

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 22 APRIL 2015**

**Present:** Councillor Alex McNaughton (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Robin Currie	Councillor James McQueen
Councillor George Freeman	Councillor Sandy Taylor
Councillor Neil MacIntyre	Councillor Richard Trail
Councillor Robert G MacIntyre	

**Attending:**

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Blair, Mary-Jean Devon, David Kinniburgh, Roderick McCuish and Alistair MacDougall.

**2. DECLARATIONS OF INTEREST**

Councillor Neil MacIntyre declared a non financial interest in this case as family members were involved in the taxi business in the Oban area. He left the room and took no part in this Hearing.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SUSPENSION HEARING - TAXI OPERATOR'S LICENCE (J BROWN, OBAN)**

The Chair invited Sergeant Ferguson to speak in support of the Chief Constable's complaint.

**Police**

Sergeant Ferguson referred to the letter read out at the earlier Suspension Hearing in respect of the Licence Holder's Taxi Driver Licence and confirmed that the Chief Constable considered that Mr Brown was not a fit and proper person to be the holder of a Taxi Operator Licence as he had been convicted of drink driving, received a fine and had been disqualified from driving for three years.

Mr Brown confirmed he had no questions.

**Licence Holder**

Mr Brown referred to the Chief Constable's request that his Taxi Operator Licence be suspended and stated that he did not think his Operator Licence was relevant in this case. He advised that you did not need to own a vehicle to hold a Taxi Operator Licence. He advised that his business as a Taxi Operator was his only source of income and that his wife would take over the driving of the taxi and referred to adding her name to the Operator Licence.

Sergeant Ferguson confirmed that he had no questions.

### **Members' Questions**

Councillor Colville referred to the comment Mr Brown made at his Taxi Driver Licence Suspension Hearing regarding being at home when the Police called and asked Mr Brown to elaborate on the circumstances of that. Mr Brown advised that he had made a stupid decision to drive about 300 yards to a service station to purchase a top up card for his phone. He stated that he realises he should have walked to the service station but did not think of this at the time. He confirmed that he was back in his house when the Police approached him.

Councillor Colville referred to Mr Brown's wife taking over the Licence and sought clarification from Mr Reppke on that. Mr Reppke confirmed that there was an outstanding request for an amendment to the terms of Mr Brown's Taxi Operator Licence. He advised that anyone could apply for a Taxi Operator Licence and that a new application would need to come to the Committee for consideration and that the Committee would need to take account of the recent Demand Survey carried out. He advised that this would not be the case for the amendment of an existing Operator Licence.

Councillor Freeman sought and received clarification from Mr Brown that he only had one taxi vehicle.

Councillor Trail sought and received clarification from Sergeant Ferguson that Mr Brown had no other previous convictions.

### **Summing Up**

#### Police

Sergeant Ferguson advised that he had nothing further to add.

#### Licence Holder

Mr Brown confirmed that this was his only source of income and that he had separately applied to add the name of his wife to the Licence.

When asked both parties confirmed that they had received a fair hearing.

### **Debate**

Councillor Freeman advised that he supported the Police and stated that he did not consider Mr Brown to be a fit and proper person to be the holder of a Taxi Operator Licence and moved that the Licence be suspended.

Councillor Currie advised that he was strongly of the opinion that the Licence should not be suspended because this would affect Mr and Mrs Brown's livelihood. He stated that Mr Brown had paid for his crime by being disqualified from driving and losing his Taxi Driver Licence. He advised that a person not being a fit and proper person to hold a Taxi Driver Licence did not mean that they were also not a fit and proper person to hold a Taxi Operator Licence and that to suspend this Licence would just be cruel to both Mr and Mrs Brown. Councillor Currie moved that the Licence

should not be suspended.

Councillor Taylor confirmed that he supported Councillor Currie, stating that he could separate a Road Traffic Office from the Operator business. He advised that if Mr Brown had been a serial disregarder of the law it would have been different but there was no record of this. He said that he not see the nature of the conviction affecting Mr Brown's ability to operate his business.

Councillor Colville advised that he was inclined to support Councillor Freeman. He stated that Mr Brown had admitted his grave error of judgement and said that Taxi Operators were a breed apart that accepted that driving and drinking did not go together. He indicated that if Mr Brown was before the Committee applying for a Taxi Operator Licence he would not be considered for one.

Councillor Trail advised that he felt inclined to support the viewpoints of Councillors Currie and Taylor and stated that a Taxi Operator was completely different from a Taxi Driver. He said that he hoped that Mr Brown had learnt his lesson and would never think of drinking and driving again. He stated that Mr Brown had committed the crime and that Mrs Brown was going to pay the price by having to work.

### **Motion**

To agree to suspend Mr Brown's Taxi Operator Licence with immediate effect as he was no longer a fit and proper person to be the holder of the Licence.

Moved by Councillor George Freeman, seconded by Councillor Rory Colville

### **Amendment**

To agree not to suspend Mr Brown's Taxi Operator Licence.

Moved by Councillor Robin Currie, seconded by Councillor Sandy Taylor

The Amendment was carried by 5 votes to 4 and the Committee resolved accordingly.

### **Decision**

The Committee agreed not to suspend Mr Brown's Taxi Operator Licence.

(Reference: Report by Head of Governance and Law, submitted)