

Licensing Committee
9 March 2022

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m. involving participation by remote electronic means and in person.

Present (Physical Participation)

Ronnie McNicol, Robert Barr and Donald L Reid.

Present (Remote Electronic Participation)

John Easdale, Jean McClung, Davina McTiernan, Ronnie Stalker and Angela Stephen.

In Attendance

W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant (Licensing), D. Robertson, Enforcement Officer (Legal Services), H. Clancy and C. Stewart Committee Services Officers (Chief Executive's Service).

Chair

Councillor McNicol in the Chair.

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 9 February 2022 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 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."

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 Private Hire Car Licence: PHCL/375 (New) – Andrew Read

At a previous meeting on 9 February 2022, the Committee agreed to continue consideration of this application to allow representation by Police Scotland.

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

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

Decision

Councillor McNicol, seconded by Councillor Barr, moved that the Committee delegate authority to the Solicitor (Licensing) to grant the Private Car Hire Licence, subject to (a) the Council's standard conditions and (b) such additional conditions as are prepared for this new type of licensed activity (the operation of a 'trike') in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 if the proposed vehicle passed a mechanical inspection at the Council garage.

There being no amendment the motion was declared carried.

The applicant left the meeting at this point.

4.2 Street Trader Operator's Licence: STL/O/522 (New) Stewart Cape and Carrie Simpson

The Applicants, having been duly cited to attend, were not present or represented.

At a previous meeting on 7 June 2021, the Committee agreed to grant a Temporary Street Trader's Licence under the Civic Government (Scotland) Act 1982, Section 39 and Schedule 1, Paragraph 7, with the Council's Standard Conditions and to substitute for Condition C.3 (Movement) the following:

"C.3. When the Licence-Holder parks or sets-up the vehicle or stall in one location:

- (a) he may remain there for a maximum period of 60 minutes;

(b) he must then move to another location at least 200 metres away which the trader has not traded from that day.

This period of 60 minutes does not include:

- parking and setting-up before trading starts, and
- dismantling and clearing-up afterwards,

but no trading can take place in that extra time."

The Licence-Holder had applied for a 'full' Licence (duration 3 years, and renewable) during the currency of the Temporary Licence, and accordingly the Temporary Licence continued to have effect due to Paragraph 7(6).

On considering the 'full' Licence application, and the Applicant's request that the variation of Condition C.3 should continue.

Decision

Councillor Barr, seconded by Councillor Reid, moved the Committee to grant a 'full' Street Trader's Licence under the Civic Government (Scotland) Act 1982, Section 39, with the Council's Standard Conditions subject to the same substitution for Condition C.3 (Movement).

There being no amendment, the motion was declared carried.

4.3 Street Trader Operator's Licence: STL/O/524 (New) Carole Proven

The Committee noted the application had been withdrawn.

Councillor Easdale joined the meeting at this point.

4.4 Taxi Driver's Licence TDL/00121 and Taxi Licence TL/180 Edward Walsh

At a previous meeting on 9 February 2022, following a complaint made against a licence holder, the Committee had agreed to proceed to a Hearing in terms of Paragraph 11(7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence holder, having been duly cited to attend, joined the meeting at this point. The complainant and a witness were also in attendance.

The Enforcement Officer addressed the Committee on the complaint made against a licence holder.

The complainant and the witness then addressed the Committee and responded to questions. Thereafter the licence holder addressed the Committee on the issues raised and responded to questions.

The licence holder, the complainant and the witness then withdrew to allow the Committee to deliberate. Thereafter the licence holder, the complainant and the witness re-joined the meeting, with the same Members and Officers present and in attendance, to hear the Committee's decision.

The Committee considered the two Licences separately and reached separate decisions.

4.4.1 Taxi Driver's Licence TDL/00121 Edward Walsh

Decision

Councillor Barr, seconded by Councillor Reid, moved that the Committee warn the license holder about his future conduct and advise the incident will be taken into account (i) if there are further complaints; and (ii) on the renewal of the licence.

There being no amendment, the motion was declared carried.

4.4.2 Taxi Licence TL/180 Edward Walsh

Decision

Councillor Barr, seconded by Councillor Reid, moved that the Committee should take no action. There being no amendment, the motion was declared carried.

The licence holder, complainant and the witness left the meeting at this point

4.5 Taxi Licence TL/434 (New) Norman Gillespie

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

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

Decision

Councillor McNicol, seconded by Councillor Barr, moved that the Committee grant the application as an exemption to the Council's Vehicle Specification Policy under Section 10(2) of the Civic Government (Scotland) Act 1982.

There being no amendment the motion was declared carried.

The applicant left the meeting at this point.

Appendix B: Applications for Licences/Renewal of Licences

4.6 TDL/02293 (New) John Walsh

The Committee agreed, on the basis of the information presented, to proceed to a Hearing on the possible revocation or suspension of the Licence in terms of Paragraph 11(7) of Schedule 1 to the Civic Government (Scotland) Act 1982.

The meeting ended at 11.30 a.m.