

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 20 JANUARY 2021**

Present:

Councillor Rory Colville (Chair)

Councillor Gordon Blair
Councillor Mary-Jean Devon
Councillor Lorna Douglas
Councillor Audrey Forrest
Councillor Kieron Green
Councillor Graham Hardie

Councillor David Kinniburgh
Councillor Donald MacMillan BEM
Councillor Roderick McCuish
Councillor Alastair Redman
Councillor Richard Trail

Attending:

Shona Barton, Committee Manager
Graeme McMillan, Solicitor
Morgan Tyreman, Applicant
George Finlay, Objector

Councillor David Kinniburgh advised that due to connectivity issues he had joined this meeting by telephone. As he would be unable to see requests from Members to speak he asked that the Vice Chair, Councillor Rory Colville, Chair the hearing.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors George Freeman, 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 A PRIVATE HIRE CAR LICENCE (M TYREMAN, HELENSBURGH)

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 and Objector opted to proceed by way of Video Call and they both joined the meeting by Skype.

The Chair advised that an objection had been received outwith the time period allowed by the Civic Government (Scotland) Act 1982 for making objections or representations. The Council's Solicitor, Mr McMillan explained the procedure to be followed in this respect.

The Chair invited Mr Finlay to explain why his objection had been submitted late.

Mr Finlay advised that for over 20 years any applications for this area were displayed inside or outside Council Offices on a noticeboard. He said that due to lock down everyone had assumed nothing was being processed. He advised that sometime later he found out that some applications had been received and he had phoned up

the Licensing Section at Kilmory to ask why these had not been displayed on the noticeboard. He said he was told that the notice board was only a courtesy and not the way of publicising applications. He advised that he was give the details of the website where he could access the Civic Government (Scotland) Register where applications were put. He said that this was new to the Helensburgh taxi trade and that they had found it hard to access but they did eventually get in. He advised that the site was awkward but they got used to it and made a point of checking it once per month. He advised that when they checked the site and had seen this application it was on the day of expiry for objections. He said that he phoned the Licensing Section to ask if he could put an objection in and was told to email it in, which he did. Following that he was asked to put a signed copy in the post, which he did.

The Chair sought the view of the Applicant as to whether or not this late objection should be taken into consideration.

Mr Tyreman advised that from what he had heard from Mr Finlay he had worked out the process for checking applications during the summer. He advised that he had applied for his licence in September and questioned why Mr Finlay would not have been aware of it.

The Chair sought the views of Members as to whether or not this late objection should be taken into consideration.

The Committee agreed to take this late objection into consideration and a copy was displayed on screen and read out by the Committee Manager.

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

APPLICANT

Mr Tyreman said that he had applied for a Private Hire Licence on 27 August 2020 for Argyll and Bute and that unfortunately, due to Covid, that was 149 days ago now. He commented that this was possibly for the best and said that it seemed the country was approaching the end of Covid. He said he hoped to be able to put a 9 seater vehicle on the road as the town grew bigger. He referred to the 300 homes that would be built in Helensburgh at the golf course and to the opening of the Morrisons store. He advised that he believed there was no over provision as stated in survey report. He said there was definitely space for another private hire vehicle in the town.

OBJECTOR

Mr Finlay advised that due to the Covid situation at the moment many taxi owners were surviving on grants from the Government. He said the problem seemed to be a substantial over provision of taxis and private hire vehicles with not enough work to justify them. He advised that the Scottish Government were now recognising this problem with the taxi trade and were talking about issuing £1,500 grants over the next few months. He said that he could see this situation going on for this year and possibly longer. He advised that the time for issuing new plates while having this situation would not be a wise decision. He said that the trade would take a long time to recover from this.

Mr Finlay also said there was an unfair distribution of licences across Argyll and Bute with 21 in Helensburgh, 1 in Campbeltown, 21 in Islay and 4 in Oban and the rest scattered throughout the area. He said the only area comparable was Islay. He asked how it was fair for Helensburgh and Lomond to carry the burden for the whole of Argyll and Bute. He pointed out that there was provision in the Civic Government (Scotland) Act to zone areas for the purposes of private hire and he advised that he thought this was something that has been discussed for 3, 4 or 5 years. He said that it was time to start looking at this now.

Mr Finlay referred to competition. He said that Helensburgh and Lomond was probably the only area that had any real competition, and not only from within the area. He said there were at least 10 companies advertising within Helensburgh and Lomond with 50 taxis and 21 private hires. He said that taxis were also coming in from West Dunbartonshire. He said Helensburgh was facing competition from private hires outwith Helensburgh which, he advised, was not seen in any other part of Argyll and Bute.

Mr Finlay also referred to the noticeboard. He said that he had assumed that all notices had to go up but was told that this was only a courtesy. He suggested that it might have been a courtesy to have informed the public. He said that if the public don't know it is only a courtesy it may be good to advise on the noticeboard where they can go to receive information.

QUESTIONS FROM APPLICANT

Mr Tyreman sought and received confirmation of the names of the 10 companies Mr Finlay had referred to in his presentation.

MEMBERS' QUESTIONS

Councillor Kinniburgh referred to Mr Finlay advising that there were 21 private hire vehicles in Helensburgh and Lomond and asked Mr McMillan to confirm if this figure was correct. Mr McMillan advised that when the survey was carried out there were 14 private hire vehicles registered to addresses within Helensburgh and Lomond. He said that since the survey was carried out 7 new licences had been granted and one had been surrendered so currently the total was 20 private hire vehicles registered to addresses in the Helensburgh and Lomond area.

Councillor Kinniburgh referred to Mr Finlay advising that under the Act it would be possible to zone private hire vehicles. Councillor Kinniburgh suggested that this would be 4 zones for Argyll and Bute and asked Mr McMillan if this would be possible. Mr McMillan confirmed that it would be possible to do this and that a policy decision would need to be made with current licences restricted to these zones. He said there was a process that would need to be followed.

Councillor Redman referred to a lot being said about over provision and too much competition. He asked Mr Tyreman if he felt that the residents of the area where he wished to operate would benefit from competition and choice if the licence was granted. Mr Tyreman said that his background was in transport and that he strongly believed that competition for any area was good. He said that it would be for the public to decide. He advised that he did not believe as many companies actually operated in the area. He said a new company would improve things.

Councillor McCuish referred to Mr Finlay advising that it was only Operators in Helensburgh and Lomond that were facing external competition. He asked Mr Finlay if these Operators could also travel to Dumbarton if they wished. He also referred to Mr Finlay advising of the number of licences that were granted in Helensburgh and Lomond compared to other areas of Argyll and Bute. He asked Mr Finlay if he would agree that this was the case because it was only possible to grant licences for applications that were received and that was why there was such a high number in Helensburgh and Lomond compared to Campbeltown. Mr Finlay said that private hires could only go to Dumbarton if they received phone calls. He referred to a company that worked in both areas which made it easy for them to send cars elsewhere. He said he agreed with Councillor McCuish's comment about granting licences that were applied for. He said that Helensburgh and Lomond was now at the stage of being flooded with private hires and that it was getting to the stage where private hires were sitting in front of the station plying for trade. He pointed out that there was a taxi rank at the station. He said he agreed that competition was good but it had come to a stage where people were starting to steal off others and to steal hires that were not theirs.

Councillor Hardie referred to the Covid situation which has resulted in pubs, hotels and clubs having to close. He suggested there had to be a fall in the need for private hires and taxis due to these lock down restrictions and sought comment on this from Mr Tyreman. Mr Tyreman said he strongly disagreed. He advised that from what he was seeing from friends within the industry, especially in Helensburgh and Lomond, that more people were wanting to use taxis as they were scared to use public transport. He said there was a need to look to the future and advised that the end of Covid was in sight and that he was sure that Argyll and Bute Council wanted things to get back to normal.

SUMMING UP

Objector

Mr Finlay said he believed that there was vast over provision of taxis and private hires all over Scotland. He advised that the number of taxis required had reduced significantly due to the loss of travel and tourism, the loss of hospitality, and the loss of travel to and from work. He said he did not know when these things would come back and advised that there were not more people using taxis. He said there were less and less taxis on the road. He advised that he thought zoning was desperately needed. He pointed out that he could see the only reason for refusing private hires was over provision so there was a desperate need for zones to be set up.

Applicant

Mr Tyreman said that the majority of Mr Finlay's objections were not directly about him but about the system. He referred to the major point being cross border competition from Dumbarton with taxis from Dumbarton coming into Helensburgh and he suggested they were not working in Argyll and Bute. He questioned whether Mr Finlay had ever travelled into Dumbarton from Helensburgh. He noted that if a hire needed to go to Dumbarton from the train station Mr Finlay could take them and would have every right to do that. Mr Tyreman said his background was in transport and that he believed the new housing developments, the opening of Morrisons, and the end of Covid in sight would mean there was room for more private hires. He

pointed out that the survey said there was no over provision. He said it was not possible to work out with Helensburgh with the plate.

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

DEBATE

Councillor Colville advised that he had listened to the Applicant and Objector and was sure that the questions raised by the Objector would be taken cognisance of by Governance and Law. He said he was not convinced there was a need for any further private hires but welcomed the views of other Members.

Councillor Redman said he was minded to disagree. He advised that he was a great fan of competition and free markets and that he believed consumer choice was a good thing. He said the government picking winners and losers was a bad thing. He referred to the situation with the coronavirus and said that it would not be around forever now that vaccinations were under way. He said that there was a need to think about post coronavirus and that he believed the Argyll and Bute economy would come rolling back. He said he believed the more choice there was the better and that he was minded to approve the application.

Councillor McCuish said he disagreed. He advised that he did not think this application should be approved as he thought that Helensburgh had reached saturation point.

Councillor Trail said that it was important to remember why the taxi business was regulated. He advised that it was for the benefit of customers and passengers otherwise if the taxi trade was not regulated people could be ripped off. He said that having standard fares meant people knew how much to pay from A to B. He said that he also thought there were too many taxis and private hires in Helensburgh. He said there was a need for a healthy taxi trade and that he was not in favour of approving this application.

Councillor Hardie advised that when he visited Helensburgh and spoke to taxi drivers and the hospitality trade, most were of the opinion that there were too many and that he would agree that the application should be rejected.

Mr McMillan pointed out to the Committee that this was a private hire operator licence and that a lot of Members were referring to taxis. He said that this was an application for a private hire operator licence and that there was distinction between that and a taxi car licence. He advised that the survey concluded that there was no significant unmet demand for taxis and no over provision of private hires ie not too many private hires. He said it was important that he made this distinction clear to the Committee.

Councillor Kinniburgh said that he strongly believed that there was an over provision of private hire vehicles in Helensburgh and Lomond but there was a need for evidence to back this up. He pointed out that as far as he could make out the evidence the Committee had was the LVSA report. He said there was no hard evidence that he could confidently turn too to back up saying that there was over provision. He advised that personally he would be very wary about refusing this application on over provision grounds today as he did not believe he had grounds to back this up. He said he believed there was over provision but found this a difficult

position as he did not think the Committee had any alternative to refuse the application. He said he would be very reluctant to grant it though.

Councillor McCuish said he was still of the same mind. He advised that he fully understood what Councillor Kinniburgh was saying but he was basing his decision on the objection in front of the Committee.

Councillor Colville said he took on board what has been said. He said that differentiating between private hires and taxis was getting harder and harder so based on the objection today he was minded to refuse the application.

Motion

Based on the objection heard today, to agree to refuse the application.

Moved by Councillor Rory Colville, seconded by Councillor Roderick McCuish.

Amendment

To agree to approve the application.

Moved by Councillor Alastair Redman, seconded by Councillor Gordon Blair.

A vote was taken by calling the roll.

Motion

Councillor Colville
Councillor Douglas
Councillor Forrest
Councillor Hardie
Councillor Kinniburgh
Councillor MacMillan
Councillor McCuish
Councillor Trail

Amendment

Councillor Blair
Councillor Devon
Councillor Green
Councillor Redman

The Motion was carried by 8 votes to 4 and the Committee resolved accordingly.

DECISION

The Committee agreed to refuse Mr Tyreman's application for a Private Hire Operator Licence based on the objection received.

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