

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on MONDAY, 17 SEPTEMBER 2018**

Present: Councillor Rory Colville (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Sandy Taylor
Councillor Graham Archibald	Councillor Richard Trail
Hardie	

Attending: Charles Reppke, Head of Governance and Law
Graeme McMillan, Trainee Solicitor
Ally Evans-Jones, Trainee Solicitor
John Berry, Applicant
John Black, Objector
Jim Scott, Objector's Agent

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, George Freeman, David Kinniburgh, Roderick McCuish and Jean Moffat.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

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

The Chair welcomed everyone to the meeting and introductions were made by all parties present. The Head of Governance and Law outlined the procedure that would be followed and the Chair then invited the Applicant to speak in support of his application.

APPLICANT

Mr Berry advised that he was applying for a Taxi Operator's Licence as going by the Council's records to date 7 licences were not renewed by the end of June 2018. He also advised that the Council would not be adding any more licences, only replacing those for renewal. He pointed out that only 30 of the 48 Operators in Helensburgh and Lomond used a booking office. He commented that some Operators were of retirement age and were only working 2 or 3 days per week. He said that sometimes there were only 2 or 3 cars sitting at the rank, even during the peak time of 4 pm – 6 pm. He advised that if the Taxi Survey was carried out again this would be proved. He referred to a new licence being granted last year for a wheelchair accessible vehicle and advised that he has been told that this Operator mainly worked from home and only sat at the rank on a Saturday. He said that it was his company's intention to put more wheelchair accessible vehicles in Helensburgh as using these

taxi from Alexandria was currently adding £20 to a fare which local retirement homes could verify.

QUESTIONS FROM OBJECTOR

Professor Black asked Mr Berry how much he paid to purchase Trident Taxis. Mr Berry advised that Professor Black could obtain this information from Company's House.

Professor Black referred to Mr Berry stating that 7 plates have been removed and he asked Mr Berry why he thought he should get these places. Mr Berry replied that he was only applying for one plate.

OBJECTOR

Professor Black advised that he had concerns about the way these meetings were being conducted and recorded. He pointed out that he had received a copy of the Minute of 27 August 2018 and said that this was not accurate and was not reflective of the statement he had made at that meeting. Mr Reppke advised that this issue was not part of this Hearing and would be dealt with separately if Professor Black wished.

Professor Black advised that as he had stated at the meeting on 27 August 2018, it was his opinion that the Council was wasting money and was being badly run. He said that this application was in line with previous applications and was poorly dealt with by the Licensing Board. He said that the Applicant was not conducting his business as stated. He suggested that the Committee had approved another application for someone acting illegally. He stressed again that the Council was wasting money, wasting time and, as there was no current review of taxi services within Helensburgh and Lomond, the Council was in default. He said that there was no requirement in Argyll and Bute for wheelchair accessible vehicles. He said that the requirement was that any taxi has to accept a wheelchair but it does not have to be accessible and therefore the Applicant's argument was invalid. He referred to his training background and advised that he was used to analysing statistical information. He referred to the Halcrow report which was published in December 2013. He said that it was out of date and at that time concluded that there was no unmet demand for taxis in Helensburgh and Lomond. He advised that since then demand as decreased; that there was even less demand than there was then. He then gave a comprehensive critique of the report and concluded that the Council had paid £10,000 for this report which, he believed, was rubbish. He refuted the results of the Halcrow study and gave his reasons for this. He said that the conclusion in the report regarding the balance of supply and demand was incorrect. He referred to inaccuracies in street names and stated that it was deeply flawed in its methodology and conclusions. He said that the Council was in default for relying on this out of date report. He pointed out that taxi drivers were struggling to make a living and that the average wage was less than the minimum wage. He advised that there were too many taxis in the town and that granting this application would only increase fares or reduce the average wage of the taxi drivers.

MEMBERS' QUESTIONS

Councillor Trail sought and received confirmation from Mr McMillan that 7 Taxi Operator licences had lapsed since 1 July 2018 and that since the publication of the Halcrow report 9 licences had lapsed.

Councillor Douglas sought and received confirmation from Mr McMillan that at the time of publication of the Halcrow report in December 2013 there were 55 Taxi Operators and that there were currently 48. He advised that since publication of the report 9 licences had lapsed, 3 had been granted and one had been surrendered.

Councillor Colville asked Mr Berry if he knew why the 7 licences had lapsed. Mr Berry said that he believed 2 gentlemen had given theirs up due to illness. He advised that 4 of these had previously belonged to the owners of Trident Taxis and that they had to give them up as they were not the owners anymore.

Councillor Colville asked the same question to Professor Black who said that 4 of the licences belonged to the Morton family and that when the business was sold these plates should have been offered to local taxi businesses in Helensburgh.

Councillor Forrest sought clarification from either the Applicant or Objector as to whether these licences had lapsed because the Operators were not making enough money. Mr Berry confirmed that this was not the reason for the licences lapsing. Professor Black said that the business was sold in total to Mr Berry and that he believed there was some discussion that the plates would go across to his business. He advised that 2 plates were returned by Mr Cromar as he was told indirectly to return them rather than trade them in the open market as he was told this would not be permitted.

Councillor Blair referred to visiting the new subway museum in Helensburgh and commented on the good disabled access. He also commented on new homes being built with greater accessibility for people with disabilities. He said that he was interested in this application as it would mean another wheelchair accessible vehicle for the community. He said that he agreed that the report was an age away and commented that maybe the Committee could look at getting this updated and asked if either of the gentlemen would agree with him. Mr Berry replied yes. Professor Black said that he agreed with Councillor Blair's sentiments but there was no legal requirement to provide wheelchair accessible vehicles. He pointed out that there were already 2 in the area. He advised that one of these gentlemen had indicated when he submitted his application that he would run his taxi from Kilcreggan and that he was actually running from the rank in Helensburgh.

Councillor Blair asked Professor Black if he would agree that allowing people to have access to things able people have is important. Professor Black said that he did agree but in this case we were dealing with legal and statutory requirements. Mr Berry indicated that one of the wheelchair accessible vehicles was coming off the road tomorrow.

Councillor Douglas asked the Applicant and Objector when the busiest month of the year was for Helensburgh. Mr Berry said that this was probably Christmas time. Councillor Douglas asked about the summer months and Mr Berry replied that it depended on tourism and you could never know for sure and that there was no month in particular.

Councillor Douglas asked Professor Black to comment. Professor Black pointed out that the survey was carried out in November and the results of this were applied to the rest of the year. He said that the survey should have been carried out throughout the year. He said that Mr Berry operated from Alexandria and was not based in Helensburgh and had no idea what happened there.

Councillor Hardie referred to working with local disability groups and meeting families that had disabled members. He said that they had complained to him about a lack of wheelchair accessible taxis. He asked Professor Black if he would agree that the expansion of the Naval base would lead to an increase in demand. Professor Black replied that this expansion will happen over time and would take 10 years to build up. He referred to there being too much supply.

Councillor Taylor referred to the Committee granting a licence on the basis of service need for disabled persons. He asked the Legal Team if someone was granted a licence and used that type of vehicle at that time and then went back to using a normal vehicle was their licence tied to provision of the vehicle to serve that demand. Mr Reppke replied no.

Councillor Trail referred to the letter of objection from The Wright Taxis which commented on territorial limits and possible breaches. He asked what was meant by that. Mr Reppke advised that Members would be familiar with the principle that this Council licence taxis for Argyll and Bute. He advised that Section 21 of the Act states that you can only operate within the area you are licenced but there were exceptions to this where it was possible for an operator to be in a different district provided they conformed to one of the exceptions. He confirmed that the Legal Team were aware of concerns and they intended to ensure that there was appropriate enforcement to ensure everyone complied with the law.

Councillor Blair asked if it would be possible to put a condition on a licence that it could only be used for a wheelchair accessible vehicle in order stop someone replacing their taxi with a normal taxi. Mr Reppke advised that he was aware of other Council areas with policies on wheelchair accessible vehicles and that he was also aware of recent court cases on whether that type of policy was sustainable or not. He advised that the Council would have to adopt a policy for wheelchair accessible vehicles. He said that the Committee have not tried to apply an individual condition to only use a wheelchair accessible vehicle. He pointed out that the Act allowed for the substitution of vehicles. He advised that this was not something that could be done today but could be looked at in the future if the Committee were so minded.

SUMMING UP

Objector

Professor Black referred to the objection from The Wright Taxis and advised that this was not included in the package he received. He also advised that he had been unable to access a copy of the agenda pack online. Mr Reppke confirmed that paperwork for Civic Government Applications was not published online due to General Data Protection Regulations. He said that a paper copy of the pack was available to view if anyone wished.

Professor Black referred to a phone call made by a Mr Charles Jones on Friday morning to Trident Taxis and the voice that answered said he was speaking to TOA. He said that Mr Jones requested a taxi and was told that they were currently on the rank and that it would take 2 minutes. After 5 minutes when the taxi did not arrive Mr Jones made alternative arrangements. He then got a message advising that the taxi had arrived and was looking for Mr Black.

Professor Black then referred to another request by a Mr Smith for a taxi to take him from Carrick to Helensburgh. He said that the controller referred to him by his first name and told him the fare would be £22. When Mr Smith disputed this he was told that the meter had to be switched on when it reached Balloch. Professor Black advised that the taxi that arrived was from Helensburgh which was nowhere near Balloch.

Professor Black advised that he agreed that everything should be done to accommodate wheelchair users but there was no statutory requirement to do this. He commented that the Committee had previously approved an Operator Licence when the Applicant said he would operate from Kilcreggan. He pointed out that he was operating in Helensburgh and that there was now 2 wheelchair accessible taxis in Helensburgh. He stated that there was no unmet demand in Helensburgh. He referred to TOA in Alexandria picking up customers in Helensburgh and he suggested that this was illegal.

Applicant

Mr Berry referred to Professor Black's accusations and stated that his taxi office was fully computerised. He stated that these were lies that were being made up. He advised that he had sent an email to Argyll and Bute inviting them over to see his system and received no reply. He confirmed that he would have no problem if it was stated that he had to keep a wheelchair vehicle for all of its life. He advised that he still believed that Helensburgh needed more taxis and that this could be clearly seen by their office.

The Chair asked both parties to confirm if they had received a fair hearing. Mr Berry confirmed that he had.

Professor Black advised that he had not received a fair hearing. He referred to a previous hearing and said that the minute did not accurately reflect his input and that he suspected the same would happen today. He advised that this was a flawed system. He said that the Committee comprised of Members outwith the Helensburgh and Lomond area and that he had to travel to this meeting at his own expense whilst the Committee Members received expenses. He also referred to the absence of some Members from the meeting and questioned why meetings were scheduled on dates which clashed with other commitments. He suggested that Officers needed to be better organised. He referred again to Members representing other areas and stated that this meeting should have been held in Helensburgh as it took 5 hours there and back to attend in Lochgilphead.

Professor Black's comments were noted by the Committee who determined to proceed to debate the merits of the application.

DEBATE

Councillor Trail advised that in view of the fact that 7 licences had been withdrawn from Helensburgh recently he had no problem in granting this application.

Councillor Redman advised that following on from what had been said regarding the number of licences withdrawn and the fantastic growth in access for the disabled in Helensburgh he had no hesitation in granting this application. He also advised that he admired the Applicant's entrepreneurship and business acumen.

Councillor Colville advised that he took a different view. He referred to the Halcrow report which the Committee had adopted and recently reviewed as still fit for purpose. He advised that he did not think there was any unmet demand and was minded not to accept the application.

Councillor Hardie said that he lived in Helensburgh and commented that Helensburgh was very busy with lots of tourists and the naval base. He advised that he disagreed with Professor Black's view that there was not enough demand for taxis and confirmed that he had no hesitation in accepting the application.

Councillor Douglas advised that this problem kept coming up all the time, particularly in Helensburgh and Lomond. She said it was obvious there were underlying issues and she did not know if these were personal or due to rival companies and that she could not make a judgement on that. She said that she found it frustrating that this continued to go on. She advised that she lived in Helensburgh but did not need to use taxis so could not comment either or whether there was an unmet demand. She said that all she could go on was the fact that when the Halcrow report was published there were 55 Operator Licences and that there were now 48 and that this showed there was room for an increase and that she could not go against that. She said that whether or not that was the correct perception on the ground she did not know.

Motion

To agree to refuse the application for a Taxi Operator's Licence as there was no evidence of significant unmet demand.

Moved by Councillor Rory Colville, seconded by Councillor Audrey Forrest

Amendment

To agree to grant a Taxi Operator's Licence to Mr Berry.

Moved by Councillor Richard Trail, seconded by Councillor Alastair Redman

The Amendment was carried by 5 votes to 3 and the Committee resolved accordingly.

DECISION

The Committee agreed to grant a Taxi Operator's Licence to Mr Berry.

(Reference: Report by Head of Governance and Law, submitted)