

Licensing Committee
7 December 2022

IRVINE, 7 December 2022 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Nairn McDonald, John Bell, Cameron Inglis, Christina Larsen, Jean McClung, Matthew McLean, Donald L. Reid and Ronnie Stalker.

In Attendance

R. Lynch, Senior Manager, D. Grier, Solicitor, D. Robertson, Enforcement Officer (Legal Services), W. O'Brien, Solicitor (Agenda Item 5.4), C. Pollock, Licensing Administration Officer (Licensing) and H. Clancy, Committee Services Officers (Democratic Services) (Chief Executive's Service).

Also in Attendance

Inspector D. Cameron (Agenda items 1 – 5.3)

Chair

Councillor McDonald in the Chair.

Apologies

Eleanor Collier and Angela Stephen.

1. Chair Remarks

The Chair agreed, in terms of Standing Order 10.5, to vary the order of business to allow consideration of Item 4.4 Booking Office Licence: BOL/022: TOA Taxis (North Ayrshire) Ltd and 4.5 Taxi Driver Licence: TDL/01599: Donald Newall to be heard together last on the agenda.

2. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

3. Minutes

The Minutes of the Meeting held on 16 November 2022 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 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."

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 Taxi Driver's Licence: TDL/02353 (New): Scott Walker

At a previous meeting on 24 October 2022, the Committee agreed to continue consideration of this application.

The applicant, having been duly cited to attend, joined the meeting. A representative from Police Scotland was also in attendance.

The Senior Manager (Legal Services) set out the background to the Hearing as previously intimated in writing to the applicant. A representative 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

The Committee unanimously agreed to 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.

5.2 Taxi Driver's Licence: TDL/02353 (New): Hasher Murad

At a previous meeting on 16 November 2022, the Committee agreed to continue consideration of this application.

The applicant, having been duly cited to attend, joined the meeting.

The applicant addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed to 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.

5.3 Street Traders Operator's Licence: STL/O/535 (New): Chris and Emma Ferguson

At a previous meeting on 16 November 2022, the Committee agreed to continue consideration of this application.

The applicants, having been duly cited to attend, joined the meeting.

The applicants addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed to 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, with the exemption of Standard Condition C.1 "The Licence-Holder must not engage in street trading within 50 metres of any establishment or premises (this includes any land, shops, kiosks, vehicles and moveable structures) where any goods or articles are sold or offered for sale, or services are offered, which are of the same or similar type as those sold or offered by the Licence-Holder."

Appendix B: Applications for Licences/Renewal of Licences

5.4 SHDL/187 (Renewal): ZEX Yorkshire Ltd

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

In terms of Standing Order 6.8, the Chair adjourned the meeting at 10.55 a.m. The meeting reconvened at 1.00 p.m. with the Councillors McDonald, Larsen, McLean and Stalker present and the same officers in attendance.

5.5 Booking Office Licence: BOL/022: TOA Taxis (North Ayrshire) Ltd and Taxi Driver Licence: TDL/01599: Donald Newall

At a previous meeting on 24 October 2022, the Committee heard evidence and agreed to continue consideration of this item.

Representatives of TOA Taxis (North Ayrshire) Ltd, Solicitor for TOA Taxis and the licence holder, having been duly cited to attend, joined the meeting. The complainants were also in attendance.

The Solicitor and representatives for TOA Taxis (North Ayrshire) Ltd representatives and the licence-holder addressed the Committee on the issues raised and responded to questions.

The Committee then withdrew to deliberate.

Decision

Councillor McDonald, seconded by Cllr Larsen, moved that the Committee (a) accept the complainants had the "Protected Characteristic" of "disability" stated in Equality Act 2010 Sections 4 and 6, having an impairment which had a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities; and (b) agreed the following decisions in relation to the four complaints:

- (i) the complaint against TOA Taxis (North Ayrshire) Ltd on Tuesday 30 November 2021 was not upheld;
- (ii) the complaint against TOA Taxis (North Ayrshire) Ltd on Tuesday 7 December 2021 was not upheld;
- (iii) the complaint against Donald Newell on Tuesday 7 December 2021 was upheld and the Committee agreed the Licence-Holder breached Condition 14 of the North Ayrshire Council conditions relating to Taxi Driver's Licences. The Committee agreed to take no action but advised the incident will be taken into account if there are further complaints and on the renewal of the licence. The Committee recommended that the Licence-Holder study the condition and any information on the North Ayrshire Council website about Drivers' duties towards passengers with "Protected Characteristics";
- (iv) the complaint against TOA Taxis (North Ayrshire) Ltd on Tuesday 7 December 2021 was upheld and the Committee agreed to take no action but advised the incident will be taken into account if there are further complaints and on the renewal of the licence. The Committee recommended that the Licence-Holder study the condition and any information on the North Ayrshire Council website about Drivers' duties towards passengers with "Protected Characteristics".

There being no amendment, the motion was declared carried.

The meeting ended at 3.15 p.m.