
NORTH AYRSHIRE COUNCIL

1 June 2022

Licensing Committee

Title: Taxi Stance at Hamilton Street, Saltcoats (Civic Government (Scotland) Act 1982, Section 19)

Purpose: To inform the Committee of the background and their legal powers.

Recommendation: That the Committee:

- (a) should decide whether or not to appoint the Stance;
- (b) if so, should determine its location, size and operating hours;
- (c) to request the Place Directorate to make any appropriate alterations to signs or road markings.

1. Executive Summary

1.1 The Council has powers to appoint Taxi Stances (as Licensing Authority, not as Roads Authority) under the Civic Government (Scotland) Act 1982, Section 19.

1.2 Only Taxis may use appointed Stances. Drivers of other vehicles (including 'Private Hire Cars') face prosecution under Section 21(7) for inappropriate use:

"If any person, without reasonable excuse, causes or permits any vehicle other than a Taxi to wait on any Stance for Taxis during any period for which that Stance has been appointed by a Licensing Authority under section 19 of this Act, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 2 on the standard scale." (i.e. £500)

1.3. There is a distinction between:

- (a) Council Stances - appointed by the Council
- (b) Private Stances - Taxis stand on private ground by arrangement between the land-owner and Taxi Operators. This is solely a private contractual matter and the Council have no involvement or enforcement powers - it is up to the land-owner to decide who can enter on the land and on what terms.

A Council can appoint Stances on private ground, but only with the consent of the land-owner. There are no Stances like this in North Ayrshire.

The Section 21 offence only applies to Council-appointed Stances.

2. Background

2.1 The Act permits the Licensing Authority to do 4 things:

- (a) appoint a Stance (Section 19(1))
- (b) vary the number of Taxis permitted (Section 19(3))
- (c) alter the position of such Stances (Section 19(3))
- (d) revoke the appointment (Section 19(3))

2.2. All of these require consultation with:

- (a) Taxi operators or representative organisations
- (b) the Police
- (c) the Roads Authority

The Licensing Authority must also publicise the proposal, and allow at least 28 days for written objections or representations from any of the consultees and any member of the public.

2.3. Following representations from Taxi Operators in Saltcoats, the Council made a proposal. Details of the proposal were placed on "Taxi stances" webpage of the Council's licensing website:

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/taxi-licences/taxi-stances.aspx>

under the heading "Proposals".

The webpage stated:

"If we propose to make an order about a taxi stance, we must publicise the proposals. Anyone can state objections or representations in writing to: ..."

The webpage included links to the relevant documents:

DRAFT STANCE ORDER (Saltcoats Stance GEN04 GEN19)

DRAFT STANCE PLAN (Saltcoats Stance GEN04 GEN19)

The webpage was amended to cover the proposal under discussion on 7 April 2022, and the webpage stated that the "Last Day for Representations" was Friday 20 May 2022.

- 2.4. In addition letters or emails were sent to all holders of Taxi Licences for the "3 Towns" Taxi Zone, and copied to the Police.
- 2.5. The Committee Report has appeared on the NAC public website as usual.

3. Proposals

- 3.1 As over 28 days have passed since public advertisement, the Council can now make a decision. All objections and representations to the proposal will be in Members' Background Papers.
- 3.2 The Committee:
- (a) should decide whether or not to appoint the Stance and;
 - (b) if so, should determine its location, size and operating hours;
- 3.3 If alterations to signs or road markings are appropriate, the Committee should request the Place Directorate to take appropriate action.

4. Implications/Socio-economic Duty

Financial

- 4.1 There will be financial implications if the Roads Department require to carry out any works to signs or road markings.

Human Resources

- 4.2 None.

Legal

- 4.3 There is no right of appeal to the Sheriff Court against a decision by the Council about a Stance, so any person who complained of the Committee's decision would have to apply to the Court of Session for Judicial Review. The Court would be unlikely to entertain an objection from any person who had failed to state an objection to the Licensing Authority after the proposal had been publicised and the consultation period had expired.

Equality/Socio-economic

- 4.4 None. An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is only one consideration in making a Licensing decision. The Committee should consider whether or not the proposed decision would have any effect on the provision of Taxi services for Disabled people. The location of the proposed Stance is beyond the two 'disabled parking' spaces which are already in place, and the Stance would not be likely to impede use of those spaces.

Environmental and Sustainability

4.5 None.

Key Priorities

4.6 North Ayrshire Council has priorities for Aspiring Communities in the Council Plan 2019-2024. An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve Priority Outcome: "North Ayrshire's residents and communities are safe".

Community Benefits

4.7 Not applicable, as the Report does not relate to tendering or procurement exercises.

5. Consultation

5.1 Consultation has been carried out according to the statutory requirements.

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For further information please contact **William O'Brien, Solicitor (Licensing)**, on **01294 324305**.

Background Papers

DRAFT STANCE ORDER (Saltcoats Stance GEN04 GEN19)

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