

MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 23 OCTOBER 2019

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Jean Moffat
Councillor Rory Colville	Councillor Alastair Redman
Councillor Robin Currie	Councillor Sandy Taylor
Councillor Lorna Douglas	Councillor Richard Trail
Councillor Donald MacMillan BEM	

Attending: Shona Barton, Committee Manager
Graeme McMillan, Solicitor
Mr McNeill, Applicant
Mrs McCandish, Objector
Mr McCandish, Objector

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PRIVATE HIRE CAR DRIVER LICENCE (C MCNEILL, HELENSBURGH)

This matter was previously considered by the Committee on 18 September 2019 where Members agreed to continue consideration of the application.

The Chair welcomed everyone to the meeting and introductions were made.

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

APPLICANT

Mr McNeill explained that he applied last year to Legal Services for a taxi driver's licence but was unable to generate the required licence check code from the DVLA as there was a dispute over his change of address which had not been updated on DVLA's database so he was unable to generate and produce a check code. He stated that his bus licence was revoked at this time though he was unsure as to the reason why.

QUESTIONS FROM OBJECTORS

Mrs McCandish referred to Facebook updates apparently posted by the Applicant where he stated that he had his driver's licence suspended for a period of 4 years. Mrs McCandish asked the Applicant to confirm what type of licence was suspended. The

Applicant confirmed it was a category D licence which he said was not required to drive a car taxi only minibuses.

Mrs McCandish stated that the Applicant had been seen driving in the past few weeks and asked why he was applying for a new taxi driver's licence now and if he had been recently stopped by the Police.

The Applicant stated that he had been driving with passengers but his insurance is for social, domestic and pleasure, and he only drove for personal use not to transport other passengers for a fee. He said he did not know why the police had stopped him and that his previous badge had been transferred to another vehicle.

OBJECTORS

Mr McCandish stated that the Trident name had been used for more than 30 years by taxi operators in the Helensburgh area and asked the Applicant why in March did he register the Trident name as a trademark and threatened legal action if anyone used that name on the roof boxes of private hire cars but yet when he started his business in the area he said he would not take business from other taxi operators.

QUESTIONS FROM APPLICANT

The Applicant asked why they objected to him driving in the area.

Mr McCandish stated that the Applicant moved to the area as another operator and promised one thing but did another and there was only so much trade in Helensburgh and the Argyll and Bute area which will be quickly depleted with more plates operating in the area and asked what would happen to the level of business in the next 5 to 10 years.

MEMBERS' QUESTIONS

Councillor Richard Trail asked the Applicant if he had ever driven a taxi.

The Applicant responded that he had only driven for personal use and never for cash purchases and had never held a taxi drivers licence. He stated he only applied for a licence last year for the first time.

Councillor Trail asked the Applicant if he had threatened to sue anybody who used the name Trident on the roof boxes of cars.

The Applicant said that, as an operator, via Facebook he had encouraged other operators to use the booking app available in the Dumbarton area inviting people to work with him stating that he had the trademark but had no problem with others contacting him if they wanted to work with him.

Councillor Robin Currie asked the Objectors to explain what their objection was to the Applicant holding a taxi driving licence?

Mrs McCandish said they objected because many of the drivers have been working for many years in the area and the Applicant has taken the Trident name and threatened to sue drivers if they used that name.

The Chair asked the Applicant which vehicle he intended to drive should a licence be granted and how many drivers were currently operating that vehicle.

The Applicant confirmed that the vehicle was a Skoda Octavia and there were currently 2 drivers.

Councillor Trail asked the Applicant if he had a private hire operator's licence and the Applicant confirmed that he had 2.

SUMMING UP

Objectors

Mrs McCandish said she felt that the Applicant had not been entirely truthful and had omitted information from his application forms. She was not satisfied as to why he'd taken the Trident name and that there was proof that he had been driving without a licence. She felt he was taking away trade illegally and soon there would be too many vehicles out there.

Applicant

The Applicant said that after a certain time on Saturday nights there were people stood waiting at the taxi ranks as there were no drivers available to pick them up so he felt there was enough business to go round.

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

DEBATE

Councillor Alastair Redman stated that he had heard arguments about the potential for no trade to be left but said that consumers will not decrease just that competition would increase as consumers might choose another service. He stated that it was a free market for consumers to pick and choose and not for one business to have a monopoly as competition could be beneficial. He stated it was natural for existing business to object to further competition but that was no reason to reject the application so he was minded to approve it.

Councillor Trail stated that whilst he agreed that competition was good it needed to be fair and he felt it was unfair practice to steal an existing company's name and then to lose a driving licence to a traffic violation. He felt he did not find the Applicant to be a fit and proper person to be private hire taxi driver and therefore was against the application.

Councillor Currie stated that he had heard little as to why the applicant should not have a drivers licence as this application was not about competition but about someone driving a taxi he moved that the licence should be granted.

Councillor Lorna Douglas stated that she felt it was not for Members' to pass judgement on businesses but that the decision should be about granting a driver licence and it was not fair for them to sit and judge the business side of things. The Solicitor from Legal Services confirmed the details of the application before the Committee and their obligations in conjunction with the Civic Government (Scotland) Act 1982 stating that it was a balance of judgement for Members' to come to a decision.

Councillor David Kinniburgh stated that it was difficult to judge the situation but from what he heard today he felt it did not make the Applicant an unfit or improper person or increase the number of licenced vehicles on the road by granting him a Private Hire Car drivers licence.

DECISION

The Committee agreed to approve Mr McNeill's application for a Private Hire Driver's licence.

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