

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 17 JUNE 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan BEM
Councillor Rory Colville	Councillor Roderick McCuish
Councillor Robin Currie	Councillor Jean Moffat
Councillor Mary-Jean Devon	Councillor Alastair Redman
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor George Freeman	Councillor Richard Trail
Councillor Graham Hardie	

Attending: Shona Barton, Committee Manager
Sheila MacFadyen, Senior Solicitor
Graeme McMillan, Solicitor
Stuart McLean, Committee Manager
Ally Evans-Jones, Trainee Solicitor
Stuart Mathieson, Applicant

Members were asked to suspend Standing Order 5.4 – the Member who is presiding at the meeting must do so from the specified location for the meeting and cannot join by video conferencing.

The requisite two thirds of Members present agreed to suspend Standing Order 5.4 to enable discussion of report on the Agenda.

1. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Audrey Forrest.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR RENEWAL OF TAXI DRIVER LICENCE (NUMBER 5680) (S MATHIESON, DRUMLEMBLE, 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, who was joining the meeting by phone, to speak in support of his application.

APPLICANT

Mr Mathieson advised that he had been forced out of his job at the start of March when he was paid off by Wind Towers. He referred to 7 penalty points he had on his driving licence as a result of an accident he had in his own car in 2018. Due to the present circumstances he said that he had no other work and relied on his taxi job to bring in money. He advised that he was currently working for his uncle who had a

taxi business in Campbeltown and had given him the opportunity of working with him when was paid off from his job as a welder with Wind Towers. He advised that he hoped the Committee would agree to renew his licence, even though he had points on his driving licence, as he had no other source of income.

The Chair then asked the Council's Solicitor, Mr McMillan, to provide an update from Police Scotland. Mr McMillan advised that he had received a phone call this morning confirming that Police Scotland would not be taking part in the meeting today. They advised that their representation was the same as previously submitted and was there for Members' information. They also wanted to point out that they have noted that the conviction referred to in the Chief Constable's letter was declared on the application form by the Applicant and that they have taken that into account.

MEMBERS' QUESTIONS

Councillor Freeman advised that he was disappointed that Police Scotland were not in attendance as he would like to have sought clarity from them on what the excessive speed they referred to in their letter related to. He said that it was also unclear whether the conviction was as a result of the accident Mr Mathieson had referred to or if this was for a different incident. He sought clarity on this from Mr Mathieson. Mr Mathieson explained that he had been driving on the B842 which was the road from Drumlemble to Campbeltown. He advised that he had been driving between 55 – 60 mph and that it was raining heavily with rough winds. He said that he lost control of his car going round a bend. He had tried to correct it but could not and went into a field. He said it was about 10 pm when the accident occurred and that he had been driving his own personal car and not the taxi. He added that he was the only one in the car and there had been no collision with any other vehicle. He confirmed that no one had been hurt and that he had got away with some minor bruising from the seat belt.

Councillor Colville said that he noted from the paperwork that Mr Mathieson's current licence expired on 18 April 2020. He sought and received confirmation from Mr Mathieson that he had been working part time when he first drove his taxi and later became full time. He had previously worked full time for CS Wind.

Councillor Colville commented that he would have thought Police Scotland would have drawn this conviction to the Committee's attention before now. Mr McMillan explained that it was correct to say that it was open to the Police, on the date of conviction, to submit a suspension request if they were so minded. Mr McMillan advised that he had followed this up with Sgt Maginnes in advance of today's meeting and she had stated their position had taken account that Mr Mathieson, at the time he was convicted, had advised the licensing authority of his conviction. Mr McMillan explained that the Head of Service at that time had seen no need to call a suspension hearing and on that basis Police Scotland said they did not feel the need to bring a suspension request of their own accord.

Councillor Blair asked Mr Mathieson if he drove his taxi in the same way he drove his private car. He advised that he was perturbed to hear about people who were professional taxi drivers having accidents. He said he knew of the personal upset accidents could cause. He asked if Mr Mathieson had reflected on this incident, he asked if his car had been repaired and asked if he could give the Committee his absolute assurance that he would not drive his taxi in the way he drove his own car. Mr Mathieson said he could give this assurance. He explained the personal cost to

him due to the extent of the damage to his car which he had written off. He also referred to buying a new car and said that the insurance premium had more than doubled. He said that he had been disheartened about the entire situation and that he realised that if this was to happen with his taxi he would not be able to have his taxi licence anymore. He gave the Committee his full assurance that he would not be driving his taxi in any sort of dangerous manner and that he would take care. He referred to this being his uncle's business and that he wanted to make him proud and do the best for him.

Councillor Kinniburgh sought and received confirmation from Mr Mathieson that the road he was driving on had a speed limit of 60 mph and that he had been driving at between 55 - 60 mph at the time of the accident.

Councillor Kinniburgh sought confirmation from Mr Mathieson that he had been convicted under Section 2 of the Road Traffic Act 1988 which related to dangerous driving. Mr Mathieson said it was a careless driving charge.

Councillor Kinniburgh sought clarity on this from Mr McMillan. Mr McMillan confirmed that he had followed this up with Police Scotland. He advised that Mr Mathieson had originally been charged under Section 3 of the Road Traffic Act 1988 which related to careless driving but when it was processed and passed to the Procurator Fiscal, the Procurator Fiscal decided to take it forward as a Section 2 offence and the outcome of this was a conviction for dangerous driving.

Councillor Kinniburgh sought and received confirmation from Mr McMillan that careless driving related to driving below a reasonable standard and dangerous driving was far below the reasonable standard.

Councillor Kinniburgh commented that the disposal being a fine of £400 and 7 penalty points reflected the severity of the offence. Mr McMillan confirmed that there was no discrepancy with the disposal and no dispute of that.

Councillor Kinniburgh referred to the letter advising that the charge related to excessive speed and asked if it was the view of Police Scotland that this was not a speeding offence but Mr Mathieson was travelling at an excessive speed in relation to the weather conditions and that was why he was charged at the time with careless driving. Mr McMillan advised he could not speak for Police Scotland in terms of how they formulated their letter.

SUMMING UP

Applicant

Mr Mathieson referred to everything that had happened to him over the last 2 years, with having to replace his car, arrange different insurance, receiving a higher insurance premium and penalty points on his driving licence. He said that he has held his driving licence for close to 7 years and had no other claims on his licence. He said that this had been his first accident and that he had no other offences on his licence apart from this one. He confirmed that there was no chance anything like this would happen again as due to having 7 points on his driving licence he could not afford to have any other sort of accident. He advised that he would be taking his time and driving as safely as he could.

Mr Mathieson confirmed that he had received a fair hearing.

DEBATE

Councillor Colville advised that taking account that when this incident was first reported to the Licensing Department Officers decided to take no action, taking into consideration that Mr Mathieson was driving his own car, and given his explanation about the weather conditions, he would be willing to grant the application as applied for today.

Councillor Currie pointed out that this accident had occurred in September 2018 and Mr Mathieson had been convicted in March 2019 and immediately advised the Council about the conviction. He said that during that time he had his driving licence and taxi driver's licence and everything was fine. He said he would have no hesitation in granting the renewal of his licence.

Councillor Redman advised that he was in line with others. He commented that the accident had happened in Mr Mathieson's personal car and not his taxi. He said that Mr Mathieson had been very open and honest and had presented himself very well. All things considered, he said he was minded to approve the application.

Councillor Blair advised that it was obvious that Mr Mathieson had taken full cognisance of the error of his ways. He commented that whether it was his own private car or a taxi did not matter and the Applicant accepted that. He said he would be happy to grant this licence.

Councillor Douglas also agreed with her colleagues and said that Mr Mathieson had shown great humility and honesty and she was sure he had learnt from his past and would do all that he could to mitigate any dangers in the future. She confirmed that she would agree to grant the licence.

Councillor Hardie advised that the Applicant had answered his questions honestly. He said he thought he was genuine about making a mistake and had shown remorse for it. He confirmed that he would have no problem in granting the licence.

Councillor McCuish advised that he had nothing to add and agreed that the application be granted.

Councillor Devon also agreed that the application be granted.

Councillor Taylor advised that he echoed the comments of Councillors Colville and Douglas. He said he was very impressed by the Applicant's honesty in making sure the Council knew of his driving history as and when it happened. He advised that since he had been driving through that interim he could see no point in applying any sanctions now so would be happy to grant the application.

Councillor Moffat advised that she had been very impressed with Mr Mathieson's honesty and the fact that he came forward before the Police even had a chance to. She said that if the Committee can help someone during the current hard times then it should.

Councillor Kinniburgh advised that he was of the same opinion expressed by most of the Members. He said he thought that the fact Mr Mathieson had come forward and

declared his conviction was a testament to him. He said he thought Mr Mathieson had learnt his lesson and he would be happy to grant the application.

DECISION

The Committee unanimously agreed to grant the renewal of Mr Mathieson's Taxi Driver Licence.

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