

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 23 OCTOBER 2019**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Jean Moffat
Councillor Rory Colville	Councillor Alastair Redman
Councillor Robin Currie	Councillor Sandy Taylor
Councillor Lorna Douglas	Councillor Richard Trail
Councillor Donald MacMillan BEM	

Attending: Shona Barton, Committee Manager
Graeme McMillan, Solicitor
Sgt Iain McNicol, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated on behalf of Councillors Mary Jean Devon, Audrey Forrest, George Freeman, Graham Archibald Hardie and Roderick McCuish.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI DRIVER LICENCE (G MCLEOD, DUMBARTON)

The Chair welcomed everyone to the meeting.

Councillor Kinniburgh advised that this matter had previously been before the Committee for consideration on 18 September 2019 and that as the applicant had not been in attendance on this date, Members had agreed to continue consideration of the application to a future date to afford the applicant the opportunity to attend.

Mr McMillan advised that the applicant, Mr McLeod was not in attendance, but had provided correspondence setting out his position in response to the representation by Police Scotland.

Councillor Kinniburgh outlined the procedure that would be followed in the absence of the applicant.

APPLICANT

Mr McMillan circulated the correspondence setting out the applicant's position in response to the representation by Police Scotland.

POLICE SCOTLAND

Sgt McNicol read out a letter of representation from the Chief Constable which advised the Committee that the applicant had been convicted of a road traffic offence

at Court on 8 September 2015 as a result of an incident that took place on 11 September 2014. Sgt McNicol pointed out that the applicant had failed to declare this conviction on his application form.

MEMBERS' QUESTIONS

Councillor Colville enquired as to why the applicant was applying to Argyll and Bute Council for a Taxi Driver's Licence when his home address was in Dumbarton and the firm he proposed to drive for was based in Alexandria. Mr McMillan advised that the firm based in Alexandria also held Taxi Operator Licences which permitted them to operate in the Argyll and Bute area and in order to drive under these Taxi Operators Licences it would be necessary to be the holder of an Argyll and Bute Taxi Driver's Licence.

Councillor Moffat noted that the representation from Police Scotland made no suggestion of refusing the application. She asked Sgt McNicol whether he would be happy for a licence to be granted. Sgt McNicol advised that given the conviction and the tone of the correspondence provided by the applicant, he would not be happy to grant a licence to the applicant.

Councillor Currie sought clarity from the Chair as to whether it was appropriate to question the officer in attendance on his personal opinions. The Chair confirmed that he was happy that Sgt McNicol had answered the question put to him by Councillor Moffat.

Councillor Blair, having noted that the applicant was the holder of a Taxi Driver's Licence for the West Dunbartonshire area suggested that a consistency should be applied between the two authorities. Mr McMillan reminded Members that the applicant had been through the hearing process in West Dunbartonshire and recommended that any decision is made on the information in front of them today.

Councillor Douglas enquired as to the discrepancy with the name, address and registration number as outlined in the correspondence from the applicant. Sgt McNicol advised that the information was placed before the Court and the applicant was subsequently convicted. He suggested that cognisance be taken from this conviction.

Councillor Trail advised that the applicant had failed to outline the licence he holds with West Dunbartonshire on the application form.

The Chair sought clarification that the case went to Court because the applicant had refused the fixed penalty offered at the time of the incident. Sgt McNicol confirmed that this was the case.

SUMMING UP

Police Scotland

Sgt McNicol advised that there were a number of issues to take into consideration. He advised of the conviction, which was travelling at almost 20mph over the speed limit in a built up area, and the fact that the applicant had failed to declare the conviction on the application form. He further advised that he found the attitude displayed in the correspondence from the applicant, more concerning and thought

that it didn't bode well for someone who wished to drive for a living. Sgt McNicol also advised that the applicant's failure to attend, evidenced his disregard for the process.

When asked, Sgt McNicol, confirmed that he had received a fair hearing.

DEBATE

Councillor Trail advised that he was minded to refuse the application as the applicant had not turned up, despite the previous hearing being continued to allow for him to attend.

Councillor Currie advised that the test is whether the applicant is deemed a fit and proper person to be the holder of such a licence. He advised that being caught speeding once does not, in his opinion, provide enough justification to deem him not a fit and proper person. He advised that the letter from Police Scotland was not an objection, but rather a representation and for information purposes only. With this in mind, he advised that he was minded to grant the application.

Councillor Redman advised that he agreed with Councillor Currie and was minded to grant the application.

Councillor Taylor advised that he too was minded to grant the application.

Councillor Colville spoke of his concerns of excessive speed in a built up area, and also that the applicant had failed to attend. He advised that he was minded to refuse the application.

Councillor Blair agreed with Councillors Trail and Colville. He advised that as a taxi driver he could be carrying vulnerable persons and that with this in mind he was minded to refuse the application.

Councillor Douglas advised that she agreed that 48mph in a 30mph zone is a significant speed. She advised that his failure to declare his conviction was also a concern and that she was minded to refuse the application.

The Chair advised that he too had concerns over whether the applicant can be deemed as a fit and proper person. He advised that it was concerning that someone who drives professionally was under the impression that he was in a 50mph zone in what is a built up area and also his failure to attend suggested that he wasn't that bothered whether he got the licence or not.

MOTION

That the Committee refuse the application.

Moved by Councillor David Kinniburgh, seconded by Councillor Jean Moffat.

AMENDMENT

That the Committee continue the application until the next available meeting and request that the applicant is in attendance.

Moved by Councillor Sandy Taylor, seconded by Councillor Robin Currie.

DECISION

On a show of hands vote the Motion was carried by 7 votes to 3 and the Planning, Protective Services and Licensing Committee resolved accordingly.

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