

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 18 NOVEMBER 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Mary-Jean Devon	Councillor Roderick McCuish
Councillor Kieron Green	Councillor Alastair Redman
Councillor Graham Hardie	Councillor Richard Trail

Attending: Shona Barton, Committee Manager
Patricia O'Neill, Governance Manager
Graeme McMillan, Solicitor
Marcin Czerwinski, Applicant
Sgt Wendy McGinnis, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Rory Colville, Lorna Douglas, Audrey Forrest, George Freeman, Donald MacMillan, Jean Moffat and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PRIVATE HIRE CAR OPERATOR LICENCE (M CZERWINSKI, LOCHGOILHEAD)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing the Applicant had opted to proceed by Video call but it was subsequently established that he had been unable to join in this way. He agreed to proceed by way of Audio Call and joined the meeting by telephone. The representative from Police Scotland had opted to proceed by Audio Call and also joined the meeting by telephone.

The Council's Solicitor, Mr McMillan, advised that Police Scotland had requested the Committee take into consideration an Alternative to Prosecution which was considered 'spent' in terms of the Rehabilitation of Offenders Act 1974.

The Chair outlined the procedure that would be followed in this respect and invited Police Scotland to address the relevancy of the spent conviction.

POLICE SCOTLAND

Sgt McGinnis asked that this 'spent' Alternative to Prosecution be taken into account as she believed it was relevant to this application.

APPLICANT

Mr Czerwinski said he did not believe it was relevant to his application.

The Committee agreed that the 'spent' Alternative to Prosecution was relevant and agreed to take this into account. It was noted that the detail of this was presented to the Committee and read out at the hearing held for Mr Czerwinski's Taxi Driver's Licence application.

The Chair then read out the hearing procedure that would be followed and invited the Applicant to speak in support of his application.

APPLICANT

Mr Czerwinski advised that looking at the big picture he thought his business would work most effectively if he focussed on taking bookings during the week. He said he would be available 24/7. He referred to a second business he would like to run alongside this, offering fishing trips on weekends.

POLICE SCOTLAND

Sgt McGinnis referred to a letter dated 7 August 2020 from the Chief Constable which advised that as a result of an incident which took place on 27 June 2020 the Applicant had been reported to the Procurator Fiscal for a contravention of Section 143 (1) & (2) of the Road Traffic Act 1988. As the matter was sub judice, she advised she was unable to comment further at this time.

Sgt McGinnis also referred to the Alternative to Prosecution which was considered 'spent' in terms of the Rehabilitation of Offenders Act 1974.

MEMBERS' QUESTIONS

Councillor Kinniburgh sought and received confirmation from Mr Czerwinski that he would be available 24/7 but would like to focus on taking bookings during the week for weekends.

Councillor Kinniburgh sought and received confirmation from Mr Czerwinski that he had not included his convictions in his application form as he did not realise he had to. Mr Czerwinski explained that at the time he submitted the application the only conviction he had was the one for speeding which was from 2 years ago. The other 2 issues happened after his application was submitted.

SUMMING UP

Police Scotland

Sgt McGinnis confirmed that Mr Czerwinski had a 'spent' Alternative to Prosecution which was a Police Warning. He also had a pending case for driving a motor vehicle with no insurance.

Applicant

Mr Czerwinski advised that he thought he had said everything he wanted to say at the first hearing. He only thing he said he could add was that he was 100% sure this service was really needed in the village.

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

DEBATE

Councillor McCuish advised that he was of the same mind as before. He advised that he thought Mr Czerwinski's business plan was sound and given the area he was hoping to serve, he was the only show in town. He wished him every success and would move to grant the application.

Councillor Hardie said he was of the same opinion as before that Mr Czerwinski was not a fit and proper person to be the holder of this Licence.

Councillor Redman commented that it would be a bit silly to approve one and not the other and that he was minded to grant the application.

Councillor Green advised he could see where Councillor Hardie was coming from in terms of a consistent view. He advised that as this was for a private hire car operator rather than taxi he was minded to grant.

Councillor Kinniburgh said he was in favour of granting the Taxi Driver's Licence and he was of the same opinion here. He advised, he thought that Mr Czerwinski would be the only person operating in Lochgoilhead. The issues to be taken into account in this case were the 'spent' Alternative to Prosecution and the case regarding no insurance. He advised that conviction in respect of driving at 97 mph could not be taken into account in this case as it had not been represented by Police Scotland.

DECISION

The Committee agreed to grant a Private Hire Car Operator Licence to Mr Czerwinski.

Having moved an Amendment which failed to find a seconder, Councillor Hardie asked that his dissent from the foregoing decision be recorded.

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