

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held on a HYBRID BASIS BY ATTENDANCE IN THE COUNCIL CHAMBER, KILMORY,
LOCHGILPHEAD OR REMOTELY BY MICROSOFT TEAMS
on WEDNESDAY, 17 AUGUST 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Fiona Howard
Councillor Jan Brown	Councillor Andrew Kain
Councillor Amanda Hampsey	Councillor Liz McCabe
Councillor Daniel Hampsey	Councillor Luna Martin
Councillor Graham Hardie	Councillor Peter Wallace

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Fiona Macdonald, Solicitor
Morgan Tyreman, Licence Holder

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Willie Hume, Mark Irvine and Paul Kennedy.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: VARIATION OF TAXI OPERATOR LICENCE (M TYREMAN, 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 Licence Holder opted to proceed by way of audio call and joined the meeting by telephone.

It was noted that Mr Tyreman had not received 14 days notice of this hearing as his letter had only arrived in the post on 15 August 2022. He confirmed that he was content with the hearing proceeding today.

A report advising that the Council were seeking to vary the conditions applicable to taxi licence number 6578 held by Mr Morgan Tyreman by reinstating the condition that was imposed when the licence was granted at a hearing of the Committee on 21 April 2021.

The Chair outlined the procedure that would be followed and invited the Licence Holder to speak in relation to the proposal to vary his licence.

LICENCE HOLDER

Mr Tyreman referred to the condition missed off his licence when it was renewed and advised that he would be happy for this to be reinstated. He said that he understood that it was a technical issue that had led to it being omitted when his licence was renewed.

MEMBERS' QUESTIONS

Councillor Green asked Officers if the condition was reinstated, would Mr Tyreman's vehicle meet that condition. Ms Macdonald explained that it was her understanding that Mr Tyreman's vehicle was a hybrid. She said that it was a separate issue as to whether or not his vehicle would meet that condition if it were reinstated. Mrs MacFadyen said that it could be a matter for a separate hearing and that the complainant would be invited to that hearing.

Mr Tyreman commented that the Legal Team had been provided with a copy of written confirmation from the manufacturer that this was an electric vehicle. He said that it was his understanding that the condition was that he should have an electric vehicle and that it did not stipulate a 100% electric vehicle. He advised that as it was for an electric vehicle he would be happy for the condition to be reinstated.

Councillor Howard asked if the Committee could wait to make a decision on this until after it had been confirmed whether or not the vehicle would meet the condition if it was reinstated. Mrs MacFadyen advised that the matter before the Committee today was to determine whether or not to reinstate the condition and that only if it was reinstated in its original format would it be necessary to hold another hearing as the Applicant and the complainant would need to be given the opportunity to respond to the issue of whether or not the vehicle met the criteria of the condition.

Councillor Armour sought and received confirmation from Mrs MacFadyen that if the condition was not reinstated, then the Licence Holder would be subject to the standard conditions of a taxi licence. She pointed out that this condition was put on his licence by the Members of the PPSL Committee in April 2021. If the Members had not put that condition on, then it would have been the standard conditions that would have applied.

Councillor Armour asked if it would be wrong to say that it would not be in the Licence Holder's interest to have this condition. Mrs MacFadyen said that Mr Tyreman had advised that he would be happy for the condition to be reinstated.

Councillor Green asked if it would be possible for the Committee to apply a different condition, such as one that stated that the vehicle could also be a plug-in electric hybrid vehicle. Mrs MacFadyen said that this would be a matter for the Committee to decide. She advised that the original licence was granted on condition that the vehicle was substituted within 6 months.

Councillor Green sought and received confirmation from Mrs MacFadyen that it would be a matter for the Committee to decide whether to reinstate, or not reinstate or add any other condition.

Councillor Wallace asked why the condition was placed on the licence in the first place. Mrs MacFadyen advised that at the meeting on 21 April 2021 there was a detailed discussion regarding objections to the application. She said that the Applicant himself had said that he was going to have an electric vehicle and that it would be the first 100%

electric vehicle in Scotland. She advised that a vote was taken on a Motion to refuse the application and on an Amendment to agree to grant the licence on condition that the Applicant would substitute his vehicle for an electric vehicle within 6 months, and that the Amendment was carried.

Mr Tyreman advised that it had been his original plan to acquire the vehicle referred to at the hearing but in the end this type of vehicle was not available so he went for a vehicle as close as possible to that. He said that he had an electric vehicle which ran for the majority of the time on electric. He advised that it had a purpose built ramp. He referred to the letter from the manufacturer confirming that it was an electric vehicle and he commented on the complainant being fixated on the vehicle not being 100% electric. He said that he had not tried to deceive anyone and that even if the condition was reinstated, he would not be changing the vehicle.

Mrs MacFadyen suggested that the Committee may wish to continue consideration of this matter to allow for more information on the vehicle to be made available to the Committee.

Councillor Green commented that it was his understanding the Committee were being asked whether or not to reinstate the condition and that advice from Officers was that whether or not the vehicle would comply with this condition was a separate matter. Mrs MacFadyen acknowledged that this was correct.

Councillor Howard commented that she had the feeling that the difference between an electric vehicle and a hybrid was nit-picking. She said she would support the amended condition suggested by Councillor Green.

Councillor Kain agreed with the comment made by Councillor Howard.

Councillor Brown sought and received confirmation from Councillor Green, that if the condition was reinstated, the Committee would require to have another meeting to decide if the vehicle met this condition, and that if the Committee decided not to reinstate the condition, the Licence Holder could carry on using his car and that it would be perfectly acceptable, albeit a hybrid.

SUMMING UP

Licence Holder

Mr Tyreman said that he had not tried to deceive the Council. He advised that he had been unable to obtain the original vehicle planned for his project as the manufacturer had gone out of business. He said that he had gone for the next best thing and that this type of vehicle was acceptable to a lot of other Councils and for London Taxis and that they considered this to be an electric vehicle. He said that the condition stipulated that it had to be an electric vehicle, it did not state that it had to be 100%. He advised that even if the condition was dropped he would have no intention of changing the vehicle. He said that it worked for him and that he had in excess of 9 wheelchair users who were customers. He said that he would be happy for the condition to be reinstated or not. He said that the vehicle worked for his business and that they were heavily invested in it.

Mr Tyreman confirmed that he had received a fair hearing.

DEBATE

Councillor Green advised that if the Committee were able to vary the current licence to say that a plug-in electric hybrid vehicle was acceptable he would be minded to do that. He sought and received confirmation from Mrs MacFadyen that it would be competent for the Committee to do that or continue consideration of the matter to a future meeting.

Councillor Armour commented that Mr Tyreman had been very open with the Committee. He pointed out that the Committee were aware that there was under provision of taxis in the Helensburgh area and said that work would not be taken away from anyone else. He noted that Mr Tyreman was happy for the condition to be reinstated. He said that he hoped that the Committee could reach a conclusion today so that Mr Tyreman could carry on with his business.

Councillor Howard questioned why other taxi operators in the area did not have this condition on their licences. Councillor Green explained that it was up to the Committee at each individual hearing to decide what conditions to apply or otherwise based on the information and evidence before them from both Applicants and any Objectors.

Councillor Green advised that he believed the Committee had the opportunity here to remove this condition completely. He said that if the Committee were to impose a condition that stated that a hybrid vehicle would be acceptable, then this may be acceptable to the complainant as it would be more restrictive than removing the condition altogether. Mrs MacFadyen advised that Officers were making the Committee aware of the complaint as this was not purely an electric car as was said by the Applicant at the time of the hearing.

Councillor Kain commented that other Councils were accepting these vehicles as electric vehicles and that Mr Tyreman had given substantial reasons why it was not fully electric. Councillor Kain advised that he thought the Committee should amend the previous condition on the licence.

Decision

The Committee unanimously agreed to reinstate the condition to taxi licence number 6578 with the inclusion that a plug-in electric hybrid vehicle would also be acceptable and noted that the Licence Holder would receive written confirmation of this from Legal Services within 7 days.

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