

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 16 DECEMBER 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Graham Hardie
Councillor Mary-Jean Devon	Councillor Donald MacMillan BEM
Councillor Audrey Forrest	Councillor Roderick McCuish
Councillor George Freeman	Councillor Alastair Redman
Councillor Kieron Green	Councillor Richard Trail

Attending: Stuart McLean, Committee Manager
Graeme McMillan, Solicitor
William Morran, Applicant
PC Raymond Borland, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Lorna Douglas, Jean Moffat and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR RENEWAL OF TAXI DRIVER LICENCE NUMBER 4130 (W MORRAN, CAMPBELTOWN)

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 Police Scotland opted to proceed by way of Audio Call and they both joined the meeting by telephone.

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

APPLICANT

Mr Morran advised that he was applying to renew his taxi driver's licence and that he had been driving taxis since 1971. He referred to the incident which happened on 4 March 2019 and apologised for that. He explained that he had come round a corner and a cat came out in front of him which he served to avoid, causing him to go over the white line. He advised that the Procurator Fiscal had sent him a letter requesting that he attend a driver improvement course. Mr Morran confirmed that he had attended the course where he learnt a lot and had enjoyed it.

POLICE SCOTLAND

PC Borland referred to a letter of representation from the Chief Constable dated 20 August 2020 which advised of an incident on 4 March 2019 which resulted in Mr Morran being reported to the Procurator Fiscal for a contravention of Section 3 of the Road Traffic Act 1988. He outlined the circumstances surrounding the incident and advised that the Procurator Fiscal decided to take action by way of requesting that Mr Morran attend a driver improvement course.

QUESTIONS FROM APPLICANT

Mr Morran referred to the letter stating that he was driving at excessive speed and asked where he was found to be speeding. He advised that he was not speeding as he was going round a sharp corner which required you to change down gears. PC Borland referred to the initial report submitted by the Police and said it appeared that due to the position of the vehicle there was a perception by the driver of the vehicle coming in the opposite direction that Mr Morran was speeding.

Mr Morran asked why the Police did not approach him until the next day. PC Borland advised that it would not have been unusual for further enquiries to be carried out first.

MEMBERS' QUESTIONS

Councillor Trail sought and received confirmation from Mr Morran that the incident took place in the countryside, half way down the Southend road.

Councillor Trail also sought and received confirmation from Mr Morran that the speed limit for the road was 60 mph. Mr Morran advised that he would have been doing about 30 mph going round the corner as, he said, you needed to change down the gears. He commented that as he had to swerve to avoid the cat the other driver must have thought he was speeding.

Councillor McCuish asked PC Borland if, during their further enquiries, the other driver had said they had seen the cat. PC Borland advised that there was no mention of a cat in the report.

Councillor Green asked PC Borland if there was any evidence of Mr Morran exceeding the speed limit. He said he appreciated that this was a speed limit and not a target. PC Borland confirmed that the speed limit on the road was 60 mph. He advised that from reading the report, the bend at which the incident took place was extremely sharp, running at 120 degrees. From the position of Mr Morran's car on negotiating the bend, he said it would be reasonable to infer that the speed was excessive for the bend if the vehicle crossed the carriageway. He advised that there was no suggestion that Mr Morran was over the speed limit but likely he was driving at excessive speed.

Councillor Colville sought and received confirmation from PC Borland that as the action taken by the Procurator Fiscal was a request that Mr Morran attend a driver improvement course, there was no conviction.

Councillor Forrest sought and received confirmation from Mr Morran that there was a fee paying passenger in his car at the time of the incident.

Councillor McCuish asked Mr Morran if the passenger was asked to give evidence to the Police or if they volunteered to do so. Mr Morran said no because the Police did not ask him if he had any passengers.

Councillor McCuish asked Mr Morran if he had asked the passenger to speak on his behalf after the incident had been reported. Mr Morran advised that he had not as the passenger was a stranger that he had given a lift to go hill walking.

Councillor Kinniburgh sought and received confirmation from PC Borland that the other driver had not mentioned a cat but Mr Morran had mentioned the cat when he was cautioned and charged by the Police.

Councillor Kinniburgh referred to it being established that there was no conviction. He asked if this was because it was a third party that had reported the incident so the Procurator could not convict Mr Morran. PC Borland said he did not think so. He said that as there were two witnesses there was sufficient evidence to charge Mr Morran and that the disposal was a matter for the court.

Councillor Kinniburgh sought and received confirmation from PC Borland that if deemed appropriate by the Procurator Fiscal, Mr Borland could have been convicted.

SUMMING UP

Police Scotland

PC Borland advised that the reporting Officer at the time had remarked that in their opinion, from what had been described by both civilian witnesses, it was down to luck that there had been no injuries sustained or damage to vehicles.

Applicant

Mr Morran acknowledged that no one was hurt and said he was sorry for what had happened.

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

DEBATE

Councillor Colville said he was almost certain he knew the corner that was referred to. He said it was a very tight corner and that there was no way you could drive at excessive speed there. He pointed out that Mr Morran had been driving taxis for 50 years with no penalties and that this was a part time position. He advised that due to the fact that the Procurator Fiscal had not deemed the offence so serious to warrant a fine or other action other than the driver improvement course, and that Mr Morran had stated he had learnt a lot and enjoyed the course, he would have no hesitation in approving this application.

Councillor Trail advised that if the Committee were to take at face value about the cat coming out, causing Mr Morran to swerve, it was lucky the cars did not collide. He commented that everyone will have had close shaves when driving at some point and that he was of a similar view to Councillor Colville.

Councillor Redman said he was a great believer in second chances. He commented that this had been a foolish and dangerous mistake to make but thought that Mr Morran had paid his dues and that he was leaning towards supporting this application.

Councillor Kinniburgh advised that he found himself agreeing with his fellow Councillors. Recognising what Councillor Colville said, he advised that it was good to hear that Mr Morran had attended the course and that he had learnt a lot from it. He commented that he had noted that Mr Morran had been driving for a long time with no convictions and he agreed with what Councillor Trail had said that everyone would have experienced near misses while driving. He confirmed that he would have no hesitation in this instance in granting this licence.

DECISION

The Committee unanimously agreed to renew Mr Morran's Taxi Driver Licence Number 4130.

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