

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 19 NOVEMBER 2014**

Present: Councillor David Kinniburgh (Chair)

Councillor Robin Currie	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor Neil MacIntyre	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail
Councillor Donald MacMillan	

Attending: Charles Reppke, Head of Governance and Law
Kate Connelly, Solicitor
Ms McShane, Applicant
Sergeant Iain MacNicol, Police Scotland
Heather Murray, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Gordon Blair, Rory Colville, Mary-Jean Devon, Roderick McCuish and Alistair MacDougall.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (C MCSHANE, BISHOPBRIGGS)

The Chair welcomed everyone to the meeting and introductions were made. He referred to a letter received from Police Scotland which requested that the Committee take into consideration alternatives to prosecution which were considered "spent" in terms of the Rehabilitation of Offenders Act 1974. Prior to considering the merits of the application the Committee must determine whether or not they consider the spent alternatives to prosecution should be admitted, it being noted that the Committee may take into consideration such matters where satisfied justice cannot be done except by admitting such evidence. The Chair explained the procedure that would be followed in this respect and invited the Applicant to address the question of relevancy of the spent alternatives to prosecution to her application.

Applicant

Ms McShane advised that she did not consider the spent alternatives to prosecution to be relevant.

Police

Sergeant MacNicol advised that the Police did consider the spent alternatives to prosecution to be relevant as the offences were related to others.

The Committee agreed that the spent alternatives to prosecution be taken into consideration in the determination of this application and a copy of a letter submitted by Police Scotland was circulated.

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

Applicant

Ms McShane referred to the spent alternatives to prosecution and confirmed that offences had taken place but indicated that there were some discrepancies in the dates given in the letter in relation to some of these. She stated that it was not correct to say that a fine had not been paid in relation to an incident which had taken place 27 June 2012. She stated that she had paid the fine and received points on her licence. She also confirmed that she had not paid the fine in respect of the incident that had taken place on 18 November 2013 as she was disputing the fact that she did not have a valid MOT certificate.

Ms McShane explained that she had been driving taxis for around 2 years and held a taxi driver licence with East Dunbartonshire Council. She advised that she was planning on moving to Dunoon and had been offered a taxi driver job there so had applied for a taxi driver licence so that she could accept this job.

Questions from the Police

Sergeant MacNicol sought clarity on the discrepancy with dates. Ms McShane referred to the incident on 12 June and stated that this had happened in 2013 and not 2014 as stated in the letter. Sergeant MacNicol confirmed that this was typo and agreed that the incident had taken place on 12 June 2013.

Police

Sergeant MacNicol read out the letter of representation from the Chief Constable which detailed a number of convictions and the circumstances surrounding each of these. He acknowledged that Ms McShane currently held a taxi driver licence with East Dunbartonshire Council. He also read out the detail of the spent alternatives to prosecution.

Questions from Applicant

Ms McShane queried the reference to Wye Road, Glasgow. She also advised that she had no recollection of an incident on 28 March 2010 and asked would it not have been the case that she would have received points on her licence for not wearing a seat belt and Sergeant MacNicol

replied no.

Members' Questions

Councillor Freeman sought and received confirmation from Ms McShane that she would not give up her licence from East Dunbartonshire Council when she moved to Dunoon.

Councillor Freeman referred to incident on 27 June 2012 and asked if the Procurator Fiscal had taken any action. **Sorry Charles – can't remember what the reply was.**

Councillor Neil MacIntyre asked if the Police had made a representation to East Dunbartonshire Council in respect of Ms McShane's application to them. Ms McShane referred to the incident with her aunt and explained that once they heard her side of the story she was granted a licence for one year and this was subsequently renewed for a further 3 years.

Councillor Currie referred to the issue in respect of no MOT certificate and it was established that it was not clear from the Police letter which car Ms McShane was driving when the incident took place.

Councillor Trail referred to Ms McShane's long history of driving convictions and asked if she had changed her behaviour in regard to the laws of the road. Ms McShane confirmed that she had.

Councillor Kinniburgh referred to the various spent alternatives to prosecution. He received confirmation from Ms McShane that the incident on 13 September 2004 had taken place. Ms McShane also confirmed that she had no recollection of an incident taking place on 28 March 2010. She confirmed that the incident that took place on 18 November 2013 occurred in Rye Road not Wye Road and that she was disputing that statement that she had no MOT certificate. She confirmed that she had paid the fine and received penalty points on her driving licence for the incident which took place on 27 June 2012.

Summing Up

Police

Sergeant MacNicol advised that their main concern was the violent incident which took place in 2009 when Ms McShane was convicted of a assault. He referred to related threats at that time and expressed concern about this being the conduct of a professional driver. He referred to the request that the spent alternatives to prosecution be taken into consideration and confirmed that this was because they all related to road traffic offences. He accepted that there was some discrepancies over the dates. He confirmed that there were points on Ms McShane's licence in respect of the incident which took place on 27 June 2012.

Applicant

Ms McShane acknowledged the driving offences. She referred to the

assault and explained that this was a two way argument. She indicated that it occurred during a bad time when emotions were running high and that it was not something that continued and that it was in the past.

Chair asked both parties to confirm if they had received a fair hearing and they both confirmed this to be the case.

Debate

Councillor Currie advised that on first looking at the evidence he was inclined not approve the application. However he had noted that that Applicant already held a taxi driver licence in another area and questioned how the Committee could refuse when another local authority were satisfied that the Applicant was a fit and proper person to hold a licence. He stated that on balance he would grant the licence because she was an existing taxi driver and would continue to be so until the middle of 2016.

Councillor Freeman advised that his view was irrespective of the decision taken by another local authority and pointed out that a couple of the offences had taken place since the licence was granted. He stated that having quite a record was an understatement and that two of these offences were quite serious. He referred to the number of road traffic offences which he stated was a total disregard of the law. He advised that he would move refusal of this licence as he would expect a higher standard of driving than the average driver.

Councillor Kinniburgh stated that Councillor Freeman had summed up what he was thinking. He stated that there was so much there and that there seemed to be a complete disregard of the law especially for road traffic offences. He recognised that some of them were in dispute but this was more about technicalities and that the offences had still been admitted to.

Motion

To agree to refuse Ms McShane's application for grant of a Taxi Driver Licence as she was not a fit and proper person to be the holder of the licence.

Moved by Councillor Kinniburgh, seconded by Councillor Freeman

Amendment

To agree to grant a Taxi Driver Licence to Ms McShane.

Moved by Councillor Currie, seconded by Councillor McNaughton

The Motion was carried by 7 votes to 3 and the Committee resolved accordingly.

Decision

Agreed to refuse Ms McShane's application for grant of a Taxi Driver Licence on the grounds that she was not a fit and proper person to be the holder of this licence.

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