



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, 08 November 2023** at **10:00** 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 (i) the Ordinary Meeting of the Licensing Committee held on 4 October 2023; and (ii) the Special Meeting held on 23 October 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, 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 11.00 a.m. involving a combination of participation by remote electronic means and physical attendance within the Council Chambers, Irvine

Present (Physical Participation)

Eleanor Collier, Nairn McDonald, Cameron Inglis, Christina Larsen, Matthew McLean, Ronnie Stalker and Angela Stephen.

Present (Remote Participation)

Donald L. Reid.

In Attendance

W. O'Brien, Solicitor (Licensing), A. Toal, Administration Assistant, S. Dalgoutte, Senior Clerical Assistant (Licensing) and S. Wilson, Committee Services Officer (Democratic Services) (Chief Executive's Service).

In Attendance (Remote Participation)

C. Stewart, Committee Services Officer (Democratic Services) (Chief Executive's Service).

Also in Attendance

Sergeant D. Markin and E. Blackwood (Police Scotland)

Chair

Councillor Collier in the Chair.

Apologies

John Bell and Jean McClung

1. Declarations of Interest

In terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors, Councillor Collier, Chair, declared an interest in Case 2 Agenda Item 3 - Street Trader's Operator's Licence: STL/O/540: GKG Catering Ltd, given that she lived close to the application site, and agreed to leave the meeting and take no part in the decision.

2. Minutes

The Minutes of the Meeting held on 6 September 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 Item 3 and 4 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters) on the grounds that it 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 under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

Appendix A: Hearings

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

At a previous meeting on 6 September 2023, the Committee agreed to continue consideration of this item to allow the applicant to attend.

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

Decision

The Committee unanimously agreed that (a) it was satisfied that the Applicant was not a 'fit and proper person' to hold the Licence applied for and (b) the ground of refusal in the Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 5(3)(a)(ii) applied.

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

The Chair left the meeting at this point and took no part in the decision.

In the absence of the Chair and in terms of Standing Order 6.6, Councillor McDonald, Vice-Chair, assumed the Chair for this item.

At a previous meeting on 6 September 2023, the Committee agreed to continue consideration to allow representative for the applicant to attend.

There was no representative for the applicant present, although the applicant had been invited to send a representative to the committee. A representative from Police Scotland was in attendance.

Police Scotland addressed the Committee in respect of a letter setting out their previous representation in respect of the matter and advised that their objection had subsequently been withdrawn, following the resignation of the applicant as a Company Director (which had also been confirmed by checks undertaken with Companies House).

Decision

The Committee unanimously agreed that (a) it was satisfied that the premises were not suitable for the proposed use and (b) the ground of refusal in the Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 5(3)(c) applied.

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

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

At a previous meeting on 6 September 2023, the Committee agreed to continue consideration to allow the applicant to attend.

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

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

"Decision

The Committee unanimously agreed to refuse (a) the applicant's request that the vehicle she proposed should be treated as an exception to the Council's Vehicle Specification policy under Sections 10(2) and 10(5) of the Civic Government (Scotland) Act 1982, and (b) the application on the basis that the proposed vehicle was not suitable for use under the Licence requested, under 1982 Act, Schedule 1, Paragraph 5(3)(c).

4.4 Short Term Let Licence: NA0110P: Helen Hall

The applicant, having been duly cited to attend, was present as was one objector. Both parties then addressed the Committee on the issues raised and responded to questions.

Decision

The Committee agreed 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 (a) the Mandatory Conditions set out in Schedule 3 to the STL Order and (b) 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".

In terms of Standing Order 6.8, the Chair agreed that the meeting be adjourned at 12.05 p.m. for a short comfort break, reconvening at 12.20 p.m. with the same Members and officers present and in attendance.

Councillors Inglis, McLean, Stalker and Stephen left the meeting at this point.

4.5 Short Term Let Licence: NA00247P: Alexander Clare

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

Decision

The Committee agreed 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 (a) the Mandatory Conditions set out in Schedule 3 to the STL Order, (b) 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" and (c) a further additional condition requiring the applicant to provide within 28 days contact details to the residents/occupiers of the block of flats containing the application address.

5. Urgent Items

There were no urgent items.

The meeting ended at 1.40 p.m.

IRVINE, 23 October 2023 - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 12.00 p.m.

Present

Eleanor Collier, Nairn McDonald, John Bell, Cameron Inglis, Christina Larsen, Donald L. Reid, Ronnie Stalker and Angela Stephen.

In Attendance

R. Lynch, Senior Manager, D. Grier, Solicitor (Legal Services), W. O'Brien, Solicitor (Licensing), A. Toal, Administration Assistant (Licensing) and C. Stewart, Committee Services Officer (Democratic Services) (Chief Executive's Service).

Also in Attendance

Sergeant D. Markin and D. Hastings (Police Scotland).

Chair

Councillor Collier in the Chair.

Apologies

Jean McClung and Matthew McLean.

1. Adjournment of Meeting

The meeting was adjourned at the commencement time of 12.00 p.m., pending the conclusion of business of the immediately preceding meeting of the Licensing Board, and reconvened at 12.35 p.m., with the same Members and officers present and in attendance.

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. 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 Item 3 (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.

4.1 Taxi Driver's Licence: TDL/2301: Scott McKinlay

The licence-holder having been duly cited to attend, was not present. A representative from Police Scotland was in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation including the outcome of court proceedings in this respect.

Decision

Councillor McDonald, seconded by Councillor Reid, moved that:

- (a) the Licence be suspended under Paragraph 11(2)(a) of the Schedule 1 to the Civic Government (Scotland) Act 1982, on the basis that the licence-holder was not a fit and proper person to hold the Licence;
- (b) that the suspension should operate immediately, given that that was appropriate in the circumstances, under Paragraph 11(10); and
- (c) that the suspension should be for the whole unexpired duration of the Licence, under Paragraph 11(11).

There being no amendment, the motion was declared carried.

The meeting ended at 12.45 p.m.

NORTH AYRSHIRE COUNCIL

8 November 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/01642 (NEW)
Applicant	Thomas Bagan	

Case 2	Taxi Driver's Licence	TDL/02160 (RENEWAL)
Applicant	Brenda Barratt	

Case 3	Taxi Driver's Licence	TDL/2415 (NEW)
Applicant	Mark Monaghan	

Case 4	Taxi Licence	TL/454 (NEW)
Applicant	Mohamed Asli	

Case 5	Taxi Licence	TL/456 (NEW)
Applicant	Ravinderjit Singh	

Case 6	Taxi Licence	TL/457 (NEW)
Applicant	Partnership of Calvin Smith, Gordon Smith Jamie Dorrans	
