

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 17 APRIL 2019**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Roderick McCuish
Councillor Robin Currie	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Sandy Taylor
Councillor George Freeman	Councillor Richard Trail
Councillor Donald MacMillan	

**Attending:** Charles Reppke, Head of Governance and Law  
Graeme McMillan, Solicitor  
Peter Clark, Applicant  
Sgt Iain MacNicol, Police Scotland

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gordon Blair, Mary-Jean Devon and Graham Archibald Hardie.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER LICENCE (P CLARK, OBAN)**

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 Clark advised that Mr Carmichael, who owned Argyll Taxis, Oban, had asked him to do relief work when he retired. He said that at that time he had penalty points on his driving licence so sought advice from Council staff. He said that he had been advised that because of these points there could be objections to his application. He advised that because of this he had waited until the points were no longer on his licence before applying. He advised that as the points were now off his licence he did not realise he still needed to declare them on his application form.

**POLICE SCOTLAND**

Sgt MacNicol referred to a letter of representation submitted by the Chief Constable which advised of the circumstances surrounding a conviction as a result of an incident which took place on 24 February 2016 which led to the Applicant being fined and having his licence endorsed.

## **MEMBERS' QUESTIONS**

Councillor Currie referred to the Chief Constable's letter advising that the speed limit at Kilmelford was 30 mph. He commented that he thought the speed limit had been 40 mph up until 2018 and that it had not been 30 mph in 2016. Sgt MacNicol advised that he was sure Councillor Currie was mistaken.

Councillor Currie asked if it was after 3 years that points came off your driving licence. Sgt MacNicol explained that penalty points for a charge of speeding were valid for 3 years for counting up purposes but still remained on the licence for 4 years. He advised that if someone accrued 12 points within a 3 year period then people were liable to lose their licence and get banned through the courts. He said these points were valid for counting up purposes but still remained on the licence for a period of 4 years so that a history of a driver's convictions could be seen.

Councillor Trail asked Mr Clark if, after 32 years of driving, he only had one speeding conviction. Mr Clark advised that he had actually been driving for 42 years and that during this time he has had 2 speeding offences.

Councillor Colville sought and received confirmation from Mr Clark that he was caught speeding as he was slowing down coming into the village.

Councillor Kinniburgh referred to a recent meeting of the Helensburgh and Lomond Area Committee when a presentation was given by Police Scotland. He said that they had been told that if a person was caught speeding between 30 and 39 mph they would be issued with a caution, between 40 and 49 mph they would receive a fixed penalty and anything above would go to court. He commented that this seemed to have been what happened in this case. Sgt MacNicol confirmed that guidelines were issued by the Advocate and that speeding was dealt with on a graduating case.

Councillor Kinniburgh sought and received confirmation from Mr Clark that he was caught speeding coming into a 30mph zone.

## **SUMMING UP**

### **Police Scotland**

Sgt MacNicol advised that this was a representation to let the Committee know of the fact that the Applicant had been convicted of speeding in 2016. He confirmed that the points were no longer valid on his driving licence but he wanted to let the Members know that an offence had occurred. He pointed out that Mr Clark, by his own admission, had not declared this conviction on his application form.

### **Applicant**

Mr Clark said that he had assumed that as his points were off his licence he did not need to declare them on this application form and that this had been an oversight on his part.

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

## **DEBATE**

Councillor McCuish advised that he was comfortable with this application that it should be granted. He said that he had noted Mr Clark's reason for not declaring his conviction on his application form and that he was happy to see that Mr Clark had waited until his points had come off his driving licence before applying. He advised that he understood Police concerns about speeding and commented that 2 speeding convictions after 42 years of driving was quite good in his opinion.

Councillor Trail stated that speeding was one of things people always came and complained to Members about on a regular basis. He said that he would never make light of speeding offences and he hoped that Mr Clark would take this on board. He advised that he had no objection to granting this application.

Councillor Freeman said that he concurred with Councillor Trail and advised that he certainly did not condone speeding at 60 mph in a 30mph zone which, he said, was excessive in his opinion. He advised that speeding was brought to Members' attention time and time again at Community Council meetings. He said that given this offence was 3 years ago now he was happy to go along with the Applicant. He commented that if this had been an existing taxi driver that had been caught speeding there would have been every chance that the Police would have highlighted this to the Committee and recommended the withdrawal of the licence. He advised that the Applicant should take note of that.

Councillor Kinniburgh said that speeding was a very serious offence especially at a speed which resulted in going to court. He said that given that this offence was 3 years ago and, due to the Applicant's long driving history and number of convictions had during that time, he moved that the licence be granted. Councillor Redman seconded Councillor Kinniburgh's Motion.

## **DECISION**

The Committee unanimously agreed to grant a Taxi Driver's Licence to Mr Clark.

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