



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Licensing Committee

A meeting of the **Licensing Committee** of North Ayrshire Council will be held remotely on **Wednesday, 09 February 2022 at 10:00** to consider the undernoted business.

Arrangements in Terms of COVID-19

In light of the current COVID-19 pandemic, this meeting will be held remotely in accordance with the provisions of the Local Government (Scotland) Act 2003. As the business under consideration at the meeting is likely to 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, the meeting will not be live streamed/recorded for access by the public.

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 the Meeting held on 12 January 2022 will be confirmed and 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 and applications for grant or renewal of licences and permits, 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

Ronnie McNicol (Chair)
Todd Ferguson (Vice Chair)
Robert Barr
John Easdale
Scott Gallacher
Jean McClung
Davina McTiernan
Donald L. Reid
Ronnie Stalker
Angela Stephen

Chair:

Apologies:

Attending:

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.

NORTH AYRSHIRE COUNCIL

9 February 2022

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;
b) Applications for the grant or renewal of licences and permits under the Civic Government (Scotland) Act 1982 and other statutes within the Committee's remit.

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

Appendix B - Applications for the grant or renewal of Licences and Permits

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

Environmental and Sustainability

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

Hearings (Appendix A)

Case 1	Private Hire Car Licence	PHCL/375 (NEW)
Applicant	Andrew Read	
Case 2	Street Trader Operator's Licence	STL/O/516
Licence holder	Bernadette McQuade t/a The Wee Fish Van	
Case 3	Street Trader Operator's Licence	STL/O/518
Licence holder	Bernadette McQuade t/a The Wee Fish Van	

Hearings (Appendix B)

Case 1	Indoor Sport's Entertainment Licence	ISEL/022 (NEW)
Applicant	Eleanor Bone	
Case 2	Taxi Driver's Licence	TDL/00422 (RENEWAL)
Applicant	James Cunningham	
Case 3	Taxi Driver's Licence	TDL/00737 (RENEWAL)
Applicant	William Murray	