

Licensing Committee
10 February 2021

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 Donald L. Reid.

In Attendance

W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant (Licensing) and H. Clancy, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Inspector Alison Wilson (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Scott Gallacher and Angela Stephen.

1. 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.

2. Minutes

The Minutes of the Meeting held on 13 January 2021 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)

Submitted report by the Head of Democratic Services on the proposed timetable for the Review and Fixing of Taxi Scales. The Minute of the Taxi Trade Consultation meeting was set out at Appendix A to the report, Economic Indicators set out at Appendix B, the current Taxi Fares Scales set out at Appendix C and the draft Taxi Fare Scales set out at Appendix D to the report.

The Committee agreed to (a) review the current Scales; (b) authorise draft Scales as set out at Appendix D to the report; (c) instruct the Chief Executive to give public notice of those draft Scales; and (d) continue consideration of the Review to a future meeting at least one month following the public notice.

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 Item 5 (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 Metal Dealer's Licence: MDL/069 (New): Michael Stevenson

The Committee at its meeting held on 13 January 2021, 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.

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

The Solicitor (Licensing) 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.

The applicant and representative from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the applicant and representative from Police Scotland 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 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.

As an amendment, Councillor Easdale, seconded by Councillor Reid 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.

On a division and a roll call vote, there voted for the amendment, Councillors Easdale, McClung, McTiernan and Reid (4) and for the motion, Councillors Barr, Ferguson and McNicol (3), and the amendment was declared carried.

Accordingly, the Committee agreed to grant the application.

The applicant left the meeting at this point.

5.2 Taxi Driver's Licence: TDL/02272 (New): Kenneth A Salmon

The Committee at its meeting held on 13 January 2021, 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.

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

The representative from Police Scotland then addressed the Committee on the terms of a letter setting out their representation in respect of the application. That letter referred to the Applicant also having a "Protected Conviction" to which the provisions of the Rehabilitation of Offenders Act 1974 applied.

The Committee then carried out the procedure required under the Rehabilitation of Offenders Act 1974, Section 7(3) and determined that justice could not be done except by having regard to the Applicant's "Protected Conviction".

The representative from Police Scotland then addressed the Committee on the terms of a further letter detailing the Applicant's "Protected Conviction". Thereafter the Applicant addressed the Committee on the issues raised and responded to questions.

The Applicant and representative from Police Scotland then withdrew to allow the Committee to deliberate.

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.

Thereafter the Applicant and representative from Police Scotland 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 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 at this point.

The meeting ended at 11.45 a.m.