

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 21 OCTOBER 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Graham Hardie
Councillor Rory Colville	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor Audrey Forrest	Councillor Richard Trail

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Newton Keenan, Applicant
Stuart McLean, Committee Manager

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, George Freeman, Donald MacMillan and Alastair Redman.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER LICENCE (N KEENAN, CLYDEBANK)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the Applicant and Police Scotland were given 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 opted to join the meeting by Audio Call and Police Scotland opted to proceed by way of a written submission.

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

APPLICANT

Mr Keenan advised that he applied to the Council for a Taxi Driver Licence back in September 2020. He said he had been unaware there was any issue with his application until a member of staff from the Council's Licensing Team advised that a letter had been received from Police Scotland regarding a driving offence. Mr Keenan said that he had been caught speeding at 40 mph in a 30 mph zone in Helensburgh. He said that at that time he lived in Rhu but had since moved. He said the incident occurred last year. He advised that he had received no correspondence at his new address that there was an unpaid fine and that the case was going to Court. He advised that he was subsequently informed by Police Scotland that he had to appear in Court. He said that 2 days before the Court case

in January 2020 he had gone to the Procurator Fiscal (PF) office and pled guilty. He advised that he heard nothing from the Court until September 2020 when he was sent out a fine for £175 and had his licence endorsed with 3 penalty points. He said he paid the fine the same day. He said that he had spoken to the PF Office, the Licensing Department in the Council and the Licensing Section in Police Scotland and all had confirmed that the fine had been paid but it was not possible to stop the letter of representation which had already been submitted. Mr Keenan advised that notification of the 3 penalty points was submitted to the Council as part of his application. He said again that he had received no correspondence from the Sheriff's Office from January until September this year but once this was received the fine was paid immediately.

POLICE SCOTLAND

The Governance Manager referred to a letter of representation from the Chief Constable which was included within the Agenda Pack issued for this hearing. The letter advised that Mr Keenan had been convicted at Court on 28 January 2020 under the Road Traffic Regulation Act 1984 Section 81 & 89 as the result of a speeding offence on 14 July 2019. Mr Keenan was fined £175 and had his licence endorsed with 3 penalty points.

MEMBERS' QUESTIONS

Councillor Kinniburgh sought and received confirmation from Mr Keenan that the incident took place in July 2019 and the fine was paid in September 2020.

Councillor Kinniburgh asked why the Applicant had not paid the fixed penalty fine at the time of the incident. Mr Keenan explained that he had done, but the cheque sent to the PF was never cashed and he was not aware of this fact until the Police turned up at his home with a citation to come to Court. Mr Keenan advised that he went to the PF Office in Dumbarton and filled out the necessary forms to plead guilty to the offence. The court case was 2 days later and he was not required to attend. He said he had heard nothing further about the case until September this year.

Councillor Kinniburgh asked Mr Keenan if he had attended the PF Office to pay the fixed penalty fine. Mr Keenan said no he had attended the PF Office because he had received notification of the Court case. He advised that he filled out the necessary paperwork to plead guilty and was not notified of the outcome until September 2020. He explained that when the offence took place he lived at Cumberland Road and that he had moved from there in October 2019. The PF Office staff said they had been unable to contact him at his old address. They then contacted him at his new address to advise of the Court case. He said that when he went to the PF office he showed them the stub from his cheque book to show that he had paid the fine at the time of the offence. They advised that the cheque had never been cashed and he said that no one had contacted him in the interim until the Court date was set in January 2020.

Councillor Kinniburgh sought and received confirmation that Mr Keenan went to the PF when he was notified of the Court case. Mr Keenan also confirmed that he pled guilty but did not hear anything further until the Sheriff Office bill was sent in September 2020 for £175. He confirmed that he would have paid the fine sooner if they had notified him sooner.

Councillor Colville sought and received confirmation from Mr Keenan that he was driving his own car at the time of the offence. He said he only applied for a Taxi Driver Licence 2 months ago.

Councillor Colville commented that he really did despair of taxis that drove through his home town and appeared to be exceeding the 30 mph speed limit. He acknowledged that Mr Keenan was not driving a taxi at the time of the incident. Mr Keenan confirmed that he was returning home from walking his dog. He confirmed that he was guilty and apologised for that and said that it would never happen again. He said that he had never had points on his driving licence before.

Councillor Colville said that he would be taking a different view if Mr Keenan had been driving a taxi at the time of the incident. Mr Keenan advised that he has been driving for 30 years and had never received any points until that day.

Councillor Kinniburgh asked Mr Keenan if he had notified the Council of his conviction. Mr Keenan said yes. He explained that as part of the application you had to include a copy of your driving licence along with a DVLA code to check for any penalty points. Mrs MacFadyen confirmed that the DVLA print out had the points on it but this information was not included on the taxi application form.

Councillor Kinniburgh asked Mr Keenan why he had not disclosed the conviction on the application form. Mr Keenan explained the mix up with the cheque not being cashed and the timeline of events regarding when he was notified of the Court case and the outcome of this. He acknowledged that it was his mistake not to have included this on the application form and advised that he did not try not to pay or be fraudulent.

Councillor Colville sought and received confirmation from Mrs MacFadyen that the Licensing staff would have checked all the paperwork submitted by Mr Keenan, including his driving licence and DVLA summary record.

Councillor Colville sought and received confirmation from Mrs MacFadyen that it would be fair to say that Mr Keenan had not hidden anything as his conviction would have been picked up by staff when checking the paperwork submitted.

Councillor Colville asked if it would normally be brought to the Committee's attention if a conviction was not declared. Mrs MacFadyen said that this would be referred to the Head of Service to make a decision as to whether or not it needed to come to Members or not.

Councillor Kinniburgh sought and received confirmation from Mrs MacFadyen that the reason this application was before the Committee was because a Police representation had been received. She said all applications the subject of a Police representation or objection were automatically referred to the Committee.

SUMMING UP

Mr Keenan clarified that when he spoke to Police Scotland Licensing Department at West Dunbartonshire they had confirmed that a letter of representation was submitted to advise of his driving offence and conviction. He said he believed this was flagged up and referred to Committee. He said he believed the letter of

representation was submitted before the fine was paid. He advised that it had been confirmed to him that everything was in order now and that the fine had been paid.

Mr Keenan confirmed that he had received a fair hearing.

DEBATE

Councillor Colville advised that on balance from what he had heard there was reasonable grounds to understand the position the Applicant was in. He said that he took a dim view of taxis speeding through the town. He advised that he was satisfied that there had been no genuine attempt to hoodwink the Committee and given that fact he would be happy to grant the Licence.

Councillor Moffat agreed with Councillor Colville's comments. She said that she felt the Applicant had been honest and had simply been caught up in something unfortunate.

Councillor Blair also agreed with his colleagues' comments. He said he was slightly disappointed with the timeline involved. He said he liked to think the Council's taxi drivers were conscientious folks doing their best.

Councillor Kinniburgh said he found the timeline of events strange but had no reason to doubt that was what actually happened. He advised that he had listened to what the Applicant had to say and that he had no difficulty in granting the Licence. He said that he agreed with what Councillor Colville had said that a more serious view would have been taken if the Applicant had been driving a taxi at the time of the offence. He said that he hoped Mr Keenan would not speed in his taxi.

DECISION

The Committee agreed to grant a Taxi Driver's Licence to Mr Keenan and noted that his Licence would not be issued until after the 28 day appeal period was over.

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