

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 17 FEBRUARY 2021**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan BEM
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Kieron Green	Councillor Richard Trail
Councillor Graham Hardie	

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Mark Franks, Applicant
Kenneth McAuley, Objector
Lisa McCandlish, Objector
Allan McCandlish, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Audrey Forrest, George Freeman, Roderick McCuish and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR LICENCE (M FRANKS, HELENSBURGH)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing the Applicant, Mr Franks, and one of the Objectors, Mr McAuley, opted to proceed by way of Audio Call and they both joined the meeting by telephone. Mr McCandlish, Objector, had opted to proceed by way of Video call but subsequently proceeded by way of Audio Call and he, along with his wife, also joined the meeting by telephone.

A further Objector, Mr Moy, did not request an invite to join the meeting.

The Chair outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

APPLICANT

Mr Franks advised that he was here today to ask the Committee to see fit to approve his application for a Taxi Operator's Licence for a wheelchair accessible taxi. He said that there was an inadequate supply in Helensburgh and pointed out that this was a seaside town with many care homes. He referred to the Objectors saying

there were 6 wheelchair accessible vehicles and said he would beg to differ. He said he only counted 4 with one vehicle in Kilcreggan, one in Alexandria and another Operator with 2 vehicles. He referred to one Operator's car not being tested by VOSA so the DVLA had been unable to issue a new log book stating that the car was wheelchair accessible. He advised that he has phoned TOA and they have had nothing available. He said that care homes have had to phone Dumbarton and other areas to book wheelchair accessible vehicles. He referred to the survey saying there were not enough wheelchair accessible vehicles and advised that disabled people were being discriminated against. He advised that Inverclyde and West Dunbartonshire had 75% more wheelchair accessible vehicles than Helensburgh. He said that he had spoken to a few care homes and they had indicated that they would use a local service and that they currently found it difficult to get wheelchair accessible taxis. He said that he knew of 2 plates that would not be renewed due to bereavements. He advised that he has held a Private Hire Operator's Licence for over a year and that he was told to await the outcome of this hearing before applying for a taxi driver's badge in case this was not granted. He said he put his application in during the pandemic and that he worked 24/7, 7 days a week. He said that he did not think it was fair that other taxi drivers could object as they would be biased. He commented that of course they would object as they would not want any more taxis on the road in competition. He said that during the pandemic they have chosen not to come out and work. He said that during the pandemic Mr McAuley purchased a new vehicle. He also said that Mr McCandlish had stated his family were relying on benefits and handouts. He advised that he knew that Mrs McCandlish was employed by Scotrail.

QUESTIONS FROM OBJECTORS

Mrs McCandlish referred to Mr Franks having a wheelchair accessible vehicle on the road between October 2020 and December 2020. She asked why Mr Franks had then taken this car off the road. Mr Franks explained that his private hire vehicle had a mechanical issue and while he was waiting for this to be resolved he used his black cab.

Mrs McCandlish referred to Mr Franks stating that the care homes required wheelchair accessible vehicles. She asked Mr Franks where his business would come from due to the Covid restrictions. Mr Franks said that he had done a survey on Facebook asking nursing homes for their requirements and they had indicated that they needed wheelchair accessible vehicles. He said it did not matter if this was today, tomorrow or next week, they still needed them.

OBJECTORS

Mr McAuley

Mr McAuley referred to his letter of objection. He advised that the Council's own survey stated that there were too many taxis in Helensburgh, even wheelchair ones. He said he was sure there were 8 but the Council would have the correct information. He advised that due to the current situation with Covid 19 it has been widely reported that the trade was running at a 50 – 70% reduction. He referred to a previous hearing for an application for the same type of vehicle submitted by Mr Haddow which had not been granted. He said that since then, about 2 meetings ago, the situation had gotten worse. He advised that this has been recognised by the central government by granting a one off benefit to taxi drivers as they have

realised how hard things are. He said he felt that putting any more taxis on the road would only make a bad situation worse.

Mrs McCandlish

Mrs McCandlish referred to her letter of objection. She said that there had been at least a 50% reduction in trade due to the Covid restrictions. She advised that since the updated survey was carried out there has been no significant unmet demand for taxis. She referred to Mr Franks advising that she worked for Scotrail and advised that over the last 18 months she has not seen anyone travelling on the train with a wheelchair who would get a taxi into town. She said they would find it very difficult to get into town without a taxi. She said over the last 18 months she has not seen any wheelchair passenger. She referred to the current climate and asked if Mr Franks would hand back his Private Hire Licence if this Licence was granted or if he would keep both.

Councillor Jean Moffat left the meeting at this point to attend another meeting.

MEMBERS' QUESTIONS

Councillor Trail sought and received confirmation from Mr Franks that at the present time he was driving his private hire vehicle on a regular basis.

Councillor Trail sought and received confirmation from Mr Franks that his private hire vehicle was a different vehicle to the vehicle he was seeking a Taxi Operator Licence for.

Councillor Trail sought and received confirmation from Mr Franks that if he was granted this Licence he would operate both vehicles and that he had another driver who was willing to come on board the minute this Licence was granted.

Councillor Kinniburgh sought and received confirmation from Mr Franks that he would be putting an additional vehicle on the road.

Councillor Kinniburgh asked the Council's Senior Solicitor, Mrs MacFadyen, if she could confirm how many wheelchair accessible vehicles there were in Helensburgh and Lomond. Mrs MacFadyen said she did not have specific figures but would estimate there were 5 taxis in the area which were wheelchair accessible.

Councillor Colville sought and received confirmation from Mr Franks that he planned to renew his Private Hire Licence when it expired this year and that he would run 2 plates if this Licence was granted.

Councillor Kinniburgh asked Mr Franks if his Private Hire Vehicle was wheelchair accessible. Mr Franks said it was not. He advised that it could carry 8 passengers but not a wheelchair.

Councillor Kinniburgh asked Mr Franks if it was because of the position of the seats that prevented the vehicle from carrying a wheelchair. Mr Franks said yes. He explained that the seats were forward facing and that only one row came out. He said he would not be converting it to be wheelchair accessible.

Councillor Trail asked Mr Franks how many people with wheelchairs, did he think, would go to the taxi rank compared to those who would phone for a taxi, including the care home. Mr Franks said he could not give specific numbers but all he could say was that he had observed people walking about the town with wheelchairs. He said passengers from the train would ring on a number of occasions.

Councillor Trail referred to business with the care homes and suggested that this could easily be done by private hire rather than taxi. Mr Franks advised that with a private hire you could not pick up off the street. He said that he wanted to be able to pick up anyone from the street including those that required a wheelchair accessible vehicle. He also wanted to be able to sit on the taxi rank as well as take calls from the care home.

Councillor Trail sought comment from the Objectors on how many times people requiring wheelchair accessible vehicles would be picked up on the street. Mr McAuley said that he had done a straw poll with around 12 drivers and all said they could not remember the last time they had seen a person with a wheelchair at the rank. Mrs McCandlish said that she worked at the train station in town and that if there was anyone on the train that required assistance they pre-booked prior to leaving their house or they phoned the taxi company to come to the station.

Councillor Colville asked Mr Franks why he had applied for a Taxi Operator's Licence when he already had a Private Hire Operator's Licence. He commented that he would have thought a Private Hire Licence would offer more flexibility given the findings of the survey report which said there were plenty taxis in the Helensburgh and Lomond area. Mr Franks advised that the problem with private hire was the driver could not pick up anyone on the street and they could not ply for hire so this limited what a Private Hire Operator could do. He said that he would use the wheelchair accessible vehicle for around the town and would use his private hire vehicle for out of town runs to Glasgow and the airport as it could carry more than 5 people.

Councillor Colville asked what the ratio of business Mr Franks expected between the ranks and the nursing home. Mr Franks said he would hope it was 50:50. He said there were not really any wheelchair accessible taxis in the town that sat on the rank and the ones that did came from places 15 miles away. He said they could not supply the demand.

Councillor Devon sought and received confirmation from Mr Franks that there would maybe be one wheelchair accessible taxi on the rank at any time.

Councillor Kinniburgh sought and received confirmation from Mr Franks that there were wheelchair accessible vehicles on the rank. Mr Franks said that if they came into the area they would sit at the rank but they would not be there all the time.

Councillor Kinniburgh sought and received confirmation from Mr Franks that there were only 2 private hire vehicles that were wheelchair accessible. He said one was not being used at the moment as there was no driver for it.

Councillor Kinniburgh referred to the current time and asked Mr Franks if it would be wise to employ another driver. Mr Franks said yes if the person wanted to receive an income.

Councillor Kinniburgh referred to hearing that business had dropped by 50 – 70% which suggested that there were enough taxis on the road without hiring another driver and asked Mr Franks to comment. Mr Franks advised that he could not speak for the person who had the other wheelchair accessible taxi. He said he was only going by what he has been told that this person had 2 wheelchair accessible taxis and a private hire. He had a driver for one taxi but not the other.

Councillor Kinniburgh sought and received confirmation from Mr Franks that there were wheelchair accessible vehicles on the rank and there was a private hire vehicle which was wheelchair accessible.

Councillor Kinniburgh asked Mrs MacFadyen how many wheelchair accessible vehicles have been put on the road in Helensburgh since the survey was carried out. Mrs MacFadyen gave an estimate of 6 private hires which were wheelchair accessible. She said she did not have the figures for how many were operating when the survey was carried out. She said the estimate was worked out on the address of the Operator.

Councillor Kinniburgh asked Mr McAuley if he was aware of how many wheelchair accessible vehicles were in operation on the road. Mr McAuley said that he knew that Trident had 2 taxis every day on the road all the time and one of these drivers was a neighbour of Mr Franks. He said that Trident had 3 taxis and one private hire. He also advised that Mr Burlass had one, Helensburgh Private Hire had 2 and Rosneath Taxis had 1 which made a total of 8. He said he thought that was fairly accurate. He advised that Trident had taxis on the rank every day and that they had 2 drivers who said they could not remember the last time they had picked up a wheelchair at the rank and that they had all been through pre bookings and phone calls.

Councillor Kinniburgh asked Mr Franks to comment on what Mr McAuley had said. Mr Franks advised that the neighbour he was referring to was under scrutiny as he believed the vehicle had not been to VOSA to be checked so had not been issued with a log book that said it was wheelchair accessible. He said he did not believe it was wheelchair accessible.

Councillor Colville referred to the survey saying that it was common for wheelchair accessible vehicles to be pre booked which, he said, was at odds with what Mr Franks was saying. He asked Mr Franks how much weight should be given to what he had said as opposed to what was contained in the survey. Mr Franks said that a Private Hire Licence would not allow him to pick up off the street. He referred to it being said that there was already wheelchair accessible taxis on the road and advised that if he was not allowed to pick up off the street this brought his numbers down. He said he could see no reason not to grant one more Licence for a wheelchair accessible taxi.

Councillor Kinniburgh asked Mr Franks what percentage of business would be for wheelchair users as opposed to others. Mr Franks said he did not want to discriminate against disabled people and could not put a number on it. Councillor Kinniburgh asked if the majority of Mr Franks' business be non-wheelchair accessible business. Mr Franks advised he would say about 75%.

SUMMING UP

Objectors

Mrs McCandlish

Mrs McCandlish advised that there has been 5 wheelchair accessible taxi licences granted since May 2019. She referred to Mr Franks calling into question garages carrying out taxi inspections and said that taxis were not passed without being in the best condition and to say that one from Trident was not, did not put him in a good light. She then referred to the nursing homes and advised that as the country was still in lock down she failed to see why anyone in the nursing home would want to go out as they were the most vulnerable people in the community. She said that surely a taxi being brought to the home would be far better than going into town or to the rank to get one.

Mr McAuley

Mr McAuley advised that for Mr Franks to say that 50% of business at the rank would be from wheelchair users was a joke. He referred to the previous Halcrow Survey done in 2014 and said at that time there was only one wheelchair accessible taxi and that the area now had 8 which, he advised was more than enough. He referred to Mr Haddow applying for the same thing not even 3 months ago and that his application had been refused. He advised that since then things have gotten worse and that the Scottish Government had set up a special fund to claim from as they recognised that the industry was on its knees.

Applicant

Mr Franks said that his vehicles were Covid secure with full screens. He said that he would work 24/7, 7 days a week. He advised that the pandemic would not last forever and said that with the rollout of the vaccine the trade would soon be back to normal. He advised that none of the Objectors had wheelchair accessible vehicles and that 2 plates would shortly be handed back due to bereavements so that would mean 2 less taxis plates in area as well.

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

DEBATE

Councillor Trail advised that in this day in age with mobile phones, he could scarcely believe that a wheelchair user would not have pre-arranged any pick-ups well before travelling. He said that he thought there were more than enough vehicles for hire in the Helensburgh and Lomond area and would not like to see another on the road.

Councillor Devon said that she had listened to the debate from both sides and had noted what had been said about the taxi fund the Scottish Government had brought out because business had dropped, which allowed drivers on benefits to claim. As a wheelchair user, she said that she would always phone and plan her journey ahead. She advised that she was not minded to approve this application.

Councillor Douglas said that she felt that under the current circumstances with Covid 19 and even putting that aside, the Committee have been over this before. She said

there seemed to be ample provision of wheelchair accessible taxis within the area at this moment in time and that she would not be in favour of supporting this application.

Councillor Hardie said that he agreed with his fellow Councillors and was inclined not to approve.

Councillor Redman said he was leaning the other way as he believed that competition was good. He advised that he was always wary when people in the same industry objected. He said of course they would object as they would not want the competition. He advised that he was minded to approve as he believed choice and competition was good and he did not like consumer choice to be limited.

Councillor Green said he was a bit torn with this one. He advised that he had taken on board the comments made and the opportunity was there for anyone to apply for a licence with each case considered on its own merits. He said that a good case had been given for granting this Licence and for him it was finely balanced. He advised that he was inclined to think that he would be supportive of granting the Licence.

Councillor Colville referred to the reasons why the Committee were here today and that the granting of licences needed to go through a process. He said that he did not think it would be appropriate to grant this Licence at this time.

Councillor MacMillan said he agreed with Councillor Colville.

Councillor Kinniburgh advised that having heard what has been said today the Committee did need to take account of the LVSA report which said there was no unmet demand for taxis. The Applicant has tried to overcome this by presenting his case for a wheelchair accessible vehicle but by the Applicant's own admission there were wheelchair accessible taxis on the rank. From what he had heard, Councillor Kinniburgh said this was every day and that was a major consideration when coming to his decision. He advised that he took on board what Councillor Devon said about booking wheelchair accessible vehicles in advance. He said that he was 100% sure this would be the case for anyone in need of a wheelchair. He said he did not think the amount of business Mr Franks would get from wheelchair users would be high and that the majority of his business would be from non-wheelchair users. He said you just needed to look in any town and count the number of people walking about and the number that were using wheelchairs, and you would see that the majority of business would be from people not requiring a wheelchair accessible taxi.

Motion

To agree to refuse Mr Franks' application for a Taxi Operator Licence as there was no significant unmet demand for taxis in the Helensburgh and Lomond area.

Moved by Councillor David Kinniburgh, seconded by Councillor Rory Colville

Amendment

To agree to grant a Taxi Operator Licence to Mr Franks.

Moved by Councillor Alastair Redman, seconded by Councillor Kieron Green

A vote was taken by calling the role.

Motion

Councillor Colville
Councillor Devon
Councillor Douglas
Councillor Hardie
Councillor Kinniburgh
Councillor MacMillan
Councillor Trail

Amendment

Councillor Green
Councillor Redman

The Motion was carried by 7 votes to 2 and the Committee resolved accordingly.

DECISION

The Committee agreed to refuse Mr Franks' application for a Taxi Operator's Licence as there was no significant unmet demand for a taxi in the Helensburgh and Lomond area.

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