHCL/125 (New): Qaisar Raza

The Committee unanimously agreed to continue consideration to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

4.6 PHCL/374 (New): Gerard Goodfellow

Councillor Barr, seconded by Councillor Easdale, moved that the Committee grant the application as an exemption to the Council's Vehicle Specification Policy. There being no amendment, the motion was declared carried.

4.7 TDL/02258 (New): James West

Councillor Barr, seconded by Councillor Easdale, moved that the Committee grant the application, 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.

4.8 Second Hand Dealer's Licence: Michelle McCormick

Councillor Ferguson, seconded by Councillor McNicol, moved that the Committee continue consideration to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

5. Urgent Items

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

5.1 Application for a Temporary Street Trader Operator's Licence: STLO/515: Ian Rae

The Solicitor (Licensing) set out the background to a request for a Temporary Street Trader's Licence for a period of 6 weeks.

Decision

Councillor McNicol, seconded by Councillor Ferguson, moved that the Committee continue consideration to a Hearing at a Special Meeting of the Licensing Committee to be arranged. There being no amendment, the motion was declared carried.

The meeting ended at 12.40 p.m.

Licensing Committee
25 November 2020

At a Special 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 and Donald L. Reid.

In Attendance

W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant (Licensing) and D. McCaw, 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.

Apologies

John Easdale and Scott Gallagher.

1. Chair Remarks

The Chair agreed, in terms of Standing Order 9.4, to vary the order of business to allow consideration of Urgent Item 4.1 Second Hand Dealer's Licence: SHDL/207: Michelle McCormick prior to item 5.1 Street Trader Operator's Licence: STL/O/515 (temp): Ian Rae, as the applicant was already in attendance in the 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. 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 Items 5 and 6 (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."

4. Urgent Items

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

4.1 Second Hand Dealer's Licence: SHDL/207: Michelle McCormick

The 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. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their representation in respect of the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Ferguson, seconded by Councillor Barr, moved that the Committee grant the application, 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.

The applicant left the meeting at this point.

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/515 (temp): Ian Rae

The 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. The representatives from Police Scotland then addressed the Committee on the terms of a letter setting out their representation in respect of the application. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

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

Decision

Councillor Ferguson, seconded by Councillor McTiernan, moved that the Committee grant the application, 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.

The applicant left the meeting at this point.

The meeting ended at 10.50 a.m.

NORTH AYRSHIRE COUNCIL

9 December 2020

Licensing Committee

Title: Civic Government (Scotland) Act 1982 and other Licensing statutes: Licensing Matters

Purpose: To advise the Committee of:
a) Hearings to be determined;
b) Applications for the grant or renewal of licences and permits under the Civic Government (Scotland) Act 1982 and other statutes within the Committee's remit;

Recommendation: 1) That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which any of the matters in this Report are to be considered;
2) That the Committee consider and determine the matters before them.

1. Executive Summary

1.1 The Licensing Committee's remit is to exercise the Council's licensing functions. These functions arise under many statutes, mainly the Civic Government (Scotland) Act 1982. Depending on the legislation and the circumstances of each individual case, the Committee is entitled to grant, refuse, renew, vary, suspend and revoke Licences.

2. Background

2.1 The Committee's business under the 1982 Act is as follows:

Appendix A - Licences and Permits where Hearings have been convened
Appendix B - Applications for the grant or renewal of Licences and Permits

Exempt Information

2.2. The Committee will consider "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A. The information is covered by one or more of the following categories of "Exempt Information" under Schedule 7A:

Paragraph 3: "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."

Paragraph 6: "Information relating to the financial or business affairs of any particular person (other than the authority)."

Paragraph 14: "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."

Paragraph 15: "The identity of a Protected Informant" - where "ProtecteInformant" 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.

2.3. The details of the cases in the Appendices, with any relevant documents (such as letters from the Police or objectors) are in the background papers given to Committee Members and will be sent to the respective Applicants or Licence-Holders before the Meeting. The Schedules are excluded from the published Agenda under Local Government (Scotland) Act 1973, Section 50B(2) and (5). This has been done as the Clerk considers that the meeting is likely not to be open to the public while those Schedules are being considered, as they contain "Exempt Information".

2.4. The Committee is entitled, but not obliged, to make a Resolution excluding the public from a meeting during consideration of an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item of business there would be disclosure to them of "Exempt Information" (Section 50A(4)).

2.5. For example:

Paragraph 3 could apply in relation to information or advice requested by a member of the public.

Paragraph 6 could apply to a business activity (such as where an Applicant wants a Licence for business or employment).

Paragraphs 14 or 15 could apply where it was alleged that there was criminal conduct or anti-social behaviour committed by or against a Licence-Holder or Applicant for a Licence, or where the Committee was told that any person had committed a criminal offence (whether or not there had been concluded Court proceedings).

2.6. Accordingly, if a Resolution is made:

- (a) the publicly-accessible Minutes will exclude so much of the proceedings during which the public were excluded (Section 50C);
- (b) the Minutes will include a summary of the proceedings without disclosing the 'Exempt Information' (Sections 50C(2) & 50C(1)(b)).

3. Proposals

3.1 It is proposed that the Committee consider and determine each of the listed cases in accordance with the required procedure.

4. Implications/Socio-economic Duty

Financial

4.1 There are possible financial implications in relation to any Licensing decision.

Human Resources

4.2 None.

Legal

4.3 There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.

Equality/Socio-economic

4.4 Equality Act 2010 imposes duties on the Council:

Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council
"must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage."

Section 149(1) ("Public sector equality duty"): the Council

"must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];
- (b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;
- (c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."

The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

The Clerk has considered these Duties in preparing this Report and any specific impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant impacts to be considered

Environmental and Sustainability

4.5 None

Key Priorities

4.6 An effective licensing system, for example monitoring the 'fit and proper' status of licence-holders, the safety of vehicles, and the suitability of premises, helps progress

towards one of the Priority Outcomes of the North Ayrshire Council Plan 2019-2024:
"North Ayrshire's residents and communities are safe."

Community Wealth Building

4.7 There are no Community Wealth Building issues.

5. Consultation

5.1 Consultations have been undertaken where appropriate with Police Scotland, Scottish Fire and Rescue, and Council Directorates.

Andrew Fraser
Head of Democratic Services

For further information please contact **William O'Brien, Solicitor (Licensing)**, on
licensing@north-ayrshire.gov.uk.

Background Papers

None

Hearings (Appendix A)

Case 1	Metal Dealer's Licence	MDL/066 (New)
Applicant	James Downey	

Case 2	Taxi Driver's Licence	TDL/00144
Licence Holder	Sarah Connolly	

Applications for Licences/Renewal of Licences (Appendix B)

Type of Licence/Reference Number	Details of Applicant
TL/406	Russell Drummond

Note

TL – Taxi Licence