

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 21 MAY 2014**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Robin Currie	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor Alistair MacDougall	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail

Attending: Patricia O'Neill, Central Governance Manager
Graeme Forrester, Solicitor
Mr Brodie, Applicant
Sergeant Quinn, Police Scotland
Constable Hamilton, Police Scotland

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (N BRODIE, CAMPBELTOWN)

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 Brodie referred to the objection made by Police Scotland and advised that the majority of his convictions related to offences committed during his younger years and through the consumption of alcohol. He referred to turning his life around over the last 3 years and confirmed that he had recently been employed at the Old Club House at Machrihanish and outlined the nature of his responsibilities to club Members and customers. He advised that he had brought with him a reference from the Club's HR Operations Manager which supported his application for a taxi driver's licence. He confirmed that he had done things in the past but had now moved on with his life and wished to prove to himself that he could do this job and not receive any more convictions. He stressed that he was a totally changed person. He also advised that he had been involved with the Kintyre Drugs and Alcohol Advisory Service.

Questions from Police

Sergeant Quinn asked when Mr Brodie had turned his life around. Mr Brodie advised that it was when he found out his child was not his around April 2012.

Police

Sergeant Quinn read out the contents of a letter from the Chief Constable which detailed a list of 16 convictions and the circumstances around each of these which occurred between 1997 and 2013. He confirmed that the Chief Constable objected to this application on the grounds that Mr Brodie was not a fit and proper person to be the holder of a licence by virtue of these convictions.

As Mr Brodie had no questions for the Police the Chair invited questions from Members of the Committee.

Members' Questions

Councillor Currie asked Mr Brodie if he was correct to say that apart from three offences that had been admonished and some traffic offences, it had been 7 years since he had last committed an offence and Mr Brodie replied yes.

Councillor Currie then asked if he was correct to say that it was at that point that Mr Brodie turned his life around and was a now a different person. Mr Brodie replied definitely.

Councillor Currie asked Mr Brodie if he would agree that a lot of the offences happened when he was just a teenager and in his early twenties which was probably the case for a lot of young people. Mr Brodie replied yes.

Councillor Colville asked if the Committee could see a copy of the reference from the HR Operations Manager.

Mr Brodie passed the reference to Mr Forrester and he read out the contents of this which was dated 20 May 2014 from Andy Hagan. The reference related to Mr Brodie's employment as a night porter at the Old Club House, Machrihanish between 15 April 2012 and 17 October 2013.

Councillor MacMillan referred to the table of convictions and sought and received clarification from Sergeant Quinn that item number 15 related to an offence carried out on 1 October 2011 and disposed of at court on 19 January 2012.

Councillor Freeman also referred to the table of convictions and sought and received clarification from Sergeant Quinn that item 10 related to 7 different offences and item 9 related to the breach of two separate Community Service Orders.

Councillor Freeman asked Mr Brodie if he would agree that only one offence took place when he was 18 and the others were carried out throughout his twenties up until the age of 32. Mr Brodie confirmed this to be the case.

Councillor McQueen asked Sergeant Quinn if most of the offences involved drink. Sergeant Quinn advised that he could not say for sure but would suggest that due to the nature of them some of these were related to drink. He advised that some were for serious road traffic offences which did not involve drink.

Councillor McQueen asked Mr Brodie how long he had stopped drinking and Mr Brodie advised about 2 years and that he would never take alcohol again. He stated that 8, possibly 9, of the charges related to drink.

Councillor Colville sought and received clarification from Mr Brodie that he had benefitted from the Kintyre Drugs and Alcohol Advisory Service and that he had been teetotal now for 2 years.

Councillor MacDougall sought and received clarification from Mr Brodie that he had a taxi job that he could start imminently if he was granted a licence.

Councillor MacIntyre referred to the last 3 offences being admonished and asked Sergeant Quinn if there was a reason for that. Sergeant Quinn advised that this was a decision made by the Sheriff. He confirmed that admonished meant guilty but with no penalty imposed.

Councillor Kinniburgh referred to the table of convictions and sought and received clarification from Sergeant Quinn that the date of conviction for item 16 was 14 March 2013.

Councillor Kinniburgh sought and received clarification from Mr Brodie that he had not worked since he left his employment with the Old Club House in October 2013 and Mr Brodie explained why he left this employment.

Councillor Kinniburgh asked Mr Brodie if he could explain the circumstances around his admonishment in respect of conviction number 16. Mr Brodie advised that he could not answer that.

Councillor Kinniburgh referred to Mr Brodie stating that he had not been in any trouble for the last 2 years and advised that he had noted his last conviction was dated March 2013. Mr Brodie advised that this was correct but what he had been accused of did not happen and that it was his word against the word of two others.

Councillor Colville referred to Mr Brodie's voluntary work with the junior football association and asked if he had followed this up since. Mr Brodie advised that he worked with children aged 12 to 18 years on a voluntary basis during his recovery from taking alcohol. He advised that he was unable to continue with this as the rules for working with children had

changed and that his list of convictions would prevent him from having a PVG certificate.

Councillor MacDougall noted that Mr Brodie had listed 17 convictions on his application form and the Police had referred to 16 and sought clarification on this. Sergeant Quinn advised that Mr Brodie had included a fixed penalty notice on his application form that the Police did not have detail on.

Summing Up

Police

Sergeant Quinn advised that the Chief Constable's position was clear and that the important thing to remember was that admonishment was a sentence disposal and not a 'not guilty' verdict. He stated that the Applicant had a history of alcohol fuelled violence and disorder and a history of disrespect for road traffic regulations. He disputed that Mr Brodie was a changed character, advising that the conviction in March 2013 related to domestic abuse and it was clear that Mr Brodie had admitted responsibility for that. He stated that he had listened to Mr Brodie's submission in which he made numerous references to the circumstances around convictions not being true. He stated that the Chief Constable did not consider Mr Brodie to be a suitable person and that he had particular concerns regarding the domestic abuse and hate crimes. He referred to Mr Brodie's reference and advised that he believed this had limited value as there had been no opportunity to check the validity of it. He advised that it was just over a year ago since the domestic abuse offence. He concluded that Mr Brodie was not a fit and proper person to hold a taxi driver licence and asked that his application be refused.

Applicant

Mr Brodie advised that the Police did not know who he was. He acknowledged that he had not been brilliant in the past but he had learnt from his mistakes and would like the chance to change and move on with his life and to prove to himself that he could do it.

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

Debate

Councillor Currie advised that it was very clear that he was totally impressed by the attitude of the Applicant who wanted to make amends. He stated that he had met young people who have had a difficult time and been able to turn their lives around. He stressed that everyone deserved a second chance. He advised that if the licence was granted and Mr Brodie slipped up then this would be reported back to the Committee. He stated that Mr Brodie had a really positive attitude and that he should be given the chance of a brighter future.

Councillor Trail advised that he agreed with some of what Councillor

Currie said and that anyone who made a mistake deserved a second chance but maybe not a 17th chance. He advised that this was an exceptional record and long history of violent behaviour and that this Committee had a responsibility for the safety of the public. He advised that the Applicant needed to demonstrate a long period of good behaviour and that one year was not sufficient.

Councillor Colville advised that a number of years ago he gave someone a second chance. He stated that this person had no future and that he gave him a job and since then he had not looked back and was now settled down with a family of his own. He advised that this would not have happened if he had not given him this second chance. He stated that if the Committee agreed to grant this licence he would like to put a time limit of one year on it.

Councillor McQueen advised that he has been involved with children for years with many of school age coming from bad homes. He advised that people have got to want to change and if they want to they will.

Councillor Freeman referred to the Police recommendation that the Applicant was not a fit and proper person and advised that this was normally enough for him to turn an application down. However in this case he advised that he was in two minds. He stated that the Applicant appeared to have changed over the last 2 years. He advised that he would be minded to approve the grant of the licence for a period of one year and to see how the Applicant performed over that year and if any further incidents occurred within that year then the Committee could revoke the licence.

Mr Forrester advised the Committee that they would need to rely on the Police bringing forward to the Council notification of any further offences or any complaints. If this happened a suspension hearing would then be convened and consideration would be given as to whether or not to suspend a licence for the remainder of its term. He confirmed that this process would be followed whether the licence was granted for the usual three year term or for a shorter period.

Councillor Currie advised that this was a win win situation for everyone as the licence could be granted for 3 years and if any convictions came up a suspension hearing could be called and therefore, he stated, that it did not matter if the licence was granted for one year or 3 years. He went on to add that most of the offences that had occurred had occurred with people known to the Applicant and mainly because of one reason. He advised that he could relate to the Applicant when he said that when someone reported you and it was more than 2 against 1 then the Police charged you whether you were in the right or wrong. He stated that he took what the Applicant said to be true that he wanted to turn his life around.

Councillor Taylor advised that from the Police report there was evidence of a lack of regard for society norms. He stated that it was absolutely appropriate that someone deserved a chance but he felt that one year was not enough to prove that the Applicant had moved on. He advised that there needed to be more time from the end point and that maybe Mr

Brodie should come back in another 12 months and not just yet.

Councillor MacMillan advised that he had listened to all that had been said and stated that the Applicant's record was horrendous. However, he advised that he felt that Mr Brodie had given assurances that he had changed and that he would like to give him another chance and to grant the licence for one year.

Councillor Kinniburgh stated that Councillor Taylor had summed up exactly what he was going to say and agreed that one year was not long enough to prove that the Applicant had turned his life around. He also agreed that everyone deserved a second chance but not a 17th chance. He advised that he would like to see a good few years of good behaviour

Motion

To agree to refuse the application for grant of a taxi driver licence as the Applicant was not a fit and proper person to hold a taxi driver licence.

Moved by Councillor David Kinniburgh, seconded by Councillor Richard Trail

Amendment

To agree to grant a taxi driver licence to Mr Brodie for one year.

Moved by Councillor Rory Colville, seconded by Councillor George Freeman

Councillor Robin Currie then moved a second Amendment which failed to find a seconder.

The Amendment was carried by 7 votes to 4 and the Committee resolved accordingly.

Decision

Agreed to grant a taxi driver licence to Mr Brodie for a period of one year, noting that Mr Brodie would be informed of this decision in writing within the next 7 days and that the licence would not be issued until after a period of 28 days to enable the Police to appeal this decision if they wished.

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