

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 22 JUNE 2016**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Alex McNaughton
Councillor Rory Colville	Councillor James McQueen
Councillor Robin Currie	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail
Councillor Donald MacMillan	

Attending: Patricia O'Neill, Central Governance Manager
Kate Connelly, Solicitor
Jim McKeown, Applicant's Agent
Sergeant Iain MacNicol, Police Scotland
Heather Murray, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors George Freeman, Roderick McCuish, Alistair MacDougall and Neil MacIntyre.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: RENEWAL APPLICATION HEARING - TAXI DRIVER'S LICENCE (A MATHIESON, 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 to speak in support of his application.

Applicant

Mr McKeown spoke on behalf of the Applicant who was unable to attend. He advised that he has known Mr Mathieson, aged 52, for many years. He referred to Mr Mathieson's application for renewal of his Taxi Driver's Licence which omitted his previous conviction. He confirmed that this had been an oversight which Mr Mathieson would like to apologise for. He confirmed that Mr Mathieson has held his Taxi Driver's Licence for 17/18 years and that he also held an Taxi Operator's Licence and had 7 taxis operating in the Kintyre area. He stated that Mr Mathieson's failure to disclose his conviction had simply been an oversight and not a deliberate attempt to misinform. Referring to the representation from Police Scotland, he pointed out that the Police were not objecting to this application and that they were just bringing the conviction to the Committee's attention. He then explained the circumstances which led to Mr Mathieson's conviction. He advised that Mr Mathieson had been stopped by the Police for speeding in December 2013 and received a fixed penalty notice and 3 points on this driving licence. He said that Mr Mathieson went to pay his fine but the Court Offices were shut due to the Christmas

and New Year Holidays. When he returned to pay his fine when the Offices were open he discovered that the charge was for careless driving and not for speeding as he was led to believe. The matter was referred to the Procurator Fiscal and the case went to court where Mr Mathieson plead guilty in terms of Section 84 to speeding. Mr McKeown advised that when Mr Mathieson applied for renewal of his Taxi Operator's Licence there were no objections or representations in respect of this application and his Taxi Operator's Licence was granted. Mr McKeown stated again that Mr Mathieson apologised for not drawing this matter to the Committee's attention and confirmed that the 3 points on his driving licence would be removed in June 2017. He confirmed that this had been a one off incident and that Mr Mathieson had not been involved in any incidents since then.

Questions from Police Scotland

Sergeant MacNicol asked to see a copy of the ticket which Mr McKeown had produced confirming what Mr Mathieson had been charged with. Mr McKeown stated that the charge was for speeding which had been confirmed at Court. Sergeant MacNicol disputed this and advised that the code on the ticket referred to a charge of careless driving. He advised that a speeding conviction would only have been given if the speed gun had recorded the speed of the car and on this occasion there was no speed gun. He advised that Mr Mathieson's conviction was for careless driving due to excessive speed.

Police Scotland

Sergeant MacNicol read out the contents of a letter which advised that the Chief Constable wished to make a representation in respect of a conviction received by the Applicant on 3 June 2014. The circumstances surrounding the conviction were in respect of an incident which took place on 30 December 2013 and the details of this were read out to the Committee. He confirmed that the offence happened, that Mr Mathieson had failed to declare his offence at court and failed to declare his conviction on his application for renewal of his Taxi Driver's Licence.

Members' Questions

Councillor McNaughton asked if it was normal practice to issue fixed penalty notices for careless driving offences. Sergeant MacNicol confirmed that this was the case if the offence was minor.

Councillor Colville asked if the Committee were being asked to consider the nature of the conviction or to consider the fact that the conviction was not disclosed on the application form. Ms Connelly confirmed that the Committee were being asked to consider whether or not the Applicant was a fit and proper person to be the holder of the Licence.

Councillor Colville asked Mr McKeown and Sergeant MacNicol if they would agree that the road where Mr Mathieson was stopped for speeding was not in a built up area. Mr McKeown confirmed that it was not in the centre of the town. Sergeant MacNicol advised that he was not familiar with the area. He pointed out that the location was between Kirk Street and Kilkerran Road, Campbeltown which had a 30 mph speed limit and was therefore classed as being in a built up area.

Councillor Colville asked Mr McKeown to explain why Mr Mathieson had not paid the fixed penalty fine. Mr McKeown advised that the incident had taken place on 30 December 2013 and that when Mr Mathieson went to pay the fine he found the Court offices shut due to the holidays. When he returned when the offices were open Mr Mathieson was advised that the code on the ticket was for careless driving and not speeding which Mr Mathieson disputed and this resulted in a report to the Procurator Fiscal and the case going to Court.

Councillor Currie sought and received confirmation from Sergeant MacNicol that regardless of where someone is caught speeding, whether it is Campbeltown or Colonsay, if they are breaking the speed limit, then they are breaking the speed limit.

Councillor MacIntyre asked if £150 was not a high fine for speeding. Sergeant MacNicol advised that if Mr Mathieson had paid his fixed penalty fine it would have been £100 plus 3 points on his driving licence. He explained that the fine of £150 was issued when Mr Mathieson appeared at Court. He stated that if fines are not paid and the case goes to Court you do run the risk of the fine increasing.

Councillor MacIntyre sought and received confirmation from Sergeant MacNicol that Mr Mathieson was driving at a speed of between 40 and 50 mph as this was the speed noted on the milometer of the police car trying to keep up with him.

Councillor Kinniburgh sought clarification on what Mr Mathieson was eventually convicted of. Mr McKeown stated that it was his understanding that Mr Mathieson plead guilty to speeding and that this had been accepted at Court and the charge of careless driving was amended to speeding. Sergeant MacNicol confirmed that their records showed that Mr Mathieson was convicted of careless driving due to excessive speed. He stated that regardless of the charge the offence was the same. He said that in order to be charged with speeding there would need to have been a speed gun to prove the speed the car was travelling at and in this case there was no speed gun.

Summing Up

Police Scotland

Sergeant MacNicol confirmed that their records showed that Mr Mathieson's conviction was for careless driving and that he went to Court and was convicted there. He said that Mr Mathieson did not declare the offence at Court and he did not declare his conviction on his application form. He stated that the issue was not about whether the conviction was for speeding or careless driving. He confirmed that the offence was driving at excessive speed for the road conditions which were wet with surface water at 1 am in the morning.

Applicant

Mr McKeown acknowledged that Mr Mathieson had failed to declare his conviction on his application form. He maintained that this conviction was for speeding and that Mr Mathieson had received a fine of £150 and 3 points on his driving licence. He pointed out that Mr Mathieson's application for renewal of his Taxi Operator's Licence had been granted with no issues. He confirmed that Mr Mathieson had not deliberately tried to mislead the Committee by failing to disclose his conviction. He confirmed that Mr Mathieson has held a driving licence for 35 years, a Taxi Driver's

Licence for 18 years and a Taxi Operator's Licence for over 10 years. He also confirmed that there have been no further incidents since December 2013.

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

Debate

Councillor Colville moved that Mr Mathieson's Taxi Driver's Licence be granted and the Committee supported this recommendation.

Decision

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

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