

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 18 MARCH 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Lorna Douglas Councillor Sandy Taylor
Councillor Donald MacMillan BEM Councillor Richard Trail
Councillor Jean Moffat

Attending: Stuart McLean, Committee Manager
Graeme McMillan, Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Rory Colville, Robin Currie, Mary-Jean Devon, Audrey Forrest, George Freeman, Graham Archibald Hardie, Roderick McCuish and Alastair Redman.

2. DECLARATIONS OF INTEREST

The Chair, Councillor David Kinniburgh, declared a non-financial interest in the application dealt with at item 3 of this Minute due to the fact that he was a work colleague of Mr Osborne at Helensburgh Toyota. He left the meeting and took no part in the consideration of this application. As the Vice Chair, Councillor Rory Colville, had submitted his apologies for this meeting, Councillor Sandy Taylor was nominated to assume the role of Chair for the remainder of the meeting.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI DRIVER LICENCE (J OSBORNE, HELENSBURGH)

This matter was previously considered by the Committee on 23 October and 20 November 2019, where members agreed to continue consideration of the application on both occasions in order to afford the Applicant further opportunities to appear before the Committee.

The Chair requested an update from the Council's Solicitor. Mr McMillan advised that a representative from Police Scotland would not be present at this hearing as they had been advised by senior management that Officers should not attend external meetings in order to reduce the risk of Operational Officers being exposed to the coronavirus (COVID-19) infection.

Mr McMillan further advised that in respect of the Applicant this was now the third opportunity given to Mr Osborne to attend as he had been unable to on previous occasions. Mr McMillan confirmed that notification inviting Mr Osborne, or a representative, to attend had been sent to him by Recorded Delivery and that this had been signed for on 3 March 2020. Mr McMillan advised the Committee that given there has been more than ample opportunity for the Applicant to come and state his case and that it had now almost reached the 9 months position for automatic grant of the application, he would recommend that the Committee proceed with determining the application today.

The Committee unanimously agreed to proceed with the determination of the application in the absence of the Applicant.

Mr McMillan referred to the letter of representation submitted by the Chief Constable and advised that in terms of the ongoing case in respect of the incident which took place on 7 May 2019, Police Scotland have advised that the Procurator Fiscal had still to decide whether it was in the public interest to proceed and at this stage the case was still pending with no trial date set.

DEBATE

The Committee sought and received clarification from Mr McMillan that the Committee could agree not to grant the licence due to the Applicant not being a fit and proper person to hold a licence, or there were concerns the Applicant was proposing to use the licence for someone else, or if the Committee had any concerns in regards to issues of public safety or public order. He advised that given Police Scotland have made the Committee aware of past misconduct the relevant grounds for consideration would be whether or not the Applicant was fit and proper to be a taxi driver.

Councillor Trail stated that, on that basis, he would recommend refusal of the application and this was supported by Councillor Moffat.

Councillor Douglas asked if it was normal for someone with convictions and pending convictions to leave it for others to decide on their application or would they withdraw their application. Mr McMillan advised that no response had been received from the Applicant in relation to today's hearing. He confirmed that the relevant notice had been given and received by the Applicant within the statutory timeframe.

Councillor Taylor commented that as no one was otherwise minded the application should be refused.

DECISION

The Committee unanimously agreed to refuse Mr Osborne's application for grant of a Taxi Driver Licence on the grounds that he was not a fit and proper person to be the holder of that licence.

(Reference: Report by Head of Legal and Regulatory Support, submitted)