

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 20 FEBRUARY 2019**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Robin Currie	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and Law
Sheila MacFadyen, Senior Solicitor
Allegra Evan-Jones, Trainee Solicitor
John Berry, Applicant
John Black, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Mary-Jean Devon, George Freeman, Graham Archibald Hardie and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest. Dr Black raised a point of order which the Chair responded to.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PRIVATE HIRE CAR 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 and invited the Applicant to speak in support of his application.

APPLICANT

Mr Berry advised that he was aware of Dr Black's attempt to take the Council to court for granting a Private Hire Licence to Mr Haddow. He stated that he believed this was a deliberate attempt by Dr Black to influence the Committee in respect of his application and he asked that Dr Black's objection be thrown out.

QUESTIONS FROM OBJECTOR

Dr Black commented that he had noted that Mr Berry had been cited and was present at the court yesterday unlike other people. He asked Mr Berry why he thought this was an attempt to influence the Committee today. Mr Berry advised that he did not receive a citation to appear at the court but attended as he wished to do so.

OBJECTOR

Dr Black advised that he had been here many times before. He stated that the Committee had no idea what they were doing and that there were similar problems in Helensburgh, Oban and Islay. He said the Committee had no idea how many taxis were needed and how many there currently were. He stated that they were all incompetent and should resign.

MEMBERS' QUESTIONS

Councillor Kinniburgh sought and received confirmation from Mr Berry that he was applying for a Private Hire Operator Licence. He asked Mr Berry to clarify how he would operate this licence. Mr Berry advised that a Private Hire vehicle was in one sense not classed as a taxi as it could only take bookings from an office or phone and that it could not pick up passengers or sit on the taxi rank. He confirmed that he would take hires off the system.

Councillor Kinniburgh asked if taking hires from the system was the main part of Mr Berry's business or did he have cars that sat on the rank a lot of the time. Mr Berry replied that the main part of any business of this type was taking hires through the system. He said there were more hires from the system than from the rank and that he had facts and figures to prove that.

Councillor Kinniburgh sought and received clarification from Mr Berry that the business did have cars that sat on the rank but they would leave there if a hire came through on the system.

Councillor Colville sought and received confirmation from Mr Berry that he would only be operating in the Helensburgh area.

Councillor Colville asked Mr Berry if he phoned up to request a taxi to pick him up in Helensburgh would it be a taxi or private hire vehicle that would be sent. Mr Berry said that it could be either.

Councillor Currie sought and received confirmation from Mr Berry that private hires could only be taken over the phone and they could not stop in the street.

Councillor Currie also sought and received confirmation from Mr Berry that he currently held a Taxi Driver's Licence with Argyll and Bute Council and a Taxi Operator's Licence with Argyll and Bute Council and that this application was for an additional car for Private Hire.

Councillor Moffat referred to Mr Berry having a Taxi Driver's Licence and that he now wanted a Private Hire Licence. She also referred to Mr Berry advising that most of the taxi drivers took their business from a central number and that it was only occasionally that a hire was taken from the rank. She commented that with his Taxi Driver's Licence Mr Berry could already sit on the rank and take calls, she asked him why he needed to have a Private Hire Licence. Mr Berry advised that there were currently 48 taxis operating in Helensburgh. He stated that a lot of the drivers were of pension age and now only worked a few days. He said there were not enough taxis in the area and the only way he could get more cars was to get Private Hire vehicles. He advised that the demand was there and that they needed more cars to

cover the work. He advised that people were phoning up for taxis and were sometimes having to wait up to 30 minutes.

Councillor Moffat sought and received confirmation from Mr Berry that he was not seeking a Private Hire Licence for himself personally to use and that it was for his firm.

Councillor Kinniburgh sought and received confirmation from Mr Berry that the Private Hire vehicles were working in the same way as taxis apart from sitting on the rank and picking up hires from the street. Mr Berry advised that this happened in most areas.

SUMMING UP

Objector

Dr Black said that the Committee were slowly getting the hang of the situation and were beginning to understand about taxis. He referred to taking a bus from Glasgow city to the Airport and he had spoken with a gentleman who had taxi plates on Islay. He stated that Councillor Redman had cut this gentleman's earnings by issuing plates on Islay. He said the same thing was happening in Oban and in Helensburgh. He stated that issuing more plates lowered the wages of other drivers. He referred to Councillor Colville asking if the private hire vehicle could go to Campbeltown. Dr Black advised that this car could operate anywhere in Argyll and Bute and could operate anywhere in Scotland and probably England too. Dr Black then stated he wished to withdraw his objection.

Mr Reppke advised that if that was Dr Black's position the Committee would take account of that. Dr Black advised that in view of the statement made by Mr Berry that the existing drivers were old and not doing their jobs properly he said that they should be sacked and that he would withdraw his objection and now support this application.

Applicant

Mr Berry advised that he had nothing further to add.

Both parties were asked if they had received a fair hearing. Mr Berry replied that he could not say if this was the case as his opening statement had not been addressed and that it would depend on the outcome of this Hearing. Dr Black confirmed that he had received a fair hearing. The Chair explained that it was the process followed today he was seeking clarity on. Mr Berry said he did not know as he had not had a decision yet.

DEBATE

Councillor Colville referred to the decision taken by the PPSL Committee on 23 January 2019 to commission a survey to ascertain if there was any significant unmet demand for taxis and that included within this survey was to ascertain if there was over provision of Private Hire vehicles. He said that in view of this decision he believed the Committee should continue consideration of this application until the survey was concluded.

Councillor Trail advised that he concurred with that view. He also advised that in his experience if he has ever had to phone for a taxi on a Friday evening he has never had to wait longer than 5 or 10 minutes.

Councillor Currie said that he would be worried about putting off a decision on this application until the new survey was concluded as it was not known how long that would take. He advised that the application was in front of the Committee today and that the Committee should take a decision on it and not put it off till another day.

Councillor Kinniburgh sought advice from Mr Reppke. He said that it was his understanding that there had to be evidence of over provision for a Private Hire Licence to be refused. He referred to Dr Black withdrawing his objection and asked Mr Reppke where the Committee stood in this respect. Mr Reppke advised that the Committee would need to take account of the fact that if there was no objection originally to this application then it would have been dealt with administratively. He advised that he appreciated the comments made by Councillor Colville and logically that would be the stance to take if there was an objection but as this has now been withdrawn Members should take account of that.

Councillor Redman said that in light of there being no objection the Committee should follow Dr Black's advice and approve the application.

Councillor Colville acknowledged what had been said and advised that he stood by what he had said. He said that he may or may not have to stand up in a court and justify his decision and based on what was before him today he had no way of knowing the number of Private Hire vehicles there were in the area.

Councillor Douglas referred to comments made about taxis and private hire vehicles almost operating in the same way and that a taxi could still pick up business over the phone. She advised that she supported Councillor Colville. She said that it was difficult to put another car on the road as although it was not a taxi it was still providing a similar service and it was difficult to establish whether or not there were enough vehicles or not.

Councillor Kinniburgh advised that it was his understanding the Committee had two options when it came to refusing a Private Hire Operator Licence. The first was whether or not the person was a fit and proper person to hold the licence and the other was if it was established that there was over provision. He advised that at this time the Committee had nothing to say there was over provision and if there was no objection to an application it would be granted. He said that it was as simple as that. He advised that now the objection had been withdrawn he would find it difficult to continue the application. He said that he was still in favour of the new study being carried out as it will give the Committee figures to base decisions on in the future but in this particular instance he said that he would be uncomfortable continuing the application. He advised that at the appropriate time he would move that the application be granted.

Councillor Moffat advised that the Committee had asked for advice and this had been received from Mr Reppke. She stated that in the end this application would have been granted unhindered if it hadn't been for Dr Black and that the Committee had no alternative.

DECISION

The Committee unanimously agreed to grant a Private Hire Operator's Licence to Mr Berry.

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