

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 18 DECEMBER 2019**

Present: Councillor David Kinniburgh (Chair)

Councillor Lorna Douglas
Councillor Donald MacMillan BEM
Councillor Alastair Redman

Councillor Sandy Taylor
Councillor Richard Trail

Attending: Stuart McLean, Committee Manager
Graeme McMillan, Solicitor
John Berry, Applicant
Mark Franks, Objector

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR LICENCE (J BERRY, DUMBARTON)

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed.

The Chair advised of a preliminary matter which would require to be dealt with before the Committee considered the application and invited Mr McMillan to advise.

Mr McMillan advised of a late objection from Mr Franks and advised that the Committee would need to consider whether or not to receive the objection.

Mr Franks was invited to advise the Committee of the reason why his objection was late. Mr Franks advised that there had been a discrepancy on the online register of applications where there had been a gap of five weeks between the register being updated. He advised that Mr Berry's application did not show on the register until the closing date for objections had passed.

Mr Berry said that he didn't think that the objection should be received and asked for evidence to back up Mr Franks reason for his late objection.

The Chair asked Mr Franks how late his objection was to which he replied that it was one day late.

Mr McMillan clarified that the online register was maintained by the Council, that the normal process was that it would be updated every Tuesday, but due to staff absence this had not been done. He advised that under Schedule 1 of the Act the

Council are required to update the online register as soon as is reasonably practicable and advised that Notices had been displayed within the Area Offices within the required timescales and had been made available for 28 days.

The Chair confirmed with Mr McMillan that objections were due on 26 November 2019 and Mr Franks objection had been received on 27 November 2019.

The Committee agreed to accept the late objection.

The Chair invited the Applicant to speak in support of his application.

APPLICANT

Mr Berry told the Committee that he was applying for a wheelchair accessible taxi licence and that the recent report had recommended the need for more wheelchair accessible taxis in the area. He advised that he would be the only operator to do both normal and wheelchair accessible taxis and had converted his car to accommodate a wheelchair. He advised that he would be happy for the Committee to attach conditions to his licence so that his vehicle could be a wheelchair only vehicle.

QUESTIONS FROM OBJECTORS

Mr Franks advised that he had no questions for the applicant.

OBJECTORS

Mr Franks advised that he was objecting because Mr Berry was operating contrary to his private hire operators licence as he was using a wired taxi meter in his vehicles and had been cross border hiring in Dumbarton.

QUESTIONS FROM APPLICANT

Mr Berry asked for evidence of this.

Mr Franks referred Members to the pictures he had submitted as part of his late objection and pointed out that you could see a meter on the vehicle and that he was not the first in the area to be on the TOA system. He also referred to the picture of the private hire vehicle sitting on the taxi rank.

MEMBERS' QUESTIONS

The Chair asked Mr Franks if the meter he referred to was the orange light that appeared on the photograph. Mr Franks advised the red lights were where the meter was and this was not the only vehicle in the area that had a wired taxi meter in a private hire vehicle. The Chair asked Mr Franks to confirm the number plate of the vehicle in the picture and referred to the picture of the vehicle on the taxi rank asking him to confirm that this was correct. He advised that the vehicle sitting on the rank was the only one of its kind in the area and that the Committee would need to take his word for it.

Councillor Trail asked Mr Berry to confirm if wheelchair accessible vehicles were normally called by telephone. Mr Berry advised yes but some did come off buses

and trains looking for a taxi on the rank. Councillor Trail pointed out that they could call from a mobile phone.

Councillor Douglas sought clarification on whether a private hire vehicle could use a meter. Mr McMillan confirmed that as long as there was an agreement with the customer at the start of the journey that the meter would be governing the fare then there was nothing to prohibit the use of a meter.

The Chair asked if there was anything that specified the tariff and if a private hire car could run at a different tariff. Mr Berry advised that it was the same tariff and that he was required to show a certificate during the taxi test to show what the tariff was.

The Chair sought clarification from Mr Berry on whether he would be using the vehicle solely as a wheelchair accessible vehicle. Mr Berry replied that he would be using the vehicle as both a normal taxi and a wheelchair accessible vehicle. Mr Berry added that he would be happy for the vehicle under the licence to remain a wheelchair accessible vehicle even if he changed vehicle.

The Chair asked if this meant that any further cars under this licence would be for a wheelchair accessible vehicle. Mr Berry replied yes.

Councillor Trail asked if this meant that the car could be used as a normal taxi but if he changed the vehicle that it would need to be a wheelchair accessible vehicle. He was told yes.

Councillor Taylor asked when Mr Berry referred to having a taxi licence and private hire licence if that meant he would have two vehicles on the road. Mr Berry confirmed that he would have 3 cars on the road if his application was approved.

The Chair asked Mr Berry how many cars he had on the road at the moment to which he replied 3. Mr McMillan confirmed to the Committee the licences that were currently held by Mr Berry.

The Chair asked Mr Berry why he wished to transfer his private hire licence to a taxi licence and what his main reason was for changing. Mr Berry replied that it was to put a wheelchair accessible vehicle on the road and that the vehicle had already been converted. The Chair asked Mr Berry why he required to change from a private hire licence to a taxi licence. Mr Berry replied that he would rather he was able to pick up passengers on the street and that there was a need for this as currently cars travelled from Alexandria which put an additional £20 charge onto customers.

The Chair advised he was of the mind that the Committee should not be approving the application as the report had advised there was no unmet demand, he referred to the point made by Councillor Trail that most hires were over the phone or through the app and asked Mr Berry why he should not take account of the report. He asked Mr Berry if the conversion had taken place already to which Mr Berry replied yes.

The Chair again asked Mr Berry why he should not take account of the report and grant him a taxi licence. Mr Berry advised that it was more difficult to get a driver for a private hire car. The Chair asked Mr Berry about the percentage of business that came through via calls and the app. Mr Berry advised that there were about 2000 jobs per week off the system and half of that from the rank which was shared

between 25 cars. Mr Berry added that if a taxi licence was granted it would mean there would be a wheelchair accessible vehicle on the road 24/7.

SUMMING UP

OBJECTORS

Mr Franks commented that he found it hard to believe that Mr Berry could not find a driver for a private hire vehicle.

APPLICANT

Mr Berry said that it would be a benefit to Helensburgh to have more wheelchair accessible vehicles as stated in the report.

Both Mr Berry and Mr Franks confirmed they had received a fair hearing.

DEBATE

Councillor Redman advised that he felt that more wheelchair accessible vehicles was a good thing and that more choice was essential for consumers. He referred to the fact that most objections were from other operators and advised that competition was a good thing. He advised he was minded to approve the application.

Councillor Taylor said that he had campaigned for improved wheelchair access for a number of years and had wanted to see more people bringing forward wheelchair accessible vehicles. He said that provided the Committee attach the conditions mentioned by the applicant and given there was no net gain of vehicles in the area he was prepared to accept the application.

Councillor Trail advised that given that there was no increase in taxi numbers he was happy for the change to a taxi licence if the private hire licence was given up.

Councillor Douglas agreed.

The Chair advised that he was not totally convinced that it was the right decision to grant the licence but was happy to put on a condition that it continued to be a wheelchair accessible vehicle and this was the only reason he was happy to grant the licence. He said that it was also due to the fact that there would not be an additional vehicle on the road. He advised that since Councillor Taylor had campaigned for so long to see more wheelchair accessible vehicles on the road he would like to grant the application.

DECISION

The Committee agreed to grant Mr Berry with a taxi operator licence subject to

1. the condition that the vehicle attached to the licence be a wheelchair accessible vehicle for the length of time the licence was in existence; and
2. Mr Berry surrendering Private Hire Vehicle Licence No 6340.

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