

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 21 AUGUST 2019**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Jean Moffat
Councillor Robin Currie	Councillor Alastair Redman
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor Audrey Forrest	Councillor Richard Trail
Councillor Donald MacMillan	

Attending: Patricia O'Neill, Governance Manager
Graeme McMillan, Solicitor
Annette Weaver, Solicitor
Sgt Iain MacNicol, Police Scotland
Andrew McCunn, Licence Holder

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Rory Colville, Mary-Jean Devon, George Freeman, Graham Archibald Hardie and Roderick McCuish.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR SUSPENSION OF TAXI DRIVER'S LICENCE (NO. 5463) (A MCCUNN, LOCHGOILHEAD)

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and invited Police Scotland to speak in support of the Chief Constable's complaint.

POLICE SCOTLAND

Sgt MacNicol referred to a request from the Chief Constable that, in terms of Paragraph 11(1) of Schedule 1 of the Act, the Licensing Committee suspends Mr McCunn's licence. He advised that the Chief Constable complained in terms of Paragraph 11(2) of Schedule 1 of the Act, that Mr McCunn was no longer a fit and proper person to hold the licence and in, terms of Paragraph 11(2)(c) of Schedule 1 of the Act, on the grounds that the carrying on of the activity to which his licence relates would likely cause a threat to public safety. In support of the Chief Constable's request Sgt MacNicol read out the details of an incident which occurred on 22 July 2019. He confirmed that a report had been submitted to the Procurator Fiscal and that as the matter was sub-judice, he was constrained with regard to the nature of any further information he could provide at this time.

LICENCE HOLDER

Mr McCunn confirmed that he held a Taxi Driver's Licence and a Taxi Operator's Licence and that the incident occurred when he was not working. He advised that the Court had yet to decide on the matter and that currently he was the only taxi driver in Lochgoilhead.

MEMBERS' QUESTIONS

Councillor Douglas sought and received confirmation from Sgt MacNicol that the outcome of the charge was not known at the moment as the matter had still to come to Court.

Councillor Currie sought and received confirmation from Mr McCunn that the alleged incident happened while he was off duty as a taxi driver.

Councillor Currie asked Mr McCunn if he could tell his side of the story. Mr McCunn advised that he would tell the Committee as much as he could without incriminating himself. He then went on to describe what happened on 22 July 2019.

Councillor Taylor said that he felt uncomfortable discussing this case. He advised that if Mr McCunn had a solicitor with him today, then the solicitor would not be wanting the Hearing to proceed. He asked if Members would agree that the Committee should defer consideration of this matter until it had been dealt with at Court.

Councillor Kinniburgh sought and received confirmation from Mr McCunn that he had no one else to drive his taxi as there was no one willing to give up their Friday and Saturday nights. Mr McCunn advised that if his licence was suspended he would have to sell his taxi.

Councillor Kinniburgh asked how often Mr McCunn drove his taxi. Mr McCunn replied that he was available all the time and was busy mostly at nights. He said that Monday through to Thursday was usually pre bookings. He said that in the summer it could get really busy and he referred to working at wedding venues in Lochgoilhead. He advised that he had been working part time for Argyll Holidays checking the lodges and caravans. He said that he got his taxi badge when he retired and has made a good business out of it as he was the only taxi in Lochgoilhead. He advised that since he was granted his Operator's Licence he has been able to sit outside pubs. He confirmed he operated as a Private Hire from 2016 and was granted a licence for public hire in 2017 and has been operating as such since then. He said that he had a really good clientele, lots of good local people as well as lodge and caravan owners and he hoped that the Committee would take that into consideration.

SUMMING UP

Police Scotland

Sgt MacNicol advised that he did not have a lot more to say about the incident. He advised that Mr McCunn was charged and has made his first appearance at Court. He confirmed that the trial had still to happen. He noted what Mr McCunn had said about not working at the time but advised that it was still a serious allegation of

conduct of a taxi driver and that it was for the Committee to decide whether or not to suspend the Licence at this time.

Licence Holder

Mr McCunn advised that if he lost his Licence it would be quite a hardship for him and the village. He commented that there was rarely a police presence at Lochgoilhead and he suggested that since he started as a taxi driver drink driving in the area had reduced by 50%. He said that he would expect this to increase again if he lost his Licence.

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

DEBATE

Councillor Moffat advised that she did not think it was relevant that Mr McCunn was the only taxi driver. She said that what was relevant was the fact that this case was sub-judice and in the past on several occasions this Committee has deferred any decision until a case is heard at Court. She advised that she thought this was the way to go with this matter.

Councillor Currie advised that he agreed with Councillor Moffat. He said that the Committee should not consider the matter until it had been at Court to he would prefer to take no action today.

Councillor Redman advised that he very much echoed what his colleagues had said. He advised that he was always alarmed when Police Scotland used the term serious allegation. He advised that an allegation was just that and that this was a country where a person was innocent until proven guilty. He said that it was unfortunate that the Committee were being asked to make a judgement at this time.

Councillor Taylor agreed that the Committee should not take the matter any further today.

Councillor Douglas advised that she took on board that the allegation was serious but felt that the Committee did not have enough information before them at this time to make an informed decision and she asked that this be deferred.

Councillor Blair asked for the decision to be deferred. He also questioned the possibility of the Committee being able to view CCTV footage.

Councillor Kinniburgh referred to the Committee making decisions in the past to suspend a Taxi Driver's Licence if they also held an Operator's Licence and they had someone that could drive for them. He acknowledged that in this case Mr McCunn had no one else to drive his taxi. He referred to hearing what was said about this being a serious allegation and said that he agreed with what other Members had said about being innocent until proven guilty. He moved that this Hearing should be continued until the matter was decided by the Courts and that the Hearing could be held again at that time.

DECISION

The Committee unanimously agreed to continue consideration of this Hearing until the matter had been dealt with at Court.

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