



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Licensing Committee

A Meeting of the **Licensing Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 04 October 2023** at **11:00** to consider the undernoted business.

Meeting Arrangements - Not live streamed

This meeting will be held on a predominantly physical basis but with provision, by prior notification, for remote attendance by Elected Members in accordance with the provisions of the Local Government (Scotland) Act 2003.

Licensing Exemption Para

Please note that, whilst the items on this Agenda are public documents, consideration of some reports at the meeting may 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.

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 Meeting of the Licensing Committee held on 6 September 2023 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

Eleanor Collier (Chair)
Nairn McDonald (Vice-Chair)
John Bell
Cameron Inglis
Christina Larsen
Jean McClung
Matthew McLean
Donald L. Reid
Ronnie Stalker
Angela Stephen

Chair:

Apologies:

Attending:

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.

NORTH AYRSHIRE COUNCIL

4 October 2023

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

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

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 "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.

2.3 The details of the cases in the Appendix, 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

Climate Change and Carbon

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.

Aileen Craig
Head of Democratic Services

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

Background Papers

None

Appendix A

Case 1	Taxi Driver's Licence	TDL/02399 (New)
Applicant	Alan MacDonald	

Case 2	Street Trader Operator's Licence	STL/O/540 (New)
Applicant	G K G Catering Ltd	

Case 3	Taxi Licence	TL/451 (New)
Applicant	Stacey Beattie	

Case 4	Short Term Let Licence	NA0110P
Applicant	Helen Hall	

Case 5	Short Term Let Licence	NA00247P
Applicant	Alexander Clare	
