

Licensing Committee
12 January 2022

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, Donald L. Reid, Ronnie Stalker and Angela Stephen.

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 A. Wilson and Sergeant S. Syme (Police Scotland).

Apologies

Scott Gallacher

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 17 November 2021 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 Taxi Driver's Licence: TDL/00291 and TL/177 - James Williamson

At a previous meeting on 22 November 2021, following the receipt of a report from the Chief Constable of Police Scotland, 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, was not present or represented. A representative from Police Scotland was in attendance.

The representative from Police Scotland addressed the Committee on the terms of a letter setting out their representation in respect of the application. The Solicitor (Licensing) read out a written representation from the Licence Holder's Solicitor.

Representatives from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the representatives from Police Scotland re-joined the meeting, with the same Members and Officers present and in attendance, to hear the Committee's decision.

The Committee was satisfied that, due to Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11(1), they could consider both the questions of Revocation and Suspension, and those in relation to both Licences held by the Licence-Holder:

- [a] Taxi Driver's Licence TDL/00291 (Agenda item 1)
- [b] Taxi Licence TL/177 (Agenda item 2)

The Committee considered the two Licences separately and reached separate decisions. In each case the Committee was satisfied that the grounds for revocation or suspension were established (Paragraph 11(2)(a) and (d)).

4.1.1 Taxi Driver's Licence TDL/00291 James Williamson

Decision

Councillor Barr, seconded by Councillor Ferguson, moved that the Committee should not revoke the Licence but should suspend the Licence for a period of 6 months, with the suspension to commence on Wednesday 9 February 2022 (i.e. 28 days after the Committee, under Paragraph 11(9)). On a roll call vote all Councillors present voted in favour of the motion. There being no amendment, the motion was declared carried.

4.1.2 Taxi Licence: TL/177 James Williamson

Decision

Councillor Barr, seconded by Councillor Ferguson, moved that the Committee should neither revoke nor suspend this Licence. There was no amendment or dissent. On a roll call vote all Councillors present voted in favour of the motion. There being no amendment, the motion was declared carried.

4.2 Taxi Driver's Licence: TDL/02197 (New) Gareth Wilkinson

At a previous meeting held on 21 April 2021, the Committee considered this Licence Application and decided to continue consideration to await the outcome of Court proceedings. The Committee was advised on 12 January 2022 that the Court case remained pending.

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 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 representatives from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the applicant and representatives 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 McNicol, moved that the Committee:

- (a) 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, and
- (b) advise the Licence Applicant that if the Court later convicted, the Committee would be entitled to (i) review the decision to grant the Licence by holding a hearing on possible Revocation or Suspension; and (ii) take any conviction into account when considering a future application for renewal.

There being no amendment the motion was declared carried.

4.3 Taxi Licence: TL/429 (New) Gareth Wilkinson

The applicant, having been duly cited to attend, was present. A representative from Police Scotland was also in attendance.

The representative from Police Scotland 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 representatives from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the applicant and representatives from Police Scotland re-joined the meeting, with the same Members and Officers present and in attendance, to hear the Committee's decision.

Councillor Ferguson, seconded by Councillor McTiernan, moved that the Committee:

- (a) grant the application to treat the car as an exception to the Specification Policy and regard it as 'suitable' for use as a hire-car, in terms of the Civic Government (Scotland) Act 1982, Section 10(2); and
- (b) delegate authority to the Solicitor (Licensing) to (i) grant the Taxi Licence, subject to the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 if the proposed vehicle passed a further mechanical inspection (in addition to that in April 2021) at the Council garage; (ii) attach a condition to the Licence requiring that the vehicle should pass further mechanical inspections at the Council garage, the first being no later than the last day of the month of June 2022, then no later than the last day of the month of December 2022 at 6-monthly intervals.

There being no amendment the motion was declared carried.

The applicant left the meeting at this point.

4.4 Taxi Licence: TL/432 (New) Kelly Scott

The Committee noted that this Application had now been granted under Delegated Authority.

4.5 Taxi Driver's Licence: TDL/2129 (New) Alan Mark

At a previous meeting on 17 November 2021, the Committee agreed to continue consideration of this application.

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 addressed the Committee on the terms of letters 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 representatives from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the applicant and representatives 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 Barr, seconded by Councillor Ferguson, moved that the Committee refuse the application.

As an amendment, Councillor Easdale, seconded by Councillor McClung 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 McNicol, Easdale, McClung, McTiernan and Reid (5) and for the motion, Councillors Ferguson, Barr, Stalker and Stephen (4), and the amendment was declared carried.

Accordingly, the Committee 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.

The meeting ended at 11.45 a.m.