

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 14 DECEMBER 2016**

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

Councillor Gordon Blair	Councillor Robert G MacIntyre
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Alistair MacDougall	Councillor Alex McNaughton
Councillor Neil MacIntyre	Councillor Richard Trail

**Attending:** Charles Reppke, Head of Governance and Law  
Kate Connelly, Solicitor  
Sergeant Iain McNicoll, Police Scotland  
Heather Murray, Police Scotland  
Thomas MacKay, Applicant

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated on behalf of Councillors Rory Colville, George Freeman, Roderick McCuish, James McQueen and Sandy Taylor.

**2. DECLARATIONS OF INTEREST**

Councillor Neil MacIntyre declared a non-financial interest due to him having family members involved in the taxi business in the Oban area. At this point he left the room and took no further part in the meeting.

The Chair ruled, and the Committee agreed, to adjourn the meeting at 2.05pm, and to reconvene at 2.15pm by reason as to allow the Applicant time to appear.

The meeting reconvened at 2.15pm and it was noted that the Applicant was still not present. The Chair then ruled, and the Committee agreed, to adjourn the meeting and resume for consideration at 3.20pm.

The Committee reconvened at 3.20pm noting that Councillor Robin Currie was no longer in attendance.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TEMPORARY TAXI DRIVER LICENCE (T MCKAY, 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**

The Applicant stated that his current licence had expired and he had been advised from the Legal team that it would take up to 28 days for his licence to be renewed and therefore he decided to apply for a temporary licence to cover him for 6 weeks whilst his renewal was being determined. He apologised for allowing his licence to

lapse but explained that his mother had been ill (who had since passed away the morning of this meeting) and he himself had been experiencing personal problems.

After submitting his application for a temporary licence the Applicant stated that Legal Services called him to advise that they had received a letter of objection from the Police. Referring to the letter of representation made by Police Scotland the Applicant stated that on the date he was stopped in Benderloch he had been visiting his sister and the vehicle was not being used as a taxi and had not been used as a taxi for approximately two and a half weeks due to there being problems with the vehicle. He planned to contact Kilmory on the following Monday advising that he was going to use his partner's car as a substitution whilst waiting for delivery of his replacement vehicle. On the Saturday when he was stopped by the Police he explained that the car would be off the road on Monday and swapped for his partners car to be used as a substitute. The Applicant stated that he did not realise at the time he was stopped that the tyres had such a low tread reading. The Traffic Officer who stopped him called for a further 2 superior Officers to attend to the stop site to make a decision and after a further 20 minutes he was charged with having 2 illegal tyres. The car was left where it was and removed 2 days later by a recovery vehicle.

### **Questions from Police Scotland**

The Applicant confirmed that on the day in question the vehicle was a licenced taxi and was capable of being used as a taxi at that time whilst he was anticipating getting the plates changed on the following Monday to the substitute car. This was the only car he had available to use on the day in question to visit his sister.

The Applicant confirmed that the reasons why he was not using the vehicle as a taxi at that time was due to engine problems and when questioned if he had more than one vehicle he stated that he had a small family run business as he has a taxi operators licence with one car himself and his partner, brother and sister all having a car each. He felt that the delay in granting him a licence had caused the company to suffer.

The Applicant confirmed that his taxi licence expired on 15 August 2015 and by way of explaining why he has differing addresses on his taxi and driving licence he stated that he has had no fixed abode for the past 2-3 years due to the break-up of his marriage.

Confirmation was sought and received from the Applicant that on the night in question his car was examined and he was charged with various offenses and convicted in court whereby he was fined £200. The applicant could not recall whether or not he had notified the Council of the conviction at that time but he was aware that this is one of the conditions of his licence and apologised for incorrectly filling out his taxi licence application form with his spent convictions rather than his current ones.

Sergeant Iain McNicoll then spoke of the defects which included 3 defective tyres and a loose bumper that led to the conviction in reference to the Chief Constables letter, stating that this was a letter of representation not of objection.

### **Members' Questions**

Councillor Trail asked the Applicant what he did to ensure that his vehicle was serviced and the Applicant said that he took his vehicle to Kwik-Fit to get the tyres checked. Councillor Blair acknowledged that the Applicant is currently going through a stressful period but asked if the Applicant was fully aware of the importance of establishing a proper maintenance regime with accurate record keeping. The applicant confirmed that he did and stated that that is why as soon as he had available funds he purchased a new vehicle.

Sergeant Iain McNicoll confirmed to the Chair that he did not have a record of the actual depth of tread readings from the tyres but stated that it is an offence to have any reading below the legal minimum of 1.6mm

## **Summing Up**

### Police Scotland

Sergeant Iain McNicol spoke of the defects on the vehicle in question and general lack of maintenance and was concerned for the safety of potential fare paying passengers should the car have of been operating as a taxi on the night in question. The conviction at court had resulted in a £200 fine which he felt was lenient considering that 1 tyre found to be under the legal minimum depth ordinarily incurs a £100 fine and 3 penalty points. He felt concern that the Applicant had not disclosed his conviction to the Licensing department at the Council or on his licence application form.

### Applicant

The Applicant apologised for not declaring his current convictions on his application form explaining that he is not competent with forms and paperwork and struggles with reading and writing. He stated that he has had no issues in the past 15 years of holding a taxi licence and that his lapse in renewing his licence was not intentional.

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

## **Debate**

Councillor Blair and Councillor Trail took the same view that whilst the Applicant had mitigating domestic circumstances the Applicant needed to be aware of the potential severity of poorly maintained vehicles. In this instance they were supportive of the Applicant's case but highlighted the Applicant needed to take the Police remarks seriously and that this is where the line is drawn.

Councillor Robert G MacIntyre concurred with the previous Councillors' comments and felt that the court having imposed only a £200 fine could be seen as indicative to the severity of the offence as reasoning as to the decision.

Councillor MacDougall stated that whilst understanding that the Applicant had learnt his lesson he suggested that the Applicant sought an agreement with a local garage whereby they could issue him with a reminder when his vehicle was due to be serviced. The Chair was supportive of this idea stating that annual check-ups are not enough and suggested that as soon as his tyres get below 3mm he should get them changed.

The Chair further stated that whilst there had been lessons learned the Applicant must be mindful that he has more to lose than just his taxi driver licence but also his operator's licence and therefore his livelihood.

Mr Reppke advised the Applicant that he should seek independent advice regarding the issues with his record keeping and address details in order to avoid any further problems.

### **Decision**

The Committee agreed to grant a temporary taxi driver licence to Mr T McKay for a period of 6 weeks from the date of issue.

(Reference: Report by Head of Governance and Law dated 14 December 2016, submitted)