

**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 Rory Colville	Councillor Alastair Redman
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor Donald MacMillan BEM	Councillor Richard Trail

Attending: Stuart McLean, Committee Manager
Graeme McMillan, Solicitor
Peter Miller, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Robin Currie, Audrey Forrest, George Freeman, 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 LICENCE (P MILLER, OBAN)

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 Miller advised that he was here today to apply for a Taxi Operator Licence for himself as due to a knee injury sustained during his military service which had reoccurred, he wanted to apply for a licence for an automatic car. He said that at the moment he was in partnership with Mr McMurtie and he wanted to change his car to an automatic. He explained that he already worked 5 nights per week as a taxi driver so did not see that granting this licence would have an impact on the rank as he was already on the rank as a driver. He commented that there were other people who had taxi plates but did not use them and that there were other people who had licences but did not work the rank.

MEMBERS' QUESTIONS

Councillor Colville sought and received confirmation from Mr Miller that if he was granted this licence he would end his partnership with Mr McMurtie.

Councillor Kinniburgh sought and received confirmation from Mr Miller that the partnership ran one car.

Councillor Kinniburgh asked Mr Miller if he needed to drive an automatic car because of his injury. Mr Miller advised that it would be for his wellbeing and for his

passengers. He said that it would be helpful to himself to be pain free. When asked, he confirmed that he did not have any written evidence from his GP.

Councillor Colville asked what the legal position would be regarding the current Operator Licence held by Mr Miller and Mr McMurtie. He asked if this licence held by the partnership would cease if Mr Miller was granted a new licence. Mr McMillan explained that the Council would need to be notified if the partnership was ended. He advised that Mr McMurtie could legitimately continue but if someone else was added to the partnership there would need to be stringent checks carried out to reduce the risk of transfer of a plate. Mr Miller confirmed that he would cease the partnership as soon as he could.

Councillor Kinniburgh sought and received confirmation from Mr Miller that the current car held by the partnership was registered this year. Mr Miller confirmed that Mr McMurtie did not want to change this car to an automatic and that he did not want to drive an automatic car. Mr Miller advised that the current car was jointly owned.

Councillor Kinniburgh sought and received confirmation from Mr Miller that he would be ending the partnership at a financial loss to himself.

Councillor Trail asked Mr Miller if his injury was as a result of military service. Mr Miller explained that he had inflammation in his knee and that he had been seeing his GP for 4 months now. He advised that he could not drive full time at the moment. He said that he started working for the Council 2 years ago driving school mini buses as well as the taxi. He advised that as a result of losing a lot of weight this had aggravated a previous knee injury.

Councillor Trail sought and received confirmation from Mr Miller that he was unable to drive school mini buses at the moment because of the pain he was in.

Councillor Kinniburgh commented that he would have thought losing weight would have taken pressure off Mr Miller's knee. Mr Miller explained that the inflammation was caused by the rubbing of a bone on his knee cap and that his GP had only been able to prescribe anti-inflammatory medication. He advised that he experienced a shooting pain when he pressed his foot on the clutch. He said that he has been told that his pain was not bad enough to receive a knee operation.

Councillor Colville sought and received confirmation from Mr Miller that he would only be driving at night.

Councillor Redman sought and received confirmation from Mr Miller that if the licence was not granted this would cause his family financial difficulty as he would not be able to work.

Councillor Kinniburgh sought and received confirmation from Mr Miller that it was only his knee that was causing the problem.

Councillor Kinniburgh asked how losing weight had created the problem. Mr Miller explained that he had attended Feel Good Fitness in Oban to lose weight and that during one of the training sessions something happened to his knee. He said that he had not experienced pain up until then. He said that whatever happened had resulted in the reoccurrence of his knee pain. He advised that he had lost 8kg of

weight and that he could hardly walk the dog. He said again that his GP would only prescribe him anti-inflammatory medication and that he was in constant pain.

Councillor Kinniburgh referred to the LVSA survey report which concluded that there was no unmet demand for taxis in the Oban, Lorn and the Isles area. He asked Mr Miller if it was the exercise rather than the loss of weight which had caused the pain. Mr Miller advised that just over 3 years ago he wanted to lose weight. During the weight loss he injured his knee which resulted in the reoccurrence of an old injury he received during his military service. He advised that back then he would be walking and his knee would suddenly lock, causing him to fall over. He said that he received sonic treatment on his knee at that time and that for a long time he had been pain free until this reoccurrence. He said that when the injury had first occurred he had been told that there was a bit of bone floating around which had worn away part of the tissues. He advised that the treatment he received had cleared it up.

Councillor Colville referred to Mr Miller's reason for applying for a licence was so that he could drive an automatic car. He asked Mr Miller why he had put "no" as the answer to question 7 which asked if he suffered from any disability, allergy or other condition likely to affect his fitness to operate. Mr Miller advised that he took disability to mean something like dyslexia. He advised that applying for an automatic car would enable him to be fit to drive.

Councillor Kinniburgh asked Mr Miller if his GP had offered any other advice. Mr Miller said that he had just been prescribed anti-inflammatory medication and that hopefully with time his knee would heal.

SUMMING UP

Applicant

Mr Miller advised that his knee was very painful. He advised that if he was not granted the licence this would have a financial impact on his family as he would have to stop driving his manual car.

Mr Miller confirmed that he had received a fair hearing.

DEBATE

Councillor Redman said that he felt everyone had a moral obligation to look after veterans when they had finished serving their country. He said it would be very questionable to deny Mr Miller his ability to be employed to support his family. He commented that the Committee were not qualified to question medical issues. He said that keeping veterans active and employed was essential for their physical and mental wellbeing and on those grounds he was minded to approve this application.

Councillor MacMillan advised that he had the same problem with his ankle which caused him all sorts of problems. He said that it was difficult to explain what was wrong but he fully understood what was wrong and that he had sympathy for Mr Miller. He confirmed that he would be happy to support the application.

Councillor Trail advised that like the Chair, he had concerns about adding ever more taxis into towns but said that Mr Miller had given a good case for consideration and that he was happy to support the application.

Councillor Kinniburgh said that he found himself not knowing which route to go down. He advised that he fully appreciated what Mr Miller had presented to the Committee. He agreed that the Committee were not medical experts but they still needed to convince themselves that what Mr Miller was saying was correct. He advised that if it was correct, it was an unusual, but very good reason why the Committee could grant the licence. He commented that what Mr Miller had said seemed plausible. He advised that he knew of someone who had similar issues with their knee locking which had occurred as a result of an industrial injury and that eventually they had to change to an automatic car instead of a manual. He said that he had been minded to move that the Committee continue this application to give Mr Miller the opportunity to provide medical evidence of his injury but from what other Members have said, and from what Mr Miller had said, he did not doubt what he was being told. He added that normally due to the conclusion of the LVSA survey he would be moving refusal but could see the predicament Mr Miller was in and could support the granting of the licence.

Councillor Taylor referred to having a similar knee injury and that if he spent a long time sitting he was unable to straighten his knee. He said that he knew what knee pain was in terms of driving long journeys. He referred to the presentation of a medical certificate.

Councillor Colville also referred to suffering from knee pain and the effects of the long term use of anti-inflammatory pills. He advised that the opportunity had been there for Mr Miller to have brought a medical certificate for consideration by the Committee. He advised that he was not doubting what Mr Miller was saying but at the same time the Committee had a duty when it came to granting licences. He advised that he would have been happy to grant if there had been some sort of medical information to consider.

Motion

To agree to continue consideration of this application to allow Mr Miller to present medical evidence to the Committee.

Moved by Councillor David Kinniburgh, seconded by Councillor Sandy Taylor

Amendment

To agree to grant a Taxi Operator Licence to Mr Miller.

Moved by Councillor Alastair Redman, seconded by Councillor Donald MacMillan

The Motion was carried by 4 votes to 3 and the Committee resolved accordingly.

DECISION

The Committee agreed to continue consideration of this application to allow Mr Miller to present medical evidence to the Committee.

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