

Licensing Committee 6 September 2023

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m. involving a combination of participation by remote electronic means and physical attendance within the Irvine and Kilwinning Committee Room, Irvine

Present (Physical Participation)

Eleanor Collier, Cameron Inglis, Christina Larsen, Jean McClung, Matthew McLean, Ronnie Stalker and Angela Stephen.

Present (Remote Participation)

John Bell and Donald L. Reid

In Attendance

R. Lynch, Senior Manager, D. Grier, Solicitor (Legal Services), A. Toal, Administration Assistant and S. Dalgoutte, Senior Clerical Assistant (Licensing); K. Bell, Team Manager (Housing Strategy) and A. Dopierala and K. Nolan, Policy Officers (Private Sector Housing) (Place); and H. Clancy, Committee Services Officer (Democratic Services) (Chief Executive's Service)

Also in Attendance

Sergeant S. Syme (Police Scotland)

Chair

Councillor Collier in the Chair (except Agenda Item 3: Case 3).

Councillor Larsen in the Chair (Agenda Item 3: Case 3).

Apologies

Nairn McDonald.

1. Declarations of Interest

In terms of Standing Order 11 and section 5 of the Code of Conduct for Councillors, Councillor Collier declared an interest in Agenda Item 3: Case 3 - Street Trader's Operator's Licence: STL/O/540: GKG Catering Ltd, due to the siting of the application in her local area and agreed to vacate the Chair for this item of business, leaving the meeting and taking no part in the decision.

Councillor Larsen declared an interest in Agenda Item 3: Case 4 - Taxi Driver's Licence: TDL/02394: Robert Hendry, in that the applicant was known to her and agreed to leave the meeting and take no part in the decision.

2. Minutes

The Minutes of the Meeting held on 9 August 2023 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/064 (Renewal): George Payling

At a previous meeting on 9 August 2023, the Committee agreed to continue consideration of this item.

The licence-holder having been duly cited to attend, was present. A representative from Police Scotland was also in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation.

The licence-holder then 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.

4.2 Second Hand Dealer's Licence: SHDL/205 (Renewal): George Payling

At a previous meeting on 9 August 2023, the Committee agreed to continue consideration to allow the licence-holder to attend.

The licence-holder having been duly cited to attend, was present. A representative from Police Scotland was also in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation.

The licence-holder then 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.

4.3 Street Trader's Operator's Licence: STL/O/540 (New) GKG Catering Ltd

The Chair left the meeting at this point and took no part in the determination of this item of business.

In the absence of the Chair, the Committee unanimously agreed that Councillor Larsen be appointed as Chair. Thereafter, Councillor Larsen assumed the Chair for this item.

The applicant, having been duly cited to attend, was not present.

Decision

The Committee agreed to defer consideration of this application to a future meeting to allow the applicant to attend.

Councillor Collier re-joined the meeting and resumed the Chair at this point.

4.4 Taxi Driver's Licence: TDL/02394 (New): Robert Hendry

Councillor Larsen left the meeting at this point and took no part in the determination of this item of business.

The applicant having been duly cited to attend was present. A representative from Police Scotland was also in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation.

The applicant then 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.

Councillor Larsen re-joined the meeting at this point.

4.5 Taxi Driver's Licence: TDL/02399 (New): Alan MacDonald

The applicant, having been duly cited to attend, was not present.

Decision

The Committee agreed to defer consideration of this application to a future meeting to allow the applicant to attend.

4.6 Taxi Licence: TL/454 (New): Colin Bennett

The applicant having been duly cited to attend was present. A representative from Police Scotland was also in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation.

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

Decision

The Committee agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); and (b) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers could be used to determine the application.

4.7 Private Hire Car Licence: PHCL/382 (New): Steven Mason

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

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

Decision

The Committee agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); and (b) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers could be used to determine the application.

4.8 Taxi Licence: TL/450 (New): Brahim Sensri

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

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

Decision

The Committee agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); and (b) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers could be used to determine the application.

4.9 Taxi Licence: TL/451 (New): Stacey Beattie

The applicant, having been duly cited to attend, was not present.

Decision

The Committee agreed to defer consideration of this application to a future meeting to allow the applicant to attend.

In terms of Standing Order 6.8, the Chair agreed that the meeting be adjourned at 11.10 a.m. for a short comfort break, reconvening at 11.30 a.m. with the same Members and officers present and in attendance.

4.10 Short Term Lets Licence: NA00306C (New): Barbara Bueltmann

The applicant's representative, having been duly cited to attend, was present as were two objectors. Both parties then addressed the Committee on the issues raised and responded to questions.

The objectors were reminded of the Committee's scope for determining applications and informed that they should seek their own independent legal advice in respect of the issues raised regarding the burdens section of the title sheet.

Decision

The Committee agreed, Councillor McLean dissenting, to grant the application under The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32 ("the STL Order") subject to the Mandatory Conditions set out in Schedule 3 to the STL Order and to the additional local condition set out as "The First Exception" in Paragraph 10(b) of the Committee's "Licensing Policy Statement on Short-Term Let Licensing".

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

Submitted report by the Head of Democratic Services on Landlord Registration matters.

At a previous meeting on 9 August 2023, the Committee agreed to continue consideration of this item. The licence-holders, having been duly cited to attend, were not present.

Officers from Housing Services were present and provided further background information including an update in relation to the application.

Decision

The Committee agreed to (a) remove both Landlords from the Register; and (b) issue a Rent Penalty Notice under Section 94 on the basis that the Registered Landlords were no longer fit and proper persons to act as a Landlords. The Rent Penalty Notices would only apply to occupied properties.

The meeting ended at 12.35 p.m.